

A303 Amesbury to Berwick Down

TR010025

Deadline 5

**8.35 - Written summaries of oral submissions put at
Compulsory Acquisition Hearings
held between 9 and 10 July 2019**

APFP Regulation 5(2)(q)

Planning Act 2008

The Infrastructure Planning (Examination Procedure) Rules 2010

July 2019



Infrastructure Planning

Planning Act 2008

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A303 Amesbury to Berwick Down

Development Consent Order 20[**]

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1 Introduction

- 1.1.1 This document summarises the oral submissions made by Highways England (“the Applicant”) at the Compulsory Acquisition Hearing 1 held on 9 and 10 July 2019 (“the Hearing”) in relation to the Applicant’s application for development consent for the A303 Amesbury to Berwick Down project (“the Scheme”).
- 1.1.2 Where the Examining Authority (“the ExA”) requested further information from the Applicant on particular matters, or the Applicant undertook to provide further information during the hearing, the Applicant’s response is set out in or appended to this document. This document does not purport to summarise the oral submissions of parties other than the Applicant, and summaries of submissions made by other parties are only included where necessary in order to give context to the Applicant’s submissions in response, or where the Applicant agreed with the submissions of another party and so made no further submissions itself (this document notes where that is the case).
- 1.1.3 The structure of this document follows the order of items as set out in the agenda for the Hearing, as published by the ExA on 1 July 2019 (“the Agenda” [EV-016]). Numbered agenda items referred to in this document are references to the numbered items in the Agenda. The Applicant’s substantive oral submissions commenced at item 3 of the Agenda, therefore this note does not cover items 1 and 2 on the Agenda, which were procedural and administrative in nature.
- 1.1.4 Where matters featuring on the Agenda are also raised in the ExA’s Second Written Questions [PD-014], this document includes relevant cross-references to the Applicant’s responses to Second Written Questions which will be submitted at Deadline 6 (26 July 2019).

2 Written summary of the Applicant's oral submissions

3 THE BOOK OF REFERENCE	
Agenda Item	Highways England response
3.1 Whether the updated Book of Reference [REP2-007] is now accurate and complete.	Mr Richard Turney, Counsel, on behalf of the Applicant , confirmed that the latest version of the Book of Reference [REP2-007], which was submitted at Deadline 2, is up to date regarding Land Registry matters. A number of comments on the Book of Reference, submitted by Wiltshire Council at Deadline 3 [REP3-045] have been responded to by the Applicant at Deadline 4 [REP4-036, at Table 6.5]. This has identified that plot 03-11 incorrectly records Wiltshire Council as having an interest in apparatus, where in fact no such apparatus is present. An updated version of the Book of Reference will be submitted at Deadline 6, incorporating any further changes which may arise from updated Land Registry information and the ongoing land referencing process, and correcting the error in plot 03-11. The updated Book of Reference will be accompanied by a document explaining the changes included in that updated version.
4 THE STATUTORY CONDITIONS AND GENERAL PRINCIPLES APPLICATION TO EXERCISE POWERS OF COMPULSORY ACQUISITION	
Agenda Item	Highways England response
4.1 Whether the purpose for which Compulsory Acquisition powers are sought would comply with section 122(2) of the Planning Act 2008 (PA2008).	The ExA questioned the Applicant regarding the distinction between works in Schedule 1 to the dDCO that fall within section 122(2)(a) or within section 122(2)(b), and invited the Applicant to explain or distinguish which part(s) of Section 122 it was relying on for each element of the authorised development. Mr Richard Turney explained that in its application the Applicant had not sought to distinguish between works coming within sections 122(2)(a) and 122(2)(b); the only distinction being drawn was that relating to section 122(2)(c) in connection with replacement land proposed to be given under sections 131 or 132 of PA2008. Indeed, the works referred to in both the dDCO and in the Statement of Reasons [APP-023, at Annex A] (which identifies the purposes for which each plot within the Order limits is required) are not differentiated by reference to sections 122(2)(a) and 122(2)(b) and no distinction is drawn between plots which are required for the development to which the development consent would relate and plots which are required for purposes facilitating or incidental to that development. In respect of some land plots the works could be described as falling within both categories and these are not distinctive. Whilst the Applicant does not consider that it would be prudent or practicable to seek to distinguish plots of land or elements of the development on the basis of sections

	<p>122(2)(a) and 122(2)(b), it does confirm that all of the land within the Order limits is either required for the authorised development, or is required to facilitate or is incidental to that development. The Applicant does therefore consider that the application for development consent for the Scheme meets the conditions in section 122(2) of PA2008.</p> <p>The ExA noted that section 122(2)(a) and section 122(2)(b) are effectively combined, for the purposes of the Applicant's application.</p> <p>The ExA referred to previous questions regarding the guidance on associated development in relation to nationally significant infrastructure projects ('NSIPS')¹ and asked whether the Applicant had made any attempt to identify elements of the Scheme which might be classed as associated development.</p> <p>Mr Richard Turney responded to confirm that the Applicant has not sought to identify whether particular elements could be characterised as associated development or considered as the main NSIP development for which consent is sought. The Applicant's view is that seeking to distinguish between the associated development and the NSIP itself is neither practical nor prudent for this type of Scheme.</p> <p>The ExA acknowledged that the Applicant had already explained, in previous examination submissions (in particular its response to the ExA's First Written Question CA.1.1), its position on distinguishing associated development from the NSIP, but asked the Applicant to provide further examples, taken either from other schemes, or relating to the specifics of this Scheme, to demonstrate the point.</p> <p>Mr Richard Turney confirmed that further information providing examples would be submitted in writing. It is the Applicant's intention to provide the examples requested as part of its response to the ExA's Second Written Question CA.2.1, which will be submitted at Deadline 6.</p>
<p>4.2 Whether all reasonable alternatives to Compulsory Acquisition have been explored including modifications to the scheme.</p>	<p>The ExA referred to guidance on compulsory acquisition² and also to the Applicant's Statement of Reasons [APP-023, at section 5.5], which states that the Applicant has considered alternatives and modifications to the Scheme to minimise potential land take. The ExA also referred to the Applicant's response to the ExA's First Written Questions CA.1.12 to CA.1.14. The ExA sought clarification on whether the Applicant has undertaken an assessment or comparison of the alternatives to proposed compulsory acquisition of land or rights on a land parcel by land parcel basis, and invited the Applicant to explain how the assessment of alternatives to compulsory acquisition had been made.</p>

¹ Planning Act 2008 – Guidance on associated development applications for major infrastructure projects, issued by the Department for Communities and Local Government (as was) in April 2013

² Planning Act 2008 – Guidance related to procedures for the compulsory acquisition of land, issued by the Department for Communities and Local Government (as was) in September 2013

Mr Richard Turney noted that there has not been a land parcel by land parcel analysis of alternatives. The process for consideration of alternatives is set out in the Statement of Reasons [APP-023, at paragraph 5.5], and is detailed in the Environmental Statement [APP-041, at Chapter 3], in the Case for the Scheme [APP-294] and in the Design and Access Statement (“DAS”) [APP-295]. The underlying principle is to minimise land take, but the main alternatives considered relate to the broad route alignment and design as described in the DAS. Once that was established, the objective of seeking to minimise land take followed on from that, in the sense of minimising what was required for construction of the Scheme, but this exercise was not conducted on a parcel by parcel basis.

The ExA followed up by asking whether the approach was proportionate and whether such an exercise could have led to further modifications to minimise impacts on land.

Mr Richard Turney stated that it was a proportionate approach especially for a linear scheme, where opportunities to minimise impacts are necessarily constrained by the fact that a number of landownerships and land parcels are inevitably going to be crossed by the proposed highway alignment. Ultimately, with a linear scheme, the majority of land parcels are engaged because of necessity, as determined by the route, because they are effectively under the route; other constraints on opportunities to minimise impacts arise from operational practicalities, such as the location of construction compounds, and other related works to highways, utilities etc. That said, there are some examples where further consideration has been given to alternatives, such as in relation to land to the east of Parsonage Down, where a number of potential alternatives to the use of that land were considered in the Tunnel Arisings Management Strategy (“TAMS”) report [APP-285]. It is appropriate to say that the Applicant has carried out a robust and proportionate consideration of alternatives compliant with the National Policy Statement (“NPS”) and the EIA Regulations in respect of route alignment and design of route, and the land requirements necessarily follow from that. The Applicant is content that its approach is proportionate.

The ExA asked the Applicant whether this was a reasonable approach and compliant with the guidance on consideration of alternatives in the compulsory acquisition process.

Mr Richard Turney confirmed this was the case and explained that the land requirements followed from the route selection and design of the Scheme. Where specific issues had been raised in relation to particular areas of land, they had been subject to more detailed scrutiny, but the majority of the Scheme’s land take location is determined by the design of the Scheme.

The ExA opened the question to the floor for any views from affected persons and interested parties on the Applicant’s general approach to alternatives.

Mr Richard Turney added that there is not an alternative way of delivering the Scheme which would obviate the need for the acquisition of land. That is an underpinning point: there is a requirement for third party land to enable delivery of the Scheme and therefore any alternative considerations on a plot by plot basis would still require the acquisition of land, either compulsorily or through agreement with third parties.

Ms Louise Staples on behalf of the NFU expressed the view that the Applicant had not justified why it needs some of the specific land for the Scheme. For example, in regard to the balancing ponds and the land required for the deposition of tunnel arisings.

Mr Simon Mole, Carter Jonas, representing M&R Hosier and Travelodge, clarified his understanding that the Applicant's approach to justifying the land-take required for the Scheme is on its having looked at an alternatives report and selected a route, and stated that he would expect analysis either on a plot by plot or on a landowner basis, which did not seem to have happened. He accepted that powers of compulsory acquisition are needed for the Scheme but would expect a review of the justification to be carried out on a landowner by landowner basis.

Mr Graham Eves, representing Classmaxi Limited and Amesbury Property Company Limited, stated that there was no need for the Applicant to acquire some of the land to achieve its objectives.

Mr Richard Turney, in response to the NFU and Mr Mole regarding the question of the justification for plots and for the extent of plots taken, explained that there was a distinction to be drawn, as the need for the land has been justified in the Statement of Reasons [APP-023] on a plot by plot basis both in terms of the need for the land itself and for the extent of the land required. There has been engagement with landowners on those issues and the extent of land is shown in the Land Plans [APP-005], and in terms of the way in which that aligns with the justification, there has been a plot by plot analysis of the need for and extent of the land required and we have justified and explained the need for each plot (those explanations being set out in the Statement of Reasons). The answer to the question of whether each plot has been analysed in terms of alternatives to that plot is no, and the overarching point is that Highways England will only take land that it actually needs for the Scheme. In response to Mr Eves' point, if Highways England can achieve the same outcome without using powers of outright compulsory acquisition, for instance by 'stepping down' from this to the acquisition of rights only, then this is what Highways England will do in that scenario. This also applies in relation to other areas where a lesser power might achieve an equally acceptable outcome; however, for reasons best explained on a plot-specific basis, there are instances where particular factors do point to compulsory acquisition of land as a more appropriate power, rather than the acquisition of rights only, or temporary possession.

The Applicant has also explained in ES Chapter 3 [APP-041] (paragraph 3.3.18) how, in the development of the Scheme design, the Applicant has sought to minimise environmental impacts; and it is noted that that includes impacts on agriculture and land use factors, so there has been consideration given to how Highways England might best minimise impacts on land. However, the crux of the matter is that the Applicant has to be able to ensure delivery of the Scheme in its entirety, irrespective of whether or not it is possible to reach agreement with particular landowners, and that is the underlying justification for the extent of the land which is proposed to be subject to powers of compulsory acquisition.

4.3 Whether the Secretary of State could be satisfied that the land proposed to be acquired is no more than is reasonably necessary for the purposes of the Proposed Development.

The ExA referred to the Applicant's response to the ExA's First Written Questions CA.1.3 to CA.1.9, querying article 7 (Limits of Deviation) of the draft DCO, and to discussion at the Issue Specific Hearing, in particular regarding the degree of flexibility sought by the Applicant in the dDCO.

Mr Richard Turney explained that Highways England considers all the land included in the Book of Reference and Land Plans [APP-005] represents the minimum land take required to construct, operate, maintain, and mitigate the effects of, the Scheme, and is necessary to deliver the wider benefits referred to already. There is a balance to be struck between minimising land take and robustly ensuring the Scheme can be delivered, noting that detailed design is yet to occur. The limits have been drawn as tightly as possible, but Highways England is cognisant that it will need to deliver the Scheme within those limits. If less land is needed then Highways England would only seek to acquire land that was actually required, minimising impacts on landowners. This approach is explained in the Applicant's Statement of Reasons [APP-023, at paragraph 5.3.4] and in the Applicant's responses to the ExA's First Written Question, CA.1.3. In particular in response to CA.1.3, the Applicant has explained why a degree of flexibility is required. The Statement of Reasons, at Annex A, as previously noted, sets out the need and justification for land take on a plot by plot basis. The land which is proposed to be acquired is no more than is necessary on the basis of the Scheme design, its mitigation and delivery. If, during detailed design, Highways England is able to minimise or reduce land take yet further, then it will do so, with the overarching point being that it will not take any more land than is needed for the Scheme. Further reassurance is provided by the way in which the land use powers are structured in the dDCO, enabling Highways England to 'step down' to take only rights or temporary possession, or not to acquire the land at all, and where this is feasible, Highways England will do that. However, on the basis of the information available to date, the land which is proposed to be acquired or used is no more than is necessary to deliver the Scheme.

The ExA noted the ability to 'step down' to a lesser power but observed that there was nothing in the application documentation to secure that approach and that it therefore depended on the Applicant. The ExA asked if that was reasonable in the light of current guidance and legislation.

Mr Richard Turney responded that the consideration of financial impacts was relevant to this point, noting that the Scheme is publicly funded and therefore Highways England had a duty to minimise capital expenditure, such that it would not be in the interest of the Applicant, in delivering the Scheme, to acquire any more land than was needed, as this would add to the cost of the Scheme. This is a logical point that underpins the one-way movement enabling the exercise of lesser powers if an equivalent outcome can thereby be achieved, which still delivers the Scheme and the benefits arising from it. It is a reasonable approach because Highways England has sought where possible to take less than full acquisition (i.e. the blue and green land and pink hatched land), so it is clear that the Applicant has already sought to minimise the extent of interference with the property rights concerned. Highways England has done so on a prudent basis which ensures that in cases of doubt about the practical implications of taking rights only, it would have the necessary powers enabling permanent compulsory acquisition and, where that is the case, the land remains pink on the Land Plans, but that is not to say that those powers will necessarily be implemented. There may be specific instances where Highways England can accept lesser rights that are capable of achieving the same outcome through negotiations. However, in response to the ExA's question, there is

nothing on the face of the DCO to secure the lesser interference. Firstly, however, this is consistent with other DCOs; secondly, this reflects the state of the Scheme currently; and thirdly, it is not in Highways England's interest to acquire more land than is needed.

Mr Patrick Robinson, on behalf of the National Trust highlighted the matter of the National Trust's *ad medium filum* interest in the subsoil beneath the half-width of the A303, querying the position that would follow the de-trunking of that length of the existing A303 and its conversion to restricted byway status. The National Trust is currently in discussion with Highways England on various issues, such as mechanisms to deal with future rights and maintenance, relating to this matter; the National Trust's view is that the subsoil does not need to be acquired by Highways England, and that it should be retained by the National Trust.

Mr Richard Turney agreed that discussions on the matter were ongoing and progress would be reported to the ExA in due course. The Applicant noted that the National Trust's ownership of the subsoil is subordinated to the presence of the A303 which currently lies above it. It has been identified for compulsory acquisition (and is shown pink on the Land Plans) to facilitate its long-term maintenance and to accommodate the subsoil interests of statutory undertakers. There are various issues to be addressed, the interplay between which is complex, but the current position is that the National Trust does not currently enjoy the land but has an interest in part of the subsoil by virtue of its being the adjoining landowner (under the presumption that where land is unregistered (as is the case with this length of the A303), the subsoil beneath the top two spits' is owned, to the halfway point of the road, by the owners of the land adjoining that road). It is this scenario that the Applicant seeks to clarify for the future, by including powers to acquire the unregistered land on which its asset is currently located. It may be that acceptable alternative ways to deal with the land will be identified in the course of discussions. On the current state of negotiations, however, the current prudent approach is to have the powers to take the land to ensure delivery of the Scheme, and this is a good example of where it may be possible to negotiate and agree with landowners a lesser degree of impact or interference.

Mr Simon Mole, noted that his client, M&R Hosier, which owns land on the opposite (southern) side of the A303, would agree with the point made by the National Trust and would appreciate discussions to be held also with M&R Hosier as owners of the land to the south of the A303.

Ms Louise Staples of the NFU asserted that Highways England had not engaged in any negotiation with landowners to reach agreement and that Highways England was relying on powers of compulsory acquisition to take the land.

Mr Howard Smith on behalf of Pamela Sandell then also sought confirmation from Highways England that the subsoil beneath the part of the existing A303 which is proposed to be de-trunked and in which Ms Sandell may be presumed to have an interest, would be retained by his client on completion of the Scheme.

Mr Richard Turney, in response to the NFU, explained that Ms Staples' assertion was not correct and that there has been extensive engagement and negotiation with landowners, some of whom have received quantified offers for their land, and with some of whom agreements have been reached, such that it is simply wrong to say that there have been no negotiations.

	<p>Detailed summaries have been submitted at Deadline 4 setting out the state of progress with landowners and the assertion made is not correct. It may be that discussions regarding subsoil have not yet been captured as part of those negotiations but, as was explained in relation to the National Trust's comments, these are land interests that lie beneath the existing A303, they are deemed to be land interests belonging to the adjoining owner. The interference with that interest is of the most limited type, and there may be questions about the long term ownership of that land, but, for the reasons described, it is appropriate that this land is subject to powers of compulsory acquisition, in order to enable Highways England to deal with the interests of statutory undertakers and to secure the implementation of the Scheme.</p> <p>Mr Patrick Durnford on behalf of the Turner Family, commented that his clients were perhaps the most significantly affected private landowners but had not been offered a quantified approach; he also wished to understand the subsoil rights in relation to the B3083 and the de-trunked A303.</p> <p>Mr Richard Turney noted that the National Trust's comments about subsoil ownership had piqued the interest of other land agents, but not all private landowners would necessarily be in the same position as the National Trust. For instance, the length of the existing A303 traversing land owned by Ms Sandell's section is already owned by Highways England, so she does not have a subsoil interest beneath that part of the A303; and similarly, the issue does not arise in respect of the lengths of highway traversing or bordering the Turner's land. Mr Turney highlighted the need for caution in making assumptions that the situation with the National Trust had universal application.</p>
<p>4.4 Whether having regard to section 122(3) of the PA2008 there is a compelling case in the public interest for the land to be acquired compulsorily and the public benefit would outweigh the private loss.</p>	<p>The ExA asked the Applicant to summarise its position on the need for the Scheme to go ahead in the public interest.</p> <p>Mr Richard Turney stated that the Applicant is satisfied that the compelling case test for the Scheme is met and that the public benefits which the Scheme would bring outweigh the private loss that would be suffered by those with an interest in land required for or affected by the Scheme. The need for the Scheme is set out in Chapter 2 of the Environmental Statement [APP-040] and is supported by the wider policy context, as the National Policy Statement for National Networks, at paragraph 2.2, identifies a "critical need" to improve road congestion to provide safe, expeditious and resilient networks that better support social and economic activity. The Government's Road Investment Strategy for 2015/16 – 2019/20 ("RIS1") and the National Infrastructure Delivery Plan ("NIDP"), and the wider package on the A303/A358 corridor, of which this Scheme is an essential part, include long term commitment to creating a high quality dual carriageway along the corridor. Highways England has provided a clear justification, consistent with the NPS, which identifies a compelling case in the public interest. Highways England's response to First Written Question CA.1.10 provides further detail on the need for the Scheme and sets out factors constituting evidence of a compelling case in the public interest for the compulsory acquisition powers sought in support of the Scheme. Those factors include, in summary:</p> <ul style="list-style-type: none"> • the transport need (lack of capacity and prevalence of accident risk); • economic need (restrictions on productivity imposed by poor connectivity and constraints on tourism and other economic activity caused by congestion);

	<ul style="list-style-type: none"> • the heritage case (the severance of the World Heritage Site (“WHS”) by the current alignment; • the benefits for community (severance caused by the current alignment, visual intrusion and impacts of rat running through communities); and • environmental benefits of the Scheme (removal of barrier to wildlife and source of noise and water pollution issues). <p>All these elements fed into the considerations of the options and the supporting documents for the Scheme set out the case for this Scheme, on the basis of which the Applicant is satisfied that there is a compelling case in the public interest for the Scheme. On the other side of the equation, of course, consideration must be given to the loss of private rights, and the extent to which such loss is outweighed by the public benefit. As the Applicant has explained in its response to the ExA’s First Written Question CA.1.11, the effect of the Scheme on landowners and other affected persons has been considered in the context of the Applicant’s assessment of the strength of the public interest benefits. There are no proposals included in the Scheme which would require the outright compulsory acquisition of residential properties, so regard has been had to the interests of residential owners and occupiers in the selection of the route alignment and the Applicant has assessed the impact of the Scheme on agricultural holdings (as is set out in Chapter 13 of the ES [APP-051]). Compensation will be paid to ensure equivalence for those landowners who do suffer loss as a result of the implementation of the Scheme and this is also an important factor in considering whether the compelling case in the public interest for the Scheme outweighs those private losses. Taking all these factors together and noting the extent to which the public benefits would outweigh even the significant private losses, it is the Applicant’s view that there is compelling case in the public interest for the Scheme.</p> <p>The ExA noted that the Applicant’s response to First Written Question CA.1.10 included reference to the ‘wider corridor’, and enquired how much reliance the Applicant was placing on the delivery of the benefits arising from the implementation of the wider corridor scheme.</p> <p>Mr Richard Turney confirmed that this is a standalone scheme and is capable of delivering benefits that justify both the grant of development consent and the grant of compulsory acquisition powers, without reliance on the benefits arising from the wider corridor scheme. Whilst this Scheme is part of the wider package of interventions, it is not dependent on that package or on the benefits that would arise from that package. However, the wider benefits of the corridor intervention could not be delivered without this Scheme.</p>
	<p>The ExA noted that the Applicant’s case for the Scheme included heritage benefits and asked whether all elements of the needs case are relied upon equally to justify the compulsory acquisition powers sought.</p> <p>Mr Richard Turney explained that the Applicant does not seek to weigh the various benefits against one another or to prioritise them in any way, but does maintain that the Scheme would deliver cultural heritage benefits, notwithstanding representations made by others throughout the Examination. No one aspect of the Scheme is more important than another. The legal starting point for the decision-making process is the recognition, in the National Networks National Policy</p>

Statement, of the need to deliver substantial improvement to the highway network to realise economic benefits and to remove impediments to growth, but the Applicant does not seek to say that this outweighs other aspects of the needs case.

The ExA asked, with reference to the assessment of private loss reported in ES Chapter 13 [APP-051], which considers the effects of the Scheme on individual, agricultural and other land interests, whether this was a sufficient and proportionate assessment of the private loss that would be experienced by individuals as a result of the exercise by the Applicant of compulsory acquisition powers.

Mr Richard Turney confirmed that the purpose of Chapter 13 [APP-051] is to assess the environmental impacts of the Scheme for the purpose of the ES, including the effect on agriculture and land use more generally. It is not the role of the ES to assess the monetary or non-monetary impacts of particular land parcels being acquired. It is an appropriate and proportionate assessment for the purposes of the EIA Regulations. It represents an adequate consideration of the strategic effects of the Scheme generally on agriculture and agricultural land holdings, but there are also individual impacts on individual businesses, farm enterprises and individuals, which are not captured at that level of assessment, albeit that that level of assessment is appropriate for an ES. Impacts on the financial aspects of a business are dealt with through the compensation code and, as such, are not a matter for this Examination.

Ms Louise Staples noted that the NFU expects that impacts on individuals' farms should have been addressed in more detail than is the case in Chapter 13 of the Applicant's ES, and is of the view that the financial impacts on a business should have been considered by Reading Agriculture, and that to say the impacts are 'moderate' is understating those impacts.

Mr Patrick Durnford supported the NFU's statement and noted concerns relating to the impacts of the Scheme on the Turner's farm holding, which he asserted were more than 'moderate effects'.

Mr Richard Turney explained that the EIA methodology, and the way in which the assessment terminology (defining moderate or significant effects) is applied, is set out in the Applicant's ES. It is not intended for this in any way to constrain the landowners in making their representations to the ExA about the impacts of compulsory acquisition on their land. With regard to the NFU's point that the Applicant should have given greater consideration to the financial impacts of the Scheme on land holdings, Mr Turney noted that the ExA's Second Written Questions included a question on this issue and confirmed that the Applicant would respond to that Question (Ag.2.4) at Deadline 6. Mr Turney also explained that the level of assessment possible would necessarily depend to some extent on the information provided by the landowner about the nature of those impacts, because the Applicant's assessments are necessarily at a generic level and not conducted on the basis of looking at the books of any farm enterprise.

The ExA queried whether the Applicant had adequately assessed the effects of private loss and noted that the assessment of such loss would feed into the balancing exercise between public benefits and private losses. **Mr Richard Turney** confirmed that both the assessment of private loss and the balancing exercise between private loss and public benefit had been adequately assessed and would be adequately addressed, through the analysis in the ES of the impacts of the Scheme and also through the commitment given by the Applicant that those impacted would be properly and fairly compensated for their

	financial losses. Parties would be compensated on the basis of equivalence and that is sufficient to say there has been a proper understanding of the loss suffered by the landowners and occupiers. The costs of the Scheme and the assessment of the wider benefits take account of compensation entitlement. Therefore, the direct weighing exercise is captured by the economic case for the Scheme.
5 WHETHER THERE IS A REASONABLE PROSPECT OF THE REQUISITE FUNDS BECOMING AVAILABLE	
Agenda Item	Highways England response
5.1 The resource implications of both acquiring the land and implementing the project for which the land is required.	<p>The ExA referred to the revised cost for the Scheme submitted at Deadline 2, which estimates the Scheme cost at £1.7 billion, and which includes allowance for compulsory acquisition. The ExA asked whether the Applicant was aware of any matters that could lead to a change to the Capital Cost estimate in the Applicant’s revised Funding Statement.</p> <p>Mr Richard Turney confirmed the Capital Cost estimate remained as previously submitted.</p>
5.2 Whether adequate funding is likely to be available to enable the Compulsory Acquisition to proceed within the statutory period following the dDCO being made.	<p>The ExA referred to its First Written Question CA.1.15, which explained the change of funding to option 2 (public finance) and made reference to the budget statement which indicated the Government was still committed to the Scheme subject to the business case. The Applicant was asked to comment on the current position and to provide a timeline for the scrutiny of the business case by the Government.</p> <p>Ms Terri Harrington (Sponsorship Director for Complex Infrastructure Programme) on behalf of Highways England replied and explained that at the time when the Applicant’s response to the ExA’s First Written Question CA.1.15 was written, the Outline Business Case was going through HM Treasury’s approval process. Ms Harrington confirmed that the Outline Business Case has now been approved by Treasury and that the Full Business Case will be prepared towards the end of 2020. Preparation and approval of the Full Business Case is the final stage in the approval process, which applies to the Scheme, in common with all other major capital projects. The funding to proceed to the next stages is available, Highways England will return to Government for actual funding to top up at 2021. In terms of whether this future funding comes from the Road Investment Strategy 2020/21 to 2024/25 (“RIS 2”), the expectation at the moment is that the funding will be separate from the RIS 2 funding and this will be determined in the Spending Review, as was noted in the Applicant’s response to the ExA’s First Written Question CA.1.15.</p> <p>The ExA noted that its Second Written Questions included a question on the recent National Audit Office (“NAO”) report (published on 20 May 2018) and the related report of the Public Accounts Committee (“PAC”) hearing (held on 5 June 2019), but invited the Applicant to comment on these documents in the Hearing.</p> <p>Ms Terri Harrington commented that the NAO report was a fair and balanced report that confirmed a strategic case for this Scheme and that sought funding certainty (given the majority of funding is not in the RIS 2 period) by the end of 2019. Ms Harrington confirmed that it was Highways England’s expectation that funding certainty will be received within this timescale.</p>

	<p>Ms Harrington noted that the same point regarding the need for funding certainty by the end of 2019 was made in the PAC hearing held on 5 June 2019. All the funding routes should be known before the end of the financial year, and before the expected decision date of the DCO (anticipated in March 2020) and in good time to avoid having any impact on the compulsory acquisition process.</p> <p>The ExA commented that at present these elements of the funding package were up in the air.</p> <p>Ms Terri Harrington explained, in response, that it is standard procedure that funding for major projects happens at the full business case stage. This Scheme was originally expected to be partly privately funded through the PFI process. Since the PFI route was withdrawn (in October 2018), the question is whether the money will come from the RIS 2 allocation of £25.3 billion, or whether it will come from separate funding from the Treasury; alternatively, the Department for Transport may look elsewhere for funding. However, the Government remains committed to the Scheme and it is simply a matter of where exactly the money will come from; until the full business case is in, the money is available to proceed with the project. The ExA asked whether, in relation to the tests for compulsory acquisition, there was a reasonable prospect of funding being available for the Scheme.</p> <p>Ms Terri Harrington, in response, commented that in her view there was a high degree of certainty that funds will be available for the Scheme and for the proposed compulsory acquisition supporting it. The current uncertainty is no different from any other major project at this stage in the funding process. The Government has confirmed it is committed to this Scheme, so it is expected to allay any concerns around the availability of funding for this Scheme, following the Spending Review and by the end of 2019.</p>
<p>5.3 Whether the resource implications of a possible acquisition resulting from a blight notice have been taken into account.</p>	<p>The ExA asked for any updates on blight notices served and any matter regarding blight.</p> <p>Mr Richard Turney confirmed that no statutory blight claims had been received by the Applicant in respect of the Scheme to date. It was noted that the case of Mrs Sebborn is not a statutory blight claim and falls into a different category, being an exceptional circumstance case. There has been further discussion with the Sebborn family, the details of which the Applicant confirmed it would report in its written summary of submissions made at the hearing (i.e. in this document).</p> <p>That further detail is provided here: A meeting took place on 31 May 2019 between the Applicant and Mrs Sebborn and her son. The Applicant was able to provide an update on the design at Countess Junction and to discuss the options available in relation to properties blighted by highway schemes. The Applicant recommended to Mrs Sebborn that she sought advice from a land agent, for which Highways England would compensate the time associated with Scheme discussions. This advice was recorded within the minutes of the meeting.</p>

6 WHETHER THE PURPOSES OF THE PROPOSED COMPULSORY ACQUISITION ARE LEGITIMATE AND WOULD JUSTIFY INTERFERING WITH THE HUMAN RIGHTS OF THOSE WITH INTEREST IN THE LAND AFFECTED

Agenda Item	Highways England response
<p>6.1 What regard has been had to Articles 8 and 6 of the European Convention on Human Rights (ECHR) and Article 1 of the First Protocol?</p>	<p>The ExA asked the Applicant to summarise the position.</p> <p>Mr Richard Turney responded that regard has been had to Human Rights as explained in the Applicant's Statement of Reasons [APP-023], specifically:</p> <ol style="list-style-type: none"> 1. Article 8 (right to private and family life, home and correspondence) of the European Convention on Human Rights ('ECHR') - some compulsory acquisition schemes and CPO schemes will have an interference with such Convention rights, most notably where residential property is acquired. There are no residential properties to be acquired in connection with this Scheme. As noted above, the Applicant only requires the acquisition of subsoil and of rights over subsoil and surface where the Scheme would pass beneath properties known as 1 and 2 Custodian Cottages. For this reason, the Applicant is of the view that Article 8 is not engaged by the Scheme. If, however, it were the case that Article 8 was engaged, then the balancing exercise described in the Statement of Reasons would be applicable to any interference with that right, with the conclusion being that the interference would be justified because it would be in the public interest and proportionate. 2. Article 1 of the First Protocol to the ECHR (rights to peaceful enjoyment of possessions) - interference with such rights (which would arise in consequence of any scheme of this nature) is only justified if it is in the public interest – the Statement of Reasons, at Section 6, explains how those considerations have been taken into account, including through reliance on compensation provisions allowing for interests acquired to be fully compensated. 3. Article 6 (entitlement to a fair and public hearing) is effectively about proper procedures and ensuring that matters are dealt with fairly. This is achieved through the statutory procedures followed by the Applicant and by the ExA, including today's Hearing, at which landowners and other affected persons and interested parties can come forward and be heard in public. <p>In its response to the ExA's First Written Question CA.1.22, Highways England has set out further explanation of Human Rights implications and further consideration of the effects of Article 1 of the Protocol which is also relied upon. This response also sets out the Applicant's view that where the impacts of the Scheme would cause interference with Convention rights, such interference is justified on the basis that it would be lawful (if the DCO is made and the proposed development authorised), proportionate and in the public interest (given the public benefits that would flow from the implementation of the Scheme).</p>

6.2 The degree of importance attributed to the existing uses of the land proposed to be acquired.	The ExA confirmed (having canvassed opinion from participants in the Hearing) that no further discussion was required on this point, as it was covered earlier, under item 4 on the Agenda.
6.3 The weighing of any potential infringement of ECHR rights against the potential public benefits if the dDCO is made.	<p>The ExA recalled that the Applicant had responded to this point in its response to the ExA's First Written Question CA.1.20, and asked whether there was anything specific in regard to Human Rights that the Applicant would wish to add?</p> <p>Mr Richard Turney noted that the provision of compensation is an important element in relation to Article 1 of the Protocol and this contributes to the balancing exercise of weighing public benefit against private loss; where interests in land are acquired there will be compensation to a level of equivalent reinstatement.</p>
7 CONSIDERATION OF DUTIES UNDER THE EQUALITY ACT 2010	
Agenda Item	Highways England response
	<p>The ExA asked the Applicant to comment on whether there were any updates in relation to newly identified persons with protected characteristics who might be affected by the Scheme.</p> <p>Mr Richard Turney explained that, as the Applicant's Equality Impact Assessment (EqIA) process is an ongoing one, the finding, reported in the EqIA submitted with the Application [APP-296], that no individual was identified as having protected characteristics, needed to be updated, because the Applicant had now identified one case, of which the ExA is aware, and information can be provided on how the matter is being dealt with.</p> <p>Ms Laura Walker, Equalities Specialist on behalf of the Applicant, responded that the EqIA process measures impacts at a group level and provides recommendations for monitoring the adverse impacts, including through engagement with affected persons. Recent engagement has identified persons who may be differentially impacted by the Scheme and discussions are ongoing regarding the understanding of this impact. Further methods will be identified under the compensation code and mitigation measures identified and applied as appropriate.</p> <p>The ExA confirmed that it would want more information about those further methods and the Applicant undertook to provide it in its written summary of oral submissions made at the Hearing.</p> <p>In response to the ExA's above request, the Applicant confirms that it has had regard to the public sector equality duty ("PSED"), with impact assessments having been undertaken with regards to groups with protected characteristics rather than at the individual level for the Equality Impact Assessment (EqIA) undertaken for the DCO application. This is due to the availability of data and the predictive nature of the assessment of groups with protected characteristics. The EqIA identified that there were potential adverse impacts for specific groups with protected characteristics who could potentially be differentially or</p>

	<p>disproportionately affected. The EqIA also provided recommendations for monitoring these predicted impacts including further engagement with affected individuals. Recent engagement activities have identified affected persons who have protected characteristics who could potentially be differentially adversely affected by the impacts of the Scheme. Further ongoing dialogue with these individuals is required (and will be carried out) to understand the extent to which they would be impacted by the Scheme and how their protected characteristics are associated with the magnitude of that impact. This dialogue will be an iterative process with the aim of identifying further measures for mitigation and compensation where appropriate, recognising such persons' specific needs and requirements in line with the Equality Act 2010.</p> <p>There are a number of ways in which consideration may be given to meeting the needs or requirements of individuals and groups. Firstly, Highways England has undertaken a risk assessment on all public consultation venues. This includes an accessibility checklist which identifies where additional facilities or reasonable adjustments are needed to provide accessibility for all.</p> <p>One to one meetings have been held with individuals who would be affected by the Scheme. Where possible Highways England has attended meetings in individuals' own homes if it is difficult for them to attend a meeting elsewhere. That is the case in respect of the Sebborn family.</p> <p>The impacts on affected persons can be varied depending on the nature of the impact and the characteristics of the person affected. Mitigation or compensation offers at the individual level should be considered accordingly. Engagement is an iterative process which requires a nuanced understanding of the impact and the way and extent to which it affects an individual.</p>
8 REPRESENTATIONS FROM PARTIES WHO MAY BE AFFECTED BY THE COMPULSORY ACQUISITION PROVISIONS IN THE dDCO	
Agenda Item	Highways England response
8.1 Affected Persons who have notified a wish to make oral representations.	<p>Mr Myerscough on behalf of Carter Jonas representing Biddesden House Farm Partnership and Berwick Down Limited reiterated the concerns raised in previous submissions regarding construction impacts and the impacts of the Scheme on ground water and water supplies for the farm businesses. Any impacts to private water supplies could detrimentally impact the businesses and residential dwellings on the estate. Assurances are sought through the position statement to ensure no disruption to supplies.</p> <p>Public Rights of Way ("PRoW"), concerns remain regarding the potential illegal access to the Client's land and justification on position of new north-south restricted byway connecting Longbarrow roundabout with byway BSJA 11, which would create a triangular field which would be impractical to farm commercially and would like diversion of the new PRoW. Subject to discussion and agreement is yet to be reached. There are a number of PRoWs proposed and the need for these is questioned as part of the principle need for the Scheme. Inappropriate access to land is a concern for landowners and the</p>

concern is by increasing access, the issue will be exacerbated; maintenance of these PRoW is also a concern.

Traffic Management - insufficient consideration has been given to traffic flows especially on the local road network and the impacts of journey times. There is concern about traffic flow through the estate and no agreement has been reached.

No formal negotiations have taken place in regard to compulsory acquisitions or compensation and Carter Jonas supports the earlier points raised.

Ms Kate Olley, on behalf of Wiltshire Council, stated that the assumption is that the local authority will be responsible for the PRoW.

Mr Richard Turney clarified that in regard to private water supplies the provisions are covered in the Outline Environmental Management Plan ("OEMP") (reference MW-WAT11) [REP3-007 and REP3-008] throughout the duration of the construction of the Scheme. In this case it is being discussed with the affected party. In terms of PRoW, the triangle of land (Sheet 5 on the Rights of Way and Access Plans [APP-009]) has been discussed with the landowner and the issue is the ability to farm the area of land. Accommodation works will maintain access to the land, and ultimately if it cannot be farmed to the same productivity then this would be caught by the compensation claim and a claim in respect of severance of the land from the wider land holding. Therefore, so far as possible, the existing landowner is being accommodated, and in so far as they cannot be accommodated, the landowner will be entitled to compensation. Provision of new PRoWs has been covered in the issue specific hearings for Traffic and Transport [EV-011q and EV-011r] and part of the objective of the Scheme is to ensure suitable PRoW. Wiltshire Council has indicated that it would be responsible for PRoW following implementation of the Scheme, including if there is also a private right of access in place over that PRoW. Any points of detail will be between the Applicant and Wiltshire Council.

There are ongoing discussions with Wiltshire Council on a proposed agreement reflecting the issues regarding the matters raised around maintenance and specification for the PRoWs. It is likely that funding will be sought by Wiltshire Council from Highways England to assist with these matters.

Further clarification was provided by **Mr Broadhead on behalf of Wiltshire Council** confirming the need for PRoW and will be provided again subsequently in the written summary from Wiltshire Council. Wiltshire Council clarified that it is working with Highways England on the detailed design of any PRoWs and will seek agreement of a specification for the provision of PRoW that Wiltshire Council will then take on the maintenance for, with funding provided by Highways England to assist in the maintenance of those routes. Where routes are shared with private means of vehicular access for landowners, maintenance will be confined to ensure the routes are acceptable for public use. Where damage is caused as a result of private means of use, Wiltshire Council would not cover the costs for this but would look to the landowners to maintain in these cases, as is the case for all other PRoW.

Mr Tim Harper on behalf of Highways England responded to the specific issue regarding the need for PRoW in relation to the compulsory acquisition. There is no other convenient way of linking the PRoW network to the south of the A303 with the

new route along the existing A303, which is why the existing highway will be maintained but downgraded to a restricted byway for use by carriages, equestrians, cyclists and others who are not using mechanically propelled vehicles.

Mr Richard Turney explained that Highways England will seek to come to agreement with Wiltshire Council regarding the detail of the Scheme and is looking to reach agreement on the provision of funding for maintenance of the PRow. In reality, there may be very little difference between maintenance requirements for public and private rights, but Highways England agrees that where a distinction can be drawn between public and private liability, the landowner will have liability for the maintenance of their private means of access.

Ms Louise Staples explained that the main PRow issue for Druids Lodge is the creation of the PRow to the west end, which runs south and north of the new proposed A303. These PRow are not needed for the Scheme as they are not reconnecting PRow where a PRow has been severed but are new PRow to meet a Government Strategy so the public need in this case for the Scheme has not been proven.

Mr Tim Harper explained that, in relation to the new PRow provision shown on Sheets 1 and 2 of the Rights of Way and Access Plans [APP-009], Highways England is under an obligation to provide off road routes to enhance safety for non-motorised users (“NMUs”) when building new trunk roads, and both of these new PRow routes would satisfy that requirement. They also provide alternatives to Byway Open to All Traffic (“BOAT”) SLAN3, where it crosses the A303, for those who do not wish to use the crossing and enable a north / south route.

Ms Louise Staples also clarified a point on the private water supplies, after the ISH and related written submissions, and meeting with Highways England on 5 July 2019, the NFU asked for further information for the four affected farms. Ms Staples suggested that perhaps a farm pack needs to be set up in regard to emergency contamination situations, so that contractors know what to do in any event. This would also be helpful in ascertaining any impacts on both temporary and permanent water supplies.

Mr Patrick Durnford on behalf of Manor Farm and the Turner Family spoke of the impacts that the Scheme would have (if implemented) on the business and residential property of the Turner Family. This would include loss of agricultural and arable land equating to 22% of the farm affected. Key points include the following:

- Proximity of the “red line” to Foredown House could be decreased and this is, as currently drafted, an impediment to a future annex to the house (Plot 04-04). Referred to General arrangement drawing Sheet 4 and Manor Farm shows the location of Foredown House and the redline drawn against the garden, is excessive given the proposed works. Settlement Pond has been removed, believe the redline remains but could be moved away from the garden to allow for future works to the property. This could be counter to Article 6 of the European Convention on Human Rights.
- Layout / shape of settlement ponds can be amended but is currently left at discretion of contractors, would like this reviewed now to reduce land wastage.

- Compounds layout and location could also be revised reducing unnecessary land take and alternative offered.
- Comments also presented regarding Routes 11 and 12 and alternative suggested to enhance further the user experience by switching to the other side of the road, avoiding the need to cross the busy road twice.
- Water supply needs to be confirmed as being of a suitable capacity.
- Soil protection and ground conditions will suffer due to the location of the compounds which will impact land quality, these will not be able to be remediated.
- Final methodology should not be left to the contractors and information should be imposed under the DCO (including treatment in the compounds, noise and vibration). Concern also raised in regard to the proposal for the barrier on the viaduct.

These matters have been raised previously.

Mr Richard Turney addressed the points raised above in turn. In relation to Foredown House, Highways England recognises the point being raised in relation to plot 04-04, and the extent of the temporary possession powers sought over the land in this plot could be modified so as to avoid the land closest to the property, and this will be taken away for further discussion with the landowner and hopefully to reach agreement. The essential case for plot 4-04 remains that Highways England will need it to facilitate the construction of the Scheme for the particular purposes described in the Statement of Reasons at Annex A [APP-023] and in Highways England's response to the ExA's First Written Question AG.1.29. However, the principle of moving the construction impacts away from the residential property is agreed and the ExA will be kept informed. Many of the other points, in respect of the scale of ponds and scale and location of compounds relate to the important issue of the degree to which the Scheme can be fully designed at this stage, and the degree to which Highways England can have certainty as to the precise nature of the contractor's requirements at any particular compound. A degree of flexibility is therefore required to be retained at this stage, where detailed design work is still pending.

Mr Tim Harper noted that the issue of the PRow along the old A303 between Winterbourne Stoke and Longbarrow roundabout was raised at the Traffic and Transport Issue Specific Hearing 6, but summarised the issue again in the Compulsory Acquisition Hearing. By way of explanation, both North and South routes were assessed. The Northern route has less environmental impact than Southern route. The old A303 will become a quiet route once the traffic is diverted and the advantage of crossing at Longbarrow means a safe crossing through Pegasus crossings, which are endorsed by the British Horse Society. The southern route suggested would take woodland and scrub that provides valuable habitat for a number of species while the northern route does not affect habitat to the same extent. The Northern route is therefore the preferred option. In response to user experience, the Northern Route is further from the road, including a hedge between the path and the road and the Southern Route would be within the verge. In response to safety concerns, Mr Harper explained that a crossing controlled by traffic signals is safer than not being able to control traffic through a 30mph zone in Winterbourne Stoke.

Mr Steve McQuade on behalf of Highways England responded to the other points regarding ponds and compounds. The locations of the compounds are described and shown in Section 2.4.12 to 2.4.16 of the ES [APP-040] and in Figure 2.7 [APP-061] and are outside of the WHS, close to access routes and of a size sufficient to incorporate the facilities likely to be required by the contractor. The contractor will need a degree of flexibility to determine the specific layout of the compound and to allow enough space for the requisite works to take place. With regard to the impacts associated with construction compounds, these are addressed in the OEMP [REP4-021], in the form of measures referred to in MW-G28 (Main Construction Compound); Pollution Control is addressed in MW-WAT7, Flood Risk in MW-WAT13, hazardous materials in MW-G20, and noise in MW-NOI3. With regard to heritage impacts these are addressed in the Detailed Archaeological Mitigation Strategy (“DAMS”) [REP4-024].

A Contractor was appointed to provide advice during the preparation of the application documents and on the likely requirements of the construction works and this advice was used as the basis for the sizing of the compounds. Regarding the infiltration ponds, these were discussed at the ISH hearing and they have been designed to manage flow from specific catchments. Highways England’s view, therefore, is that a robust approach has been taken in regard to these works facilities.

Mr David Bullock on behalf of Highways England responded to the further question of the shape of the ponds, which was determined through the drainage strategy and in relation to which the dDCO allows further reiteration through detailed design (at the moment the Scheme is still at the preliminary design stage). As was explained under agenda item 4 (above), Highways England will only take what land it actually needs for the Scheme on completion of the detailed design.

Mr Steve McQuade confirmed that the drainage ponds have been shaped to be integrated into the landscape and to create a natural form to blend into the landscape.

Mr Patrick Durnford on behalf of Manor Farm and the Turner Family, asked that WST06B and WST04 become restricted byways, not byways open to all traffic, on the basis of their improper use by vehicles.

Mr Tim Harper explained, in response, that Highways England had sought to create new byways but not to alter existing PRowS as this is Wiltshire Council’s responsibility.

Mr Broadhead agreed with Mr Harper’s assertion that reclassification of byways is a matter for Wiltshire Council.

Ms Louise Staples, on behalf of the NFU, commented on the further design process and stated that she would like a guarantee on further engagement during the detailed design stage included in the DCO in respect of the areas to be taken for the compounds and balancing ponds. The compaction of soil was also raised by the NFU, with Ms Staples commenting that the wording in the OEMP is not satisfactory, and that she would like this to be addressed by Highways England.

Mr Richard Turney explained that the Applicant would need to take away Ms Staples’ point regarding further engagement and detailed design. Further to this, Highways England is preparing an Outline Soils Management Strategy, which will include

	<p>measures to address potential compaction of soil, for submission to the ExA at Deadline 6. The Contractor will be required to further develop the Outline Soils Management Strategy to produce the detailed Soils Management Strategy. This commitment was given by Mr Steve McQuade during subsequent oral submissions to the Hearing.</p> <p>Mr Steve McQuade confirmed that discussions are ongoing with the NFU and further information on soil management is available in the OEMP [REP4-021] where there is a requirement for a Soils Management Strategy (MW-GEO3), while Excavated Materials Management is addressed in MW-GEO7, which includes soil handling strategy, soil resources plan, dealing with topsoil and contaminated soil. Soil condition and preconstruction soil survey information is the responsibility of the Agricultural Liaison Officer and is set out in Table 2.1 of the OEMP, and ongoing monitoring is secured through MW-COM5 of the OEMP.</p>
	<p>Simon Mole of Carter Jonas, representing M&R Hosier, reiterated previous concerns regarding:</p> <ul style="list-style-type: none"> - Compulsory acquisition for environmental mitigation and landscape mitigation areas, stating that the land should be retained and maintained by M&R Hosier. If M&R Hosier refused to take it on it could be understood why the acquiring authority would want to acquire it, but M&R Hosier have stated on many occasions that they are willing to maintain these areas of land themselves, including any conditions attached to it that arise from the DCO, but as of today that discussion has yet to take place. - Landowners should be the main party to the independent landscape steering group. - No steps taken to engage with landowners to acquire the land with no heads of terms produced, no agreement reached. - Green Bridge No. 4, which is west of his Client's land - placement and size of Green Bridge No. 4 is inappropriate in terms of landscape, cultural heritage and biodiversity, and don't believe any wildlife would use this bridge due to the byway that crosses it which will be used by people and dogs. It is unrealistic to expect a connection between Green Bridge No. 4 and the Normanton Down Reserve as they are over a mile away, and you would have to cross private arable land, there are no interconnecting public rights of way, and the Normanton Down Reserve is private land, and not available for exploring. - Failure to meet Habitat Regulations – potential impacts to Schedule 1 the Breeding Birds Act at Normanton Down Reserve. - Width of Green Bridge no. 4 – width is 150m compared to byway of 3m – what is the justification for additional 147m, which will result in a field that will be awkward to farm. - Groundwater availability and quality – suggest connection to mains water supply. As pig farming relies on a consistent water supply, risk that the pig farming enterprise may not continue. The loss of these enterprises would lead to a loss of income, soil productivity and crop yields. - Tunnel restriction - concerned that these restrictions do not cater for agricultural machinery and cultivations. - Weight restrictions to be imposed on Green Bridge No.4 and classified A303 section and proposed status of the de-trunked section of the A303 once it becomes a restricted byway in terms of access.

- Quality of engagement and use of Position Statement as opposed to Statement of Common Ground
Inappropriate use of s.172 powers and survey management issues.

Mr Richard Turney on behalf of Highways England responded to the points in turn. In response to concerns regarding lack of negotiations and the complaint about lack of engagement, Mr Turney observed that Mr Mole's point does not bear scrutiny as the Applicant's Deadline 4 submission demonstrates in the Schedule of Negotiations [REP4-027 and REP4-028], the list of engagement activities with Mr Mole's client runs to almost 4 pages. The reality is, as recognised in the compulsory acquisition guidance, there is a need for compulsory acquisition procedures and negotiations to acquire land by agreement need to be taken forward in parallel, particularly for linear schemes where multiple land plots are required (see paragraph 25 of the CA Guidance). That dual process (compulsory acquisition and acquisition by agreement) is precisely what is being progressed here. Addressing the issue raised by Mr Mole and relating to consultation and the quality of engagement, Mr Turney explained that this was an ongoing process, and there have recently been proposals made in respect of valuation for Mr Mole's client's land, which is not a matter to be dealt with at the Hearing, but simply to note that those details have not yet been the subject of agreement.

Similarly, in terms of restrictions over the tunnel, terms have been provided to the landowner and agent.

Mr Richard Turney explained the Applicant's recognition of the fact that without the full consent and proper management of that land by the land owner, compulsory acquisition would be required, that is to say that the land would need to be under Highways England's control to deliver appropriate mitigation for the Scheme. It is acceptance of the position that has been taken, which is that we start off with a proposition that we do need that land, and to secure that we may need to use compulsory acquisition powers, but in any case there is the possibility of dealing with the matter through private negotiations, but that doesn't undermine the compulsory acquisition case, and that is reflected in Mr Mole's own submission.

One point to be clarified relates to Mr Mole's comment that he was not aware of a letter sent by the Applicant to Mr Mole's client, setting out an intention and desire to negotiate, and to acquire land by agreement; however, the letter sent to Mr Mole's client is dated 19th October 2018, and the Applicant can provide a copy of that if necessary.

In relation to Section 172 powers, that is a matter which is not relevant to this Hearing or to the determination of this application; there are other remedies if it is said that those powers have been exercised in a way that is inappropriate, but it is not a matter for this Examination. In any event the Applicant has set out its response to that issue in its response to Written Representations (see paragraph 40.4.10 of the Applicant's Comments on Written Representations submitted at Deadline 3 [REP3-013]).

Mr Steve McQuade noted that Green Bridge No. 4 is described in paragraph 3.3.5 in the ES [APP-041] and in the Cultural Heritage chapter of the ES [APP-044], where the rationale for its location and size is summarised in paragraph 6.8.5d, which identifies it as reconnecting the landscape containing the Diamond Group and Winterbourne Stoke Crossroads barrows. The location and width of Green Bridge No. 4 was consulted on during the Applicant's Supplementary Consultation and has

	<p>extensive stakeholder support. Having regard to habitat creation at the approach to the Western Portal, the proposed planting is required to aid integration of the Scheme into the landscape, with the wider strip for calcareous grassland aiding integration of the cutting as well as minimising the visual impact of the cutting.</p> <p>Mr Dave Bullock responded to the tunnel restriction point. The covenant is required to protect the integrity of the tunnel itself. There would be a restriction of 0.6 metres in the initial area around the canopy, this would extend to 1.2 metres along its length, apart from at Stonehenge Bottom where it goes to 0.6 metres. These depths have been selected to allow excavations above the tunnel and farming operations to continue, without affecting the tunnel.</p> <p>Mr Richard Turney commented that the land shown hatched pink on the Land Plans [APP-005] in respect of which Highways England seeks to acquire subsoil only and to impose restrictive covenants on the subsoil (above the acquired subsoil) and surface of the land, is less restrictive than outright acquisition, thereby demonstrating that Highways England is seeking to take the minimum possible land necessary to deliver the Scheme, by not taking land outright for the purpose of the tunnel itself.</p> <p>Mr Dave Bullock, commented on the loading activity and farm equipment and combine harvester access, confirming that both the tunnel and the bridge would allow for this machinery.</p> <p>Mr Simon Mole distinguished between consultation and detailed engagement and detailed discussion to address landowner concerns.</p> <p>Mr Richard Turney explained that Highways England has developed position statements with landowners and some landowners have confirmed their preference for these to be converted into Statements of Common Ground and included in the examination's written submission process. This is acceptable to Highways England. If requested by Mr Mole or his clients, the position statements could be turned into Statements of Common Ground and submitted to the examination.</p>
	<p>Mr Simon Mole, on behalf of Travelodge, provided background to the business at Amesbury Service Station east of Countess Roundabout. The following key points were made regarding the matter of the compelling case in the public interest:</p> <ul style="list-style-type: none"> - No monetary compensation offers have been made. - In regard to the impact on business itself, would like further information about the construction of the flyover and its impact on the business, due to concerns about traffic movements and interaction of construction movements and customers, safety issues, noise and general impacts on the business. - Construction hoardings information is not available yet, and currently the client has no information to aid the decisions needed to protect the business. - Intention to create new access to the north of the service station, the concern is how the position may impact on the hotel.

- A proposed water pipe and electricity cable is due to run across the land, but no details are provided, so mitigation plans cannot yet be made and may impact the car parking.

Travelodge has not been involved in discussion regarding the apparatus. Concerned about the new slip road and how the lack of signage may affect the business, not aware of any statement of how airborne noise and dust will be mitigated. The new A303 will be elevated with free-flowing traffic, while, the current situation is at ground level, and the difference may cause an increase in noise.

A position statement is provided but client is not aware of any surveys so it is not known how the Applicant could be aware of the impacts on Travelodge and its customers' enjoyment.

Mr Richard Turney referred to Land Plan Sheet 9 of 15 [APP-005] and explained that Travelodge were tenants of the plot in question. The nature of the interest being sought by way of compulsory acquisition is limited to the permanent acquisition of rights over the land parcel for the purpose as described in the draft DCO (at Schedule 4) [REP4-018] and in the Statement of Reasons (at Annex A) [APP-023]; any other interference would be temporary only. At the current design stage, exact details are not known and many of the items raised are in relation to that point. In the final Scheme arrangement, Travelodge will have the same access to site as they do now. Environmental impacts from the compound have been assessed and mitigation provided under the OEMP [REP4-020 and REP4-021]. The Travelodge is next to residential properties and all the mitigation for those will also benefit the Travelodge. Whilst the precise details of the physical impacts arising from the implementation will be available in due course, in principle the interference will be limited. Construction impacts are constrained by residential properties, and as there will only be daytime working, the site will be managed in a way which will have limited impact on Travelodge's operations. The existing A303 would also remain open during the construction of the Scheme.

There has been engagement with Travelodge and attempts to engage with the Freeholder, these steps of engagement are recorded, and engagement is ongoing. The interference with Travelodge's land interests is limited; and the extent of land required from Travelodge is also limited. Permanent acquisition of rights is required in respect of the utility diversions in this location.

Mr Simon Mole asked, with regard to plot 09-14, whether, if only part is required, there could be a distinction between temporary and permanent acquisition.

Mr Graham Martin on behalf of Highways England noted that the permanent acquisition relates to power and water routes. The route for power apparatus, which requires permanent rights, and therefore sets this land as blue, is not a known route at this time, but will be required to traverse plot 09-12.

Mr Richard Turney responded to the ExA's question, noting that the ExA's Second Written Questions (at CA.2.50) also covers this point. The permanent rights required over the land shaded blue in plot 09-14 are required for utility diversions and the temporary use of the land is subordinate to those permanent rights for utilities. The land plans show the greatest extent that may be needed, and it may be that some plots or some areas of plots are used to a lesser extent once the design is more

	<p>detailed. This is made possible by the nature of the powers for which provision is made in the draft DCO.</p> <p>Mr Simon Mole expressed his understanding that all private rights would be extinguished under the dDCO and if that is the case then his clients' rights in 09-14 would be extinguished. Mr Mole sought confirmation as to whether or not this interpretation was correct?</p> <p>Mr Richard Turney confirmed that it was a misunderstanding; it is not true to say that 'blue land' extinguishes existing rights, this would be true for pink land which is compulsorily acquired under the Order. The Applicant would be happy to follow this up with Mr Mole directly, but in summary, existing rights in land would only be extinguished where they were incompatible with the activities authorised by the Order.</p>
	<p>Archie Read of Countryside Solutions representing Ms Kathleen Crook, Beacon Hill Land Limited and Morrison and King Limited.</p> <p>Mr Read cited paragraphs 4.1.3 and 4.11.1 of the Applicant's Statement of Reasons [APP-023], referring to the engagement of landowners and seeking acquisition through negotiation and agreement rather than through compulsory acquisition.</p> <p>The general point made by Mr Read was that there are alternatives to compulsory acquisition which would still enable the Applicant to meet the Scheme requirements by reaching agreement. With regard to Morrison and King, there are questions over why compulsory powers are needed for a number of plots when his client is willing to enter into agreement subject to contract and in respect of utilities, no powers needed as could use agreements and subsequent easements. Clarity sought over the power cable, whether the land is needed here or not. Regarding trees, the client is happy to undertake tree planting, and this would be covered by a section 253 agreement.</p> <p>Mr Read stated that he would not wish to pre-empt the response by Mr Turney but would support comments made by others that consultation is the engagement and the only paperwork seen is the section 253 for the planting of four oak trees. There has been no meaningful paperwork seen to progress private agreement rather than compulsory powers, and he would urge the Applicant to expedite seeking agreement rather than compulsory acquisition so the dDCO can remove the compulsory acquisition for these clients. For the record, clients have been put to considerable cost, including the appearance today which could have been avoided had the paperwork been managed; he would like guidance on this as costs have been incurred through no fault of the clients.</p> <p>Specific issues raised include:</p> <ul style="list-style-type: none"> - decommissioning of the Allington Track, concerns around the treatment of the surface, degradation of the existing material left in situ which could lead to contamination issues. - There is sufficient easement clearance to enable tree planting in this area. There is no reason why statutory providers would have issues with arranging access to their utilities under farmland.

- Doc 6.3 ES Appendix 2.2 OEMP. Ref D-CH2, breaking out of the road surface of the redundant A303 within the A303, and D-CH3 regarding the A360 and LAN1 for the A303 outside the WHS, seems to be that all other decommissioned highways are proposed to be broken out but the Allington Track is going to be left in situ and he would like this approach revisited.
- Morrison and King Limited – in relation to the grain storage facility and groundwater pump at this site, these concerns have not been adequately addressed by the Applicant and Mr Read referred to an email from the Applicant on 13 June 2019; Groundwater Risk Assessment reference 11.4 [APP-282] was read out. The tunnel does not affect the groundwater at this site, but the drainage scheme does. Concerns remain regarding impact on the grain store.
- Morrison and King Limited - Temporary compound – a commercial lease could be entered into rather than compulsory purchase. Concerns about the lack of detail have already been talked about, and he would like similar detail now rather than having it left to the appointed contractor. Understand need for flexibility but feel the redline could be revisited in this case. The noise and disruption from the movement of the spoil by lorries is a great concern. The usual procedure is to lay topsoil / geotextile membrane or clean stone depending on its use, and then replace with the removed topsoil. This has an impact on the archaeological remains in the topsoil. Mr Read referred to the Draft DAMS [REP4-024] and to a drawing showing remains of roman villas, and commented that there are mitigation measures in the document, but these still raise concern about the topsoil left behind; Mr Read also raised the issue of anaerobic soils and compaction.

The concern is that if the land is compulsorily purchased on a temporary basis, the soil could be returned in an unsatisfactory condition and the compaction would also be an issue.

Finally, the point regarding Livery, as viewed on the accompanied site inspection, this relates to the working hours and the Applicant's Written response; 07.00 to 22.00, these hours would impact on the business in the summer months.

Mr Richard Turney responded to the items raised in turn and noted that whilst Mr Read had referred to the Statement of Reasons [APP-023] paragraph 4.11.1, he had not acknowledged paragraph 4.11.2, which refers to further CA Guidance which states that where proposals would entail the compulsory acquisition of many separate plots of land, it is not always practicable to acquire each plot of land by negotiated agreement; in that scenario, "it is reasonable to include provision authorising compulsory acquisition covering all the land required at the outset" (paragraph 25).

The first set of issues concerned highways at Allington Track and the footpath network in that area on Sheet 11 of the Land Plans [APP-005]. The former Allington Track and the issues regarding stopping up are dealt with through agreement and dedication which shows the position can be achieved without compulsory acquisition and the same could be achieved for Plot 11-08. Plot 11-10 was responded to in Highways England's response to Written Representations (paragraph 32.3.4 of [REP3-013]) and is needed for utility works, not for works to the hedgerow as was noted by Mr Read. In Plot 11-25 the rights are required for utility provision. Regarding the surface of the Allington Track, this will be taken away by Highways England for further discussion with Mr Read and his clients. In light of this, the updated OEMP provided at Deadline 6 will include a

commitment to break out the surface of the decommissioned Allington Track.

Generally, this is not an acquisition but a temporary possession with permanent rights in respect of utilities apparatus. Temporary possession powers are not acquisition and fall into a different category of land powers. The utility routes have not been determined, it is expected that the power route will follow a route further east rather than Plot 09-12, but the water supply is still expected to cross plot 09-12. Expectations regarding engagement are different, the Applicant has been engaging with landowners as the records show, the side agreements that are reached do not change the DCO plans themselves.

In response to the question from **the ExA, Mr Richard Turney** explained that there are practical reasons for not changing the DCO, requiring further consultation etc. There is also the issue of making sure these agreements are in place and that all parties are in a position to grant the required rights. The normal way of reaching these is on condition of the performance of the land owner of certain obligations that allow the Applicant not to rely on those DCO compulsory acquisition powers, so that in the event of default, the Scheme is not frustrated by the contractual default of a particularly party.

Mr Steve McQuade responded to matters raised on Plot 09-12 for Morrison and King: Land Plan Sheet 9 of 15 [APP-005], in relation to which the activities proposed to be undertaken at the compound were discussed earlier in the Hearing. Figure 2.7 in the ES [APP-061] provides an illustrative layout for the construction compound and includes an area for the potential power connection. The plans show the maximum area, if the contractor does not need all of the land then this will not be taken. The office area to the West is located in closer proximity to the residential properties, the principle is to keep the noisier activities further away from properties. In regard to archaeological mitigation, this is set out in the DAMS in some detail. The Travelodge and other receptors were assessed as part of the ES. Construction stage mitigation is detailed in the OEMP [REP4-020 and REP4-021], at MW-NOI1, which requires the use of Best Practicable Means (BPM) for controlling and mitigating noise; and MW-NOI-3 requires the Noise and Vibration Management Plan. With regard to the noise assessment, a sensitivity analysis was undertaken and appended to the Written Summaries of the Noise and Vibration Issue Specific Hearing submitted at Deadline 4 [REP4-033, Appendix 3], this looked at site hoardings and use of quieter plant. A risk remains of significant effect at the Countess roundabout during the construction of flyovers and slip roads; however, the duration of these effects would be reduced. The OEMP requires the Contractor to adopt BPM in accordance with MW-NOI1.

In regard to handling and management of soils, there are various measures already identified within the OEMP and **Mr Steve McQuade** confirmed that Highways England will prepare an Outline Soils Management Strategy, which will provide further information including measures to address potential compaction of soils. The Contractor will be required to further develop the Outline Soils Management Strategy to produce the detailed Soils Management Strategy.

The Outline Soils Management Strategy will be submitted to the Examination at Deadline 6, and the wording of the Deadline 6 OEMP will be amended as appropriate to reflect the provisions relating to the Soil Management Strategy.

The ExA asked why agreement could not be reached as opposed to compulsory purchase and wished for further clarity on

	<p>the use of the space in the compound for the utility.</p> <p>Mr Richard Turney responded to clarify the misunderstanding of the nature of the powers sought in respect of this site. There is a compulsory acquisition of rights in respect of utilities to be laid, and it is possible that this can be dealt with as a matter of agreement, subject to reaching satisfactory agreement such that the need to exercise those compulsory acquisition powers is avoided. Under temporary possession there is no compulsory acquisition. This is less amenable to being dealt with by agreement although it may be that proposals could be made in that respect. However, this is not compulsory acquisition.</p> <p>Mr Steve McQuade added there is still an element of uncertainty regarding where the water main would go and currently Highways England needs to allow room for that alignment. A technical note (which is attached as Appendix A to this document) describes the rationale for the size and location of the construction compounds, including the need to allow for utilities connections.</p> <p>Mr Richard Turney responded to a further point made by Mr Read, regarding the imposition of a compulsory power as opposed to compulsory acquisition, and the assertion that the Scheme could still be achieved through another method than compulsory imposition, such as a lease. There is compulsion in the exercise of a statutory power, and this is the way that DCOs are managed for many cases, there is nothing unusual in this approach. Regarding the land plots, such as these discussed where the site compounds are located, the location of the Order limits in this instance is partly dictated by field boundaries, so powers are sought in respect of a field and the understanding here is that the line referred to reflects the field boundary. Highways England will commit to take these points away for further discussion with Mr Read in respect of this site as well as with the occupiers of Foredown House at the other end of the route of the Scheme.</p>
	<p>Mr Howard Smith, on behalf of Mr Parsons, noted that further to written responses and consultation responses, Mr Parsons has concerns about the scale and location of Green Bridge No 1, used for a private means of access for the Guinness family. It does not provide the bat corridor. If SLAN3 remains open, there is no need for the new PRoW, as no one would go on a long detour and would cross the road irrespective of the vehicle speed. Concern regarding Wiltshire Council's management of the de-trunked A303, which could become an illegal campsite especially during the Solstices.</p> <p>Mr Tim Harper explained that the purpose of the new PRoW routes on the north and south sides of the existing A303 was to provide a route for NMUs, but there is also a demand for both north/south and east/west routes across the WHS.</p> <p>Mr Richard Turney noted that the matter of the location of Green Bridge No.1 was dealt with at the Issue Specific Hearing on Traffic and Transport [REP4-034].</p> <p>In response to a concern expressed by Mr Smith about the users of the new PRoW, Mr Tim Harper responded for the Applicant that the new PRoW to the south and north would be offset from the carriageway and there would be quite a significant separation between the dual carriageway and the byway, as can be seen from the plans of that part of the Scheme. There would also be bunds to partially screen the users of the PRoW and to improve their amenity.</p>

	<p>Mr Howard Smith, on behalf of the Whiting Family of Scotland Lodge Farm, noted similar concerns to those of Mr Parsons in regard to the future management of the de-trunked A303, and in particular the layby currently used for parking and selling of food.</p> <p>Mr Richard Turney commented that in respect of the layby on the A303 the Applicant would be seeking to close it and to reprofile the land comprising the layby, and to plant the area, making it unavailable for parking, encampment and so on. This proposal will be subject to a successful non-material change application in relation to which the Applicant intends to make further information available at Deadline 6 (26 July 2019). This proposal is also recorded in the Applicant's Statement of Common Ground with Wiltshire Council.</p>
	<p>Mr Howard Smith, on behalf of Stephen Moore, confirmed that his client would be responding to the ExA's Second Written Question(s) for the next deadline and that he remained concerned about the proposed land take and potential restoration of land to Mr Moore.</p> <p>Mr Richard Turney noted that the impacts on this site have been reviewed through previous hearings and written questions. Highways England's position remains that this site cannot be restored to its former agricultural use following the deposition of excavated materials on the site, it would not be a viable prospect and would require an amount of topsoil that would vastly exceed the amount available to the Scheme. That is why it is proposed to be restored to calcareous grassland with the benefits previously explained; and Highways England would respond to the ExA's Second Written Questions at Deadline 6 of the examination.</p>
	<p>Mr Howard Smith, on behalf of Mr Sawkill of West Amesbury Farms, commented that since the start of negotiations there remains no suitable access for agricultural machinery, equipment and other vehicles to access the farm to a metaled highway once the scheme is constructed.</p> <p>Mr Richard Turney responded, acknowledging that this is an issue which has been mentioned before, and noting that Mr Sawkill is the tenant of the land in question. There are two points, one is about availability of access for all vehicles, other than the combine harvester, to the existing highway network, in relation to which Highways England is of the view that such access can be satisfactorily maintained. The second issue regarding access for the combine harvester for farming operations on the site is a matter being addressed by the National Trust, which has offered suitable access in this regard; however, the Trust's offer is limited to providing access for the combine harvesters only, as required.</p> <p>Mr Tim Harper explained that in response to the issue raised by Mr Smith, Highways England had undertaken vehicle modelling through Amesbury for agricultural and heavy goods vehicles, which revealed that illegally parked cars can be an obstruction issue. There are discussions ongoing with Wiltshire Council regarding the potential need for traffic regulation orders during the construction of the Scheme. Normal HGVs currently use the route through the town and they also use the</p>

	<p>West Amesbury route during congestion at Countess Roundabout. It has been suggested that such routes would also be suitable for Mr Sawkill's farm vehicles, with the exception of the combine harvester, in respect of which the National Trust, as mentioned above, has offered to facilitate access across its own land which adjoins Mr Sawkill's farm.</p> <p>Mr Howard Smith restated that his client had been raising these issues for many years. His client needs access to the Countess Road, and has severe difficulty driving through Amesbury currently.</p> <p>Ms Louise Staples on behalf of the NFU commented that she did not find the Highways England response acceptable in this matter.</p> <p>Mr Richard Turney reiterated the position of Highways England as the assessment shows this arrangement will work for agricultural vehicles. In response to a further comment from Mr Smith, Mr Turney agreed that the combine harvester cannot get through Amesbury and as such reiterated that the combine harvester access was subject to tripartite discussions with the National Trust.</p>
	<p>Mr Howard Smith on behalf of Mrs Pamela Sandell, noted that the arguments relating to his client's land have been discussed already.</p>
	<p>Mr Howard Smith on behalf of Mr Rowland of Ratfyn Farm commented that the concerns about noise from the compound have been addressed earlier, and in regard to land needed through compulsory acquisition for the new Allington Track services there seems to be a duplication.</p> <p>Mr Richard Turney explained that in terms of the impacts of the construction compound, these have been addressed. Mr Rowland is a tenant farmer, and rights that are required for provision of utilities have also been addressed. The width of the proposed route covers the highways, verge and services, and this is a point of scheme design, not of duplication. The new Allington Track link will be 5.5 metres wide as agreed with Wiltshire Council and with some passing places for large MOD vehicle movements. The overall width of the track itself is to be accommodated within existing fence lines, the additional areas may be required for the highway verge around passing places and to install fencing. The GA drawings Sheet 11 [APP-012] are illustrative and subject to detailed design, and that is why there is flexibility.</p> <p>Mr Steve McQuade, confirmed that the ES reports on noise did not identify any significant effects of noise at Ratfyn Farm during construction or operation of the Scheme.</p> <p>Mr Phil Tilley on behalf of Wiltshire Council provided further information regarding the new Allington Track requirements and future management.</p>

<p>8.2 Other Affected Persons wishing to make oral representations.</p>	<p>Mr Robert Bruce made a representation on behalf of English Heritage and Historic England about land proposed to be compulsorily acquired as a PRow across part of the visitor centre site. The proposal is shown on Sheet 14 of the Rights of Way and Access Plans [APP-009].</p> <p>English Heritage support the Scheme overall, subject to detailed design, but Mr Bruce argued that there was no compelling case in the public interest to support the compulsory acquisition of the part of the visitor centre site proposed to be taken for the PRow.</p> <p>Mr Bruce highlighted that all reasonable alternatives should be considered to avoid the compulsory purchase of land. He agreed that in many cases the assessment of alternatives to individual land parcels is unnecessary, especially when there are no objectors. But in the case of the proposed land for the new PRow on the visitor centre site an assessment of alternatives to compulsory acquisition of the parcels needs to be undertaken to justify the acquisition. There are various dis-benefits of the route proposed, including the loss of parking spaces to the WHS and significant safety concerns, contrary to requirements in the NPSNN Paragraphs 3.10, 3.17 and 4.60.</p> <p>Mr Richard Turney clarified that English Heritage is a sub-tenant of the land, which includes the visitor centre. Historic England have a 99-year lease over that land and English Heritage have a shorter lease that lies beneath Historic England's interest. The freeholder is the Guinness family. The landlord is therefore another relevant party, and the landlord also owns much of the surrounding land. He clarified that Highways England have engaged extensively with English Heritage on this issue.</p> <p>The two questions that arise from the case for compulsory acquisition are: What is the land required for? And is there a way to achieve that objective that avoids the need for compulsory acquisition? The land is needed in connection with the provision for non-motorised users of public rights of way. The whole point of the land acquisition is therefore to make provision for non-motorised users and there is no alternative that might avoid the need for this compulsory acquisition, whilst still achieving this objective.</p> <p>Mr Richard Turney confirmed that much of what Mr Bruce had said concerned the highways merits, rather than considerations relevant to compulsory acquisition.</p> <p>Mr Tim Harper on behalf of Highways England set out that Plot 14-07 is needed to link routes to the south with Longbarrow Roundabout, which is an obvious desire line for visitors exploring the WHS on foot. The proposed route has been developed in consultation with Wiltshire Council's Rights of Way Officer. Highways England are also looking at alternatives with English Heritage and will be able to demonstrate solutions to their safety concerns.</p> <p>Mr Richard Turney observed that the alternative that English Heritage have offered involves the compulsory acquisition of third-party land. This is not an alternative to compulsory acquisition but is still compulsory acquisition. The third party, who is also the landlord to the England Heritage site, does not consent to the alternative land being acquired and so it would need to</p>
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	<p>be compulsorily acquired, and the same issues would arise. Therefore, Highways England are seeking to make changes to the proposed route to address the concerns raised by English Heritage.</p> <p>The principle is that land must be acquired if Highways England is to deliver this non-motorised route as part of this Scheme. There is nothing either in the compulsory acquisition guidance or the law that says land that land may only be compulsorily acquired if it is the best solution in planning terms. The statutory questions are those in Section 122 and the compelling case in the public interest is not dependent on it being the best conceivable link in planning terms. It is simply required to be an appropriate solution to an identified need.</p> <p>English Heritage supports the provision of an NMU route and supports the Scheme. The thrust of the case is that land should be compulsorily acquired from a third party in preference to it being acquired from them. This is not a good case. The issues presented by English Heritage are not compulsory acquisition issues; they are planning and highways issues. Not taking this land from English Heritage would not avoid the need for compulsory acquisition.</p> <p>Mr Richard Turney confirmed that the Applicant would also respond in writing to the transport report submitted by English Heritage [REP2-092], to provide Highways England's position on the planning and highways merits of the proposed non-motorised user route.</p> <p>Mr Robert Bruce representing English Heritage confirmed that he had no further comment on behalf of his client.</p> <p>Mr Richard Broadhead of Wiltshire Council responded that the route is actually a restricted byway, which includes horse riders, which introduces new considerations about safety. They support efforts to find an alternative route.</p> <p>Mr Robert Bruce agreed that they would like to find an alternative solution.</p> <p>When queried by the ExA on the timescale for reaching an agreement Mr Richard Turney responded that that since some of the alternatives would be material changes, they are only looking at non-material changes to the existing proposed route and hope to do this within a matter of weeks.</p> <p>When queried by the ExA as to whether the use of third party land was still a prospect, Mr Richard Turney responded that Highways England would look to secure any necessary third party land by agreement, but confirmed that it would not seek to compulsorily acquire land for this purpose. The relevant parties are seeking to have this matter resolved by Deadline 6.</p>
	<p>Mr Graham Eves of PFA consulting, representing Classmaxi Limited, stated that Classmaxi Ltd and its predecessor, The Amesbury Property Company, object to the compulsory acquisition and temporary possession powers proposed in respect of their land, which they consider is unnecessary for the achievement of Highways England's objectives, and which is not sufficiently justified by the public interest and which is therefore an unreasonable infringement of private rights. Classmaxi would like to remain as freeholders so they might benefit from any future improvement to land that is adjacent to the proposed works and relies on access through their land. Heads of Terms for an agreement between Classmaxi and Highways England have been drawn up, which would not require the compulsory acquisition powers to be used, yet would still enable the</p>

	<p>required works. Should this agreement be completed before the end of the examination then the objection would be withdrawn.</p> <p>It is requested that if the agreements cannot be completed before the end of the Examination that the Examining authority recommend that the Order as drafted not be confirmed, but that the Classmaxi land is removed from the DCO.</p> <p>The ExA confirmed that the dates are reserved in August, but that doesn't necessarily mean that a second compulsory acquisition hearing would be held. Mr Eves responded that his clients were hopeful that everything will be resolved, but if for any reason they are not then they would wish to inform the ExA of reasons why they have not been resolved.</p> <p>Mr Richard Turney clarified the negotiations are at an advanced stage, and the principle of the approach has been agreed. It is now a matter of drafting the agreement. Wiltshire Council also have an interest in the agreement, but it is understood they are content. There is no realistic circumstance where a second hearing would be necessary and the ExA can be updated with progress through written submissions.</p> <p>Ms Kate Olley on behalf of Wiltshire Council confirmed the Council was content with all that had been outlined.</p>
	<p>Mr Archie Read of Countryside Solutions representing Beacon Hill Limited wished to add that his client's position is almost entirely aligned with that of Classmaxi Limited. This has been explained to the Applicant yet no substantive response has been received, which is a frustrating approach that has prejudiced his client's efforts to resolve the issue. Mr Read would like a swift and satisfactory solution to the matter.</p> <p>The ExA confirmed guidance on costs is available on the National Infrastructure website.</p> <p>Mr Richard Turney stated that Beacon Hill are in a similar position where matters can be dealt with by agreement thereby avoiding the exercise of compulsory acquisition powers. The position with Classmaxi undermines the suggestion that the Applicant is unwilling to reach agreement with third parties and there is no reason why a similar position cannot be reached with Beacon Hill and others. The Applicant can and will get to an agreed position with affected persons (such as Classmaxi) where it is able to do so.</p>
	<p>Mr Patrick Robinson, on behalf of the National Trust, stated that the Trust wished to raise five points of concern in relation to compulsory acquisition, some of which had been heard already. Those points were as follows:</p> <ul style="list-style-type: none"> - Tunnel protection zone and restrictive covenants – progress is underway with Highways England and the Heritage Monitoring Advisory Group (HMAG) about the extent of the controls, and good progress is being made and is heading towards a legal agreement. - Temporary use of National Trust Land Plot 05-37 – the Trust would wish for consultation on how this land will be used - Temporary possession of land that may be acquired permanently such as subsoil - Highways England's response to

	<p>the ExA's First Written Question CA.1.9 confirms that the only occupation at the surface of subsoil plots is for monitoring. This commitment needs to be properly managed and recorded.</p> <ul style="list-style-type: none"> - Compulsory acquisition of land for utility diversions – responses to the ExA's Second Written Questions will be submitted on this point. - Fencing/gating and similar elements within the Trust's ownership and the WHS. <p>In respect of all the points raised above, the need for a robust and clear regime for consultation with and involvement of the Trust in the use of its land during construction and operation was noted.</p> <p>There will be an accommodation works meeting with Highways England to further discuss these matters.</p> <p>Mr Richard Turney observed that each of the five points raised by the Trust did not go to the principle of land rights in the Order as required by the National Trust, but rather to the detail of how the powers are to be exercised and how restriction may be felt by the Trust. This reflects an advanced stage of discussion with the Trust over the implementation of the Scheme. The tunnel protection zone and detail of the covenant has been explained and the principle is agreed, and the practical implications are to be further worked through. Good progress is being made. On the theme of the need for a robust and clear regime on the future use of the land, Highways England would point to the provisions of the OEMP [REP4-020 and REP4-021], which Highways England identifies as being the appropriate mechanism for providing certainty on the Order and associated documents and is the mechanism which addresses how the powers are exercised and how the land will be treated (for instance in relation to matters such as fencing and surfacing in the WHS). Chapter 4 of the OEMP sets out detail on design principles of works within the WHS and specifically engagement with the National Trust. It also identifies the need to consult with the other bodies such as Wiltshire Council and Historic England on such matters.</p> <p>Highways England is grateful to the National Trust for the progress made to date and if further clarification is required it should not be through changes to the Land Plans and Order Schedules but rather through negotiation relating to the terms of the OEMP as required.</p>
	<p>Mr Howard Smith, on behalf of Ms Pamela Sandell of Park Farm, noted that his client's land would be affected by the Eastern portal of the tunnel. The conversation on the nature of restrictive covenants did not include the private landowner and Mr Smith commented that he would like information on the restricted covenants as these can only take place with his client's consent as well.</p> <p>Mr Richard Turney responded that Highways England has always proposed covenants for the purpose of protecting the tunnel and has been clear about that. The detail of the restriction is regarding engineering and operational matters for protection of the tunnel, but it is true to say the detail was made available to the National Trust at an earlier stage of negotiation than to Mr Smith. However, they are not terms which have been agreed between the National Trust and Highways England and imposed on a third party – rather they are terms which Highways England need to protect the tunnel.</p>

	<p>Mr Smith has the same details of the restrictive covenants and the principles have been known to those who have received the notices in respect of the land as shown by the pink hatched land at surface and subsoil level.</p> <p>Mr Howard Smith agreed a meeting was held and the details were made available but expressed the view that the landowner should have been involved at the same time as the National Trust and from the start, and commented that his client felt excluded.</p>
8.3 Persons whose land or rights are not proposed to be acquired compulsorily but who may be affected and able to make a relevant claim.	The ExA invited any speakers on this point to come forward, but there were none in attendance at the Hearing.
9 SECTIONS 127 AND 138 OF THE PA2008 – THE ACQUISITION OF STATUTORY UNDERTAKER’S LAND AND THE EXTINGUISHMENT OF RIGHTS AND REMOVAL OF APPARATUS OF STATUTORY UNDERTAKERS	
Agenda Item	Highways England response
<p>9.1 The Applicant to set out the current position in relation to negotiations with Statutory Undertakers.</p> <p>and</p> <p>9.2 Whether Protective Provisions have been agreed with all Statutory Undertakers</p>	<p>The ExA asked the Applicant to comment on Agenda Items 9.1 and 9.2</p> <p>Mr Richard Turney responded as follows:</p> <p>In general terms, it is important to recognise that the only statutory undertakers who would fall within section 127 PA 2008 are Southern Electric Power Distribution plc, Southern Gas Networks plc, and Wessex Water Services Limited. In addition to the above undertakers there are number of electronic communications code network operators for the purposes of section 138 PA 2008, being CenturyLink Limited, BT Group plc (Openreach), Sky UK Limited, and Virgin Media Limited.</p> <p>Highways England provided an update on Protective Provisions (“PPs”) at Deadline 3; since then PPs have been agreed with the Environment Agency. A further update is set out below.</p> <p>BT Openreach – Openreach confirmed on 20 February 2019 that it is satisfied in principle with the content and wording of the PPs for the protection of operators of electronic communications code networks included within the dDCO. Openreach did not propose any amendments to those PPs or request bespoke PPs.</p> <p>CenturyLink – CenturyLink has indicated that it does not require bespoke PPs for the benefit of CenturyLink to be included within the dDCO. This is on the basis that CenturyLink is currently in discussions with the Applicant regarding the works required to CenturyLink’s network as a result of various of the Applicant’s proposed schemes, including the A303 Amesbury to Berwick Down scheme. CenturyLink has received assurances from the Applicant during these discussions that its requirements will be accommodated. As a result of the above, bespoke PPs for the benefit of CenturyLink have not been</p>

included in the dDCO. In any event, the Applicant considers that adequate protection for CenturyLink's assets are included in the standard PPs in Schedule 11. In addition, the PPs set out constraints on the exercise of the powers in the dDCO with a view to safeguarding the statutory undertakers' and electronic communications apparatus owners' interests whilst enabling the Scheme to proceed. The Applicant therefore considers that the condition set out in section 138 of the Planning Act 2008 is satisfied.

Virgin Media – Virgin Media has confirmed that it does not require bespoke PPs for the benefit of Virgin Media to be included within the dDCO. The Applicant notes that the Virgin Media cable is contained within a sub-duct in CenturyLink's duct and therefore will benefit from the assurances given by the Applicant to CenturyLink. As a result of the above, bespoke PPs for the benefit of Virgin Media have not been included in the dDCO. In any event, the Applicant considers that adequate protection for Virgin Media's assets are included in the standard PPs in Schedule 11 to the dDCO. In addition, the PPs set out constraints on the exercise of the powers in the dDCO with a view to safeguarding the statutory undertakers' and electronic communications apparatus owners' interests whilst enabling the Scheme to proceed. The Applicant therefore considers that the condition set out in section 138 of the Planning Act 2008 is satisfied.

Sky – Sky has not requested bespoke PPs or put forward any proposed amendments to the PPs included in the dDCO for the protection of operators of electronic communications code networks. Sky has requested a Method Statement and a programme of works, both of which will be discussed with Sky at a later stage when detailed design is undertaken. As a result of the above, bespoke PPs for the benefit of Sky have not been included in the dDCO. In any event, the Applicant considers that adequate protection for Sky's assets are included in the standard PPs in Schedule 11 to the dDCO. In addition, the PPs set out constraints on the exercise of the powers in the dDCO with a view to safeguarding the statutory undertakers' and electronic communications apparatus owners' interests whilst enabling the Scheme to proceed. The Applicant therefore considers that the condition set out in section 138 of the Planning Act 2008 is satisfied.

SSE Plc – The Applicant and SSE are currently in the process of negotiating bespoke PPs and a side agreement for the protection of SSE. PPs have not yet been agreed between the Applicant and SSE but the Applicant expects that an agreement will be reached prior to the end of the Examination.

SSE Enterprise Telecoms – has not yet provided a substantive response to the Applicant's letter dated 6 March 2019 that requested comments on or approval of the PPs included in the dDCO for the benefit of operators of electronic communications code networks. Discussions are ongoing with SSE Enterprise Telecoms to establish whether it requires bespoke PPs to be included in the dDCO; a meeting is planned for 24 July 2019, to facilitate progress through discussions. In any event, the Applicant considers that adequate protection for SSE Enterprise Telecoms' assets are included in the standard PPs in Schedule 11 to the dDCO. In addition, the PPs set out constraints on the exercise of the powers in the dDCO with a view to safeguarding the statutory undertakers' and electronic communications apparatus owners' interests whilst enabling the Scheme to proceed. The Applicant therefore considers that the condition set out in section 138 of the Planning Act 2008 is satisfied.

Wessex Water – Wessex Water has reviewed the PPs included in the dDCO for the protection of drainage authorities and has not requested bespoke PPs or proposed any substantive amendments to the drafting of those PPs. As a result of the above, bespoke PPs for the benefit of Wessex Water have not been included in the dDCO. The Applicant HE considers that adequate protection for Wessex Water's assets are included in the standard PPs in Schedule 11 to the dDCO and that the tests set out in sections 127(3) and 127(6) of the Planning Act 2008 are satisfied. In addition, the PPs set out constraints on the exercise of the powers in the dDCO with a view to safeguarding the statutory undertakers' and electronic communications apparatus owners' interests whilst enabling the Scheme to proceed. The Applicant therefore considers that the condition set out in section 138 of the Planning Act 2008 is satisfied.

Southern Gas Networks – SGN only recently (8 July 2019) provided a substantive response to the Applicant's letter dated 15 February 2019 that requested comments on or approval of the PPs included in the dDCO for the benefit of gas undertakers. SGN has provided draft bespoke protective provisions which the Applicant is now considering. As a result of the above, bespoke PPs for the benefit of SGN have not yet been included in the dDCO. In any event, the Applicant considers that adequate protection for SGN's assets are included in the standard PPs in Schedule 11 to the dDCO and that the tests set out in sections 127(3) and 127(6) of the Planning Act 2008 are satisfied. In addition, the PPs set out constraints on the exercise of the powers in the dDCO with a view to safeguarding the statutory undertakers' and electronic communications apparatus owners' interests whilst enabling the scheme to proceed. The Applicant therefore considers that the condition set out in section 138 of the Planning Act 2008 is satisfied.

There are also bespoke PPs with the Environment Agency, and with Wiltshire Council:

Environment Agency – Bespoke PPs were agreed between the Applicant and the Environment Agency on 3 June 2019 and were inserted in the updated version of the dDCO submitted by the Applicant at Deadline 4 [REP4-019].

Wiltshire Council – Bespoke PPs are included in the dDCO and were revised at Deadline 3 to disaggregate provisions related to the Environment Agency, following receipt by the Applicant of the EA's bespoke PPs. Discussions with Wiltshire Council on its land drainage protective provisions are ongoing.

10 ESSO PETROLEUM	
Agenda Item	Highways England response
10.1 The Applicant to provide an update on the status of negotiations with Esso Petroleum and whether Protective Provisions have been agreed.	Mr Richard Turney reported that agreement in respect of the Esso asset and bespoke protective provisions was in place and that further detail on these will be provided to the ExA at Deadline 6 – specifically, the agreed form of bespoke protective provisions for Esso will be included in the updated version of the dDCO to be submitted by the Applicant at Deadline 6.
11 SECTION 130 OF THE PA2008 – NATIONAL TRUST LAND	
Agenda Item	Highways England response
<p>11.1 The Applicant and The National Trust to provide an update on the status of their discussions.</p> <p>11.2 Whether agreement has been reached that would avoid the need for the dDCO to be subject to Special Parliamentary Procedure.</p>	<p>Mr Patrick Robinson on behalf of the National Trust has already provided an update on the National Trust’s discussions with the Applicant. He noted that the National Trust has not reached agreement yet and the approach is to try and make clear the nature of the concerns. The National Trust’s concerns are not a simple set of binary questions; rather the National Trust is looking to negotiate a package of protections. So, resolution of the Trust’s concerns will involve a review by the Trust at an appropriate time to see how advanced, how certain and clear those protections are. The National Trust hopes that an agreement can be achieved, and the objection withdrawn to avoid the engagement of Special Parliamentary Procedure (“SPP”).</p> <p>Mr Richard Turney stated that Highways England also hope and expect that an agreement can be achieved. In a sense this is not something that needs to be a concern of the ExA, as the trigger for SPP would come at a later stage (once the ExA’s role in relation to the Scheme had concluded), but as the National Trust is an important landowner, Highways England is seeking to reach an agreement by the end of the Examination. There is no lack of effort on behalf of either party, to seek resolution on the matters outstanding within the remainder of the examination.</p>

12 SECTIONS 131 AND 132 OF THE PA2008 – OPEN SPACE, COMPULSORY ACQUISITION OF LAND AND RIGHTS OVER LAND	
Agenda Item	Highways England response
<p>12.1 Whether the replacement land proposed to be provided in exchange for the open space would be suitable and is no more than is reasonably necessary for that purpose.</p>	<p>Mr Graham Eves on behalf of Classmaxi confirmed that his client was content with the proposals.</p> <p>Mr Richard Turney confirmed that this matter is set out in paragraph 7.3 of the Statement of Reasons [APP-023], where the case is made for replacement land in paragraphs 7.3.6 and 7.3.7, which address the points made by Mr Eves and set out the justification for the replacement land, addressing the statutory requirements of section 132 (of the Planning Act 2008). It is worth noting that the area of open space land to be acquired is set out in Table 7.1 in the Statement of Reasons and the area of land proposed to be acquired compulsorily is 4,342 square metres and the area of the proposed replacement land exceeds this marginally. An assessment of suitability has been carried out and the replacement land is not subject to existing rights and consequently meets the statutory test in Section 131. Wiltshire Council is content with the proposals in the Order.</p> <p>Ms Kate Olley on behalf of Wiltshire Council confirmed that was the case.</p>
<p>12.2 In relation to the acquisition of rights over such land, whether the land when burdened with the rights would be no less advantageous than it was before.</p>	<p>Mr Richard Turney referred to section 7.3 of the Statement of Reasons [APP-023] and explained that there are a small number of open space land plots included in the Order over which the Applicant seeks only the acquisition of rights (these plots shown as blue land on Sheets 6 and 7 of the Special Category Land Plans [APP-006]) and in the case of those plots, there would be compliance with section 132(3), which requires that the Order land, when burdened with the Order rights, is no less advantageous than it was before to the persons in whom it is vested and to any other persons entitled to rights over it. It is anticipated that the land in question will be required for the diversion of statutory undertakers' apparatus. The works would be temporary, and the future maintenance of the apparatus would not affect the way in which the land is enjoyed. Where possible, the utilities would be laid beneath the highway, rather than within the open space land itself.</p> <p>Mr Paul Arnett on behalf of Classmaxi referred to question CA.1.37 from the ExA and explained that Heads of Terms have been agreed between his client and the Applicant, which will avoid the need for compulsory acquisition. As a fallback, Highways England has been asked to provide further details on what is proposed, and as such Classmaxi is not currently in a position to formally confirm that it agrees with the Applicant that the land, when burdened with the rights, would be no less advantageous, pending receipt of those details. However, an agreement will be drawn up and the expectation is that this will render the point superfluous.</p> <p>Post-Hearing Note: It is the Applicant's understanding, as shared and agreed with Classmaxi, that if compulsory acquisition of Classmaxi's land – including the open space – is avoided, through the parties' reliance on dedication of the land by Classmaxi as highway, such dedication to be secured through a side agreement between Classmaxi and the Applicant, then the need for replacement land to be provided to Classmaxi would fall away because there would be no compulsory acquisition</p>

	<p>of open space requiring replacement land. It is the parties' intention that the Heads of Terms will be updated to reflect this so that the side agreement also reflects the position correctly. For the reasons discussed during the Hearing, which go to the deliverability of the Scheme, it is understood by the parties that both the open space land and the replacement land would be retained within the Order limits on the premise that with the agreement in place, the Applicant would not exercise its powers of compulsory acquisition in respect of that land.</p>
<p>13 SECTION 135 OF THE PA2008 – CROWN LAND</p>	
<p>Agenda Item</p>	<p>Highways England response</p>
<p>13.1 The Applicant to provide an update on the position in relation to Crown Land and indicate whether all necessary consents have been secured.</p>	<p>Mr Richard Turney provided an update regarding the two types of Crown land included in the draft Order limits. The first comprises interests in land held by the Secretary of State for Defence. Consent has been obtained in respect of land in which the Secretary of State has a freehold interest; however, consent has not yet been obtained in respect of the plots in which the Secretary of State for Defence has the benefit of rights only. Highways England is liaising with the Ministry of Defence in respect of the outstanding consent needed and further updates will be provided to the ExA as progress is made.</p> <p>In respect of the Crown land owned by the Secretary of State for Culture, Media and Sport, Highways England expects consent to be granted imminently and before the end of Examination. Again, further updates will be provided to the ExA as progress is made.</p>
<p><i>Any other matters</i></p>	<p>In response to the ExA's invitation to comment on any other matters, Ms Kate Olley for Wiltshire Council raised the point made at previous hearings about the legal argument of modifying the DCO for the byways 11 and 12 and wished to raise a question around timetabling of the legal arguments and substantive issues.</p> <p>The ExA confirmed, in response, that it would consider all of the submissions and ensure that there was time in the Examination timetable to provide information on the reserved hearings.</p>
	<p>Hearing Closed</p>

APPENDIX A - Rationale for size and location of construction compounds

Project:	A303 Amesbury to Berwick Down
Title:	Rationale for size and location of construction compounds

1 Introduction

- 1.1 This technical note has been prepared to provide further information in response to the issues that were raised during the Compulsory Acquisition Hearing (held on 9 and 10 July 2019) concerning the rationale for the size and location of compounds which are required for the construction of the A303 Amesbury to Berwick Down Scheme.

2 Rationale for the size of compounds

- 2.1 Details of the construction compounds are provided in Section 2.4.12 to 2.4.16 of the Environmental Statement (ES) [APP-040], with the proposed locations shown on the General Arrangement Drawings [APP-012], and with layouts shown indicatively in ES Figure 2.7 [APP-061].
- 2.2 As is noted in paragraph 2.4.1 of the Environmental Statement (Chapter 2, The Proposed Scheme) [APP-040] the approach to construction is described in paragraphs 2.4.1 to 2.4.28 and is representative of the likely approach to be adopted. However, at this early stage, prior to the detailed design of the Scheme, a detailed construction methodology has not yet been developed. Therefore it is the Applicant's view that it is neither necessary nor appropriate at this stage to fix the precise layout of the construction compounds in the application for development consent, as this would constrain the operational flexibility available to the appointed contractor at the construction stage, post-detailed design of the Scheme. It is necessary to provide for a proportionate degree of flexibility to enable the contractor, once appointed, to determine the specific layout of the compound and to configure it in a way that allows enough space for the requisite works to take place. As such, Figure 2.7 A-E (Illustrative construction layout including compounds and haul routes) [APP-061] indicates how the construction compounds could be laid out, in an indicative form, and illustrates the range of measures that could be implemented to mitigate the effects of their presence.
- 2.3 In terms of the equipment to be installed in the main compound and the eastern compound this will be the choice of the contractor who will install, operate and decommission the compound; however this is likely to include:

Main compound:

- Office and welfare facilities

This would include the provision of office space to contracting and client personnel in addition to welfare (showers, toilets, changing rooms), medical facilities, visitor / induction / training rooms, parking and canteen space.

- Tunnel support equipment

This would include facilities to produce pre-cast concrete tunnel linings including storage space for the concrete segments to cure, a concrete batching plant required to produce concrete for the pre-cast tunnel linings and concrete supplies for the project works; a slurry treatment plant ("STP") required to separate the solids from the slurry produced as the tunnel boring machine ("TBM") excavates

though the chalk; and construction HV power and potable water supplies. The STP at the main compound (ES Figure 2.7 B) would separate the solid chalk particles from the slurry produced by the TBM excavation and formed into chalk “cakes” suitable for stockpiling. This material would be stored temporarily at the main compound site (envisaged as a maximum of 7 days) prior to transportation to land to the east of Parsonage Down for permanent landscaping. The STP would be a material separation plant with minimal chemical treatment applied to balance pH levels.

- Temporary stockpiles and material storage areas

Stockpiles are temporary in nature and are primarily to store topsoil and chalk (excavated from the road works sections) for later incorporation in the works as structural or landscape fill.

Eastern compound:

- Office and welfare facilities

This would include the provision of office space to contracting and client personnel in addition to welfare (showers, toilets, changing rooms), medical facilities, visitor / induction / training rooms, parking and canteen space.

- Utilities connections

The compound would partially be used for tying-in utilities (water and electricity) to the existing networks. Discussions are ongoing with the utilities providers and there remains an element of uncertainty regarding the exact route of the utility connections, therefore the compound may contain a larger area than is actually required due to the need to allow flexibility for the utility company. The final route of the utilities connections will be finalised during detailed design.

- Temporary stockpiles and material storage areas

Stockpiles are temporary in nature and are primarily to store topsoil and chalk (excavated from the road works sections) for later incorporation in the works as structural or landscape fill. There is no intention to treat any TBM spoil at the eastern compound. The TBM spoil from the drive from the eastern portal towards the western site is anticipated to be pumped along the first drive directly to the STP in the main compound.

2.4 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.

2.5 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. However, the construction compound requirements have been minimised as far as possible by the selection of the single tunnel boring machine (TBM) option. If two TBMs were used this would double the

space required for the STP, precast facilities & HV supplies and the size of the tunnel welfare facilities.

- 2.6 Once appointed the Scheme's contractor would determine the final layout and associated activities of the construction compounds but would be bound by any commitments made by Highways England in the draft development consent order, including the mitigation secured through the OEMP.

3 Rationale for the location of compounds

- 3.1 In terms of the location of the construction compounds, the key driver for their location is the need to be as close to the site of operations as practicable, while minimising environmental impacts, in particular on the WHS, as far as reasonably practicable. The use of the land for the construction compounds would be temporary and subject to provisions in the DCO requiring it to be restored to the reasonable satisfaction of the landowner.
- 3.2 The proposed 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 compound has been optimally sited to facilitate the efficient construction of the Scheme and its location is secured by item MW-G28 in the version of the OEMP submitted at Deadline 6 (the Deadline 6 OEMP').
- 3.3 The eastern compound has been positioned to best serve the construction of the Countess flyover. Its location is influenced by a range of factors, considering: proximity to the works, ease of access, local topography, proximity to properties and ecological restrictions associated with the River Avon valley. There is no alternative location in this area where the compound could be sited more conveniently to serve the efficient construction of the eastern end of the Scheme. Its location is secured by item MW-G28 in the Deadline 6 OEMP.
- 3.4 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.
- 3.5 On completion of the Scheme, the construction compounds would be removed, and the land would be reinstated and returned to the landowner/occupier as required by article 29(4) of the draft development consent order, and through the process set out in item MW-COM4 of the OEMP.

4 Mitigation

- 4.1 With regard to the impacts associated with construction compounds, these are addressed within the OEMP – the Outline Environmental Management Plan [REP4-020] which is secured by paragraph 4 of Schedule 2 to the draft development consent order [REP3-002]. The OEMP includes a range of measures to limit or avoid dust, noise, spillage and disruption by construction traffic, which would ensure that appropriate mitigation measures were employed. These measures include:

- MW-G28 (Main Construction Compound) which requires extensive measures to be employed (including bunds) to address landscape and other impacts.
- MW-WAT7 which addresses Pollution Control,
- MW-WAT13 addresses Flood Risk
- MW-G20 addresses hazardous material

Technical Note

- MW-NOI1 requires the use of Best Practicable Means (BPM) for controlling and mitigating noise
- MW-NOI3 addresses noise impacts
- MW-G29 addresses lighting
- Heritage impacts are addressed in the Detailed Archaeological Mitigation Strategy (“DAMS”) [REP4-024].

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