

# A30 Chiverton to Carland Cross TR010026

## 4.1 STATEMENT OF REASONS

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APFP Regulation 5(2)(h)  
Infrastructure Planning (Applications: Prescribed  
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Planning Act 2008

**The Infrastructure Planning  
(Applications: Prescribed Forms and  
Procedure) Regulations 2009**

**A30 Chiverton to Carland Cross  
Development Consent Order 201[x]**

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**4.1 STATEMENT OF REASONS**

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<b>Planning Inspectorate Scheme Reference</b>	TR010026
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# 1 Introduction

## 1.1 Summary

1.1.1 This Statement of Reasons relates to the A30 Chiverton to Carland Cross (the scheme), and has been submitted by Highways England (the Applicant) to the Planning Inspectorate acting on behalf of the Secretary of State for Transport. It relates to an application for a development consent order (DCO) to permit and enable implementation of the scheme made under section 37 of the Planning Act 2008 (as amended) (PA 2008).

## 1.2 The scheme

1.2.1 The scheme is a nationally significant infrastructure project (NSIP) within sections 14(1)(h) and 22(1)(a) of the PA 2008.

1.2.2 Under section 22 an NSIP must fall within one of the three categories specified, which are expressly stated to be alternatives. This scheme is the “construction” of a highway within the meaning of section 22(1)(a).

1.2.3 The scheme satisfies section 22(2) in that the highway will (when constructed) be wholly in England; the Applicant as strategic highways company will be the highway authority for the highway; and at approximately 211.7 hectares the area of development is greater than the relevant limit set out in subsection (4), which in this case is 12.5 hectares because the scheme does not involve the construction of a motorway and speed limits would be in excess of 50mph.

1.2.4 The total area of the scheme as shown on the Land Plans (Volume 2, Document Ref 2.2) and Work Plans (Volume 2, Document Ref 2.4) is 213.54 hectares. Of the area of land to be acquired, 154.60 hectares is land to be acquired permanently, 45.38 hectares is land to be used temporarily and 13.55 hectares is land to be used temporarily and rights to be acquired permanently.

1.2.5 As the scheme is an NSIP, development consent must be obtained from the Secretary of State to authorise it, and an application for a development consent order must be made to the Secretary of State, care of the Planning Inspectorate (“PINS”), under section 37 of the 2008 Act.

1.2.6 The A30 is an existing road that connects Penzance in west Cornwall with the M5 at Exeter. The scheme relates to a section of the A30 near Truro between Chiverton and Carland Cross.

1.2.7 Highways England has applied to the Planning Inspectorate for a development consent order (DCO) for an 8.7 mile, 70mph dual carriageway, connecting the existing A30 dual carriageways at either end. The key elements of the scheme include:

- A grade separated junction at Chiverton
- A grade separated junction at Chybucca with west-facing slip roads
- A grade separated junction at Carland Cross
- New bridges and accesses across the new road and the existing A30

1.2.8 Retention of the existing A30, including realignment where required.

## **1.3 Compulsory acquisition**

- 1.3.1 In its DCO application for the scheme, the Applicant seeks compulsory acquisition and temporary possession powers in respect of certain land interests. A detailed description of the extent and nature of the powers sought is set out by reference to the DCO application documents in Chapter 3 of this Statement.

## **1.4 Land interests**

- 1.4.1 The extent of the land interests affected by the compulsory acquisition and temporary possession powers sought by the Applicant is described in Chapter 4 of this Statement.
- 1.4.2 The Applicant has carried out diligent inquiry to identify all persons with an interest in the Land and persons with a potential claim for compensation as a result of the scheme. These persons have been consulted pursuant to section 42 of the PA 2008.
- 1.4.3 The Applicant has attempted to acquire all interests in the Land by agreement but unfortunately due to scale of the land interests this has not been possible to achieve. It is therefore necessary to acquire land interests by compulsory acquisition in order to enable the scheme to be delivered. The Applicant is satisfied that the acquisition of all of the land interests is necessary to enable the scheme to proceed.

## **1.5 The case for compulsory acquisition**

- 1.5.1 The Applicant is satisfied that the powers of compulsory acquisition and temporary possession sought in the DCO are necessary, proportionate and justified. The Applicant is further satisfied that the powers sought are in accordance with all relevant statutory and policy guidance.
- 1.5.2 The Applicant is firmly of the view that there is a compelling case in the public interest for the compulsory acquisition and temporary possession powers sought as set out in Chapter 5 of this Statement.

## **1.6 Human rights**

- 1.6.1 In preparing the DCO, the Applicant has had regard to the European Convention for Human Rights and the Human Rights Act 1998. Chapter 6 of this Statement considers how the scheme complies with this legislation notwithstanding any infringement of the private rights of those whose interests in the land may be affected by the exercise of powers of compulsory acquisition.

## **1.7 Special considerations**

- 1.7.1 In Chapter 7 of this Statement, the Applicant has identified all special category land which is affected by the compulsory acquisition powers sought in the DCO. The Applicant has engaged with the relevant persons responsible for the special category land and with a view to avoiding the need for special parliamentary procedure in accordance with the relevant sections of the PA 2008. The Applicant has further considered what other consents are required in order to enable the scheme to proceed and set out how these will be secured.



## 1.8 Compliance with statutory requirements and policy guidance

- 1.8.1 This document has been prepared in accordance with the requirements of Regulation 5(2)(h) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (as amended) (the APFP Regulations), and the 'Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land' (DCLG, September 2013) (the CA Guidance).
- 1.8.2 This Statement is required because the DCO, if made, would authorise the compulsory acquisition of interests or rights in land as well as confer on the Applicant the additional powers below, which are further described in Chapter 3 of this Statement:
- Compulsory acquisition of rights;
  - Private rights over land;
  - Acquisition of subsoil or airspace only;
  - Rights under or over streets;
  - Temporary use of land for carrying out the authorised development; and
  - Temporary use of land for maintaining the authorised development.
- 1.8.3 This Statement should be read alongside the other DCO application documents that relate to the compulsory acquisition powers sought by the Applicant, including:
- Land Plans (Volume 2, Document Ref 2.2)
  - Special Category Land Plan (Volume 2, Document Ref 2.3)
  - Works Plans (Volume 2, Document Ref 2.4)
  - Draft DCO (Volume 3, Document Ref 3.1)
  - Explanatory Memorandum (Volume 3, Document Ref 3.2)
  - Funding Statement (Volume 4, Document Ref 4.2)
  - Book of Reference (Volume 4, Document Ref 4.3)
  - Consultation Report (Volume 5, Document Ref 5.1)
  - Environmental Statement (Volume 6, Document Ref 6.2)
  - Planning Statement (Volume 7, Document Ref 7.1)
  - Details of other Consents and Licenses (Volume 7, Document Ref 7.2)

## 2 The Scheme

### 2.1 Description of the scheme

2.1.1 The scheme comprises the following main features:

- An 8.7 mile (14km), high quality 70mph dual carriageway, connecting to the existing A30 dual carriageway at either end
- The replacement of Chiverton Cross roundabout with a new, 2 level motorway style roundabout
- A new, 2 level partial junction at Chybucca, with west-facing slip road connecting to the new dual carriageway
- Replacement of the existing roundabout at Carland Cross with a 2 level motorway style junction
- New bridges and accesses across the new road and the old road
- Retention of the existing A30 including the construction of further local roads to maintain connectivity

2.1.2 A detailed description of the scheme is provided in Chapter 2 The Project of the Environmental Statement (Volume 6, Document Reference 6.2), and Schedule 1 (Authorised Development) of the Draft Development Consent Order (Volume 3, Document Reference 3.1).

### 2.2 Need for and benefits of the scheme

2.2.1 In December 2014, the Department for Transport published the first Road Investment Strategy: 2015 to 2020 (RIS1), which sets out the vision to deliver safer, more stress-free journeys as well as enhancing reliability and predictability for road users on the strategic road network.

2.2.2 RIS1 sets out that the scheme, coupled with other A30 improvements such as the Temple to Higher Carblake scheme will ensure consistency from Camborne to the M5.

2.2.3 Following completion of the Temple to Higher Carblake scheme, the A30 between Chiverton and Carland Cross is the only remaining section of single carriageway on the trunk road between Camborne and Exeter, which connects Cornwall to the M5.

2.2.4 Due to the low standard of the route, this section of the A30 experiences congestion and delays throughout the year, with poor journey time reliability and stifling growth in Cornwall. The design and alignment of the existing section of road and its junctions also causes traffic accidents, while the lack of alternative direct route when an accident occurs results in queues on the main carriageway and unsuitable levels of traffic flow on local roads used as diversions. These problems are exacerbated in summer months, when traffic flows increase due to tourist traffic.

2.2.5 The scheme is required to meet Highways England's objectives of maintaining the smooth flow of traffic, making the network safer and supporting economic growth.

2.2.6 In addition, an economic cost benefit analysis has been undertaken in accordance with WebTAG (Web-based Transport Analysis Guidance) - the DfT's

transport appraisal guidance and toolkit. This assessment has concluded an adjusted benefit to cost ratio of value of 4.55, which means that the scheme represents 'very high value' for money.

## 2.3 The authorised works

2.3.1 In order to deliver the scheme, it will necessary to carry out the following works comprising:

- Work No. 1 – the construction of a new A30 dual carriageway road approximately 14 kilometres in length;
- Work No. 2 – the re-alignment of the existing A30;
- Work No. 3 – the construction of a new grade separated junction at Chiverton;
- Work No. 4 – the construction of a new grade separated dumbbell junction at Chybucca;
- Work No. 5 – the construction of a new grade separated junction at Carland Cross;
- Work No. 6 – works to Allet Road for access across the new A30 at Tresawsen.
- Work No. 7 – the stopping up of the public highway at Marazanvose. To include the construction of a turning head and access to the footpath at Nancarrow Farm;
- Work No. 8 – the retention and continued use of the Two Barrows underbridge;
- Work No. 9 – the demolition and replacement of the existing bridge at Tolgroggan Farm;
- Work No. 10 – the construction of an underbridge under the main carriageway of the new A30 and the existing A30;
- Work No. 11 – the construction of an underbridge at Pennycomequick;
- Work No. 12 – the closure of the junction at Ennis Farm Lane where it meets the existing A30 and the re-alignment of approximately 128 metres of Ennis Farm Lane;
- Work No. 13 – 74 - the diversion of apparatus relating to statutory undertakers including: water pipelines, power cables, telecoms equipment, gas pipelines, and the relocation of an electricity pole.

2.3.2 A full description of the works, referred to in the draft DCO as "authorised development" is set out in Schedule 1 of the DCO (Volume 3, Document Ref 3.1).

2.3.3 In order to carry out the authorised works listed in Schedule 1 of the DCO, the DCO would further authorise the Applicant to carry out development and works within the DCO boundary (shown as red on the Land Plans and Works Plans):

- works required for the strengthening, improvement, maintenance or reconstruction of any street;
- the strengthening, alteration or demolition of any structure;
- ramps, means of access including private means of access, public rights of way and crossing facilities;
- embankments, abutments, shafts, foundations, retaining walls, barriers, parapets, drainage, outfalls, ditches, wing walls, highway lighting, fencing and culverts;

- works to place, alter, remove or maintain street furniture or apparatus in a street, or apparatus in other land, including mains, sewers, drains, pipes, cables and ducts;
- works to alter the course of or otherwise interfere with a watercourse, including private water supplies;
- landscaping, noise bunds and barriers, works associated with the provision of ecological mitigation and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised development;
- works for the benefit or protection of land affected by the authorised development;
- site preparation works, site clearance (including fencing, vegetation removal, demolition of existing structures); earthworks (including soil stripping and storage, site levelling); remediation of contamination;
- the felling of trees;
- working sites, storage areas, temporary vehicle parking, construction fencing, perimeter enclosure, security fencing, construction-related buildings, temporary worker accommodation facilities, welfare facilities, construction lighting, haulage roads and other buildings, machinery, apparatus, works and conveniences; and
- the provision of other works including pavement works, kerbing and paved areas works, signing, signals, gantries, road markings works, traffic management measures including temporary roads and such other works as are associated with the construction of the authorised development.

2.3.4 The works described above would be subject to specific mitigation requirements, for example, landscaping and environmental mitigation. These requirements are set out in Schedule 2 to the DCO.

## 3 Compulsory acquisition

### 3.1 Scope of compulsory acquisition powers sought

3.1.1 The scope of the compulsory acquisition powers sought by the Applicant is set out in full in Part 5 of the Draft DCO (Volume 3, Document Ref 3.1).

### 3.2 Main compulsory acquisition powers

3.2.1 The main powers authorising the compulsory acquisition of land, or interests in, or rights over land, are contained in Articles 23 (compulsory acquisition of land) and 26 (compulsory acquisition of rights and restrictive covenants) of the Draft DCO.

3.2.2 Other compulsory acquisition powers are sought in the Draft DCO (identified in section 3.3 below) and these similarly relate to land and will, or may, interfere with property, rights and interests.

3.2.3 In addition, powers are sought in the Draft DCO to enable the temporary possession and use of land.

3.2.4 In each case, the owner of the land, or the interest or right in the land, may be entitled to compensation.

### 3.3 Other compulsory acquisition powers

3.3.1 The other compulsory acquisition powers sought by the Applicant in the DCO include:

#### **Article 27: Public rights of way**

3.3.2 Article 27 provides for the extinguishment of public rights of way following the undertaker erecting a site notice at each end of the rights of way to be extinguished no less than 28 days prior to the extinguishment of that right of way.

#### **Article 28: Private rights over land**

3.3.3 Article 28 provides for the extinguishment of all existing private rights over land from the earlier of the date of acquisition of the land or the date on which the Applicant enters the land.

3.3.4 The article further provides that, where new rights are being compulsorily acquired or restrictive covenants are being imposed on land then any existing private rights or restrictive covenants which that land is subject to shall be extinguished to the extent that continuing those private rights or restrictive covenants would be inconsistent with the new right acquired or restrictive covenant imposed.

3.3.5 With regard to land that the Applicant may take temporary possession of under the Draft DCO, Article 28 provides that all private rights over that land will be suspended and unenforceable for as long as the Applicant is in lawful possession of the land.

#### **Article 31: Acquisition of subsoil or airspace only**

3.3.6 Article 31 provides that where the Applicant has, in respect of any land, powers of compulsory acquisition under Article 31 above then it may, for the same purposes

for which it is authorised to acquire the whole of the land, choose instead to acquire only the subsoil underneath or the airspace over the land.

### **Article 32: Rights under or over streets**

3.3.7 Article 32 would authorise the Applicant to:

- enter on and appropriate so much of the subsoil underneath or airspace over any street within the limits of the DCO as may be required to provide the scheme; and
- use that subsoil or airspace for the purposes of carrying out the scheme or any purpose ancillary to it.

3.3.8 Save in the case of subways or underground buildings, or to cellars or similar structures forming part of a building fronting the street, the Applicant may exercise its powers under this Article without having to acquire any part of the street or any easement or right in the street.

### **Article 35: Statutory undertakers**

3.3.9 Article 35 allows the undertaker to:

- Acquire compulsorily, acquire new rights, or impose restrictive covenants over, any land within the limits of the DCO belonging to statutory undertakers; and
- Extinguish the rights of, or remove or reposition any apparatus belonging to, statutory undertakers within the limits of the DCO.

3.3.10 These powers are subject to the provisions of article 26(3) (acquisition of rights) and Schedule 9 (protective provisions) of the DCO.

## **3.4 Temporary possession powers**

3.4.1 The Applicant further seeks, in the DCO, powers to take temporary possession of land to carry out and thereafter maintain the scheme as follows:

### **Article 33: Temporary use of land for carrying out the authorised development**

3.4.2 Article 33 would authorise the Applicant to take temporary possession of:

- the land specified in column (1) and (2) of Schedule 7 to the DCO; or
- any other land within the limits of the DCO, so long as the Applicant has not served a notice of entry or executed a general vesting declaration in respect of that land.

3.4.3 In addition to taking possession of the land, the Article would authorise the Applicant to:

- remove any buildings and vegetation from the land;
- construct temporary works (including accesses) and buildings on the land; and
- construct any works on the land as specified in Schedule 7 to the DCO.

3.4.4 The power to take temporary possession of land would be subject to the time limits set out in Article 33. The Applicant cannot remain in possession unless the owner of the land agrees after:

- a. as regards to any land specified in columns 1 and 2 of Schedule [7] to the DCO, for more than a year after completing that part of the scheme specified in relation to that land in column 4 of Schedule 7; and
- b. as regards to any other land included in the DCO, for more than a year after completing the work for which temporary possession was taken (unless before the end of that period the Applicant has made a vesting declaration or served notice of entry in relation to that land).

3.4.5 Article 33 provides that before giving up possession of any land the Applicant is obliged to remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

#### **Article 34: Temporary use of land for maintaining the authorised development**

3.4.6 Article 34 would empower the Applicant to take temporary possession of any land within the limits of the DCO, if reasonably required for the purpose of maintaining the scheme, at any time during the maintenance period (i.e. five years from the date on which that part of the scheme is first opened for use).

3.4.7 Article 34 would allow the Applicant to construct temporary works and buildings on the land, so far as reasonably necessary for the purpose of carrying out the maintenance. The Applicant would not be able to take temporary possession of a house, or a garden belonging to a house, or any other occupied building under this Article.

3.4.8 The Applicant would only be enabled to remain in possession of land under this Article for so long as may be reasonably necessary to carry out the maintenance of the part of the scheme for which possession was taken. Before giving up possession of the land, the Applicant would be required to remove all temporary works and restore the land to the owner's reasonable satisfaction.

#### **Other rights and powers**

3.4.9 If made, the DCO would also confer on the Applicant other rights and powers that may interfere with property rights and private interests. These additional powers are:

- c. Article 11: Street works
- d. Article 15: Temporary stopping up and restriction of use of streets;
- e. Article 16: Permanent stopping up and restriction of use of streets and private means of access;
- f. Article 20: Discharge of water; and
- g. Article 21: Protective works to buildings
- h. Article 22: Authority to survey and investigate the land.
- i. Article 39: Felling or lopping of trees

#### **Conclusions**

3.4.10 The Applicant considers that the powers sought in the DCO as set out in this Chapter are reasonable, proportionate and necessary to deliver and thereafter maintain the scheme.

## 4 Land interests

### 4.1 The extent of the land subject to compulsory acquisition powers

- 4.1.1 The full extent of the land subject to powers of compulsory acquisition and required in order to enable the Applicant to construct the scheme as described in Chapter 2 of this Statement is shown on the Land Plans (Volume 2, Document Ref 2.2) and the Works Plans (Volume 2, Document Ref 2.4). It is further described in the Book of Reference (Volume 4, Document Ref 4.3).
- 4.1.2 The Land comprises approximately 211.7 hectares. Of this, approximately 156.8 hectares will be acquired permanently, 42 hectares will be subject to temporary possession and 12.8 hectares will be subject to temporary possession with acquisition of permanent rights.
- 4.1.3 The purpose for which each plot of land is required is described in Appendix A of this Statement.

### 4.2 Location

- 4.2.1 The A30 is an existing road which connects Penzance in west Cornwall with the M5 at Exeter. The scheme relates to a section of the A30 north west of Truro between the roundabouts at Chiverton Cross and Carland Cross.
- 4.2.2 The location of the Land is shown on the Scheme Location Plan (Volume 2, Document Ref 2.1). The land is located wholly within the administrative area of Cornwall Council.
- 4.2.3 The surrounding landscape is largely agricultural farmland (predominantly large scale arable fields). The area includes the major highway infrastructure of the existing A30 which is flanked by grass verges, trees, hedgerows and the Chiverton Cross and Carland Cross Roundabouts.
- 4.2.4 At the western extent of the scheme, Chiverton Cross connects the existing A30 trunk road to the A390 from Truro, the A3075 from Newquay and the B3277 from St Agnes. At the eastern extent of the scheme, Carland Cross connects the A39 from Truro to the existing A30 trunk road in addition to the local minor road network. The notable junctions along the scheme are:
- Chybucca, which connects the B3284 from Truro to the south-east and the B3284 from Perranporth to the west on the north coast.
  - Zelah, where the existing A30 connects to the unclassified road between Goonhavern and Shortlanesend by means of a grade separated junction.
  - Boxheater, which connects:
    - the A30 to the B3285 from Perranporth and Goonhavern to the west
    - the unclassified road which connects towards St Newlyn East, Cubert and Newquay to the north
- 4.2.5 The route is flanked by residential dwellings, farms and other business, structures and renewable energy installations. The notable farm areas and structures are:



- The Tolgroggan overbridge carries an agricultural access road over the existing A30 trunk road to the south of Zelah village at Tolgroggan Farm. The structure spans a total of 42.5 metres above the rock cutting;
- The Twobarrows underbridge carries the A30 over the class 3 Zelah to Shortlanesend road to the south of Zelah village. The bridge has a clear span of 9.43 metres;
- Acland Farm, Silver Springs Farm, Greenacres Farm, Silverwell Forge, Silverdene and Trevisson Park, north of the existing A30. Roscarnick Farm, Burra Burra Farm, and Lands Vue Farm south of existing A30. This is shown on Sheet 1 of the Land Plans (Volume 2, Document Ref 2.2);
- Four Burrows Farm House and Pendown Farm, north of the existing A30. Four Burrows Solar Farm south of the existing A30. This is shown on Sheet 2 of the Land Plans, (Volume 2, Document Ref 2.2);
- Pendale Farm, Callestick Vean and Creegmeor Farm, north of the existing A30. Four Burrows Wind Farm and Garvinack Solar Farm, south of the existing A30. This is shown on Sheet 3 of the Land Plans (Volume 2, Document Ref 2.2);
- Creegmeor Farm and Tresawsen north of the existing A30. Hillview Farm, Allet and Nanteague Farm south of the existing A30. This is shown on Sheet 4 of the Land Plans (Volume 2, Document Ref 2.2);
- Town and Country Motors, Lower Ventongimps, Higher Ventongimps Farm and Quarryclose Plantation north of the existing A30. Nanteague Farm, Nanteague Solar Farm, Marazanvose Farm and Nancarrow Farm south of the existing A30. This is shown on Sheet 5 of the Land Plans (Volume 2, Document Ref 2.2);
- Chyverton Park, St Freda, Zelah Lane Farm and Zelah north of the existing A30. Twobarrows, Hill House, Boswellick and Tolgroggan Farm south of the existing A30. This is shown on Sheet 6 of the Land Plans (Volume 2, Document Ref 2.2);
- Polstain Farm, Henvver Lane House, Henvver Lane Cottage, Zelah Hill Cottage and Mount Pleasant north of the existing A30. Trevalso Farm, Tregorland Farm, Pennycomequick and Honeycombe Farm south of the existing A30. This is shown on Sheet 7 of the Land Plans (Volume 2, Document Ref 2.2);
- Pennycomequick, Penglaze, Journey's End and Ragland House north of the existing A30. Honeycombe Farm, Ventonteague, and Ennis Farm south of the existing A30. This is shown on Sheet 8 of the Land Plans (Volume 2, Document Ref 2.2);
- Four Winds and Carland Cross Wind Farm north of the existing A30. Higher Ennis Farm and Rosehill Farm south of the existing A30. This is shown on Sheet 9 of the Land Plans (Volume 2, Document Ref 2.2); and
- West Nancemeer north of the existing A30 and Treventon Farm south of the existing A30. This is shown Sheet 10 of the Land Plans, (Volume 2, Document Ref 2.2).

## 4.3 Existing Land Use

### Settlements

- 4.3.1 The existing A30 between Chiverton and Carland Cross serves low numbers of residential properties and businesses at and around Chiverton, Marazanvose, Zelah and Carland Cross in a predominantly rural location.

- 4.3.2 Blackwater is the largest of the settlements in the vicinity, situated around 1.5km to the South West of Chiverton. It is identified as a Category E Settlement, important to the immediate local area in terms of services and facilities it provides. These include a nursery, primary school, sports facilities and a number of public houses.
- 4.3.3 Zelah is located within the centre of the proposed scheme and benefits from an existing bypass. As a Category F Settlement, Zelah has a limited number of services and facilities, such as a recreation ground, farm shop, a doctor's surgery and public house.
- 4.3.4 Mitchell is a village located north east of Carland Cross Roundabout and south of the existing A30 bypass. Mitchell is also a Category F Settlement with a small number of business and services including a pub, playground farm shop and hotel.
- 4.3.5 Further afield are the larger settlements of St Agnes (6km to the north), Truro (9km to the south east) and Redruth (9km to the south west).

#### **Categories of farm land**

- 4.3.6 The route corridor of the existing A30 between Chiverton Cross Roundabout and Carland Cross Roundabout is mainly arable and pastoral farmland. Agricultural land quality in the survey area is most affected by soil wetness and workability as influenced by the very wet climate. There are a number of areas of farmland and farm business developments surrounding the proposed A30 route, the locations of the Farms are described above in Section 4.2.5.
- 4.3.7 Further details on the categories of farm land is include within section 12.6 in Chapter 12 People and Communities of the Environmental Statement (Volume 6, Document Ref 6.2).

#### **Natural features**

- 4.3.8 There are a number of features including eighteen watercourses connecting to the River Allen, Kenwyn, Tresillian, and Tinney and surrounding catchment, there are a number of still water ponds within fields along the scheme.
- 4.3.9 The Newlyn Downs Special Area of Conservation is located north west of Carland Cross. This area is also designated as a the Newlyn Downs Cornwall Wildlife Trust (CWT) Reserve. In addition, the Chyverton Reserve CWT, Vewnton Gimps Moor CWT and Park Hoskyn - The Hayman Reserve CWT are located north of the existing A30. The Allet Gog CWT, Two Burrows Reserv CWT and Five Acres Reserve CWT are located south of the existing A30.
- 4.3.10 A Tree Preservation Order Area is located immediately south of the existing A30 and west of Garvinack Solar Farm. There are a number of County Wildlife Sites (CWS) in the surrounding area.
- 4.3.11 There are four nationally designated SSSIs within the surrounding area. These are the Newlyn Downs SSSI (138 metres from the scheme), Carnkief Heath (385 metres from scheme), Carnkief Pond SSSI (1.8 kilometres from scheme) and Ventongimps SSSI (1.4 kilometres from scheme). All are considered to be of national value.

- 4.3.12 Further details on the environmental and natural features are described in the Environmental Statement (Volume 6, Document Ref 6.2) and shown on the Environmental Features Statutory or Non-Statutory Sites or Features of Nature Conservation (Volume 2, Document Ref 2.9).

### **Special category land (open space)**

- 4.3.13 An area of special category land has been identified in the area of the heathland which lies immediately adjacent and to the south of the existing A30 (approximately 250m west of Carland Cross junction). A precautionary approach has been taken in the identification of this land. This special category land is considered open space, due to its designation as open access land under Countryside Rights of Way Act 2000 (CRoW Act). This designated land is not accessible and there is no evidence that it is being used by the public. Replacement land for this open space is proposed as part of the scheme. Further details are provided in section 7.2.3 of this Statement.

### **Highway Infrastructure**

- 4.3.14 The area includes the major highway infrastructure of the existing A30 which is flanked by grass verges, trees, hedgerows and the Chiverton Cross and Carland Cross Roundabouts. Some of the key local roads include:

- A3075 near Trevisson Business Park
- Local road near Callestick Vean
- B3284 near Chybucca
- Local road near Chyverton Park
- High Road, Penstraze Lane and Henvier Lane
- The B3285
- A390 south east of Carland Cross
- Local road near Cargoll Farm

### **Commercial Property/ Business**

- 4.3.15 There are 26 commercial properties/businesses located along the existing A30, as well as 4 solar farms and 4 wind farms.
- 4.3.16 The effect of the scheme on local businesses is assessed in Chapter 12 People and Communities of the Environmental Statement (Volume 6, Document Reference 6.2).

### **Heritage Assets**

- There are a number of Scheduled Monuments and heritage assets in the surrounding area including:
- Chyverton Park – Grade II Registered Park and Garden located north of the existing A30 and south west of Zelah
- Cornwall and West Devon Mining World Heritage Site
- Scheduled Monument – Four Burrows Barrow Cemetery
- Scheduled Monument – Bowl Barrow
- Listed Building – Nancarrow Farmhouse and attached wall (Grade II)
- Listed Building – Lodge and associated walls and gate posts at entrance to Chyverton House, Registered Park and Garden (Grade II)
- Scheduled Monument – Barrow Cemetery at Carland Cross

- St Agnes Heritage Coast

4.3.17 Further details on heritage features are described in the Environmental Statement (Volume 6, Document Ref 6.2) and shown on the Heritage Designation Plans (Volume 2, Document Ref 2.12).

### Public Rights of Way

4.3.18 The existing A30 carriageway has a grass verge without any footway provision. It is generally an intimidating environment for pedestrians due to the volume and speed of traffic. A 500m length of footway is available between Zelah and Mount Pleasant and pedestrian road crossings are provided at Chiverton Cross, Church Lane in Zelah, and Carland Cross. There are no dedicated facilities for cyclists along the A30 although the junctions at Chiverton Cross and Carland Cross provide some off-road links between arms.

4.3.19 There are 17 PRoW in the surrounding area six are Byways Open to All Traffic (BOAT), six Bridleways and five footpaths.

**Table 4-1 PRoW locations within the surrounding area of the scheme location**

PRoW	Location
BOAT 309/25/2	West of Chiverton Cross, running east-west between BOAT 309/25/3 and BOAT 309/25/4
BOAT 309/25/3	West of Chiverton Cross roundabout and BOAT 309/25/2
BOAT 309/25/4	West of Chiverton Cross roundabout running north – south
BOAT 309/25/5	West of Chiverton Cross roundabout running between BOAT 309/25/4 and BOAT 309/25/3
BOAT 309/25/6	West of Chiverton Cross roundabout running north – south from BOAT 309/25/4
BOAT 309/25/7	West of Chiverton Cross roundabout running north – south from BOAT 309/25/6
Bridleway 314/64/1	North – south from B3284 to Callestick Vean where it connects to Footpath 314/64/2
Bridleway 314/65/1	North – South from existing A30 on track leading to Creegmeor Farm
Bridleway 309/3/1	North – South from existing A30 to the B2384
Footpath 314/67/1	East west between the existing A30 and Lower Ventongimps
Footpath 319/16/1	South west from the A30 at Marazanvose and east at NFH
Bridleway 319/9/1	North – south to Hill House prior to running parallel with the existing A30 before joining with Footpath 319/1/2 and Bridleway 319/1/1 south of the existing A30
Bridleway 319/1/1	East – west across the existing A30 via an overbridge between Zelah Lane Farm and Footpath 319/1/2
Footpath 319/1/2	Meets the A30 and Bridleways 319/1/1 and 319/9/1 opposite Zelah Lane Farm.
Footpath 319/12/1	East of the A30 adjacent to Trevalso Cottage

<b>PRoW</b>	<b>Location</b>
Footpath 319/11/1	East – west south of the existing A30 at Penny-Come-Quick and north of Honeycombe Farm
Bridleway 321/14/2	North – south adjacent to the A39 south of the Carland Cross roundabout

4.3.20 In addition to the above, there are a number of other routes known to be used by walkers, cyclists and horse-riders, including 4 Quiet Lanes and 2 National Cycle Network Routes.

4.3.21 The People and Communities Chapter of the Environmental Statement (Chapter 12, Volume 6, Document Ref 6.2) includes a detailed description of the baseline for Public Rights of Way.

### **Services**

4.3.22 A number of existing utility services would be affected by the authorised works in that they would be required to be diverted or re-aligned. Such diversion or re-alignment may not be wholly contained within the land to be permanently acquired and in such cases the Applicant proposes to acquire new permanent rights over land for the benefit of the utility company and take temporary possession of land in order to undertake the works.

4.3.23 The utilities companies are statutory undertakers and a list of statutory undertakers and the land plots with rights impacted is provided in section 7.3 of this Statement.

## **4.4 Identifying persons with an interest in the Land**

4.4.1 In preparing the DCO application, the Applicant has carried out diligent inquiry in order to identify all persons with an interest in the Land as defined in section 44 of the PA 2008. Such persons are listed in the Book of Reference (Volume 4, Document Ref 4.3) and have been consulted about the DCO application in accordance with section 42 of the PA 2008.

4.4.2 The categories of persons identified and the methods used to identify them are described below. Land referencing will continue to be undertaken throughout the DCO process to ensure that any changes in ownership are identified and to ensure that any new owners will be consulted and subject to engagement.

## **4.5 Category 1 and 2 persons**

4.5.1 A Shapefile of the search area, being the proposed land requirements, was submitted to the Land Registry so that a search could be completed of the index map on 13 July 2017 and additional search for a wider area was then requested on the 20 September 2017. Further requests for hard copies of title registers and land plans not available online were requested w/c 27 November 2017.

4.5.2 Ongoing Land Registry searches and information downloads have been used to ensure that any changes in title were identified. The official copies of the Registered Titles and Plans were examined to identify all land interests including: freehold owners, mortgagees, leaseholders, persons with rights of way, mineral owners, and any holders of restrictive covenants.

- 4.5.3 On completion of the above initial desk based exercise, the extent of unregistered land interests became known. In order to establish ownership of unregistered land that falls within the proposed land requirements, public sources of information were used, including site visits, the posting of site notices, the Planning Portal, Rural Payments Agency website, DEFRA, Natural England, Companies House website, the relevant Highways Authority, records held by Statutory Undertakers, Electoral Registers and online resources. A land charges search was also carried out.
- 4.5.4 There is a presumption in law that a frontager to a highway owns the sub-soil to the half width of the highway unless it is known that it is in some other ownership. Therefore, where a length of road is to be stopped up within the route of the new highway or a highway to be improved, it has been necessary to acquire the site of the superseded highway from the adjoining frontagers. In such cases, adjoining plots have been extended to incorporate half widths of the roads to be stopped up. However, if the road to be stopped up is a modern one, or has been widened or improved at some stage, it is possible that all or part of the land is in the ownership of the Secretary of State as a result of previous compulsory purchase. In all cases reasonably detailed enquiries have been made to establish ownership. This has been applied to relevant side roads along the scheme.

#### **4.6 Category 3 persons who may fall under section 10 of the Compulsory Purchase Act 1965 (CPA 1965) and/or section 152(3) of the PA 2008**

- 4.6.1 Identification of Category 3 persons, as defined in Section 44 of the PA 2008, was undertaken at the early stages of development of the scheme, in order to inform the design of the scheme and preparation of the DCO application.
- 4.6.2 In order to identify potential Category 3 persons who may have a claim pursuant to section 10 of the CPA 1965, a desk-based assessment was carried out to identify properties with a potential claim. In addition, site visits were used in order to assess properties that the team may not have been aware of from their desk based assessment.

#### **4.7 Assessment of Category 3 persons which fall under Part I of the Land Compensation Act 1973 (LCA 1973)**

- 4.7.1 In assessing potential claimants under Part I of the LCA 1973, physical factors and the impact of the scheme were considered, including:
- Properties closest to the Highway within the DCO boundary; and
  - Properties identified as a receptor as a consequence of the property being located outside the DCO limits but close to the Highway.
- 4.7.2 The Applicant's land referencing team were provided with guidance from environmental specialists. This guidance was based on the topography of the land and the likely significant effects arising from the scheme. For example, the noise assessments had regard to information available at that time regarding:
- Background noise levels; and
  - Distances to receptors.
- 4.7.3 Based on the above information, the following criteria were used to identify Category 3 persons:

- Those who may experience a perceptible increase (i.e. 3 Decibels or greater) from the existing noise level to the predicted noise level one year after the opening of the scheme
- Properties closest to the construction and dismantling activities
- Category 1 PILs (i.e. owners/occupiers of land within the Order limits) identified as a receptor as a consequence of their dwelling house being located outside the Order limits but within the noise impact zone or close to the construction and dismantling works
- Consideration of the impact of short term construction work

4.7.4 Further details about the noise assessments and other environmental assessments undertaken can be found in Chapter 11 Noise and Vibration of the Environmental Statement (Volume 6, Document Ref 6.2).

## 4.8 Contact referencing

- 4.8.1 Following the initial non-contact methods above, persons identified as having an interest in the Land or a potential claim were issued with a letter and questionnaire requesting return of information about their interests in the Land. The questionnaires were accompanied by plans showing land interest plot boundaries. The questionnaire and specific plot plans sought confirmation of the detailed boundaries and interests. This was then followed up by telephone, letter and the offer of a face-to-face meeting. This was done to ensure that forms were returned correctly and all information collated was consistent and accurate.
- 4.8.2 The questionnaires, cover letter and landowner plot plans were issued to persons with interest in the land on 17 October 2017. Copies of this were also issued to all known agents of persons with interest in the land on 17 October 2017. A deadline for responses was set for 30 November 2017.
- 4.8.3 As described above, noise and vibration assessments and modelling informed the identification of properties which could be impacted by the scheme. A letter and questionnaire was issued on the 20 February 2018 to all the Category 3 persons with an interest in the land informing them that they could be impacted and may have a right to make a claim.
- 4.8.4 A follow up letter with a copy of the questionnaire was issued on the 1 December 2017 to all persons with an interest in the land who had not responded within the original requested timeframe. No deadline was provided in this letter as an immediate response was requested.
- 4.8.5 A final letter was issued on the 5 March 2018 seeking any outstanding questionnaires responses. No deadline was provided in this letter as an immediate response was requested.
- 4.8.6 Where additional interests were identified on the completed questionnaires, further investigations have been undertaken to identify the beneficiaries of the interest. Any new PILs have been added to the Book of Reference and contacted with a request to confirm their interest in the land.
- 4.8.7 Copies of the questionnaire template, cover letter sent with the questionnaire on 17 October 2017, follow up letter requesting a response to the questionnaire sent 1 December 2017, the letter sent to Category 3 persons sent 20 February 2018, and an example landownership plot plan are set out in Appendix C of this Statement.

- 4.8.8 Land interests have not been identified on plots 999-37, 999-40 and 999-41. Notices were posted as close as practicable to the unknown plots on 13 August 2018, after all other means of inquiry had been exhausted, including discussions with adjoining landowners and Cornwall Council. The site notices and photographs of the posted notices are included in Appendix C of this Statement.

## 4.9 Negotiations to acquire by agreement

- 4.9.1 As well as consulting all persons with an interest in the Land about the scheme proposals in accordance with section 42 of the PA 2008, the Applicant is aware of the requirement (paragraph 25 of the CA Guidance) to seek to acquire land by negotiation wherever practicable. The power to acquire land compulsorily should only be sought if attempts to acquire by agreement fail.
- 4.9.2 At the same time, the Applicant notes that the CA Guidance also recognises that where proposals would entail the compulsory acquisition of many separate plots of land, it may not always be practicable to acquire each plot of land by negotiated agreement. As the CA Guidance states: *"Where this is the case, it is reasonable to include provision authorising compulsory acquisition covering all the land required at the outset."*
- 4.9.3 The Applicant has engaged with all landowners and occupiers with a view to acquiring their land interest by agreement by writing to them to inform them of the Applicant's willingness to negotiate to acquire the Land by agreement, and to invite dialogue on this point. As a result, the Applicant is in the process of engaging with a significant proportion of landowners with regard to the acquisition of land by agreement; and negotiations with this objective will be ongoing throughout the DCO process. The status of such negotiations is set out in Appendix B of this Statement.
- 4.9.4 Whilst negotiations are ongoing, the Applicant is mindful that it is under a duty to acquire land at best value and that it is required to deliver the scheme within a specified timescale. It has concluded that it may not be possible to acquire all land interests necessary to deliver the scheme within this timescale. There are further parcels of land in unknown ownership which cannot be acquired by agreement. The Applicant has therefore concluded that it will not be able to deliver the scheme on time without compulsory acquisition powers.
- 4.9.5 Land already owned by the Applicant is included in the DCO in order to ensure that no known or unknown third party rights, which might impede delivery of the scheme, remain over the land.



## 5 The case for compulsory acquisition

5.1.1 In seeking compulsory acquisition and temporary possession powers in the DCO, the Applicant has had regard to the conditions in section 122 of the PA 2008 and to the tests set out in the CA Guidance.

### 5.2 The statutory conditions and CA Guidance

5.2.1 Section 122 of PA 2008 states that:

*"An order granting development consent may include provision authorising the compulsory acquisition of land only if the Secretary of State is satisfied that the conditions in subsections (2) and (3) are met"*

5.2.2 The conditions are:

- In subsection (2), that the land is:
  - a. required for the development to which the development consent relates;
  - b. required to facilitate or is incidental to that development; or
  - c. replacement land which is to be given in exchange for the order land under sections 131 or 132 of the PA 2008; and
- In subsection (3), that there is a compelling case in the public interest for the land to be acquired compulsorily.

5.2.3 The CA Guidance (paragraph 11) sets out the considerations which the Secretary of State will take into account in deciding whether the condition in subsection (2) has been met. It states:

- In respect of whether the land is required for the development, the applicant should be able to demonstrate to the satisfaction of the Secretary of State that the land in question is needed for the development. The Secretary of State will need to be satisfied that the land to be acquired is no more than is reasonably required for the purposes of the development.
- In respect of whether the land is required to facilitate or is incidental to the proposed development, the Secretary of State will need to be satisfied that the development could only be carried out to a satisfactory standard if the land in question were to be compulsorily acquired and that the land to be taken is no more than is reasonably necessary for that purpose and that it is proportionate.
- In respect of whether the land is replacement land, the Secretary of State will need to be satisfied that the compulsory acquisition is needed for replacement land, that no more land is being taken than is reasonably necessary for that purpose and that it is proportionate.

5.2.4 In respect of the condition in subsection (3), the CA Guidance states at paragraphs 12 and 13 that the Secretary of State will need to be persuaded that there is compelling evidence that the public benefits that would be derived from the compulsory acquisition will outweigh the private loss that would be suffered by those whose land is to be acquired.

5.2.5 Paragraphs 8 to 10 of the CA Guidance are also relevant, setting out a number of general considerations to be taken into account by the applicant in seeking compulsory acquisition powers:

- That all reasonable alternatives to compulsory acquisition (including modifications to the scheme) have been explored.
- That the proposed interference with the rights of those with an interest in the land is for a legitimate purpose, and that it is necessary and proportionate.
- That the applicant has a clear idea of how they intend to use the land which is to be acquired.
- That there is a reasonable prospect of the necessary funds for acquisition becoming available.
- That the purposes for which the compulsory acquisition powers are included in the application are legitimate and sufficiently justify interfering with the human rights of those with an interest in the affected land.

5.2.6 Finally, paragraph 25 of the CA Guidance states that applicants should seek to acquire land by negotiation wherever practicable.

### **5.3 Need for the Land and the purposes for which the compulsory acquisition powers are sought**

- 5.3.1 The Applicant is satisfied that the condition in section 122(2) of the PA 2008 is met. It considers that the Land subject to compulsory acquisition powers is either needed for the development, or is needed to facilitate the development, or is incidental to the development.
- 5.3.2 At Appendix A of this Statement, the Applicant sets out why compulsory powers are necessary in relation to each individual parcel of the Land, with reference to the relevant DCO works numbers, and the nature of the works as set out in Schedule 1 of the DCO. The proposed use of the Land is set out in Chapter 2 and Appendix A of this Statement.
- 5.3.3 The need for and justification of the compulsory acquisition of replacement land under sections 131 and 132 of the PA 2008 is considered in Chapter 7 of this Statement.
- 5.3.4 The Applicant considers that the land included in the DCO is the minimum land-take required to construct, operate, maintain and mitigate the scheme necessary to achieve the objectives of the scheme.
- 5.3.5 The limits of the Land have been drawn as tightly as possible so as to avoid unnecessary land take. In the event that less land proves to be required in a particular area at a later stage, the Applicant would only seek to acquire that part of the Land that is required and in all events will seek to minimise effects on landowners.
- 5.3.6 The following principles have been applied in setting the limits of land take.
- Temporary possession is being taken for all construction compounds, wildlife crossings, and the majority of boundaries associated with the scheme. In line with article 33 of the draft DCO (Volume 3, Document Reference 3.1), before giving up possession the Applicant must remove all temporary works and restore the landowners reasonable satisfaction; the Applicant is not obliged to replace any buildings removed under this article, restore the land where there are any permanent works, nor remove any measures that are for the protection of statutory undertakers apparatus. Temporary possession has also been taken for the de-trunking of the existing A30 highway.

- Temporary possession and permanent rights to use, inspect, and maintain are being acquired where land is only required to construct drainage outfalls and diversions to utilities, which would require future access for maintenance and protection purposes. In these instances, the land is only being used temporarily and is returned to the original landowner, subject to the permanent right to use, inspect and maintain for the beneficiaries of the DCO.
- Land to be acquired permanently has been determined by the design of the scheme. The design process has identified the areas required for the construction, operation and mitigation of the A30 Chiverton to Carland Cross scheme. The permanently acquired land take area has been minimised as far as possible within the requirements of the engineering design and environmental mitigation.

5.3.7 The Applicant is accordingly satisfied that the land to be taken is reasonable and proportionate.

## **5.4 Compelling case in the public interest**

5.4.1 The Applicant is satisfied that the condition in section 122(3) of the PA 2008 is met and that there is a compelling case in the public interest for compulsory acquisition.

5.4.2 The need for and the benefits of the scheme are set out in Chapter 2 of this Statement and in the other application documents, including Chapter 3 Need for the Scheme and Scheme Development and Chapter 4 Economic Case of the Planning Statement (Volume 7, Document Ref 7.1). Together, they demonstrate that there is a very strong and compelling case in the public interest for the scheme to be delivered.

5.4.3 In particular, as set out at Chapter 3 of the Planning Statement, paragraph 2.2 of the National Policy Statement for National Networks (NPS NN) identifies a "critical need" to improve the national networks to address road congestion and crowding on the railways to provide safe, expeditious and resilient networks that better support social and economic activity; and to provide a transport network that is capable of stimulating and supporting economic growth. It goes on to state that improvements may also be required to address the impact of the national networks on quality of life and environmental factors.

5.4.4 The way in which the strategic objectives of the scheme are aligned with the NPS NN is set out in detail at Chapter 6 of the Planning Statement. General compliance with the NPS NN is set out in the National Policy Statement Accordance Table in Appendix A of the Planning Statement (Volume 7, Document Ref 7.1). This clearly demonstrates that there would be substantial public benefits arising from the implementation of the scheme.

5.4.5 Section 3.3 of Chapter 3 of the Consultation Report (Volume 5, Document Reference 5.1) provides a summary of key findings from non-statutory consultation and engagement activities, which demonstrates a high level of public support for the scheme.

## **5.5 Consideration of alternatives**

5.5.1 In designing the scheme and determining the land to be subject to compulsory acquisition and temporary possession powers, the Applicant has considered alternatives and modifications to the scheme to minimise the potential land take.

These alternatives and modifications were consulted on and the preferred route has been chosen based on a thorough consideration of all of the relevant issues. This process is described in detail in Chapter 3 (Consideration of Alternatives) of the Environmental Statement (Volume 6, Document Ref 6.2) and Chapter 3 (Need for the Scheme and Scheme Development) of the Planning Statement (Volume 7, Document Ref 7.1).

- 5.5.2 Following public consultation, the Applicant selected the most appropriate option. This selection took into account various factors, including, amongst others, views of consultees including persons with a land interest. Other factors included environmental impacts, meeting the objectives of the scheme, affordability, value-for-money, safety and construction and operational considerations. None of the alternatives or modifications considered would obviate the need for the compulsory acquisition and temporary possession of the Land.

## **5.6 Reasonable prospect of funding**

- 5.6.1 The Applicant is content that there is a reasonable prospect of the necessary funds for acquisition being available for the reasons set out in the Funding Statement (Volume 4, Document Ref 4.2).

## **5.7 Acquisition by agreement**

- 5.7.1 The Applicant recognises that the authority to acquire land compulsorily should only be sought if attempts to acquire by agreement fail. However, the Applicant notes that the CA Guidance recognises that, in some cases, it may not always be practicable to acquire each plot of land by agreement. Where this is the case, the CA Guidance confirms that it is reasonable to include provision authorising compulsory acquisition covering all the land required at the outset. It also recognises that in some cases it may be preferable, or necessary, to acquire land compulsorily rather than by agreement.
- 5.7.2 The Applicant sets out in Chapter 4 and Appendix B of this Statement the discussions it has had with landowners and occupiers to acquire the Land by agreement. It is satisfied that compulsory acquisition and temporary possession powers are required to ensure that the scheme can be delivered in a reasonable timescale and in the event that it does not prove possible to acquire all of the Land by agreement.

## **5.8 Conclusions**

- 5.8.1 The Applicant is satisfied that the conditions in section 122 of the PA 2008 are met and that the tests in the CA Guidance are satisfied.
- 5.8.2 All of the Land subject to compulsory acquisition and temporary possession powers is necessary to construct, operate, maintain and mitigate the scheme. The extent of the Land sought is reasonable and proportionate.
- 5.8.3 Further there is a compelling case in the public interest to include the compulsory acquisition powers sought by the Applicant in the DCO. The exercise of the compulsory acquisition powers that are sought is shown throughout this Statement to be necessary and proportionate to the extent that interference with private land and rights is required. In the absence of compulsory powers, the Applicant considers that it would not be possible to proceed with the scheme, therefore the public benefits of the scheme would not be realised.

## 6 Human rights

### 6.1 The protected rights

6.1.1 The Human Rights Act 1998 incorporated into domestic law the provision of the European Convention on Human Rights ("ECHR"). The ECHR includes provisions in the form of Articles, which aim to protect the rights of the individual. The relevant Articles can be summarised as follows:

- Article 1 of The First Protocol – protects the rights to peaceful enjoyment of possessions. No one can be deprived of their possessions except in the public interest.
- Article 6 – entitles those affected by compulsory powers to a fair and public hearing.
- Article 8 – protects the right of the individual to respect for his private and family life, his home and his correspondence. Interference with this right can be justified if it is in accordance with law and is necessary in the interests of, among other things, national security, public safety or the economic wellbeing of the country.

6.1.2 Section 6 of the Human Rights Act 1998 prohibits public authorities from acting in a way which is incompatible with rights protected by the ECHR.

6.1.3 Paragraph 10 of the CA Guidance sets out how applicants should take into account Human Rights:

*“The Secretary of State must ultimately be persuaded that the purposes for which an order authorises the compulsory acquisition of land are legitimate and are sufficient to justify interfering with the human rights of those with an interest in the land affected. In particular, regard must be given to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights and, in the case of acquisition of a dwelling, Article 8 of the Convention.”*

6.1.4 The DCO, if made, may infringe the human rights of persons with an interest in land. This infringement is authorised by law provided that:

- There is a compelling case in the public interest for the compulsory acquisition powers included within the DCO, and that proper procedures are followed.
- Any interference with a human right is proportionate and otherwise justified.

6.1.5 There are four occurrences on the scheme of acquiring residential property. A detailed schedule of meetings with each landowner is provided at Appendix B of this document.

#### **Hill House, plot number 6/8**

6.1.6 A small area is proposed for acquisition from the curtilage of this residential property. The land is required for the construction and operation of the main carriageway of the new A30, associated earthworks, and realigned bridleway 319/9/1.

6.1.7 The justification for the acquisition and interference with rights in this location is to ensure that the alignment of the road in this location complies with design safety standards, and to avoid the stopping up of the bridleway. The harm of the scheme has been minimised by ensuring that the alignment does not result in the demolition of the residential property.

- 6.1.8 Engagement has been carried with the owners of the residential property since the inception of the scheme. A price has been agreed for the property and at the time of submission Highways England is awaiting the outcome of a property survey in order to complete the purchase.

**Marazan Farmhouse and outbuildings, plot number 5/4b**

- 6.1.9 The farmhouse and outbuildings are proposed for demolition.
- 6.1.10 The land is required for the construction and operation of the main carriageway and associated earthworks. The justification for the acquisition and interference with rights in this location is to ensure the preferred route alignment of the main carriageway is compliant with design safety standards. The justification of the preferred route in this location is provided in the Scheme Assessment Report (Volume 7, Document Reference 7.6). It has not been possible to minimise harm to the residential property as demolition is required for the construction of the scheme.
- 6.1.11 Engagement has been carried with the owners of the residential property since the inception of the scheme. Highways England is currently in negotiation with the owners to purchase the residential property (and associated outbuildings).

**St Freda Nursery, plot number 6/5a**

- 6.1.12 Outbuildings are proposed for demolition and an area proposed for acquisition from the curtilage of this residential property.
- 6.1.13 This land is required for the realignment of the existing A30 and associated earthworks. The justification for the acquisition and interference with rights in this location is to ensure the realigned existing A30 complies with design safety standards in curvature and vertical alignment, which is required to be in cutting in this location. Harm has been minimised to this residential property by reducing the area of proposed acquisition since the statutory consultation, through changing the realignment of the local road to another location.
- 6.1.14 Engagement has been carried with the owners of the residential property since the inception of the scheme and discussions are ongoing regarding the permanent acquisition of the curtilage of this residential property.

**Henver Lane House, plot number 7/5**

- 6.1.15 A small area is proposed for acquisition from the curtilage of this residential property.
- 6.1.16 The land is required for the construction and operation of the realigned Henver Lane. The justification for the acquisition and interference with rights in this location is to provide the realigned Henver Lane which accommodates the construction of the Trevalso underbridge. This underbridge is essential to avoid the complete severance of the farm at the other side of the new and existing A30.
- 6.1.17 Engagement has been carried with the owners of the residential property since the inception of the scheme. Highways England is currently in negotiation with the owners to purchase the curtilage of this residential property.

## 6.2 Compliance with the convention

- 6.2.1 The Applicant recognises that the scheme may have an impact on individuals but considers that the significant public benefits that will arise from the scheme as set out in this Statement outweigh any harm to those individuals. The DCO strikes a fair balance between the public interest in seeing the scheme proceed (which would not happen in the absence of the DCO) and the private rights which will be affected by the compulsory acquisition
- 6.2.2 In relation to both Article 1 and 8, the compelling case in the public interest for the compulsory acquisition powers included within the DCO has been demonstrated in Chapter 4 and in the Planning Statement (Volume 7, Document Ref 7.1). The land over which compulsory acquisition powers are sought as set out in the DCO is the minimum necessary to ensure the delivery of the scheme. The scheme has been designed to minimise harm whilst achieving its publicly stated objectives. In this respect the interference with human rights is both proportionate and justified.
- 6.2.3 In relation to Article 6, the Applicant is content that the proper procedures have been followed for both the consultation on the scheme and in determining the compulsory acquisition powers included within the DCO. Throughout the development of the scheme, the Applicant has given persons with an interest in the land a full opportunity to comment on the proposals, both in a statutory and non-statutory capacity, and the Applicant has endeavoured to engage with landowners. The Applicant has had regard to landowner feedback in both the initial design of the scheme and in iterative design changes throughout the life of the scheme. Examples of design changes are provided within Chapter 8, Table 8.2 of the Consultation Report (Volume 5, Document Ref 5.1).
- 6.2.4 Furthermore, any individuals affected by the DCO may submit representations by way of an objection to the Application in response to any notice given under section 56 of the PA 2008, the examination of the application by the examining authority, any written representations procedure which the examining authority decides to hold and in particular, any compulsory acquisition hearing held under section 92 of the PA 2008, at which each affected person is entitled to make oral representations about the compulsory acquisition request.
- 6.2.5 If the DCO is made, a person aggrieved may challenge the DCO by judicial review in the High Court if they consider that the grounds for doing so are made out pursuant to section 118 of the PA 2008.

## 6.3 Fair compensation

- 6.3.1 Any person affected by the exercise of compulsory acquisition powers or by the exercise of temporary possession, may be entitled to compensation. This entitlement to compensation is provided for by the existing compensation code and Article(s) 15, 16, 21, 22, 26, 28, 32, 33, 34, 37 and Schedule 6 to the DCO. The Applicant has the resources to pay such compensation and has demonstrated in the Funding Statement (Volume 4, Document Ref 4.2) that these resources are available.
- 6.3.2 Any dispute in respect of the compensation payable may be referred to the Upper Tribunal (Lands Chamber), an independent tribunal, for determination.

## 6.4 Conclusion

- 6.4.1 For the reasons set out above, the Applicant considers that any infringement of the ECHR rights of those whose interests in the land might be affected by the exercise of powers of compulsory acquisition would be proportionate and legitimate, would be in the public interest and would be in accordance with national and European law. The Applicant therefore considers that it would be appropriate and proportionate for the Secretary of State to make the DCO including the grant of compulsory acquisition powers.



## 7 Special considerations

### 7.1 Crown land

7.1.1 None of the Land is Crown land for the purposes of section 135 of PA 2008.

### 7.2 National Trust Land

7.2.1 None of the Land is owned by the National Trust.

### 7.3 Special category land comprising land forming part of open space

7.3.1 As shown in Part 5 of the Book of Reference (Volume 4, Document Ref 4.3) and the Special Category Land Plan (Volume 2, Document Ref 2.3), the draft DCO makes provision for the acquisition of special category land, comprising open space land designated as Countryside Rights of Way Act 2000 (CROW Act 2000) land. The land has been identified taking a precautionary approach, as there is no evidence that it is used by the public.

7.3.2 Section 131 of PA 2008 applies to the compulsory acquisition of any land forming part of a common, open space or fuel or field garden allotment. Section 132 of PA 2008 applies to the compulsory acquisition of any rights over land forming part of a common, open space or fuel or field garden allotment. They make provision for Special Parliamentary Procedure (SPP) to apply where a DCO authorises the compulsory acquisition of, or rights over, such land. This means that the DCO will be subject to SPP unless the Secretary of State is satisfied that one of the following four circumstances in section 131 apply:

- Section (4)(a) and (b): replacement land will be given in exchange for the land to be compulsory acquired with the same rights, trusts and incidents; or
- Section (5)(a): the land to be acquired does not exceed 200 square metres or is required for the widening or drainage of an existing highway and the giving of land in exchange is unnecessary; or
- Section (4A)(c)(i), (c)(ii) and (d): for open space land only, replacement land in exchange is not available or is only available at a prohibitive cost, but it is strongly in the public interest for the order granting development consent of being begun sooner than if the order were to be subject to Special Parliamentary Procedure; or
- Section (4B) For open space land only, the land is only being compulsory acquired for a temporary purpose.

7.3.3 Section 131(4)(a) and (b) are relevant to the Order in so far as the open space referred to above and the replacement land given in exchange as part of the scheme.

7.3.4 Section 131(12) defines replacement land as land which is:

- Not less in area than the order land (the area proposed to be acquired)
- No less advantageous to the persons entitled to the rights of common or other rights
- No less advantageous to the public

7.3.5 The Secretary of State therefore must be satisfied that the scheme has identified replacement land and that this land meets the definition in Section 131(12).

*Not less in area than the order land*

- 7.3.6 The total area of the land that is considered open space is 35,339 square metres. Of this total, 10,649 square metres of land is to be permanently acquired and 2,646 square metres of land required temporarily (13,295 square metres in total).
- 7.3.7 Replacement land is provided on plot 9/4h. The area of the replacement open space land identified on the Special Category Land Plan (Volume 2, Document Reference 2.3) is currently agricultural land with hedge and tree lined boundary and contains a Scheduled Monument (Warren's Barrow).
- 7.3.8 The area of replacement open space land is 13,448 square metres, which is a marginally larger area of land than the open space land being acquired permanently and temporarily for the scheme.

*No less advantageous to the persons entitled to the rights of common or other rights*

- 7.3.9 The land has been considered open space land as a pre-cautionary approach due to its designation under the CROW Act 2000. As such, Highways England is not aware of any rights of common or other rights that would be interfered with by its acquisition.

*No less advantageous to the public*

- 7.3.10 As stated, a precautionary approach has been taken in the identification of this land. The land affected that is considered to be open space is currently not publicly accessible and there is no evidence that it is currently being used by the public.
- 7.3.11 From the existing A30 which runs alongside the land considered to be open space, access is not possible due to the boundary consisting of dense vegetation, Cornish Hedgerow and barbed wire fencing. The land is not accessible from any other public right of way. The remainder of the boundary of the land considered to be open space is adjacent to private fields and has a similar combination of Cornish Hedgerow, dense vegetation and barbed wire fencing.
- 7.3.12 The majority of the land considered to be open space is dense heathland which is very difficult to navigate or use recreationally. There are no amenities. The quarry pond is a dangerous area, with hidden and unstable steep banks leading to a deep level of water. There is no public safety or warning signs. From ecological surveys, an isolated feature in the woodland area which resembles a path has been observed, however it does not connect to any entry or exit point.
- 7.3.13 The area of the replacement land would be more advantageous to the public in terms of access and the quality of the replacement open space. It is considered that the scheme would have an overall slight beneficial impact on open space with a marginal net gain and better access to the replacement land compared to the existing land (Chapter 12 People and Communities of the Environmental Statement Volume 6, Document Reference 6.2).
- 7.3.14 The area of replacement land provided is marginally larger than the total area of the land affected that is considered open space. The boundary of the replacement land aligns with the new walking, cycling and horse riding route. This forms the southern and western boundary of this replacement land. The new A30 and reconfigured Carland Cross roundabout form the northern and eastern boundary of the replacement land. The replacement land would be publicly accessible from

the new WCH route and provide an area of species rich grassland, which seeks to enhance the setting of the Warren's Barrow and re-unite the Barrow group in this location.

### Guidance

- 7.3.15 Paragraph 8 of Annex A to the guidance<sup>1</sup> related to procedures for the compulsory acquisition of land states that the Secretary of State will have regard to such matters as the relative size and proximity of the replacement land when compared to the land that is being acquired. As stated above, 13,295 square metres of open land is proposed to be acquired permanently and temporarily, and it proposed to be replaced with 13,448 square metres of open space land. This is 90m to the west of the existing open space, which is close in proximity.
- 7.3.16 Article 38 of the draft DCO (Volume 3, Document Reference 3.1) sets out that the special category land cannot be acquired by Highways England until the replacement open space land has been acquired by Highways England, and the Secretary of State has certified that a satisfactory scheme for the provision of the replacement land is to be implemented. Highways England intend to acquire the proposed replacement land prior to the special category land.

### Summary

- 7.3.17 It is considered that the replacement land complies with the definition contained in section 131(12) as it is not less than the order land and will not be any less advantageous to the persons entitled to rights of common, other rights, or the public.
- 7.3.18 It is considered that the Secretary of State can be satisfied that the provision of open space land meets the requirements of section 131(4) of the Planning Act 2008 have been met and that the Order should not be subject to Special Parliamentary Procedure.

## 7.4 Statutory undertaker land

- 7.4.1 The DCO, if made, will authorise the compulsory acquisition of statutory undertaker's rights on land comprising of plots as described in the Book of Reference (Volume 4, Document Ref 4.3) and shown on the Land Plans (Volume 2, Document Ref 2.2). The land rights are held by statutory undertakers for the purposes of carrying out their statutory undertaking. The table below identifies the statutory undertakers and land plots where they hold rights on the land.

**Table 7-2 Statutory undertakers land plots**

Land Plots - with undertaker rights	Statutory Undertaker
2/6, 2/7c, 2/7d, 3/3g, 3/3k, 3/4b, 4/10f, 4/10g, 4/10h, 4/10k, 4/10n, 4/10r, 4/10s, 4/10t, 5/2a, 5/2g, 5/2h, 5/2j, 5/7a, 5/7b, 5/7h, 5/8a, 5/8b, 5/9b, 6/10a, 6/10f, 6/11g, 6/11h, 6/11p, 6/1g, 6/7f, 7/3aa, 7/3b, 7/3f, 7/3n, 7/3r, 7/3v, 7/3x, 7/3y, 7/3z, 10/2	British Telecommunications PLC
4/10, 4/10f, 4/10g, 4/10h, 4/10k, 4/10m, 4/10n, 4/10r, 4/10s, 4/10t, 5/2a, 5/2g, 5/2h, 5/2j	Environment Agency

<sup>1</sup> Guidance related to procedures for the compulsory acquisition of land. DCLG (2013).

<b>Land Plots - with undertaker rights</b>	<b>Statutory Undertaker</b>
8/3n, 8/6e, 9/2c	Fisher German LLP (CLH Pipeline System)
4/4f, 4/4k, 4/4q, 4/4v, 4/8d, 4/8j, 4/9, 4/9e, 5/11, 5/11a, 7/7, 9/1s, 10/3, 10/3b	George Hugh Ninth Viscount Falmouth
1/1, 1/1a, 1/1b, 1/1c, 1/1d, 1/1g, 1/1h, 3/5, 3/5a, 3/5b, 6/1g, 8/6e, 9/1s, 9/2c, 10/3b	Global Crossing & Level 3 Communications
10/2	ScottishPower Renewables (UK) Limited
1/10b, 1/10c, 1/10h, 1/10k, 1/9b, 1/9c, 2/3b, 2/3p, 4/10f, 4/10g, 4/10h, 4/10k, 4/10n, 4/10r, 4/10s, 4/10t, 5/2a, 5/2g, 5/2h, 5/2j, 5/3, 6/11g, 6/11h, 6/11j, 6/11q, 7/3aa, 7/3b, 7/3f, 7/3n, 7/3r, 7/3v, 7/3x, 7/3y, 7/3z, 10/2	South West Water
5/7h	Surf Telecoms Limited
1/10c, 1/10h, 2/6, 3/5, 3/5a, 3/5b, 6/1g, 7/2, 8/3k, 9/1s, 10/2	Vodafone
1/10h	Vodafone House
4/10f, 4/10g, 4/10h, 4/10k, 4/10n, 4/10r, 4/10s, 4/10t, 4/4f, 4/4k, 4/4q, 4/8j, 4/9, 4/9e, 5/11, 5/2a, 5/2g, 5/2h, 5/2j, 5/9b, 8/3n, 8/6e, 9/2c, 10/2	Wales and West Utilities Ltd
2/3b, 2/3p	Western Power Distribution (South West PLC) (132kV O/H Pylons)
1/10c, 1/10h, 1/1c, 1/1d, 1/1g, 1/9b, 1/9c, 2/6, 2/6a, 3/3a, 3/3c, 3/3g, 3/3k, 4/10f, 4/10g, 1/9b, 4/10h, 1/9b, 4/10k, 4/10n, 1/9c, 4/10r, 1/9c, 4/10s, 4/10t, 5/7a, 5/2a, 5/7a, 5/2g, 5/2h, 5/2j, 5/7b, 5/3, 5/4c, 5/7a, 5/7h, 5/7b, 5/7h, 5/7h, 5/8a, 5/8b, 6/7f, 7/2, 7/2, 7/3aa, 7/3b, 7/3e, 7/3f, 7/3n, 7/3r, 7/3v, 7/3x, 7/3y, 7/3z, 7/9, 8/3n, 8/6e, 9/2c, 10/2	Western Power Distribution (South West) PLC

7.4.2 Section 127(3) of PA 2008 provides that a DCO may only authorise the compulsory acquisition of statutory undertaker land where a representation has been made by the statutory undertaker objecting to the acquisition if the Secretary of State is satisfied that:

- The land can be purchased and not replaced without serious detriment to the carrying on of the undertaking; or
- If purchased, the land can be replaced by other land belonging to, or available for acquisition by, the undertaker without serious detriment to the carrying on of the undertaking.

7.4.3 Section 127(5) of the PA 2008 provides that a DCO may only authorise the compulsory acquisition of rights over statutory undertaker land where a representation has been made by the statutory undertaker objecting to the acquisition if the Secretary of State is satisfied that:

- The rights can be acquired without any serious detriment to the carrying on of the undertaking; or
- Any consequential detriment to the carrying on of the undertaking can be made good by the undertaker by the use of other land belonging to or available for acquisition by the undertaker.

- 7.4.4 Section 138 provides that a DCO may include provision for the extinguishment of a relevant right<sup>2</sup> or removal of relevant apparatus<sup>3</sup> only if the Secretary of State is satisfied that this is necessary for the purpose of carrying out the development to which the order relates.
- 7.4.5 The Applicant has, during preparation of the DCO application, been in discussions with all relevant undertakers about the proposed permanent compulsory acquisition and compulsory acquisition of rights. The status of those discussions is set out in Appendix B of this Statement.

### **British Telecommunications**

- 7.4.6 The Applicant has, during preparation of the DCO application, been in discussions with British Telecommunications (also known as BT Group) about the proposed compulsory acquisition of rights detailed in the table above.
- 7.4.7 British Telecommunications did not respond to the statutory consultation.
- 7.4.8 A Meeting was held with representatives of BT Group Public Limited Company (BT) on 18 July 2017 to discuss:
- A30 Chiverton to Carland Cross scheme and potential interaction with BT across the scheme
  - Discussions BT have had with the A30 scheme to date
  - Understand the requirements of BT for a Detailed Estimate for Works (BT considered as an official Statutory Undertaker to the A30 scheme and comply with New Roads and Street Works Act 1991)
- 7.4.9 Further meetings were held on 4 December 2017 to review and close out actions to ensure a coordinated Detailed Estimate of Works would be developed. The Detailed Estimate for Works have been accepted by Highways England and the costs of the works have been included in the main works construction costs.
- 7.4.10 Highways England consider that potential detriment to the undertaking (telecoms equipment) has been considered as part of the scheme design, and therefore that no impediment to the undertaking would result from the scheme. This is due to diversionary works of telecoms equipment identified in Schedule 1 Authorised Works of the DCO (Volume 3, Document Reference 3.1).

### **Global Crossing & Level 3 Communications**

- 7.4.11 The Applicant has, during preparation of the DCO application, been in discussions with Global Crossing & Level 3 Communications about the proposed compulsory acquisition of rights detailed in the table above.
- 7.4.12 Global Crossing & Level 3 Communications did not respond to the statutory consultation.
- 7.4.13 A meeting was held with representatives of Instalcom, Virgin Media Limited, Sky UK Limited (shared asset owners of Global Crossing Level 3 Communications assets) and Arup on 18 July 2017 to discuss:

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<sup>2</sup> "Relevant right" means a right of way, or a right of laying down, erecting, continuing or maintaining apparatus on, under or over the land, which (a) is vested in or belongs to statutory undertakers for the purpose of the carrying on of their undertaking, or (b) is conferred by or in accordance with the electronic communications code on the operator of an electronic communications code network.

<sup>3</sup> "Relevant apparatus" means (a) apparatus vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking, or (b) electronic communications apparatus kept installed for the purposes of an electronic communications code network.

- A30 Chiverton to Carland Cross scheme and potential interaction with Instalcom, Virgin Media Limited and Sky UK Limited across the scheme
- Discussions Instalcom, Virgin Media Limited and Sky UK Limited have had with the A30 scheme to date
- Understand the requirements of Instalcom, Virgin Media Limited and Sky UK Limited for a Detailed Estimate for Works (Instalcom, Virgin Media Ltd. and Sky Network Services considered as official Statutory Undertaker to the A30 scheme and comply with New Roads and Street Works Act 1991)

- 7.4.14 Instalcom, Virgin Media Limited and Sky UK Limited have infrastructure interacting with the A30 scheme at many locations. Further meetings were held on 30 January 2018 to review and close out actions to ensure a coordinated Detailed Estimate of Works would be developed. Detailed Estimate of Works have been accepted by Highways England and the costs of the works have been included in the main works construction costs.
- 7.4.15 Highways England consider that potential detriment to the undertaking (telecoms equipment) has been considered as part of the scheme design, and therefore that no impediment to the undertaking would result from the scheme. This is due to diversionary works of telecoms equipment identified in Schedule 1 Authorised Works of the DCO (Volume 3, Document Reference 3.1).

### **RES**

- 7.4.16 The Applicant has, during preparation of the DCO application, been in discussions with RES about the proposed compulsory acquisition of rights detailed in the table above.
- 7.4.17 A meeting was held with representatives of RES to discuss:
- A30 Chiverton to Carland Cross scheme and potential interaction with RES across the scheme
  - Discussions RES have had with the A30 scheme to date
  - Understand the requirements of RES for a Detailed Estimate for Works (RES is considered as an official Statutory Undertaker to the A30 scheme and do not comply with New Roads and Street Works Act 1991)
- 7.4.18 RES has infrastructure interacting with the A30 scheme at many locations. Further meetings were held on 16 November 2018 to review and close out actions to ensure a coordinated Detailed Estimate of Works would be developed. The Detailed Estimate for Works have been accepted by Highways England and the costs of the works have been included in the main works construction costs.
- 7.4.19 Highways England consider that the scheme design and measures proposed (power cables) has been coordinated with the scheme design and have adequately addressed the requirements raised at the meetings described above. This is due to works to retain access and divert any cables, as identified in Schedule 1 Authorised Works of the DCO (Volume 3, Document Reference 3.1).

### **South West Water**

- 7.4.20 The Applicant has, during preparation of the DCO application, been in discussions with South West Water about the proposed compulsory acquisition of rights detailed in the table above.

- 7.4.21 South West Water responded to the statutory consultation confirming that they were engaging with the scheme engineers and raised no objection.
- 7.4.22 A meeting was held with representatives of South West Water Limited (SWW) and Arup on 18 July 2017 to discuss:
- A30 Chiverton to Carland Cross scheme and potential interaction with SWW across the scheme
  - Discussions SWW have had with the A30 scheme to date
  - Understand the requirements of SWW for a Detailed Estimate for Works (SWW considered as an official Statutory Undertaker to the A30 scheme and do not comply with New Roads and Street Works Act 1991)
- 7.4.23 SWW have infrastructure interacting with the A30 scheme at many locations. There has been further correspondence to review and close out actions to ensure a coordinated Detailed Estimate of Works was developed. The Detailed Estimate for Works have been accepted by Highways England and the costs of the works have been included in the main works construction costs.
- 7.4.24 Highways England consider that potential detriment to the undertaking (water pipeline) has been considered as part of the scheme design, and therefore that no impediment to the undertaking would result from the scheme. This is due to diversionary works of water pipes and retention of permanent rights of access as identified in Schedule 1 Authorised Works of the DCO (Volume 3, Document Reference 3.1).

### **Verizon**

- 7.4.25 The Applicant has, during preparation of the DCO application, been in discussions with Verizon about the proposed compulsory acquisition of rights detailed in the table above.
- 7.4.26 Verizon responded to the statutory consultation and raised no objection to the scheme.
- A meeting was held with representatives of Verizon Limited (SWW) and Arup on 25 July 2017 to discuss:
  - A30 Chiverton to Carland Cross scheme and potential interaction with Verizon across the scheme
  - Discussions Verizon have had with the A30 scheme to date
  - Understand the requirements of Verizon for a Detailed Estimate for Works (Verizon considered as official Statutory Undertaker to the A30 scheme and comply with New Roads and Street Works Act 1991)
- 7.4.27 Verizon have infrastructure interacting with the A30 scheme at many locations. Further meetings were held on 8 September 2017 to review and close out actions to ensure a coordinated Detailed Estimate of Works would be developed. The Detailed Estimate for Works have been accepted by Highways England and the costs of the works have been included in the main works construction costs.
- 7.4.28 Highways England consider that potential detriment to the undertaking (telecoms equipment) has been considered as part of the scheme design, and therefore that no impediment to the undertaking would result from the scheme. This is due to diversionary works of telecoms equipment identified in Schedule 1 Authorised Works of the DCO (Volume 3, Document Reference 3.1).

**Vodafone**

- 7.4.29 The Applicant has, during preparation of the DCO application, been in discussions with Vodafone about the proposed compulsory acquisition of rights detailed in the table above.
- 7.4.30 Vodafone did not respond to the statutory consultation.
- 7.4.31 A meeting was held with representatives of Vodafone Group Public Limited Company (Vodafone) and Arup on 23 August 2017 to discuss:
- A30 Chiverton to Carland Cross scheme and potential interaction with Vodafone across the scheme
  - Discussions Vodafone have had with the A30 scheme to date
  - Understand the requirements of Vodafone for a Detailed Estimate for Works (Vodafone considered as official Statutory Undertaker to the A30 scheme and comply with New Roads and Street Works Act 1991)
- 7.4.32 Vodafone have infrastructure interacting with the A30 scheme at many locations. Further meetings were held on 18 September 2017 and 4 December 2017 to review and close out actions to ensure a coordinated Detailed Estimate of Works would be developed. The Detailed Estimate for Works have been accepted by Highways England and the costs of the works have been included in the main works construction costs.
- 7.4.33 Highways England consider that potential detriment to the undertaking (telecoms equipment) has been considered as part of the scheme design, and therefore that no impediment to the undertaking would result from the scheme. This is due to diversionary works of telecoms equipment identified in Schedule 1 Authorised Works of the DCO (Volume 3, Document Reference 3.1).

**Western Power Distribution (WPD)**

- 7.4.34 The Applicant has, during preparation of the DCO application, been in discussions with WPD about the proposed compulsory acquisition of rights detailed in the table above.
- 7.4.35 WPD did not respond to the statutory consultation.
- 7.4.36 A meeting was held with representatives of Western Power Distribution Public Limited Company (South West) (132kV O/H Pylons) and Arup on 25 July 2017 to discuss:
- A30 Chiverton to Carland Cross scheme and potential interaction with Western Power Distribution (South West PLC) (132kV O/H Pylons) across the scheme
  - Discussions Western Power Distribution Public Limited Company (South West) (132kV O/H Pylons) have had with the A30 scheme to date
  - Understand the requirements of Western Power Distribution Public Limited Company (South West) (132kV O/H Pylons) for a Detailed Estimate for Works (Western Power Distribution Public Limited Company (South West) (132kV O/H Pylons) considered as an official Statutory Undertaker to the A30 scheme and do not comply with New Roads and Street Works Act 1991)
- 7.4.37 Western Power Distribution Public Limited Company (South West) (132kV O/H Pylons) have infrastructure interacting with the A30 scheme at a location near



Two Barrows. Further meetings were held on 16 November 2017 and 22 February 2018 to review and close out actions to ensure a coordinated Detailed Estimate of Works would be developed. No Detailed Estimate for Works for Western Power Distribution Public Limited Company (South West) (132kV O/H Pylons) is required.

7.4.38 Highways England consider that potential detriment to the undertaking (power cables) has been considered as part of the scheme design, and therefore that no impediment to the undertaking would result from the scheme. This is due to avoidance of pylon equipment by the earthworks of the road, including a retaining wall, as identified in Schedule 1 Authorised Works of the DCO (Volume 3, Document Reference 3.1).

#### **Fisher German LLP on behalf of Defence Infrastructure Organisation (CLH Pipeline System)**

7.4.39 The Applicant has, during preparation of the DCO application, been in discussions with Fisher German LLP (CLH Pipeline System) acting on behalf of Defence Infrastructure Organisation (DIO) about the proposed compulsory acquisition of rights detailed in the table above.

7.4.40 Fisher German LLP (CLH Pipeline System) did not respond to the statutory consultation.

7.4.41 Correspondence with representatives of DIO and Arup on 18 April 2018 to discuss:

- A30 Chiverton to Carland Cross scheme and potential interaction with DIO across the scheme
- Discussions DIO have had with the A30 scheme to date
- Understand the requirements of DIO for a Detailed Estimate for Works (DIO are considered as an official Statutory Undertaker to the A30 scheme and complies with Land Powers Defence Act 1958)
- Confirmation that the land is not Crown land.

7.4.42 DIO have infrastructure (abandoned oil pipeline) interacting with the A30 scheme at a location near Carland Cross. Email correspondence has been exchanged to review and close out actions to ensure a coordinated Detailed Estimate of Works were developed. No Detailed Estimate for Works has been received from DIO. however, estimated costs of the works have been included in the main works construction costs.

7.4.43 Correspondence from the DIO has also confirmed that the land is not Crown land.

7.4.44 Highways England consider that potential detriment to the undertaking (abandoned oil pipeline) has been considered as part of the scheme design, and therefore that no impediment to the undertaking would result from the scheme. This is due to remediation of the abandoned pipeline as identified in Schedule 1 Authorised Works of the DCO (Volume 3, Document Reference 3.1)

#### **ScottishPower Renewables (UK) Limited (SPR)**

7.4.45 The Applicant has, during preparation of the DCO application, been in discussions with SPR about the proposed compulsory acquisition of rights detailed in the table above.

- 7.4.46 SPR responded to the statutory consultation stating an objection to the scheme on the grounds of impacts on access to their asset (Carland Cross Windfarm) amongst other matters.
- 7.4.47 A meeting was held with representatives of SPR, Highways England and Arup on 25 July 2017 to discuss:
- A30 Chiverton to Carland Cross scheme and potential interaction with SPR at Carland Cross Windfarm
  - Discussions SPR have had with the A30 scheme to date
  - Understand the requirements of SPR for a Detailed Estimate for Works (SPR not considered as an official Statutory Undertaker to the A30 scheme and do not comply with New Roads and Street Works Act 1991)
- 7.4.48 SPR were concerned with the recovery of C3 estimate costs from Highways England and programme timescales leading to Spring 2020.
- 7.4.49 Carland Cross Windfarm is separated into two sections – Western and Eastern Array. Western Array access is maintained via the existing Boxheater Junction and Eastern Array via the existing Carland Cross roundabout. Access to be maintained during and upon completion of the A30 scheme.
- 7.4.50 SPR are tenants of the land at Carland Cross Windfarm and lease the land from the freeholder - Trewithen Estate.
- 7.4.51 Further meetings were held on 16 August 2017, 25 June 2018, 2 July 2018 and 23 July 2018 to review, and close out actions to ensure a coordinated Detailed Estimate for Works would be developed. The Detailed Estimate for Works have been accepted by Highways England and the costs of the works have been included in the main works construction costs. A meeting between legal teams was held 23 July 2018 to discuss a draft agreement with SPR.
- 7.4.52 Highways England consider that potential detriment to the undertaking (access lanes, power cables and telecommunications equipment) has been considered as part of the scheme design, and therefore that no impediment to the undertaking would result from the scheme. This is due to works to retain access, avoid equipment and diversionary works to cables and other infrastructure as identified in Schedule 1 Authorised Works of the DCO (Volume 3, Document Reference 3.1).
- Western Power Distribution (South West PLC) (132kV O/H Pylons) (acting on behalf of Surf telecoms)**
- 7.4.53 The Applicant has, during preparation of the DCO application, been in discussions with Western Power Distribution (South West PLC) (132kV O/H Pylons) (acting on behalf of Surf telecoms) about the proposed compulsory acquisition of rights detailed in the table above.
- 7.4.54 Correspondence was exchanged with representatives of Western Power Distribution (South West PLC) (132kV O/H Pylons) (in relation to Surf telecoms) and Arup on 23 August to discuss:
- A30 Chiverton to Carland Cross scheme and potential interaction with Western Power Distribution (South West PLC) (132kV O/H Pylons) across the scheme

- Discussions Western Power Distribution (South West PLC) (132kV O/H Pylons) have had with the A30 scheme to date
- Understand the requirements of Western Power Distribution (South West PLC) (132kV O/H Pylons) for a Detailed Estimate for Works

7.4.55 Western Power Distribution (South West PLC) (132kV O/H Pylons) have infrastructure interacting with the A30 scheme at a location near Two Barrows. Further correspondence to review and close out actions to ensure a coordinated Detailed Estimate of Works were developed. Surf Telecoms Limited by the A30 scheme and Western Power Distribution (South West PLC) (132kV O/H Pylons) have subsequently not provided a Detailed Estimate of Works on behalf of Surf Telecoms Limited. This is accepted by Highways England.

7.4.56 Highways England consider that potential detriment to the undertaking (telecoms equipment) has been considered as part of the scheme design, and therefore that no impediment to the undertaking would result from the scheme. This is due to diversionary works of telecoms equipment identified in Schedule 1 Authorised Works of the DCO (Volume 3, Document Reference 3.1).

### **Wales and West Utilities (WWU)**

7.4.57 The Applicant has, during preparation of the DCO application, been in discussions with WWU about the proposed compulsory acquisition of rights detailed in the table above.

7.4.58 WWU did respond to the statutory consultation and raised no objection to the scheme.

7.4.59 A meeting was held with representatives of Wales & West Utilities Limited and Arup on 10 July 2017 to discuss:

- A30 Chiverton to Carland Cross scheme and potential interaction with Wales & West Utilities Limited across the scheme
- Discussions Wales & West Utilities Limited have had with the A30 scheme to date
- Understand the requirements of Wales & West Utilities Ltd for a Detailed Estimate for Works (Wales & West Utilities Limited are as an official Statutory Undertaker to the A30 scheme and do not comply with New Roads and Street Works Act 1991)

7.4.60 Wales & West Utilities Limited have infrastructure interacting with the A30 scheme at locations near Chybucca and Carland Cross. Further meetings were held on 30 August 2017, 18 December 2017, 27 March 2018 and 10 May 2018 to review and close out actions to ensure a coordinated Detailed Estimate of Works would be developed. The Detailed Estimate for Works have been accepted by Highways England and the costs of the works have been included in the main works construction costs.

7.4.61 Highways England consider that potential detriment to the undertaking (gas pipeline) has been considered as part of the scheme design, and therefore that no impediment to the undertaking would result from the scheme. This is due to diversionary works of the gas pipeline identified in Schedule 1 Authorised Works of the DCO (Volume 3, Document Reference 3.1).

## 7.5 Other consents

- 7.5.1 The Details of Other Consents and Licences (Volume 7, Document Ref 7.2) sets out the required other consents. Highways England is seeking to agree with each affected body the principles against which applications for the consents, licences, permits etc. should be considered. This is captured in the Statements of Common Ground (Volume 7, Document Reference 7.4) being prepared with each body. The Applicant is satisfied that all necessary consents to enable the scheme to proceed have been identified and that there is no reason why such consents should not be secured or granted.

## 8 Conclusions

### 8.1 Overview

- 8.1.1 This Statement sets out why compulsory acquisition and temporary possession powers have been sought in the DCO application and explains why the Applicant considers such powers to be necessary, proportionate, and justified.
- 8.1.2 In determining the extent of the compulsory acquisition and temporary possession powers proposed in the DCO, the Applicant has had regard to the legislative tests set out in the PA 2008 and to the advice in the CA Guidance. The Applicant is content that the scope of the powers sought and the extent of the interests in the Land to be acquired by compulsory acquisition are required for the scheme and are the minimum necessary that will allow the Applicant to construct, operate and maintain the scheme. The purpose for which each part of the Land is required is set out in Appendix A to this Statement.
- 8.1.3 The Applicant has consulted all persons affected by the compulsory acquisition and temporary possession powers and persons who may have a claim for compensation arising from the scheme. Communications for the purposes of carrying out diligent inquiries is set out in Appendix C to this Statement. It has consulted such persons during preparation of the DCO application and in the design of the scheme to address their concerns as far as possible and to ensure that any impacts are reduced or removed. The Applicant has further sought to acquire any interests in the Land by agreement wherever practicable. The status of negotiations with affected landowners for the acquisition of their land interest is set out in Appendix B to this Statement.
- 8.1.4 The Applicant has considered the human rights of the individuals affected by the compulsory acquisition and temporary possession powers. It is satisfied that there is a compelling public interest case for compulsory acquisition and that the significant public benefits arising from the scheme will outweigh the harm to those individuals.
- 8.1.5 The Applicant has taken a precautionary approach to defining open space land and complied with the requirements of section 131 and the Guidance related to procedures for the compulsory acquisition of land (DCLG, 2013) regarding the acquisition of open space required for the scheme. Replacement open space of greater size and quality, which is in close proximity to the land defined as open space has been included as part of the DCO application.
- 8.1.6 The Applicant has consulted with all statutory undertakers since preferred route announcement. The Applicant is satisfied that this consultation and the proposed works included in the DCO mean that land, rights and apparatus can be acquired and interfered as is necessary for the construction of the scheme without any impediment to the carrying out of any undertaking.
- 8.1.7 Without the grant of compulsory acquisition and temporary possession powers, the Applicant considers that it will not be possible to construct the scheme, or realise the public benefits arising from it.

## 9 Appendices

<b>Appendix A</b>	Details of the purpose for which compulsory acquisition and temporary possession powers are sought
<b>Appendix B</b>	Schedule of all interests in the Land and progress of negotiations with persons subject to compulsory acquisition and temporary possession powers
<b>Appendix C</b>	Communications for the purposes of carrying out diligent inquiries

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