

A303 Amesbury to Berwick Down

TR010025

Deadline 6

**8.37.8 - Responses to the ExA's Written Questions
- Compulsory Acquisition, Temporary
Possession and Other Land or Rights
Considerations (CA.2)**

APFP Regulation 5(2)(q)

Planning Act 2008

The Infrastructure Planning (Examination Procedure) Rules 2010

July 2019



Infrastructure Planning

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A303 Amesbury to Berwick Down

Development Consent Order 20[**]

Responses to the ExA's Written Questions

- Compulsory Acquisition, Temporary Possession and Other Land or Rights Considerations (CA.2)

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8 Compulsory Acquisition, Temporary Possession and Other Land or Rights Considerations (CA.2)

Question CA.2.1

The response to ExQ1 CA.1.1 refers to the impracticalities of drafting the dDCO Schedule 1 to distinguish the associated development aspects of the development. The ‘Guidance on associated development applications for major infrastructure projects’ (Department for Communities and Local Government) recognises that it may not be practicable to identify parts of a scheme as associated development.

- i. Whilst there may be aspects of the development that may be impractical to identify are there no parts of this scheme which are obviously associated development and which can be so identified?
- ii. What attempt has the Applicant made to comply with the guidance on this topic?
- iii. ExQ1 CA.1.1 (iii) requested the Applicant to identify which categories of the Statement of Reasons (SoR), paragraph 2.3.1, a. to u. could be identified as Associated Development [REP2-029]. The response indicates that the Applicant was not able to identify which items a. to u. were associated development and relied upon the answer given to ExQ1 DCO.1.4. Does that response apply to items m to s? Can none of the items listed be readily identified as associated development?
- iv. Can the Applicant categorise SoR paragraph 2.3.1 m – ‘Conversion of part of the existing A303 into a new restricted byway’? If associated development, explain how would that help address the impacts of the scheme and comply with the associated development guidance?

Highways England response

- i. **Whilst there may be aspects of the development that may be impractical to identify are there no parts of this scheme which are obviously associated development and which can be so identified?**
 1. The Applicant does not consider there to be any elements of the Scheme which are obviously associated development, and which can be unequivocally identified as associated development. Please refer to the Applicant’s response to ExQ2 DCO.2.2 which restates the Applicant’s view that separating out the works which constitute the nationally significant infrastructure project (‘NSIP’) and ‘associated development’ is neither practicable nor necessary.

ii. What attempt has the Applicant made to comply with the guidance on this topic?

2. The Applicant has had regard to the *Planning Act 2008: Guidance on associated development applications for major infrastructure projects* (issued by the Department for Communities and Local Government in April 2013) ('the Guidance') and has considered, in particular, the detail of Annexes A and B to the Guidance, which "provide examples of the type of development that *may* qualify as associated development" (paragraph 12 [*emphasis added*]).
3. Whilst there is clearly some crossover between the examples of possible associated development in the Annexes to the Guidance and elements of the Scheme, the Applicant can see no compelling reason for, or practical advantage to, seeking to distinguish between various elements of the Scheme in this way. The Applicant therefore maintains its view that whilst the Guidance is doubtless helpful for certain types of project – particularly energy infrastructure schemes, such as pipelines and onshore and offshore generating stations, where the component parts of a project may be less fine-grained and interwoven than the multifarious elements of a major highway project generally are – it is significantly less helpful in relation to highways NSIPs, in the context of which slavish adherence to the Guidance would bring no discernible benefit or practical advantage, either for the promoter of the Scheme, or for the Secretary of State to whom the decision of whether or not to grant development consent falls.
4. The Applicant observes that it is not unique among highways infrastructure promoters in taking this view of the applicability of the Guidance to highways DCOs. Highways DCOs in which associated development is differentiated from the NSIP are the exception rather than the norm. The Applicant's approach has precedent, as previously explained, in the made Orders for schemes such as The A14 Cambridge to Huntingdon Improvement Scheme Development Consent Order 2016, The A160/A180 (Port of Immingham Improvement) Development Consent Order 2015, The A19 / A184 Testo's Junction Alteration Development Consent Order 2018, the Silvertown Tunnel Order 2018 and The A19/A1058 Coast Road (Junction Improvement) Development Consent Order 2016. Other Orders still in draft form such as The Lake Lothing (Lowestoft) Third Crossing Order and the Great Yarmouth Third River Crossing Development Consent Order also do not distinguish between the NSIP and associated development.
5. As noted in the Applicant's response to ExQ2 DCO.2.2, the Guidance is not binding on the Secretary of State, the Examining Authority or Highways England. Furthermore, as noted already in the Applicant's responses to ExQ1 DCO.1.4 and ExQ2 DCO.2.2, there is no requirement from a legal perspective to separate out the NSIP and associated development in a DCO. As such, whilst the Applicant has considered the Guidance, it does not see compliance with the Guidance as a prerequisite for a legally robust, regulatory compliant and well thought-through DCO application.

iii. **ExQ1 CA.1.1 (iii) requested the Applicant to identify which categories of the Statement of Reasons (SoR), paragraph 2.3.1, a. to u. could be identified as Associated Development [REP2-029]. The response indicates that the Applicant was not able to identify which items a. to u. were associated development and relied upon the answer given to ExQ1 DCO.1.4. Does that response apply to items m to s? Can none of the items listed be readily identified as associated development?**

6. The Applicant acknowledges that the items identified as m. to s. in paragraph 2.3.1 of the Statement of Reasons ('SoR') [APP-023] include items very similar to those highlighted as examples of potential associated development in Annexes A and B to the Guidance. However, the Applicant maintains its view that there would be little practical benefit to be gained in separating these items out from the NSIP.
7. The Applicant has previously explained, both in the Explanatory Memorandum [APP-021] and in its response to ExQ1 CA.1.1, that its position on this matter is based on the fact that works comprised in the Scheme could form part of the NSIP but could equally be associated development – in other words, the distinction is not clear and the same element could at once form part of the NSIP as well as being classed as associated development.
8. Taking item o. in paragraph 2.3.1 of the SoR – the 'deposition of excavated material' – as an example in point, the Applicant's responses to ExQ2 WM.2.2 (to what extent would the deposition of tunnel arisings form part of Work No. 1A and / or Work No. 8?), WM.2.5 (clarify the extent to which tunnel arisings would be used in the construction of structural embankments) and WM.2.8 (regarding the provision of a detailed methodology for the placement of excavated materials) all demonstrate that the way in which the component parts of a highways scheme fit together can be highly complex (see the schematic diagram featured in some of those responses), and would not be helped or clarified by the process of seeking to distinguish between the discrete and arguably, in relation to highways schemes at least, artificial categories of NSIP and associated development.
9. The Applicant's response to ExQ2 DCO.2.2 includes a table listing the various types of development authorised in Schedule 1 and stating, indicatively, whether each element could constitute either the NSIP, associated development or both. It is clear, on the face of this table, that many elements of the Scheme could comprise both NSIP and associated development at once. Accordingly, and for the reasons already explained, the Applicant does not propose to amend Schedule 1 to the DCO to create distinctions between the NSIP and associated development.

iv. **Can the Applicant categorise SoR paragraph 2.3.1 m – 'Conversion of part of the existing A303 into a new restricted byway'? If associated development, explain how would that help address the impacts of the scheme and comply with the associated development guidance?**

10. The Applicant acknowledges that item m. in paragraph 2.3.1 of the Statement of Reasons ('SoR') [APP-023] – 'Conversion of part of the existing A303 into a new restricted byway' could come within the example cited in Annex B of the Guidance – "*Alteration/diversion/stopping up of local roads, accesses and other rights of way*" and indeed is listed as such for the purposes of the exercise carried out by the Applicant in response to ExQ2 DCO.2.2, as described above.
11. However, it is the Applicant's view that if the new restricted byway proposal was to be classed as associated development, it would not help to address the impacts of the Scheme any more than it would by being part of the NSIP itself. The Applicant considers that the conversion of the existing A303 to a new restricted byway is an element of the Scheme in its own right, rather than a component part aimed at mitigating the effects of the mainline tunnel element of the Scheme, or included in the Scheme to provide support for the tunnel element. Indeed, the new restricted byway has its own part to play in contributing to the achievement of the objectives of the Scheme. As such, it is surely a part of the NSIP, rather than associated development included in the Scheme simply as an element subordinate to the principal development.
12. As to the matter of compliance with the Guidance, the Applicant has already set out its position on that in response to part (ii) of ExQ2 CA.2.1 above.

Question CA.2.2

ExQ1 CA.1.3 (iii) sought information relating to the progress of discussions with relevant landowners to minimise any impact upon existing surface activities [PD-008].

Please provide an update on the progress of discussions with the Affected Persons and whether any agreements have been finalised?

Highways England response

13. The Applicant's updated version of the Land Acquisition and Temporary Possession Negotiations Schedule has been submitted at Deadline 6 alongside these written question responses.
14. Discussions about land requirements have begun with all affected parties as shown in the Land Acquisition and Temporary Possession Negotiations Schedule; agreements are more advanced with the following affected persons:
 - a. Grant family – Draft Heads of Terms (HoTs) under discussion, with land values agreed and accommodation works agreed;
 - b. Classmaxi Limited – Draft HoTs agreed, agreement with Wiltshire Council currently being drawn up;
 - c. PJ Rowland and Sons and Lincoln College – Accommodation works agreed subject to minor amendments;
 - d. Yarnbury Castle Limited – Accommodation works agreed and Position Statement agreed;
 - e. Fawley Farms – Draft HoTs currently under review;
 - f. Beacon Hill Land Limited – Land Agent has been contacted to advise that Highways England is willing to agree a structure for dedication aligned with the approach taken with ClassMaxi; and
 - g. Morrison and King – HoTs are being drafted and will be discussed shortly with the Land Agent.

Question CA.2.6

ExQ1 CA.1.7 (ii) requested a description of the nature of the restrictive covenants sought together with a justification for their imposition [PD-008]. The response indicates that the exact nature or the restrictions or rights remains to be determined.

- i. Does that represent a reasonable approach?
- ii. How can the reasonableness and necessity for the power granted be assessed in the absence of such detail?

Highways England response

- i. **Does that represent a reasonable approach?**
 1. Highways England has made it clear, since the submission of the application, that the proposed imposition of restricted covenants is for the purpose of protecting the structural integrity of the tunnel from potentially conflicting future development and works at surface level above the tunnel – this was explained in the Statement of Reasons [APP-023], at section 5.3.7. This principle has 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. As set out in section 8 of Highways England’s written summary of oral submissions put at the Compulsory Acquisition Hearing on 10 July 2019 [REP5-002], the power to impose restricted covenants is sought because it is considered to be less restrictive than a power of outright compulsory acquisition, and demonstrates that Highways England is seeking to adopt a proportionate approach, striking a balance between ensuring that it has the powers necessary to deliver the Scheme, whilst not depriving landowners of any interest in land unnecessarily. For these reasons, Highways England believes that the approach taken is a reasonable one.
 2. The detail of the restrictions (which would be imposed through the restrictive covenant(s)) relates to the engineering and operational requirements for protection of the tunnel. This, in Highways England’s view, is a matter for discussion and consultation with the relevant landowners and statutory bodies in cases where the restriction might have an impact on the current use of the land at and below its surface. As such, while restrictive covenants are required to protect the integrity of the tunnel, the precise nature of the terms of the covenants has involved discussion and negotiation with the National Trust and the Heritage Monitoring Advisory Body, and the proposed terms have now been shared with other landowners along the route, so that they have an opportunity to provide comments.
 3. It is considered that this represents a reasonable approach on the basis that it is a matter of fact that such restrictive covenants are required to protect the tunnel, and that Highways England is seeking to discuss the terms of the

covenant with affected parties to minimise impacts on landholdings at the surface.

ii. How can the reasonableness and necessity for the power granted be assessed in the absence of such detail?

4. The reasonableness and necessity for the power granted can be assessed in the absence of such detail on the basis that Highways England requires a restrictive covenant for the protection of the tunnel to prevent additional or removed loading that could jeopardise the integrity of the tunnel. The detail of the restriction, which has been a matter for discussion with parties likely to be affected by it, relates to minimising the impact of this required restriction on activities at the surface and setting out the practical and logistical processes once the covenant becomes operational. Such details are matters of practical application and are clearly a matter for discussion during the examination of the DCO application – both with the relevant affected persons and with the Examining Authority. As such, the detail of the restricted covenants is not absent, and its reasonableness and necessity are being assessed through the processes outlined above. Accordingly, whilst the precise terms of the restrictive covenants sought are not a matter for inclusion in the draft DCO (but would feature in any instrument implementing the power granted through the DCO), the justification for the power which is sought in the draft DCO is clear.
5. Incidentally, as was also noted in the above-mentioned Compulsory Acquisition Hearing, agreement in principle has been reached on the terms of the restrictive covenant with the National Trust, which owns the majority of the land along the route of the tunnel, and a legal agreement which covers the points agreed, is being drafted. The proposed terms have also been shared with other landowners who have an interest in land above the proposed tunnel.

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

Question CA.2.7

The response to ExQ1 CA.1.10 makes reference to the scheme being part of a wider package of proposals for the A303/ A358 corridor designed to transform connectivity to and from the south west of England [REP2-029].

- i. Please confirm that this is a fundamental aspect of the Applicant's need case and indicate the weight placed upon the wider package of proposals being delivered?
- ii. Are all elements of the 'need' case, including the protection of the World Heritage Site (WHS) designation, relied upon equally to justify the proposed Compulsory Acquisition?

Highways England response

- i. **Please confirm that this is a fundamental aspect of the Applicant's need case and indicate the weight placed upon the wider package of proposals being delivered?**
 1. As confirmed at the compulsory acquisition hearing on 9th July 2019 [REP5-002], the Scheme has been assessed on a standalone basis 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 A303/A358 corridor scheme. There is, accordingly, a compelling case in the public interest for the granting of powers of compulsory acquisition in support of the delivery of the Scheme. Whilst the Amesbury to Berwick Down scheme is part of the wider package of A303/A358 interventions (see Appendix 5.1 of the Transport Assessment [APP-297] for details of proposed highway infrastructure improvement schemes included in the traffic model for the Scheme), it is not dependent on that package or on the benefits that would arise from that package. However, some of the wider benefits of the corridor intervention could not be delivered without the delivery of this Scheme.
- ii. **Are all elements of the 'need' case, including the protection of the World Heritage Site (WHS) designation, relied upon equally to justify the proposed Compulsory Acquisition?**
 2. As confirmed at the compulsory acquisition hearing on 9 July 2019 [REP5-002] all elements of the need for the scheme have been relied upon equally to justify the proposed compulsory acquisition powers which are sought in the DCO application, including the cultural heritage benefits in connection with the OUV of the WHS, details of which are included in the Benefit Cost

Ratio for the Scheme, as detailed in Table 6-1 of the Combined Modelling and Appraisal Report [APP-298].

3. In making its case in support of the grant of compulsory acquisition powers, the Applicant has not sought to disaggregate and then weigh the various benefits against one another or to prioritise them in any way. No one aspect of the Scheme benefits is more important than another; in combination with one another the Scheme benefits collectively provide sound justification for the grant of compulsory acquisition powers. Whilst the legal starting point for the decision-making process in relation to the grant of development consent, supported by the grant of compulsory acquisition powers, is the recognition, in the National Networks National Policy Statement, of the need to deliver substantial improvement to the road network, to realise economic benefits and to remove impediments to growth, the Applicant does not seek to say that the importance of this benefit would outweigh other aspects of the needs case.

Question CA.2.8

The response to ExQ1 CA.1.11 in relation to the assessment of the private loss to individual Affected Persons relies upon the ES Chapter 13 assessment of the effects of the scheme on individual agricultural and other land interests [REP2-029].

Please explain in detail why that represents a sufficient and proportionate assessment of private loss that would be experienced by individuals should the powers of Compulsory Acquisition sought be exercised?

Highways England response

1. The methodology underlying the assessment presented in ES Chapter 13 [REP2-029] has been formulated for use in linear development schemes. It was developed for use on the HS2 (Phase 1) project in consultation with the NFU, the Country Land & Business Association (CBLA) and the Central Association of Agricultural Valuers (CAAV) and has been through Select Committee examination. The methodology was used unaltered in HS2 (Phase 2a) and is currently being used in HS2 (Phase 2b).
2. The NFU has accepted the reasonableness of the methodology for assessment of temporary impacts; the NFU consider it underestimates the permanent impacts on land owners.
3. However, as explained by Highways England in the Compulsory Acquisition Hearing held on 9 and 10 July 2019, and reported in its written summary of oral submissions put at that hearing [REP5-002], whilst it is acknowledged that a sufficient and proportionate assessment of private loss must necessarily have regard to the interests of individual landowners and occupiers, 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. The ES reports 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.
4. Impacts on the financial aspects of a business are dealt with through the compensation code and whilst matters of compensation are not a matter for consideration by the Examining Authority, they are relevant to, and form part of, the assessment of the private loss that would be suffered by those who would be affected by any powers of compulsory acquisition granted in furtherance of the Scheme. As such, Highways England is of the view that

there is adequate assessment of the effects of private loss, with such assessment feeding into the balancing exercise between public benefits and private losses. Highways England has given a commitment that persons affected by the Scheme will be properly and fairly compensated for any losses (including financial losses) suffered. Compensation will be paid on the basis of equivalent reinstatement, and will therefore, necessarily, involve and be informed by, a sufficient and proportionate assessment and proper understanding of the loss suffered.

Question CA.2.9

The response to ExQ1 CA.1.11 indicates that the Applicant considers that private losses may be fairly and appropriately compensated through the payment of statutory compensation [REP2-029]. In terms of the balancing exercise undertaken, that considered the private loss after compensation upon individual landowners and occupiers against the benefits the scheme would deliver.

- i. Please indicate if separate exercises were undertaken in the case of each individual Affected Person?
- ii. What weight was attributed to private loss after compensation was taken into account?

Highways England response

- i. **Please indicate if separate exercises were undertaken in the case of each individual Affected Person?**
 1. The land referencing and diligent enquiry process was undertaken to identify each individual person with an interest in land as set out in section E3.4 of Appendix E.3 of the Consultation Report [APP-031].
 2. Highways England's response to CA.1.11 references Chapter 13 of the ES [APP-051], which states that the effects of the Scheme upon individual agricultural and other land interests during both the construction phase and operational phase were identified and are summarised in Tables 13.22 and 13.23. This exercise was undertaken in the case of each individual Affected Person identified.
 3. As referenced in Highways England's response to CA.1.11 the balancing exercise was undertaken and the Applicant is of the view that the public benefits of the Scheme outweigh any residual adverse effects including private loss suffered by individual landowners and occupiers. The Applicant has completed this balancing exercise in relation to identified land interests, as referenced in CA.1.11. The practice followed by the Applicant accords with accepted methodology and established practice relating to proposals to apply for powers of compulsory acquisition in support of schemes dependent for their delivery on land assembly.
 4. Separate exercises considering the private loss (after compensation) balanced against need were not undertaken in the case of each individual Affected Person. The Applicant considers that there is no justification nor precedent in established compulsory acquisition methodology for doing so, nor is any such requirement set out in Government guidance on compulsory acquisition (see Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land (DCLG, September 2013) at paragraphs 13 and 14; and Guidance on Compulsory Purchase and the Crichel Down Rules (MHCLG, July 2019) at paragraph 13). Whilst financial losses are

necessarily considered on a case by case basis (and are reliant on the provision of financial information by Affected Persons) the Applicant is aware that the level of compensation for each Affected Person is not a matter for the Examination.

ii. What weight was attributed to private loss after compensation was taken into account?

5. As set out in CA.1.11 paragraph 'e' the Applicant has determined that the compelling need for development of the Scheme (which forms a part of the National Networks National Policy Statement) outweighs any private loss (after compensation). Accordingly, there is a compelling case in the public interest.
6. Private loss after compensation cannot be quantified or assessed by the Applicant, and such assessment is not usual practice in the examination of DCOs (or in public local inquiries relating to compulsory purchase orders). However the matter of private loss to individual Affected Persons was recognised and minimised, as far as is possible within the constraints of the Scheme, by minimising the area that is subject to compulsory acquisition powers and by applying a 'drop down' approach to the exercise of compulsory acquisition powers, where a lesser power may be used where appropriate (as explained in Highways England's written summary of oral submissions made in the Compulsory Acquisition Hearing held on 9 and 10 July [REP5-002], see page 2-9). The Applicant does not have sufficient information to assign any particular level of "weight" on a case by case basis.

Whether all reasonable alternatives to Compulsory Acquisition been explored

Question CA.2.10

In relation to modifications to the scheme suggested by Affected Persons in the course of this examination with a view to minimising land use impact, please explain in each case why these proposals could not be accommodated and/ or would not provide a reasonable alternative to Compulsory Acquisition?

Highways England response

1. Six modifications to the Scheme have been suggested by affected persons in the course of this Examination with a view to minimising land use impact. These are:
 - a. Removal of PRoW north and south of A303 from SLAN3 to Green Bridge 1
 - b. Green Bridge 1 location and the public right of way across it.
 - c. Relocation of the proposed bridleway between Winterbourne Stoke and Longbarrow Junction from the north to the south side of the existing A303.
 - d. Stonehenge visitor centre non-motorised user access route east of the A360
 - e. Diversion of the proposed restricted byway south of Longbarrow junction along the new A360 link, allowing the existing A360 to be returned to agriculture
 - f. Deposition of tunnel arisings on the land south of Parsonage Down (instead of on the land to the east of Parsonage Down)
2. The reasons why these proposals could not be accommodated and/or would not provide a reasonable alternative to compulsory acquisition of the land required are set out below:
 - a. Removal of PRoW north and south of A303 from SLAN3 to Green Bridge 1
 - i. Refer to Written Summaries of oral submissions made at Issue Specific Hearing - Traffic and Transport – held on 13 June 2019 [REP4-034] Agenda item 4.1.
 - ii. Some local landowners have objected to the provision of public rights of way alongside the western end of the proposed A303.
 - iii. These proposed routes would provide access for non-motorised users (NMUs) from Winterbourne Stoke and the

existing A303 near Scotland Lodge to byway SLAN3 near Yarnbury Castle. From there, routes are available to the north towards Chitterne and Tilshead and to the south towards Stapleford. These routes would also provide an alternative for NMUs on byway SLAN3 who do not wish to use the existing crossing of the A303. A track along the north side of the A303 is required to provide access to agricultural land where existing accesses from the A303 are being stopped up: see PMA references a and b on Sheet 2 of the Rights of Way and Access Plans [APP-009] and DCO Schedule 3 [REP4-018]. This route would thus be required even if a new crossing was provided at Yarnbury Castle, requiring a similar area of land.

- b. Green Bridge 1 location and the public right of way across it
- i. Refer to Written Summaries of oral submissions made at Issue Specific Hearing - Traffic and Transport – held on 13 June 2019 [REP4-034] Agenda item 4.3.
 - ii. Some local landowners have objected to the provision of Green Bridge No. 1, and the restricted byway which would cross it.
 - iii. Green Bridge No. 1 is intended to perform a number of environmental mitigation and enhancement functions. It is not being proposed solely as mitigation for the severance of an existing bat commuting corridor by the Scheme. The bridge would be located in close proximity to the Site of Special Scientific Interest (SSSI) that will act as a source to aid dispersal of flora and fauna species associated with chalk grassland habitats.
 - iv. The proposed bridge location is at a point where the cutting depth of the proposed A303 allows for the necessary road clearance without being prominent within the landscape, while minimising the construction footprint. If the bridge was to be located either to the east or west of the currently proposed location, then the bridge would require additional construction footprint and compulsory acquisition. It would also require an area of existing woodland or land to be acquired for planting to mitigate its impact.
 - v. Given the land-take requirements of the cutting, the proposed location of Green Bridge No.1 represents an efficient use of land to be permanently acquired for construction of the Scheme. It also allows the bridge to be integrated into the local landscape and would provide micro-climates / suitably sheltered habitat to aid the dispersal of a range of species and provide an opportunity to create a crossing of the

proposed A303 for the restricted byway, thus providing connectivity for cyclists as required by Highways England's Cycling Strategy and Interim Advice Note (IAN) 195/16. It also provides for agricultural access to the north of the proposed A303 from the existing A303.

- c. Relocation of the proposed bridleway between Winterbourne Stoke and Longbarrow Junction from the north to the south side of existing A303
- i. Refer to Written Summaries of oral submissions at Issue Specific Hearing - Traffic and Transport – held on 13 June 2019 [REP4-034] Agenda item 4.6.
 - ii. The landowner affected by the proposed bridleway between Winterbourne Stoke and Longbarrow Junction has proposed that the route be relocated to the south of the existing A303.
 - iii. An alignment to the south of the existing A303 was considered but would require an area of some woodland and scrub to be removed and would involve additional earthworks. Whilst feasible, locating the bridleway in this area would remove the existing bat foraging habitat; and, following an assessment of the environmental effects, it was concluded that the northern route was preferable. This northern route was endorsed at the Walking Cycling and Horse Riding Workshop held in relation to the Scheme in July 2018.
 - iv. A further option which involved removing the hedge in order to position the bridleway adjacent to the highway was also considered, but was found to be unsatisfactory. The Design Manual for Roads and Bridges Technical Advice note TA 91/05 Provision for Non-Motorised Users states, “where practicable, equestrians should be routed away from the immediate vicinity of roads” (Cl. 2.15) and TA90/05 The Geometric Design of Pedestrian, Cycle and Equestrian Routes states that, “For routes used by equestrians, the separation of the route from the carriageway should be a preferred minimum of 1.8m.” (Cl. 7.23). This alternative would not have achieved the desired separation and was, accordingly, discounted.
 - v. This alternative would also have given rise to environmental disbenefits:
 - If the existing hedge was removed and the bridleway placed closer to the existing A303, there would be a loss of habitat including hedges, scrub and trees which would reduce the connectivity of the landscape for bats.

- The structure and composition of the hedgerow is described in the Hedgerow Survey Report, ES Appendix 8.5 [APP240], in two sections, 3 and 8. Both sections are well-grown hedges with trees and several woody species, which further contribute to biodiversity, especially in an area which is largely in arable production.
 - The provision of a grass strip for equestrian use adjacent to the hedgerow would also provide complementary habitat for the hedgerow and some buffering from agricultural activity on adjacent land. This provision would be beneficial for invertebrates.
 - Retaining the existing hedge in place would improve the amenity for bridleway users.
- vi.** For all the reasons set out above, the solution locating the length of new bridleway to the north of the A303 (on the north of the hedgerow boundary) was considered to be the optimum solution, notwithstanding the extent of the land required for its delivery.
- d.** Stonehenge visitor centre non-motorised user access route east of A360
- i. Refer to Written Summaries of oral submissions made at the Compulsory Acquisition Hearing held on 9 and 10 July, agenda item 8.2 [REP5-002].
 - ii. English Heritage Trust has objected to the proposal to create a restricted byway running alongside the A360 within the boundary of the Stonehenge Visitor Centre complex, on the grounds of negative impacts on safety, security, operations, heritage and local road users.
 - iii. Plot 14-07 is needed to link non-motorised user routes to the north with Longbarrow Roundabout, along an obvious desire line for visitors exploring the WHS on foot or by bicycle. Having objected to the route proposed in the DCO application, English Heritage Trust (EHT) proposed an alternative route to the east of the Stonehenge Visitor Centre; however, this would involve the compulsory acquisition of land owned by a neighbouring landowner, and would therefore not provide an alternative to compulsory acquisition. The neighbouring landowner, who is also the owner of the land leased to English Heritage for the Visitor Centre site, does not consent to the proposed acquisition of their land to facilitate the provision of the alternative NMU route provision, and so land would still need to be acquired compulsorily if this non-motorised user route was to be delivered as part of the Scheme; however, the Applicant has elected to discount the proposal and to continue its efforts to

- identify an alternative route which is acceptable to all parties and which minimises land take. These efforts are ongoing.
- e. Divert the restricted byway south of Longbarrow along the new A360 link, allowing the existing A360 to be returned to agriculture
 - i. The new restricted byway proposed adjacent to the A360, from the existing Longbarrow roundabout to byway BSJA11, provides a continuous link to the proposed byways adjacent to the A360 north and the A303 east. This connection utilises the existing A360 carriageway and follows a non-motorised user desire line for north to south movements and vice versa. The alternative proposed along the new A360 link would be less attractive to non-motorised users due to its close proximity to highway traffic and the 0.7km increase in distance between Druid's Lodge and Green Bridge No. 4.
 - ii. Accommodation work discussions have begun with affected landowners and occupiers, and Highways England will continue to engage with landowners in order to seek to reduce the impacts of severance on farming activities. If this is unachievable, there may be an entitlement to compensation for severance, for example where the resultant shape of the retained field parcels, or associated access restrictions, were to restrict the use of the land, for instance by making future farming operations difficult or impractical.
 - f. Deposit tunnel arisings on the land south of Parsonage Down instead of on the land to the east of Parsonage Down
 - i. The affected landowner has objected to the deposition of tunnel arisings on the land to the east of Parsonage Down, suggesting that the area to the south should be used instead.
 - ii. The comparative assessment, as set out in the Environmental Statement (ES), Appendix 12.1, Tunnel Arisings Management Strategy, [APP-285], both for off-site alternatives, Section 3, and sites in the vicinity of the scheme, Section 4, includes an assessment of the loss of best and most versatile agricultural land, in accordance with planning policy. The National Networks National Policy Statement (NNNPS) requires (at paragraph 5.168) applicants for development consent to "take into account the economic and other benefits of the best and most versatile agricultural land (defined as land in grades 1, 2 and subgrade 3a of the Agricultural Land Classification)", and advises that "Where significant development of agricultural land is demonstrated to be necessary, applicants should seek to use areas of poorer quality land in preference to that of a higher quality. Applicants should also identify any effects, and seek to minimise impacts, on soil quality,

taking into account any mitigation measures proposed". The requirements in paragraph 5.168 of the NNNPS, and commentary on how those requirements have been complied with in relation to the Scheme, are set out in the Case for the Scheme and NPS Accordance document, at its Appendix A [APP-294].

- iii. The comparative assessment did not take into account the proportion of the various agricultural holdings that would be lost as this does not expressly fall to be considered as part of environmental assessment. The assertion that one holding will be rendered non-viable whilst the other will not is not accepted; where there is a loss of agricultural land arising from the Scheme, the financial impact on each holding, in terms of income/profit foregone and loss of profit, will be compensated in accordance with the principle of equivalent reinstatement under statutory financial compensation provisions. It is also the case that a significant part of the land that would be affected by the deposition of tunnel arisings to the east of Parsonage Down would be affected in any event due to the placement of arisings required for essential landscape mitigation.
- iv. Proposals for the compulsory acquisition of the land east of Parsonage Down are justified on the basis that at present, whilst it is understood that the land could be restored to calcareous grassland following deposition of the tunnel arisings, it cannot be guaranteed that the land could be returned to its former agricultural classification. Accordingly, the compulsory acquisition powers are sought to accommodate a scenario in which the landowner no longer wished to retain the land in its changed state. Discussions with the landowner are ongoing.

Question CA.2.11

Please provide an update on the progress of negotiations with each Affected Person to acquire the various land/ rights in question subsequent to the DL2 submission of the Land Acquisitions and Temporary Negotiations Schedule (Revision 2) [REP2-042].

Highways England response

1. Since the DL2 submission of the Land Acquisition and Temporary Possession Negotiations Schedule [REP2-041 and REP2-042] the Applicant has submitted further updates to this document at Deadline 3 [REP3-010 and REP3-011] and Deadline 4 [REP4-027 and REP4-028].
2. The Applicant notes that the revision numbering of the various submitted versions of this document requires amendment as follows:
 - Deadline 2 [REP2-041 and REP2-042] – this should be Revision 1 (not Revision 2 as stated);
 - Deadline 3 [REP3-010 and REP3-011] – this should be Revision 2 (not Revision 1 as stated); and
 - Deadline 4 [REP4-027 and REP4-028] – this should be Revision 3 (not Revision 2 as stated).
3. A further update to this document will be submitted alongside this written question at Deadline 6 and this latest version will be Revision 4.

Whether adequate funding is likely to be available

Question CA.2.12

The revised Funding Statement submitted at DL2 estimates the capital cost of the main scheme at £1.7 billion [REP2-005].

Is the Applicant aware of any matters that have arisen since DL2 that might lead that estimate to change or impact upon the deliverability of the scheme in financial terms?

Highways England response

1. The Applicant is not aware of any matters that have arisen since Deadline 2 that change the scheme estimate or impact upon the deliverability of the scheme in financial terms.

Question CA.2.13

The revised Funding Statement confirms that Option 1 is now precluded and the means of finance would be by way of Option 2, namely, solely public finance [REP2-005].

- i. Please comment upon the National Audit Office report of May 2019 as regards the value for money provided by the scheme and whether there are any implications arising therefrom for the availability of public funds for the project?
- ii. Can the Applicant provide any timeline for the scrutiny of the business case for the project by the Government?
- iii. Please explain how the road investment strategy (RIS) funding system works in practice, for example, from which RIS is it likely that the scheme would be funded?
- iv. What would be the implications for the funding of the project if it is not included in RIS 2 when RIS period 1 ends in March 2020?
- v. Please comment on the recent Public Accounts Committee report – Transport Infrastructure in the South West - which included consideration of the funding of the project.

Highways England response

1. There are no implications arising from the NAO report on the availability of public funds as the Government continues to be clear on its commitment to funding the Scheme, most recently via statements to the Public Accounts Committee (for which please see paragraph 5 below). As stated by Ms Harrington at the CA Hearings, the Applicant considers that the NAO report was a fair and balanced report that confirmed a strategic case for this Scheme but that certainty was sought on the precise source of funds within Government coffers. It is Highways England's expectation that confirmation on source will be received by the end of 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 by April 2020) and in good time to avoid having any impact on the compulsory acquisition process.
2. The Government's approval of the Outline Business Case for the Scheme by DfT, HM Treasury and the Cabinet Office was given in June 2019. Approval of the Final Business Case is programmed for the end of 2020, by which time the costs will have been updated, informed by the tender prices obtained for the scheme's construction. This is the process followed by the Government for any such nationally significant highways scheme, with the Final Business Case being prepared for approval after the granting of development consent and the progression of the contracting arrangements that need to be put in place.

3. The Government's RIS funding process is the means by which DfT allocates funds to Highways England to cover the costs of Highways England's programme of work over 5-year periods. The process was set up in 2015 to coincide with Highways England's creation as a government-owned company, with RIS1 (first funding period) running from April 2015 to March 2020 and including funds for the development and design of the A303 Stonehenge scheme. The future funding of the scheme post development consent (if granted by the Secretary of State) will be either via RIS2 and RIS3 allocations or via a separate funding allocation to be determined by the Government, as described in Point 1 above.
4. If the future funding of the Scheme is not via the RIS2 allocation, Highways England is expecting a separate source of funds to be made available by Government to accompany the Secretary of State's subsequent decision on the Scheme, as described in Points 1 and 3 above.
5. The Public Accounts Committee (PAC) report picks up on the NAO report and emphasises the need for clarity over the future funding of the Scheme to be secured by the end of 2019 in order for the current programme to be maintained and to accompany the Secretary of State's decision on the Scheme. At the PAC hearing which informed the report, the Permanent Secretary of the Department for Transport stated:

"..... this [A303] scheme and the Lower Thames crossing were originally planned to be funded under the PF2 programme. The Treasury have now cancelled that private finance programme. However, as the Treasury have made clear, and as we have made clear, we and the Treasury—the Government—absolutely remain committed to both this scheme and the Lower Thames crossing. The funding will need to be resolved in the spending review coming up. I think it is fair to say that we will make a strong case for these schemes to be funded in addition to the RIS 2 envelope but, clearly, that will be ultimately a matter for determination in the spending review."
6. The key point in all of this, then, is that the Government remains publicly and clearly committed to fund the Scheme. That commitment is unaffected by the subsidiary decision to be made regarding the precise source of the funds.

Question CA.2.14

The Funding Statement, section 4, states that should any future claims for blight arise as a consequence of the proposed Compulsory Acquisition of land, or rights in land, affected by the Scheme, the costs of meeting any valid claim will be met by Highways England [REP2-005].

How can the ExA be assured that these resource implications have been accurately assessed and would be provided for?

Highways England response

1. Estimates for compensation payments have been informed by land referencing activities, conducted by WSP Land Services, an experienced land referencing team with past experience on DCOs, Hybrid Bills and CPO projects, engagement of professional surveyors from the Valuation Office Agency (VOA), used regularly by the Applicant for surveying and valuation purposes and information received from consultation and engagement with parties having an interest in the land. The estimate was reached by appraising the compensation anticipated to be payable as a result of the scheme impacts (both permanent and temporary) including land value, loss and damage, disturbance, injurious affection (including under Part 1 of the Land Compensation Act 1973), statutory blight costs and landowner fees and costs in line with the Compensation Code and MHCLG Guidance. the Planning Act 2008.
2. The Applicant has submitted a detailed Funding Statement [APP-024] and addendum to the Funding Statement [AS-012] (updated for the Deadline 2 Submission) which sets out that the Applicant has the resources to pay the necessary compensation required to acquire the land and implement the project.
3. In particular the Addendum confirms that funds would be available to meet all Compulsory Acquisition costs, blight claims and compensation payments for the Scheme.
4. The Scheme budget, which has been prepared in accordance with Highways England procedures and the HM Treasury Green Book includes an allowance for compensation payments relating to the Compulsory Acquisition of land interests in and over land and the temporary possession and use of land. It also takes into account potential claims under Part 1 of the Land Compensation Act 1973, Section 10 of the Compulsory Purchase Act 1965 and Section 152(3) of the 2008 Act. As referred to in the Funding Statement, section 4 [REP2-006] and mentioned in the Traffic and Transport, Item 8 [REP4-034] and Compulsory Acquisition, item 5.3 [REP5-002] Hearings blight claims have been considered as part of the Scheme's budget. The funding allocation for the Scheme is addressed within the response to second written question AL.2.1 and within CA.2.13.

Question CA.2.15

Has any blight notice from any property owner been served to date and is the Applicant aware of any potential claims in the offing? If so, please provide details.

Highways England response

1. The Applicant has received no blight notices in connection with the Scheme. As stated in the Compulsory Acquisition Hearing on 9 July 2019, the Applicant is also not currently aware of any related potential claims.

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

Question CA.2.16

Neither paragraph 5.4 and section 6 of the SoR [APP-023] nor the response to ExQ1 CA.1.19 [REP2-029] explains the degree of importance attributed to the existing uses.

The response acknowledges the value of the existing land uses but please explain further how the Applicant has actually assessed that value?

Highways England response

1. As stated in paragraph 5.4 and section 6 of the Statement of Reasons [APP-023] and the response to ExQ1 CA.1.19 [REP2-029] the Applicant has considered the values of the required land and the considerations that balance the need for this against the public benefit.
2. The value of the land required for the Scheme has been assessed as was explained during agenda item 4.4 of the Compulsory Acquisition Hearing held on 9 and 10 July 2019. The written summary of the oral submissions made at the hearing was submitted at Deadline 5 [REP5-002]; the relevant excerpt is set out below:

“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.”

Question CA.2.17

The response to ExQ1 CA.1.22 indicates that the DCO, if made, would grant powers for the permanent acquisition of rights at the surface, including the imposition of restrictive covenants in relation to the properties known as 1 and 2 Custodian Cottages [REP2-029].

- i. Could the proposed restrictions potentially prevent the carrying out of extensions or alterations to those properties or the carrying out of permitted development within their curtilages?
- ii. If so, would the Article 8 rights of the occupants of those properties potentially be infringed?

Highways England response

- i. **Could the proposed restrictions potentially prevent the carrying out of extensions or alterations to those properties or the carrying out of permitted development within their curtilages?**
 1. As set out in CA.1.22, restrictive covenants are required over those plots hatched pink on the land plans [APP-005].
 2. The terms of the restriction have been slightly varied following discussion with landowners and would require consultation with Highways England in cases where works would include:
 - a. development which would require planning permission, deep foundations, piling or which would influence existing ground conditions;
 - b. changes in ground weight loading (either increasing or decreasing) such as:
 - i. any excavation (including boring) below a depth of 1.2m in the area shown in light blue on the drawing in the Appendix to CA.1 [REP2-029] and below a depth of 0.6m in the area shown in dark blue on the drawing in the appendix;
 - ii. any additional loading as a result of building work or storage;
 - iii. use by any vehicles or tractor trailer combinations with a gross vehicle weight greater than 44 tonnes, in accordance with Road Vehicle (Construction and Use) Regulations 1986 (as amended);
 - iv. any new tree planting.
 3. As such, any extensions or alterations to 1 and 2 Custodian Cottages, or the carrying out of permitted development within their curtilages, would need to be subject to this restriction, which would require consultation with Highways England. That is to say, unless the works went as far as requiring planning permission or would involve deep foundations or piling, the works could be undertaken without consultation with Highways England.

4. Even in cases where the works would be caught by the above terms, the restriction would not have the effect of prohibiting these works but would require the proposed works to be taken forward in consultation with Highways England to ensure any works carried out would not have an impact on the structural integrity of the tunnel.
- ii. If so, would the Article 8 rights of the occupants of those properties potentially be infringed?**
5. It is therefore considered that the imposition of these restrictive covenants would not infringe on the Article 8 rights of the occupants of those properties. However, as the Applicant explained in its written summary of oral submissions put at the Compulsory Acquisition Hearing held on 9 and 10 July 2019 [REP5-002, at page 2-16], if it were the case that Article 8 was engaged, then the balancing exercise between the infringement of Convention rights and the public interest benefits which the Scheme would deliver, as referred to in the Statement of Reasons [APP-023] at paragraph 6.2.2, would be applicable to any interference with those rights. As such, the Applicant's conclusion is that the interference would be justified because it would be proportionate and in the public interest.
 6. Of course, any development proposals brought forward by the occupants of 1 and 2 Custodian Cottages would already be subject to any restrictions set out in the terms of their leases, the properties being owned by the Historic Buildings and Monuments Commission for England (Historic England).

Question CA.2.18

The response to ExQ1 CA.1.24 explains how the Applicant has complied with its duties under section 149 of the Equalities Act 2010 [REP2-029].

- i. Please indicate whether any Affected Person has been identified as having protected characteristics since that response was provided?
- ii. Please explain further how during engagement with Affected Persons there has been consideration of and offers to meet any needs or requirements of individuals or groups?

Highways England response

1. It is assumed that the question is asking whether any Affected Person has been identified as having protected characteristics since response 'ExQ1 CA.1.24' was provided specifically in the context of the Compulsory Acquisition process, as both the original ExQ1 CA.1.24 question and this question relate to that process.
 - i. **Please indicate whether any Affected Person has been identified as having protected characteristics since that response was provided?**
2. The Equality Impact Assessment (EqIA) [APP-296] identified that there were potential adverse impacts for specific groups with protected characteristics who could potentially be differentially or disproportionately affected. The EqIA [APP-296] also provided recommendations for monitoring these predicted impacts including further engagement with affected individuals.
3. As was explained in the Applicant's written summary of oral submissions made at the Compulsory Acquisition Hearing held on 9 and 10 July 2019 [REP5-002], the Applicant's EqIA process is an ongoing one and as a result of it therefore being updated, since the response to ExQ1 CA.1.24 was provided, the Applicant has newly identified persons with protected characteristics who might be differentially affected by the Scheme; accordingly discussions are ongoing to facilitate a full understanding of the potential impacts, to enable mitigation and compensation measures to be identified and applied as appropriate.
 - ii. **Please explain further how during engagement with Affected Persons there has been consideration of and offers to meet any needs or requirements of individuals or groups?**
4. There are a number of ways in which consideration to meet the potential needs or requirements of individuals and groups has been given, including those for whom there is or has been the potential to be affected in the context of Compulsory Acquisition. Firstly, Highways England has undertaken a risk assessment on all venues used for public consultation and Examination

hearings. This includes an accessibility checklist which identifies where additional facilities or reasonable adjustments are needed to provide accessibility for all. One-to-one meetings have been held with individuals who are affected by the scheme. Where possible, the Applicant has attended meetings in individuals' own homes if it would be difficult for those individuals to attend a meeting elsewhere.

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

Question CA.2.19

Please confirm that the updated Book of Reference, as submitted for DL2 [REP2-007] is now complete and accurately sets out the various plots and interests.

If not, please identify any inaccuracies that have come to light since DL2 and provide an update to the Book of Reference.

Highways England response

1. The Book of Reference submitted at Deadline 2 [REP2-007 (clean version) and REP2-008 tracked changes version] together with a Schedule of Changes to the Book of Reference [REP2-044] is up to date with respect to the information sourced from HM Land Registry, which was updated in March 2019.
2. As is explained in the Applicant's written summary of oral submissions made at the Compulsory Acquisition hearing held on 9 July 2019 [REP5-002, at page 1-5], at Deadline 5 Wiltshire Council submitted comments on the Deadline 2 version of the Applicant's Book of Reference [REP3-045].
3. The Applicant's responses to Wiltshire Council's comments were submitted at Deadline 4 [REP4-036 at Table 6.5). The Applicant's responses identified that plot 03-11 incorrectly records Wiltshire Council as having an interest in respect of apparatus within plot 03-11, when in fact no such apparatus is present.
4. An updated version of the Book of Reference has been submitted at Deadline 6 alongside this response to ExQ2 CA.2.19. This latest version of the Book of Reference corrects the error relating to plot 03-11 and also incorporates two similar corrections relating to plots 03-30 and 04-09 the descriptions of which also included unnecessary references to interests in apparatus.

Question CA.2.20

The response to ExQ1 CA.1.26 (ii) indicates that physical factors relating to vibration, smell, fumes, smoke, artificial lighting and discharge of solid or liquid substance onto the land were not considered to give rise separately to a potential claim for compensation as a result of the scheme [REP2-029].

- i. Please explain further why the discounting of such physical factors represents a precautionary approach in relation to owners of additional properties outside of the close vicinity of the scheme (as potential Category 3 parties)?
- ii. Please provide further justification for the adoption of a 10m buffer zone and explain in greater detail how the areas of land required to construct, operate and maintain the scheme were identified?

Highways England response

- i. **Please explain further why the discounting of such physical factors represents a precautionary approach in relation to owners of additional properties outside of the close vicinity of the scheme (as potential Category 3 parties)?**
 1. Physical factors relating to vibration, smell, fumes, smoke, artificial lighting and discharge of solid or liquid substance onto the land were considered in the identification of category 3 parties. The listed physical factors have not been discounted in relation to a claim for compensation; the response to CA.1.26 is predicated on there being no anticipated impacts of the listed physical factors which the Applicant thinks would or might lead to an entitlement to claim compensation. The reference in the response to ExQ1 CA.1.26(ii) to a precautionary approach related to the decision to include additional properties outside of the close vicinity of the Scheme that might have a relevant claim for compensation (as potential Category 3 parties under PA2008) under Part 1 of the Land Compensation Act 1973.
- ii. **Please provide further justification for the adoption of a 10m buffer zone and explain in greater detail how the areas of land required to construct, operate and maintain the scheme were identified?**
 2. As part of the land referencing process, the adoption of a 10 metre buffer zone around the land identified as being required to be within the draft Order limits was considered adequate to capture any interests in land abutting the draft Order limits, including frontage interests where the land required for the Scheme formed existing highway. The response to ExQ.1 CA.1.26 notes that the Applicant identified any parties with an interest in land immediately abutting the draft Order limits where such parties might have a Category 3 interest. The 10 metre buffer was used as an aid to identify these parties through the land referencing process. Category 3 interests were also

identified through the land referencing of additional parties with interests in land in the vicinity of the land included in the draft Order limits, which would or might be entitled to claim compensation as a Category 3 person.

3. The areas of land required to construct, operate and maintain the Scheme were identified through the process outlined by the Applicant in its written summary of oral submissions made at the Compulsory Acquisition Hearing held on 9 and 10 July 2019 [REP5-002]. The starting point for that process flowed from the options appraisal process described in ES Chapter 3 (Assessment of Alternatives) [APP-041], in Chapter 3 of the Case for the Scheme [APP-294] and in Chapter 4 of the Design and Access Statement [APP-295]. The location of the majority of the land required for the Scheme is, necessarily, determined by the design of the Scheme – by its alignment, in the first instance, with additional areas being identified by reference to that alignment and in connection with particular requirements, such as the need for areas to be used as construction compounds or for the deposition of excavated materials, or for the provision of mitigation, or for drainage purposes and other elements connected with future maintenance of the Scheme, such as the need for the tunnel protection zone and the area above that zone which is proposed to be subject to restrictive covenants for the purpose of protecting the structural integrity of the tunnel. In essence, the land required for the scheme was identified through consideration of the particular activities required to deliver and maintain the Scheme (construction and maintenance) and through consideration of what land could reasonably be expected to be needed to accommodate the final design (bearing in mind the need for detailed design still to take place). As will be clear from the ES, some areas of proposed land acquisition and use were subject to more detailed consideration than others – for instance the land to the east of Parsonage Down which was selected for the deposition of tunnel arisings through the multi-staged methodology set out in the Tunnel Arisings Management Strategy at Appendix 12.1 to the ES [APP-285].

Question CA.2.21

The response to ExQ1 CA.1.27 makes reference to Highways England's ongoing data monitoring and updating process [REP2-029].

Please explain what that entails in practice?

Highways England response

1. To maintain the land interest information across the scheme, the Applicant adopts two main processes now the main land referencing process has concluded:
 - a. The Applicant's ongoing engagement with landowners and occupiers for the purposes of discussing and agreeing matters of compensation and matters relating to the scope of accommodation works provides the Applicant with opportunities to gain awareness of any changes to Affected Parties' details or status. When such information becomes available it is reported and recorded in the Applicant's land interest database which underpins and feeds into the Book of Reference.
 - b. As appropriate milestones are reached in the process of promoting and seeking consent for the Scheme, the Applicant refreshes the data it has previously obtained from HM Land Registry (HMLR). This data refresh process involves purchasing updated HMLR data and analysing it to ascertain whether any updated data needs to be incorporated into an updated version of the Book of Reference. The most recent HMLR data refresh was purchased in March 2019, with the related updates being reflected in the updated Book of Reference submitted at Deadline 2 [REP2-007 (clean version) and REP2-008 (tracked changes version)]. A further HMLR data refresh is planned for September 2019, to inform the final updated version of the Book of Reference which the Applicant anticipates will be required to be submitted shortly before the close of the examination.

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

Question CA.2.22

- i. Please provide further details as to why plot 09-31 in the ownership of SSE is proposed to be included in the DCO application?
- ii. Why is its acquisition necessary to ensure that the proposed extension to the existing substation could be delivered without impediment?

Highways England response

1. The source of the electrical power supply for the eastern side of the scheme has yet to be confirmed by SSE. The acquisition of Plot 09-31 (which is understood to be owned by Southern Electric Power Distribution, a subsidiary of SSE) is proposed to ensure that a connection route to the scheme from the substation adjacent to Plot 09-31 remains feasible and can be secured as part of the DCO, if necessary.
2. Similarly, the extent of any works necessary to extend the substation has yet to be determined by SSE. Until such time as it is confirmed by SSE that the use of plot 09-31 is unnecessary for the extension work or routing of any connection, it is necessary and appropriate for Highways England to continue to include Plot 09-31 within the Order limits and to seek compulsory acquisition powers over it in order to safeguard the delivery of the Scheme in this respect.
3. The inclusion of Plot 09-31 within the Order limits should not be taken to indicate that the Applicant would eschew proceeding by way of negotiated agreement were that to be possible. Compulsory acquisition will always be a tool of last resort in practice but, as is acknowledged in Government guidance (Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land (DCLG, September 2013) at paragraph 25), where proposals entail the acquisition of many separate plots of land (such as for long linear schemes) it is reasonable to include provision authorizing compulsory acquisition covering all the land required at the outset.

Question CA.2.23

Please provide an update on the present state of any negotiations with all Statutory Undertakers, including whether the Protective Provisions in Schedule 11 and/ or asset protection agreements between the various parties been agreed?

If not, please identify any outstanding areas of disagreement.

Highways England response

Table CA 2.23.1. C4 Stage Status

Company	Date C4 Issued	Expected C4 Return Date	Received Confirmation	Meeting organised	C4 Received
Openreach	15/05/2019	25 days 19/06/2019	Yes	31/07/2019	
SGN	15/05/2019	25 days 19/06/2019	Yes		Yes 29/05/2019
SSE Telecoms	15/05/2019	25 days 19/06/2019	Yes	24/07/2019	
SSE	15/05/2019	25 days 19/06/2019	Yes		Part
Wessex Water	15/05/2019	25 days 19/06/2019	Yes	Meeting 1 5/6/2019 Meeting 2 12/07/2019 TBC	
Esso	22/05/2019	25 days 28/06/2019	Yes		Yes 30/06/2019
Instalcom	26/06/2019	25 days 31/07/2019	TBC		
Sky	26/06/2019	25 days 31/07/2019	TBC		
Virgin Media	26/06/2019	25 days 31/07/2019	Yes		

1. The Applicant has engaged with all relevant Statutory Undertakers and relevant statutory parties in respect of protective provisions and related dis-applications in article 3 of the draft DCO. The status of the negotiations with each party is summarised in Table CA 2.23.1.

Question CA.2.24

If agreement with any Statutory Undertakers has not yet been reached please provide further details to show that compliance with section 127 PA2008 could nevertheless be achieved?

Highways England response

1. Please see the Applicant's response to CA.2.23 for an update on negotiations with Statutory Undertakers in respect of protective provisions. Where agreement has not been reached, the Applicant considers that adequate protection for the relevant Statutory Undertakers' assets is included in the protective provisions in Schedule 11 to the dDCO [REP4-018] (both generic and party-specific) such that either serious detriment will not be caused to their undertaking (as the protective provisions provide both protections and requirements for alternative apparatus) or they will facilitate land being made available to the statutory undertakers, such that no serious detriment will be caused to their undertaking.
2. As such, the Applicant considers that the Examining Authority and the Secretary of State can conclude that the tests set out in sections 127(3) and 127(6) of the Planning Act 2008 will be able to be satisfied.

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

Question CA.2.25

The response to ExQ1 CA.1.32 indicates that the Applicant hopes to be able to agree the drafting of protective provisions with the relevant statutory undertakers and electronic communications operators [REP2-029].

- i. Please provide an update on the present state of any negotiations with each one indicating whether protective provisions have been agreed and identifying any matters that remain outstanding.
- ii. Notwithstanding the response to ExQ1 CA.1.32, please explain why the extinguishment or the relevant right or removal of the relevant apparatus is necessary in each case for the purpose of carrying out development to which the DCO relates.

Highways England response

1. Please see the response to CA.2.23 for an update on negotiations related to protective provisions.
2. The diversionary works of apparatus as necessary for the purpose of carrying out development are identified in Table CA.2.25 below:

Table CA.2.25- Anticipated Diversionary Works

Statutory Undertaker	Location		Diversion/Protection required	Reason
	(For Chainage see 2.7 Engineering Section Drawings)			
CenturyLink (Managed by Instalcom)	Ch 0 - West of W/ Stoke (Exg A303)	INS001	Diversion	Slew required due to widening/change in horizontal alignment of the existing A303.
	Ch 5100- Longbarrow	INS002	Diversion	Diversion required due to reconfiguration of Longbarrow Junction (line and level).
	East Portal to Countess (West)	INS003	Diversion	West of Countess - Slew required due to widening/change in vertical and horizontal alignment of the existing A303.
	Countess (East) to R Avon	INS004	Diversion	East of Countess - Slew required due to widening/change in vertical and horizontal alignment of the existing A303.
Virgin Media	Ch 0 - West of W/ Stoke (Exg A303)	VM001	Diversion	Slew required due to widening/change in horizontal alignment of the existing A303.
	Ch 5100- Longbarrow	VM002	Diversion	Diversion required due to reconfiguration of Longbarrow Junction (line and level).
	East Portal to Countess (West)	VM003	Diversion	West of Countess - Slew required due to widening/change in vertical and horizontal alignment of the existing A303.
	Countess (East) to R Avon	VM004	Diversion	East of Countess - Slew required due to widening/change in vertical and horizontal alignment of the existing A303.
Sky	Ch 0 - West of W/ Stoke (Exg A303)	Sk001	Diversion	Slew required due to widening/change in horizontal alignment of the existing A303.
	Ch 5100- Longbarrow	Sk002	Diversion	Diversion required due to reconfiguration of Longbarrow Junction (line and level).
	East Portal to Countess (West)	Sk003	Diversion	West of Countess - Slew required due to widening/change in vertical and horizontal alignment of the existing A303.
	Countess (East) to R Avon	Sk004	Diversion	East of Countess - Slew required due to widening/change in vertical and horizontal alignment of the existing A303.

SSE	CH 2700	SSE001	Diversion	Underground cable diversion due to reduced cover under proposed carriageway section. Earthworks in open land - upgrade of existing cable due to proposed depth of fill above cable.
	CH 3500	SSE002	Diversion	Reconfiguration of cable due to proposed road crossing. In open land section there is reconfiguration of cable to maintain cable clearance above proposed ground levels.
	Exg Longbarrow RAB	SSE003	Appears to be abandoned	Removal required if abandonment confirmed by SSE.
	New N Link to A360 from A303	SSE004	Diversion	Diversion to minimise length of underground cable directly under highway.
	Rollestone Cross	SSE010	Diversion	Diversion of cable from existing highway verge to follow new highway verge at proposed junction.
	Parsonage Down (N)	SSE011	Diversion	In open land section there is reconfiguration of cable to maintain cable clearance above proposed ground levels.
	East Portal to Countess (West)	SSET001	Diversion	Diversion to proposed verge to avoid piled cutting section of new scheme and change in line and level.
	R Avon (N)	SSET002	Diversion	Diversion to facilitate realignment at mainline tie-in.
Esso	Ch 3300	ESS001	Diversion	Diversion required to replace existing pipe with new heavy-duty pipe due to loading of significant depth of fill.
Wessex Water	B3083 Winterbourne Stoke	WW001	Diversion	Diversion required to move main to follow proposed B3083 highway verge.
	B3083 Winterbourne Stoke	WW002	Diversion	Diversion required to move main to follow proposed B3083 highway verge.
	East End of Portal	WW003	Diversion	Diversion of existing main to avoid proposed sheet piled cutting to tunnel portal
	Countess Roundabout (N-S)	WW004	Diversion	Diversion of existing main to avoid proposed piled foundation to new flyover.
	Countess Roundabout (N-S)	WW005	Diversion	Diversion of existing pumping main to avoid proposed piled foundation to new flyover.
	Allington Track Diversion	WW006	Diversion	Diversion and lowering/protection of existing mains beneath new junction layout.
	Allington Track Diversion	WW007	Diversion	Diversion and lowering/protection of existing mains beneath new junction layout.
BT Openreach	B3083	BT001	Diversion	Diversion required to move cables to follow proposed B3083 highway verge.
	East Portal to Countess (West)	BT002	Diversion	Diversion required due to change in line and level from existing carriageway to proposed sliproad.
	Countess Roundabout (N-S)	BT003	Diversion	Diversion of existing cable to avoid proposed piled foundation to new flyover.
	A303 Slip at Amesbury Rd Junction	BT005	Diversion	Diversion to verge to minimise length beneath proposed carriageway due to new sliproad configuration.
	A303 East of Amesbury (New junction)	BT006	Diversion	Diversion to verge to minimise length beneath proposed carriageway due to new sliproad configuration.
	Rollestone Cross	BT007	Diversion	Diversion of cable from existing highway verge to follow new highway verge at proposed junction.
	Rollestone Cross	BT008	Diversion	Diversion of cable from existing highway verge to follow new highway verge at proposed junction.
SGN	Countess Roundabout	SGN001	Diversion	Diversion of existing cable to avoid proposed piled foundation to new flyover.
	East of Solstice Park	SGN002	Diversion	Diversion and lowering/protection of existing cable beneath new junction layout.
	Allington Track	SGN003	Diversion	Diversion and lowering/protection of existing cable beneath new junction layout.

Esso Petroleum

Question CA.2.26

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

Highways England response

1. Bespoke Protective Provisions for the protection of Esso's interests and assets are now agreed between the parties. The agreed version of the Protective Provisions is included in the updated version of the dDCO submitted by the Applicant at Deadline 6.
2. The Esso pipeline diversion agreement is being progressed with Esso's legal representatives.

Question CA.2.28

- i. Please provide an update in respect of plots 10-18, 10-19, 11-04 and 11-05 as regards compliance with section 132(3) PA2008 and whether agreement has been reached with the relevant landowners.
- ii. Please provide further details of the new rights sought over the land in order to assess compliance with section 132(3) PA2008.

Highways England response

- i. **Please provide an update in respect of plots 10-18, 10-19, 11-04 and 11-05 as regards compliance with section 132(3) PA2008 and whether agreement has been reached with the relevant landowners.**
 1. Plots 10-18, 10-19, 11-04 and 11-05 are proposed to be subject to the acquisition of new rights and as such are shown in blue on the Land Plans [APP-005]. These plots also comprise land which the Applicant considers to come within the definition of open space in section 132(12) of PA2008.
 2. The Applicant's position is that, in respect of these plots, there would be compliance with section 132(3) of PA 2008 in that once burdened with the Order rights, the open space land would be no less advantageous than it was before to the persons in whom it is vested, to other persons (if any) entitled to rights over the land, and to the public.
 3. The new rights sought are set out in Schedule 4 to the draft DCO [REP3-002] and are limited to: "the installation, use, protection and maintenance of, and access to, statutory undertakers' apparatus (for the benefit of the relevant statutory undertaker and its undertaking)".
 4. Agreement has been achieved with Classmaxi Limited, with draft Heads of Terms having been agreed in principle alongside Wiltshire Council and a three-party agreement is in the process of being drafted. Agreement with Abbey Manor Group (who have a Category 2 interest in plots 10-18 and 11-05 and who own plots 10-19 and 11-04) is not as far advanced however Highways England will endeavour to achieve a similar level of agreement.
 5. The Applicant will seek confirmation from the landowners and those with an interest in the land (as identified in the Book of Reference), that the land, when burdened with the rights, will be no less advantageous to them; however, given the nature of the new rights which are sought (which is set out below in response to part (ii) of this question) it is not anticipated that the land in question, once burdened with the new rights, would be any less advantageous to the landowners, or to those with rights over it, or to the public.

ii. Please provide further details of the new rights sought over the land in order to assess compliance with section 132(3) PA2008.

6. The new rights sought in the Order are required to realign an existing Southern Gas Networks' pipeline. The Applicant considers that the open space land would be no less advantageous because:
- i. any apparatus installed pursuant to the new rights would be installed below ground (with the possible exception of marker posts);
 - ii. the installation works are anticipated to take between 4 and 6 weeks, so any substantive interference would be temporary;
 - iii. periodic maintenance associated with the apparatus is unlikely to impact on the ongoing use of the land for public recreation; generally maintenance activities would be carried out infrequently, such that any interference would also be temporary only; and
 - iv. it should be noted that, where possible, any utilities would be located beneath the new highway in plots 10-16 and 11-06.
7. The Applicant believes that, based on the reasoning provided above, the new rights sought would meet the tests required for the application of the exception set out in section 132(3) of PA2008. Accordingly, for the purposes of ExQ2 CA.2.28, the Applicant believes that its proposed acquisition of new rights over the land in plots 10-18, 10-19, 11-04 and 11-05 would be in compliance with section 132(3) of PA 2008.

Crown Land

Question CA.2.31

Please provide an update on the progress of discussions with the Secretary of State for Defence and the Secretary of State for Digital, Culture, Media and Sport and, in view of the provisions of section 135(2) PA2008, indicating when it is anticipated that these consents will be forthcoming?

Highways England response

1. As stated during the Compulsory Acquisition hearing on 10 July 2019 and confirmed in the written summary of oral submissions made in that hearing [REP5-002 at page 2-42] the current position on the Applicant's endeavours to secure Crown land consent from the appropriate Crown authorities, pursuant to section 135(2) of the Planning Act 2008, are as follows:
 - a. The consent of the Secretary of State (SoS) for Defence has been obtained in respect of plots in which the SoS for Defence owns the freehold interest. Consent has not yet been secured in respect of the plots over which the SoS for Defence has the benefit of rights only. The Applicant has been liaising with the SoS for Defence in respect of the outstanding consent needed and understands that the requisite consent will be granted imminently.
 - b. In respect of the plot in which the Secretary of State for Digital, Culture, Media and Sport (DCMS) holds an interest, the Applicant has continued to liaise with DCMS and understands that the consent will be granted imminently.
 - c. The Applicant will provide further updates to the ExA as progress is made.

Special category land – land owned by the National Trust

Question CA.2.32

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

Highways England response

1. As explained in the Applicant's written summary of oral submissions made at the Compulsory Acquisition Hearing held on 9 and 10 July 2019 [REP5-002], discussions are ongoing with the National Trust. National Trust and Highways England expect that an agreement will be reached such that the National Trust's objection can be withdrawn and Special Parliamentary Procedure avoided.
2. The National Trust raised five issues in the Compulsory Acquisition Hearing, to which Highways England's responses are summarised below. Further updates will be provided as soon as possible.
 - a. Tunnel restriction – the terms of this are agreed in principle and are subject to the drafting of a legal agreement, which is understood to be underway;
 - b. Temporary possession of plot 05-37 – having reviewed the land requirements, it is agreed that the Scheme can be carried out without the need for this plot, and a commitment will be provided to the Trust in this regard
 - c. Temporary possession of land above the tunnel – a commitment has been made to the Trust that no temporary possession powers (excepting survey and monitoring powers) will be required in hatched pink plots. Highways England is currently considering the most appropriate mechanism for securing this commitment,
 - d. Compulsory acquisition of land for utility diversions – the Applicant awaits National Trust's submissions in so far as this affects its land
 - e. Fencing and gating – as noted by the National Trust in the CA Hearing, accommodation works are under discussion with the National Trust and further development of the Outline Environmental Management Plan (OEMP) [REP4-020 and REP4-021] is ongoing.

Related applications, orders and consents

Question CA.2.34

Please provide an update to the Consents and Agreements Position Statement {APP-022] and identify the progress made by the Applicant in its discussions with the relevant bodies.

Highways England response

1. An updated version of the Consents and Agreements Position Statement which was submitted as part of the application [APP-022] is submitted for Deadline 6, CA.2.34 Consents and Agreements Position Statement, Rev 1.

Objections to the grant of powers of Compulsory Acquisition

Question CA.2.36

- i. What is the current state of progress of negotiations with APC and CML to agree their proposed mechanism to avoid excessive land-take?
- ii. Please explain further how the proposed powers of Compulsory Acquisition of their land would comply with section 122(2) PA2008?
- iii. Why are the works proposed on CML's land necessary to achieve the scheme's objectives?
- iv. Why does the alternative course of action proposed by CML not represent a reasonable alternative to acquisition?

Highways England response

- i. **What is the current state of progress of negotiations with APC and CML to agree their proposed mechanism to avoid excessive land-take?**
 1. As discussed during the Compulsory Acquisition Hearing on 10th July 2019 Classmaxi Limited (and reported in the Applicant's written summary of oral submissions made at that hearing [REP5-002]), Highways England and Wiltshire Council are in agreement with Classmaxi Limited regarding the proposed dedication of land by Classmaxi Limited, which would obviate the need for the proposed powers of compulsory acquisition to be used to secure, for the purposes of the Scheme, land owned by Classmaxi Limited.
- ii. **Please explain further how the proposed powers of Compulsory Acquisition of their land would comply with section 122(2) PA2008?**
 2. The powers of compulsory acquisition sought in respect of land located within Plots 10-16 and 11-06 (shown pink on the Land Plans [APP-005]) meet the condition in section 122(2)(b) of PA2008 in that the land is required for the realignment of the Allington Track to facilitate its closure at the existing junction with the A303. As such, the land in Plots 10-16 and 11-06 is required to facilitate the Scheme (section 122(2)(b) of PA2008).
 3. The powers of compulsory acquisition sought in respect of Plots 10-17 and 11-33 (shown grey on the Land Plans [APP-005]) meet the condition in section 122(2)(c) of PA2008 in that they are required under section 131 of PA2008 to provide replacement land which is to be given in exchange for the open space land in Plots 10-16 and 11-06 which are proposed to be subject to powers of compulsory acquisition.

iii. Why are the works proposed on CML's land necessary to achieve the scheme's objectives?

4. The junction of the Allington Track with the A303 is proposed to be closed in order to remove a significantly sub-standard junction on the trunk road network. Instead, the northernmost length of the Allington Track will be realigned and linked to the local road network via a new link which is proposed to be constructed mainly along the alignment of an existing track, to minimise impacts on productive farmland. At its western end, the realigned Allington Track would link with the existing Equinox Drive which was constructed as part of the Solstice Park development. The short length of new road between the realigned track and Equinox Drive is proposed to cross land owned by Classmaxi Limited (Plots 10-16 and 11-06).

iv. Why does the alternative course of action proposed by CML not represent a reasonable alternative to acquisition?

5. The proposal from CML does provide a reasonable alternative to compulsory acquisition and the Applicant is in the process of documenting the agreed solution. The Applicant still requires the compulsory acquisition powers over the land as sought in the draft DCO, as the agreement is not yet in place. However, in the agreement, the Applicant will covenant not to exercise any powers of compulsory acquisition in respect of the land to which the agreement relates. This approach, and the reasons for it, were confirmed in the Applicant's response to Graham Eves of PFA Consulting, representing Classmaxi Limited, under agenda item 8 at the Compulsory Acquisition Hearing held on 10 July 2019; a written summary of the Applicant's oral submissions made at the hearing was submitted at Deadline 5 [REP5-002].

Question CA.2.39

The Applicant's comments on the Written Representation of Beacon Hill Land Ltd provides some information in relation to this aspect of the scheme [REP3-013]. In addition, the response to ExQ1 CA.1.46 indicates that the power to acquire land permanently in this area would give Highways England the ability to extinguish existing rights over AMES1 to enable this byway to be changed status from a byway open to all traffic to a public footpath [REP2-029]. Notwithstanding the information provided to date:

- i. Please explain why the proposed exercise of powers of Compulsory Acquisition is necessary in this instance to achieve the objectives of the scheme?
- ii. Why does the scheme necessitate the prevention of slow-moving traffic joining the A303 before it reaches the newly constructed flyover?
- iii. Explain how the proposed closure of the junction of AMES1 with the A303, and the change in status of AMES1, to improve safety on the existing A303 and for the protection of the adjoining monument would comply with section 122 PA2008?
- iv. Explain why the alternatives to Compulsory Acquisition proposed by the landowner, including proposed arrangements for dedication and adoption of land as highway to provide the desired diversion, would not provide a reasonable alternative solution?
- v. Please explain why the Southern Gas Network main and the Wessex Water main within this stretch of byway could not be safeguarded by protective provisions or by the acquisition of any necessary rights by agreement?
- vi. The Applicant indicates that the hedgerow is proposed to be retained, managed and potentially enhanced under its possession and upon completion of the works the management would fall back to the landowner. Please clarify the rights sought in this respect and provide any necessary justification for the Compulsory Acquisition of permanent rights for the planting and future maintenance of a hedgerow on this objector's land.
- vii. Please explain why the desired objectives could not be achieved by the exercise of powers of Temporary Possession as opposed to permanent acquisition?
- viii. Please indicate whether a voluntary agreement with this landowner has yet been concluded?

Highways England response

i. Please explain why the proposed exercise of powers of Compulsory Acquisition is necessary in this instance to achieve the objectives of the scheme?

1. The Applicant's responses to ExQ1 CA.1.42 and CA.1.46 [at paragraphs 2-3 and 1-2 respectively], provide an explanation of the purposes for which land owned by Beacon Hill Land Limited is required in connection with the Scheme. As was explained in the Issue Specific Hearings for Traffic and Transport, written summaries of which were submitted at Deadline 4 [REP4-034], part of the objective of the Scheme is to ensure suitable public rights of way are in place following the construction and operation of the Scheme. This objective was reiterated by the Applicant in its oral submissions made at the Compulsory Acquisition Hearing held on 9 and 10 July 2019, written summarise of which were submitted at Deadline 5 [REP5-002].
2. The Applicant seeks powers of compulsory acquisition to secure the conversion of byway AMES1 from a byway open to all traffic to a public footpath and to ensure the provision of its long term maintenance and the interests of statutory undertakers in the subsoil. If the same outcomes can be achieved through a negotiated agreement with the current owners of the land in question, then the Applicant would be willing to take such negotiations forward; the Applicant explained its willingness to engage with landowners such as Beacon Hill Land Limited and to adopt this approach in its oral submissions made at the Compulsory Acquisition Hearing held on 9 and 10 July 2019, written summaries of which were submitted at Deadline 5 [REP5-002].

ii. Why does the scheme necessitate the prevention of slow-moving traffic joining the A303 before it reaches the newly constructed flyover?

3. A prime requirement is for those vehicles merging with the free flowing traffic on the A303 do so in a safe manner. A major disparity in vehicular speed between the merging and mainline flows is regarded as a safety issue. The geometry of merge lanes, auxiliary lanes (running lane provided adjacent to the slow lane) and taper sections should be designed to permit traffic joining the main carriageway to do so at similar speed, allowing them to merge safely utilising the gaps in the mainline traffic flows. The current design guidance in DMRB namely TD 22/06 LAYOUT OF GRADE SEPARATED JUNCTIONS (<http://www.standardsforhighways.co.uk/ha/standards/dmr/vol6/section2/td206.pdf>) states :

2.24 It is important on safety grounds and to limit interference to mainline traffic that joining traffic is channelled into the merging area (i.e. from the tip of the nose to the end of the taper(s)) and arrives there in an orderly fashion to perform a safe and comfortable merge with the mainline.

- iii. **Explain how the proposed closure of the junction of AMES1 with the A303, and the change in status of AMES1, to improve safety on the existing A303 and for the protection of the adjoining monument would comply with section 122 PA2008?**
4. As detailed in part two of the Applicant's response to the Examining Authority's Written Question CA.1.46 [REP2-029]. "The proposed public footpath, labelled reference P on sheet 11 of the Rights of Way and Access Plans [APP-009] and described in Schedule 3 to the draft DCO [APP-020], would be of benefit to local people, by maintaining pedestrian access. The junction of AMES1 with the A303 would be closed to vehicular traffic, protecting the adjoining monument (tumulus) from further degradation and improving safety on the existing A303 by reducing the potential for conflict arising from traffic from the BOAT joining the A303. As such, and in providing safer Non-Motorised User connections, the proposal contributes to the achievement of the Scheme's objectives of helping to conserve and enhance the World Heritage Site and provide a positive legacy for local communities".
5. In addition, as detailed in Wiltshire Council's response to Relevant Representations submitted at Deadline 3 [REP3-042], "Wiltshire Council has a statutory duty to protect and assert, the rights of the public to the use and enjoyment of the highway and to prevent, as far as possible, the stopping up or obstruction of the highway" and that "people may wish to walk along the route to view the tumulus adjacent to the byway approaching the A303 and (b) as a recreational access for people working at Solstice Park to take exercise away from motorised traffic during work breaks". It is therefore considered that the Applicant's proposal has the support from Wiltshire Council.
6. The detail discussed explains how this proposal complies with section 122 of Planning Act 2008 – it is clear that the condition in section 122(2)(b) is met, because the land is required to facilitate, or is incidental to, the Scheme.
- iv. **Explain why the alternatives to Compulsory Acquisition proposed by the landowner, including proposed arrangements for dedication and adoption of land as highway to provide the desired diversion, would not provide a reasonable alternative solution?**
7. Please refer to the Applicant's response to ExQ2 CA.2.36 (iv). The principle expressed in that response in relation to Classmaxi Limited also applies to Beacon Hill Land Limited. This was confirmed within the oral submissions made at the Compulsory Acquisition Hearing held on 9 and 10 July and was reiterated in the Applicant's written summary of those submissions, submitted at Deadline 5 [REP5-002]. However, until such time as the necessary rights are secured by way of a voluntary agreement it is appropriate for the Applicant to seek authorisation to acquire the necessary rights and restrictive covenants through the DCO

- v. **Please explain why the Southern Gas Network main and the Wessex Water main within this stretch of byway could not be safeguarded by protective provisions or by the acquisition of any necessary rights by agreement?**
8. Protective Provisions, as the ExA will be aware, are provisions as between the Applicant and the statutory undertaker concerned, for the protection of the undertaker's apparatus. They are not capable of authorising the acquisition of land or rights over land belonging to a third party. As such, Protective Provisions would not provide an appropriate delivery mechanism here.
9. The detailed design of any necessary diversion works by both Southern Gas Networks (SGN) and Wessex Water for their respective apparatus is currently ongoing. The Applicant and SGN are engaged in ongoing discussions and the intention is to enter into a side agreement rather than include bespoke Protective Provisions in the dDCO. With Wessex Water, the Applicant is discussing amendments to Part 1 of Schedule 11 to the dDCO and it is anticipated that the amended Protective Provisions will be included in the version of the dDCO submitted at Deadline 6.
- vi. **The Applicant indicates that the hedgerow is proposed to be retained, managed and potentially enhanced under its possession and upon completion of the works the management would fall back to the landowner. Please clarify the rights sought in this respect and provide any necessary justification for the Compulsory Acquisition of permanent rights for the planting and future maintenance of a hedgerow on this objector's land.**
10. The rights associated with plot were discussed at the Compulsory Acquisition hearing held on 9 and 10 July 2019 [REP5-002]; please see relevant extract from the written summary of oral submissions made at that hearing below:
11. *"Plot 11-10 was responded to in Highways England's response to Written Representation (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."*
- vii. **Please explain why the desired objectives could not be achieved by the exercise of powers of Temporary Possession as opposed to permanent acquisition?**
12. It is part of the Scheme objectives, as referenced in point (i) of the Applicant's response to this written question, to reconnect PRoWs that have been affected by the construction or operation of the Scheme.
13. As a part of the Scheme's objectives, a permanent solution to construct, operate and maintain the new road link between Equinox Drive and the

Allington Track is required. As such, temporary possession powers would not be sufficient to enable the Applicant to secure this permanent solution.

14. It may be, however, that an agreement can be reached, or an alternative approach negotiated that enables the objectives of the Scheme to be achieved without the need to use the compulsory acquisition powers sought in the Order. In such a case, Highways England would use this alternative approach but, until such time as the necessary rights are secured by way of a voluntary agreement it is appropriate for the Applicant to seek authorisation to acquire the necessary rights and through the DCO.

viii. Please indicate whether a voluntary agreement with this landowner has yet been concluded?

15. A voluntary agreement has yet to be concluded with this landowner, however Highways England will continue to work with the landowner with the aim of achieving the desired agreement

Question CA.2.41

In relation to plot 11-09, please explain in detail why it is considered necessary to utilise this land to widen the highway verge in this location and why the present private track would be insufficient in width.

Highways England response

1. Plot 11-09 is proposed to be permanently acquired to accommodate the earthworks for the new road.
2. Due to the proposed width of the road, passing places are required which would provide a safe refuge allowing oncoming vehicles to pass, particularly large transporters travelling to Boscombe Down. These areas would be located to the south side of the Allington Track and would require the existing carriageway width to be increased. In addition, the proposed verge to the south of Allington Track has been identified as an area required to accommodate the new highway drainage.

Question CA.2.43

Please indicate the progress of discussions as regards the provision of combine harvester access over National Trust owned land, outside of the Order limits for the benefit of Mrs P M Sandell's agricultural business.

Highways England response

1. The response to this question is provided in full within the Applicant's response to ExQ2 Ag.2.5. The Applicant's position on the issue remains as set out in its written summary of oral submissions made at the Compulsory Acquisition Hearing held on 9 and 10 July 2019 [REP5-002, at pages 2-31 to 2-32].
2. In summary, an access for combine harvesters has been proposed crossing National Trust land to the north to reach Countess Road. The National Trust has offered a route across its land to provide a combine harvester access for the benefit of Mrs Sandell's agricultural business. It is intended that this access would be arranged by private agreement outside of the DCO.
3. The view of Mrs Sandell's land agent is understood to be that an access for combine harvesters only is not sufficient, stating that an access should be provided for all agricultural vehicles from Countess Road. Following an analysis of vehicle movements of types required by Mrs Sandell's and Mr Sawkill's agricultural businesses (the tenant on Mrs Sandell's land), the Applicant disagrees, and considers that access for all agricultural and heavy goods vehicles, with the exception of combine harvesters, can be achieved using the existing road network.
4. The Applicant is continuing to work with the landowners' agent and the National Trust with a view to reaching agreement on the additional access for the combine harvester.

Question CA.2.45

The response to ExQ1 CA.1.42 indicates that [REP2-029]:

“Highways England is aware that Ms Hosier may seek to manage the land around the cutting from the western portal to Long Barrow roundabout post construction of the scheme. Highway’s England is currently considering this opportunity to discuss proposals for the future maintenance of what would become Highway England’s ‘soft estate’”.

- i. **Please justify the extent of the land sought to be acquired in this location for the purposes of ‘essential mitigation’.**
- ii. **Please indicate whether agreement in relation the future maintenance of such land by the Hosiers has been achieved and, if not, why it has not been possible to agree accommodation works around these areas?**
- iii. **Please provide an update as to the progress of any negotiations and the likelihood of agreement being reached before the close of the examination?**

Highways England response

- i. **Please justify the extent of the land sought to be acquired in this location for the purposes of ‘essential mitigation’.**
 1. The extent of land which is sought to be acquired in this location for the purposes of ‘essential mitigation’ is justified by the findings of the heritage and landscape and visual impact assessments, which have informed the iterative Scheme design process.
 2. This assessment work has identified that an extent of chalk grassland to the north and south of the retained cutting within the WHS, is essential to maximise the concealment of the cutting and Green Bridge No.4 and, in so doing, mitigates the adverse impact of the cutting on the Outstanding Universal Value of the WHS.
 3. The chalk grassland area would ensure the longer-term physical integrity of this part of the landscape within the WHS, to the north and south of the retained cutting, as well as provide a more unified historic and valued landcover to the landscape, around and across the long bridge.
 4. Visually, while the retained cutting would be visible from very close proximity, because it forms a physical break in the landform, the chalk grassland mitigation beyond the retained cutting would lessen the impact by establishing a visual buffer which would soften views of the cutting. The visual presence of the retained cutting would also be lessened by the long bridge, and the combination of chalk grassland across and around the bridge would visually aid the integration of this structure within the landscape.

5. Without the chalk grassland, and with the agricultural land uses remaining to the north and south of the retained cutting, this part of the landscape would be at risk of becoming cluttered or degraded through agricultural land use, which could require high fencing to prevent animals from jumping into the retained cutting or eroding the profiled slopes. The perception of the alignment of the retained cutting would therefore be emphasised and would not be concealed in the way that it would if the essential mitigation was delivered as designed.
- ii. Please indicate whether agreement in relation the future maintenance of such land by the Hosiers has been achieved and, if not, why it has not been possible to agree accommodation works around these areas?**
6. Meetings have taken place with Mrs Hosier and her agent regarding the accommodation works and discussions are ongoing with the intention to reach agreement on these, and on the matter of responsibility for future maintenance, before the close of examination.
- iii. Please provide an update as to the progress of any negotiations and the likelihood of agreement being reached before the close of the examination?**
7. Negotiations are ongoing with Mrs Hosier, as shown in the Land Acquisition and Temporary Possession Negotiations Schedule submitted at Deadline 4 [REP4-027] and updated again at Deadline 6. Tunnel restriction information has been provided and discussions are ongoing to reach agreement of outstanding issues within the Position Statement and with accommodation works. The Applicant is aiming to reach an agreement, regarding land acquisition and land management, with Mrs Hosier before the close of examination.

Question CA.2.47

- i. Please provide an update on the negotiations in relation to the proposed agreement under section 253 Highways Act 1980 in respect of plot 09-22.
- ii. Explain further why this plot is required for mitigation essential to the scheme?
- iii. Please provide further justification for the extent of the proposed site compound on land in the ownership of Morrison and King Ltd.

Highways England response

- i. **Please provide an update on the negotiations in relation to the proposed agreement under section 253 Highways Act 1980 in respect of plot 09-22.**
 1. Discussions are ongoing with the landowner regarding the proposed agreement under section 253 Highways Act 1980 in respect of plot 09-22. An example version of the section 253 agreement has been presented to Morrison and King Limited's land agent. The details of planting will be confirmed in the detailed design, and the Applicant will look to finalise an agreement under section 253 Highways Act 1980 with the landowner at this stage.
- ii. **Explain further why this plot is required for mitigation essential to the scheme?**
 2. Plot 09-22 is needed for essential mitigation for new tree planting at Countess roundabout, which is shown indicatively on the Environmental Masterplan [APP-059]. The area shown in plot 09-22 is intended to be a new woodland area, to replace any vegetation that is lost during construction, and provide visual screening for the operation of the Scheme. It is intended that a range of small trees and shrubs, for example whips or feathered trees around 1m in height, would be planted in this area, on a grid arrangement, at approximately 1.5-2m spacings. Ongoing management would be needed in this area to ensure the planted area was sufficiently weed free to enable the growth of the new plants over a defined time, until handed over pursuant to the agreement.
- iii. **Please provide further justification for the extent of the proposed site compound on land in the ownership of Morrison and King Ltd.**
 3. The Statement of Reasons [APP-023] identifies plot 09-12 as being needed for 'new rights required for the installation, use, protection and maintenance of, and access to, statutory undertakers' apparatus (for the benefit of the relevant statutory undertaker and for the Applicant).' The route for the alignment of the Wessex Water pipe through the proposed compound (north of Countess junction) is still being discussed and the area included within the

Order limits allows some flexibility to accommodate a range of potential solutions. Plot 09-12 therefore shows the maximum area that might potentially be required; and if the contractor does not need all of this land then the Applicant would only exercise land use powers in respect of the part of Plot 09-12 that was needed for the Scheme. Further details regarding the rationale for the extent of the proposed eastern site compound were given during the Compulsory Acquisition Hearing on 9 July 2019 and are presented in the technical note that accompanied the written summary of the oral submissions made at that Compulsory Acquisition Hearing, submitted at Deadline 5 [REP5-002].

Question CA.2.49

The response to ExQ1 CA.1.43 indicates that discussions with the Turner family are ongoing and are taking place regarding how the proposed areas of land acquisition could be minimised [REP2-029].

- i. Please indicate whether any reduction in proposed land take has been agreed as a result of those negotiations?
- ii. Notwithstanding the details submitted, please provide further justification for the degree of flexibility sought and the extent of the land in the ownership of the Turner family which is required for the purpose of providing a construction compound, and the settlement ponds.
- iii. Please confirm the precise extent of the proposed land take across the Turner family holding.
- iv. Please justify the necessity for the proposed land take for the section of the A360 north from the Longbarrow junction.

Highways England response

- i. **Please indicate whether any reduction in proposed land take has been agreed as a result of those negotiations?**
 1. The potential for reducing the area of land proposed to be subject to powers of temporary possession in Plot 04-04 was discussed at the Compulsory Acquisition Hearing held on 9 and 10 July 2019. The discussion was reported in the Applicant's written summary of the oral submissions made at that hearing, submitted at Deadline 5 [REP5-002, at agenda item 8.1], in the terms set out below:
 2. "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."

3. Following discussions with the Turner Family and representations at the Compulsory Acquisition hearing, Highways England will seek to enter into an agreement with the Turner Family to reduce the area of land required to be subject to temporary possession within the area currently drawn as plot 04-04. The Applicant has been exploring legal mechanisms for inclusion in an agreement to be entered into by the parties and is in the process of preparing plans to identify the land in question for the purposes of that legal agreement.
- ii. **Notwithstanding the details submitted, please provide further justification for the degree of flexibility sought and the extent of the land in the ownership of the Turner family which is required for the purpose of providing a construction compound, and the settlement ponds.**
4. Further justification for the degree of flexibility sought and the extent of the land in the ownership of the Turner family which is required for the purpose of providing a construction compound and settlement ponds was provided by the Applicant in oral submissions made at the Compulsory Acquisition Hearing held on 9 and 10 July 2019, written summaries of which were also supported by a technical note, appended to the summary submitted at Deadline 5 [REP5-002, see Agenda Item 8.1]. The issue is addressed in the excerpt below, which explains the Applicant's position in relation to its need for flexibility and for the extent of the land in question:
 5. '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 [APP061] 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].
 6. "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.
 7. "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).

8. "... Highways England will only take what land it actually needs for the Scheme on completion of the detailed design.
9. 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."
10. Further details regarding settlement ponds can be found in the Comments on Written Representations [REP3-013] responses to 43.1.10, 43.1.12 and 43.7.1. However, as the settlement pond which was originally proposed to be located within the southern part of Plot 04-04 (close to Foredown House) is no longer considered to be required for the purposes of the Scheme, this will help the Applicant to reduce its requirement for the temporary possession of land within Plot 04-04.

iii. Please confirm the precise extent of the proposed land take across the Turner family holding.

11. The extent of the proposed land take across the Turner family's holding, as shown in the Book of reference [REP2-007], is detailed in the table below –

Plot	Area (approx. metres squared)	Land Requirement*	Turner Family Interest
03-18	841	CAR	Freeholder (in respect of subsoil)
03-20	6993	CA	Freeholder (in respect of subsoil)
03-21	47079	CAR	Freeholder Occupier
03-22	432	CA	Freeholder (in respect of subsoil)
03-26	15761	CA	Freeholder Occupier
03-27	943	CA	Freeholder (in respect of subsoil)
03-28	24032	CAR	Freeholder Occupier
03-30	1284	CA	Freeholder (in respect of subsoil)
03-31	4548	CA	Freeholder Occupier
03-33	430	CA	Freeholder Occupier
03-34	8	CA	Freeholder Occupier
04-01	11183	CAR	Freeholder Occupier
04-02	37199	CA	Freeholder Occupier
04-03	1045	CAR	Freeholder Occupier
04-04	48747	TP	Freeholder Occupier
04-05	15	CAR	Freeholder Occupier
04-06	11	CA	Freeholder Occupier
04-07	1343	CA	Freeholder (in respect of subsoil)
04-08	232	CA	Freeholder Occupier
04-09	324	CA	Freeholder (in respect of subsoil)
04-16	15862	CA	Freeholder (in respect of subsoil)
04-17	126961	CA	Freeholder Occupier
04-19	63	CA	Freeholder Occupier
04-21	2387	TP	Freeholder Occupier

04-22	3894	CAR	Freeholder Occupier
04-23	79242	TP	Freeholder Occupier
04-24	7536	CA	Freeholder Occupier
04-25	178	TP	Freeholder Occupier
04-27	140163	CAR	Freeholder Occupier
04-31	47011	TP	Freeholder Occupier
04-36	436	CAR	Freeholder Occupier
04-37	1840	CA	Freeholder Occupier
04-38	2264	CAR	Freeholder Occupier
05-04	13934	CA	Freeholder (in respect of subsoil)
05-06	116082	CA	Freeholder Occupier
05-07	206250	CAR	Freeholder Occupier
05-15	128122	CAR	Freeholder Occupier
05-16	4	CA	Freeholder Occupier
05-22	3615	CA	Freeholder (in respect of subsoil)
05-26	6377	CA	Freeholder (in respect of subsoil)
06-08	70500	CAS	Tenant Occupier
06-11	2099	CAS	Rights (in respect of rights of access)
06-13	13217	CAS	Tenant Occupier
07-02	49546	CAS	Tenant Occupier
12-05	2334	TP	Freeholder (in respect of subsoil)
14-01	14266	CAR	Freeholder Occupier
14-02	25066	CA	Freeholder Occupier
14-03	2724	TP	Freeholder Occupier
14-04	9493	CA	Freeholder (in respect of subsoil)

* CA – Compulsory Acquisition of Land; CAR – Compulsory Acquisition of Rights; CAS – Compulsory Acquisition of Subsoil; TP – Temporary Possession

12. The total land holding area of Manor Farm, Winterbourne Stoke as set out in Table 13.16 of Chapter 13 of the ES [APP-051] is 890 hectares. This includes land rented from National Trust, but excludes subsoil ownership of ad medium filum interest in highway and land in which rights only are held. Of this total land holding, 122.8 hectares falls within the Scheme's Order limits, equating to 13.8% of the total land holding. The following table sets out the breakdown of the total land holding affected by each land requirement.

Land Requirement	Total Area (excluding rights interests and subsoil interests) (approx. ha)	Total Area as an approx. % of land holding
Compulsory Acquisition of Land	33.6	3.8
Compulsory Acquisition of Rights	57.9	6.5
Temporary Possession	18.1	2.1
Compulsory Acquisition of Subsoil	13.3	1.5

iv. Please justify the necessity for the proposed land take for the section of the A360 north from the Longbarrow junction.

13. The highway design alignment included in the application ties in to the existing carriageway which has substandard geometry for the required design speed. As such the stopping sight distance is not achieved, affecting visibility to the existing farm access. This approach requires a departure from standard to be approved by Highways England's Safety and Engineering Standards department. This section of the A360 is one of the primary access routes to the Stonehenge Visitor Centre and if the departure was not approved the tie in point would need to be moved, resulting in an additional length of cutting and requiring more land within the area defined as Plot 14-02.

Question CA.2.52

Please confirm that negotiations have begun with Grove Property and indicate whether an agreement has been concluded.

Highways England response

1. Attempts have been made to arrange meetings and begin negotiations with Grove Property but have, to date, been unsuccessful, as shown in the Land Acquisition and Temporary Possession Negotiations Schedule submitted at Deadline 4 [REP4-027] and updated again at Deadline 6. Attempts to begin negotiations with Grove Property will continue; however, no agreement has currently been concluded, due to the difficulties encountered in establishing negotiations.

Question CA.2.54

Please provide an update on the discussions as regards the proposed restricted byway running alongside the A360 within the boundary of the Stonehenge Visitor Centre complex and the exploration of alternatives.

Highways England response

1. Highways England has been engaged on this matter with English Heritage, Wiltshire Council and other stakeholders since the supplementary consultation in July / August 2018. Following extensive discussions, the 11 alternative public rights of way solutions which were developed for consideration have been reduced to two options for a shared-use cycleway between Longbarrow roundabout and the Stonehenge visitor centre.
2. One of the options is capable of being delivered within the existing Order limits; however, the other would require the acquisition of a small area of land which currently lies outside the Order limits. Both options include areas of highway verge, however, the areas required are significantly less than in the DCO proposal due to Wiltshire Council's relaxation of their requirement for carriage and equestrian rights on the public right of way.
3. Highways England is seeking written confirmation that all persons with an interest in the land outside the Order limits give their consent to the inclusion of that land within the Order limits. It is acknowledged that, without such consent, the additional land could only be secured through the engagement of the procedures set out in the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 ('CA Regulations').
4. As of Deadline 6, Highways England will be carrying out a non-statutory consultation on the two options outlined above (together with consultation on a small number of other proposed minor changes to the Scheme) and will be submitting a request to the ExA for a proposed non-material change to this element of the Scheme.

Question CA.2.56

In relation to the objection raised on behalf of Lincoln College:

- i. Please provide further details in relation to the proposal to take an electric cable across College land; details of the alternative means of access following the change to AMES1 and the new access and fencing required in relation to the proposal to join Equinox Drive and Allington Track.
- ii. When is it anticipated that the scope of the required works will be confirmed by Scottish and Southern Electricity plc?

Highways England response

- i. **Please provide further details in relation to the proposal to take an electric cable across College land; details of the alternative means of access following the change to AMES1 and the new access and fencing required in relation to the proposal to join Equinox Drive and Allington Track.**
 1. By way of preliminary discussions, Scottish and Southern Energy (SSE) has indicated that only the Ratfyn substation is likely to be required for the A303 works. Therefore, it is unlikely that any works will be required on land in plots: 09-30, 09-31, 09-36, 09-37, 09-38 and 09-40 on the Land Plans [APP-005], although this position has not yet been formally confirmed. SSE has also indicated that all necessary works at the Ratfyn substation may potentially be carried out within the current substation footprint. This may reduce the requirements for permanent acquisition at plots 09-43 and 10-01; however, the position is not yet confirmed.
 2. SSE has further indicated that the proposed cable route would run southwards down the Ratfyn Track until bordering the A303 where it would then connect through into land owned by Highways England. The rights sought could be provided in the form of a legal easement; however, this has yet to be confirmed, as with the final residing right. The proposed alternative east of the narrow section of Ratfyn track is proposed to be discussed between Highways England and SSE, once there is formal agreement between SSE and Highways England for the design of this supply.
 3. Until the scope of the required works is confirmed by SSE through this design it is necessary and appropriate for Highways England to continue to seek compulsory acquisition powers to safeguard the delivery of the Scheme. However, Highways England will not use these powers if they are not needed for the scheme or if an easement (or a wayleave) can be agreed between parties.
 4. The new Allington Track alignment would provide an access into Earls Farm from the southern side of the road. Details of this are being confirmed with

the landowner and tenant and will be approved through the accommodation works' process.

5. The existing fencing between the Lincoln College land and byway AMES1 would be retained. Highways England is discussing this issue with the affected landowner, with the aim of reaching agreement on the approach to be taken to prevent unauthorised access.

ii. When is it anticipated that the scope of the required works will be confirmed by Scottish and Southern Electricity plc?

6. The scope of Scottish and Southern Electricity plc supply works is likely to be confirmed by the end of September 2019. However, the scope defined at this time will be based on SSE's preferred route which is likely to be southwards down the Ratfyn Track. The scope would therefore exclude any consideration of alternative option(s) for routes, such as the proposed alternative east of the narrow section of Ratfyn track.

Question CA.2.58

- i. Please explain further why it is necessary to seek Temporary Possession of plot 03-14 and why the proposed powers are necessary to facilitate the diversion of the Esso pipeline.
- ii. Why is Temporary Possession required of the whole of plot 03-14 and not just the western most corner?
- iii. Please explain further the need and justification for the scope of the powers of Temporary Possession and the acquisition of rights sought over land parcels 03-13 and 03-14.

Highways England response

- i. **Please explain further why it is necessary to seek Temporary Possession of plot 03-14 and why the proposed powers are necessary to facilitate the diversion of the Esso pipeline.**
 1. The temporary possession power sought in respect of plot 03-14 is required, at this stage, in relation to the full extent of the field (comprising plot 03-14 as shown on the land plans [APP-005] because Esso have not yet finalised their design of the pipeline and therefore the Applicant is not yet in a position to confirm to what extent the pipeline diversion works will extend into plot 03-14, nor can the precise extent or location of any associated working space be fully ascertained at this stage. It may be possible that a lesser extent of land can be used once more design information is available, but this will not be confirmed before the end of the DCO examination period.
- ii. **Why is Temporary Possession required of the whole of plot 03-14 and not just the western most corner?**
 2. As explained in part (i) above, temporary possession of the whole of plot of 03-14 is required to allow the Applicant to provide the landowner with an access route during construction, via the southern part of plot 03-13 and to provide working space for the Esso pipeline works, once the diversion route has been determined.
- iii. **Please explain further the need and justification for the scope of the powers of Temporary Possession and the acquisition of rights sought over land parcels 03-13 and 03-14.**
 3. Temporary possession of plots 03-13 and 03-14 is required to facilitate landscaping re-profiling associated with the Winterbourne Stoke bypass and the yet to be finalised route and connection of the proposed Esso pipeline diversion works. The proposed acquisition of rights is associated with the Esso diversion route, should an agreement with the landowner not be achieved, and with the provision of ecological mitigation (Statement of Reasons [APP-023], Annex A, Table 2, land plots 03-13 and 03-14).

Question CA.2.60

Please provide an update in relation to the prospect of Mr Moore having the land returned to him post construction and the consideration of any accommodation works that would be required.

Highways England response

1. The Applicant's position in relation to the prospect of Mr Moore having the land returned to him post construction currently remains as it was expressed in the oral submissions made under Agenda item 8.1 at the Compulsory Acquisition Hearing held on 9 and 10 July 2019, written summaries of which were submitted at Deadline 5 [REP5-002], and from which a relevant excerpt is set out below:

“This land 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 remain as calcareous grassland for the landscaping and biodiversity benefits previously stated.”

2. The quality of agricultural land to the east of Parsonage Down is predominantly Grades 2 and 3a, which is among the best and most versatile (BMV) agricultural land. These soils are well drained silty clay loams overlying permeable chalk at moderate to shallow depth, with the higher quality Grade 2 land having a deeper soil profile over the chalk than the Grade 3a land. The quality of land is currently limited by soil depth and its susceptibility to drought.
3. The substrate formed from the excavated material from the tunnel boring process will be of low permeability. The limitation to any soil profile placed on this substrate will be soil wetness, as the compacted substrate would prevent the drainage of excess soil water, in contrast to the soil droughtiness limitation that currently exists on this and surrounding land.
4. In order to qualify for Subgrade 3a, which is the lowest grade within the BMV category that will enable arable cropping, a soil profile of at least 800mm will be required to be restored over the substrate formed from the excavated material. In addition, an underdrainage system will need to be installed at the interface between the substrate and the base of the soil profile. A profile of this description using the indigenous silty clay loam soils would qualify as Wetness Class III which would enable this land to be classified as Grade 3a. This would be an overall lower quality than currently exists but will allow arable cultivations to take place, as at present.
5. The area required from Mr Moore's land for the construction of the highway itself and for structural embankments would be 15.0ha, with 12.9ha required

to mitigate the visual impact of the carriageway and embankments slope, and 28.2ha required for the further deposition of tunnel arisings.

6. If restored to agriculture, the 41.1ha (12.9ha plus 28.2ha) would require 328,800m³ of soil to be replaced to enable the land to be returned to BMV quality and allow arable cropping. This is a greater volume of topsoil than would be stripped from within the scheme, irrespective of the need to reuse topsoil within the scheme for landscape mitigation areas, batters and verges.
7. Furthermore, there are no known precedents for restoring BMV agricultural land over chalk excavated from a tunnel boring process, and the risks of being unable to restore to BMV quality, to enable arable cultivations to recommence after construction, are high.
8. There are precedents for restoring chalk grassland over chalk excavated from a tunnel boring process, as this requires a much shallower rooting depth than arable cropping, and this land could be returned to Mr Moore as restored calcareous grassland.

Question CA.2.61

The Applicant is requested to provide an update as regards negotiations with other objectors not specifically mentioned above.

Highways England response

1. An updated Land Acquisition and Temporary Possession Negotiations Schedule is being submitted at Deadline 6, providing an update on recent negotiations.
2. Specifically, in addition to the objectors not mentioned in the above ExQ2 written questions, the Applicant has identified three Affected Persons, who have raised objections to the compulsory acquisition aspects of the Scheme. These are: Robin Parsons; Biddesden House Farm Partnership/Berwick Down Limited; and Travelodge Hotels Limited. The updates on recent negotiations are as follows:
 3. **Robin Parsons:**

Robin Parsons objects to the location of Green Bridge No. 1, associated land take and increased public access to the area surrounding his land. Robin Parsons has raised alternatives relating to the location of Green Bridge No. 1 which have been reviewed following consultation. Further details of these alternative locations considered are available in the Applicant's submissions to Issue Specific Hearing 6 on traffic and transportation issues held on 13 June 2019 – items 4.1 to 4.4 inclusive [REP4-034]. Discussions and meetings have taken place with Robin Parsons and his land agent regarding issues raised in representations and in relation to Accommodation Works plans. During recent discussions Robin Parsons and his land agent requested that a Statement of Common Ground be issued between Highways England and Robin Parsons and submitted to the Examining Authority. This document is being updated with recent discussions and will be submitted to the Examining Authority in due course. Proposals for the acquisition of all permanent land take areas have been provided for consideration. Discussions will continue with Robin Parsons and his land agent with the aim of entering into an agreement.
 4. **Biddesden House Farm Partnership/Berwick Down Limited**

Biddesden House Farm Partnership/Berwick Down Limited objects to the Public Right of Way BSJA11, creating potential for illegal access to the land and a triangular field which they foresee being impractical for farming operations. Discussions and meetings have taken place with Biddesden House Farm Partnership/Berwick Down Limited's land agent regarding issues raised in representations and in relation to Accommodation Works plans. Discussions are ongoing with the aim of entering into an agreement.

5. Travelodge Hotels Limited

Travelodge Hotels Limited objects to the extent of Compulsory Acquisition of Rights proposed for the eastern compound access at plot 09-14 and associated construction impacts. The Applicant's recent attempts to meet with Travelodge Hotels Limited have been unsuccessful, but discussions are ongoing with the aim of reaching an agreement.

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