

A30 Chiverton to Carland Cross TR010026

8.24 REQUEST FOR NON-MATERIAL AMENDMENTS TO THE DRAFT DCO

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1 Request for non-material amendments to the scheme

1.1 Introduction

1.1.1 This document forms a request for non-material amendments to the A30 Chiverton to Carland Cross Development Consent Order scheme (the scheme). A description of individual changes and the reasons for them is given below. In general, amendments to the scheme have occurred as a result of ongoing engagement with interested parties, or in response to matters raised in written submissions from interested parties and/or submissions made by interested parties at hearings.

1.1.2 Highways England considers that all amendments which have been requested are non-material, and that when considered cumulatively the amendments do not amount to a material amendment. This is justified for the reasons below:

- All amendments are within the existing Order limits.
- All amendments are considered 'de minimis' in planning terms.
- None of the amendments result in a significant change to the engineering design of the main carriageway which has been assessed as part of the Environmental Statement (Volume 6 of the application).
- None of the amendments give rise to any new or different likely significant environmental effects than have been assessed as part of the Environmental Statement (Volume 6).
- The Regulations are not engaged in relation to any of the amendments.
- The amendments do not, either individually or cumulatively, amount to 'substantial' changes to the scheme, as referred to in PINS Advice Note 16.

1.1.3 All amendments have been made in response to matters raised in written submissions to the ExA and/or discussed at hearings during the Examination. All amendments are in response to requests from landowners or other interested parties. The amendments are being requested in order to reduce the effects of the scheme on landowners or other interested parties following due consideration by Highways England.

1.1.4 Each requested amendment is considered below.

1.1.5 The amendments are referred to as:

- Elevated viewing area and footpath to open space land
- Bridleway VV realignment

1.2 Elevated viewing area and footpath to open space land

1.2.1 Access to the land defined as access land under the Countryside and Rights of Way Act 2000 and classified as open space for the purposes of the application was discussed at the ISH for Walking Cycling and Horse Riding on 4 April 2019. The Highways England Written Summary of Oral Case (Document Reference 8.12) [APP-342] at point 5(a) stated:

"Further to ongoing engagement with Historic England, Highways England proposes to provide a viewing area looking over Newlyn Downs in this area. The Environmental Masterplans would need to be updated to reflect this and the

provision of access on foot to the southern part of the CRoW land would be clarified as part of that.

Highways England is reviewing the opportunity to request a nonmaterial amendment to the DCO application in discussion with landowners. This request may be made at Deadline 5.”

- 1.2.2 In response to this, Highways England propose an amendment to the **dDCO** (Document Reference 3.1(E)) and associated documents and plans to provide an elevated viewing area. Highways England also propose a new footpath PR16, which would be 90m in length and connect footpath UU to the southern section of the existing open space land.
- 1.2.3 The proposed elevated viewing area refers to a triangle of land to the west of proposed footpath UU and to the north of proposed footpath PR16. It is shown on Sheet 18 of **Figure 7.6 Environmental Masterplans** (Document Reference 7.6(B)). The area includes a raised viewing area which would be elevated to a height of up to 1.2m to match the height of the adjacent Cornish hedge. The raised area will be a small area in the western point of the triangle of land denoted by a pink star shape on Sheet 18 of **Figure 7.6 Environmental Masterplans** (Document Reference 7.6(B)).
- 1.2.4 The purpose of the viewing area is to mitigate the loss of views across Newlyn Downs as a result of the scheme, which HBMCE considers to contribute to the significance of the Carland Cross barrow cemetery. This is stated at paragraph 6.2.8 of the HBMCE Written Representation [REP1-013] and agreed in the Statement of Common Ground which is in the process of being signed by HBMCE and which will be submitted at Deadline 6.

Compulsory acquisition

- 1.2.5 The elevated viewing area is proposed within an area that is proposed for permanent acquisition. It is within plots 9/1c, 9/1d, 9/4b and 9/1f. No changes to the proposed acquisition would be required to accommodate this change.
- 1.2.6 The proposed footpath PR16 requires an area of 84 square metres within plot 9/2c to change from permanent acquisition of rights to permanent acquisition. A new plot 9/2d is proposed as the new area of permanent acquisition.
- 1.2.7 The Applicant is of the view that the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (the Regulations) are not engaged with regards to the proposed change. The reasons for this are set out below.
- 1.2.8 Regulation 4 of the Regulations applies where it is proposed to include in a DCO a provision authorising the compulsory acquisition of additional land and where a person with an interest in the additional land does not consent. “Additional land” means land which it is proposed shall be subject to compulsory acquisition and which was not identified in the Book of Reference submitted with the application as land (Regulation 2).
- 1.2.9 “Land” is defined by reference to section 159 of the Planning Act 2008, which states that “land includes any interest in or right over land”.
- 1.2.10 Highways England has sought consent for this proposed amendment from the parties with an interest in the land in order that the process prescribed by the Regulations will not have to be followed in relation to this request.

Consultation

- 1.2.11 Further to the above, Highways England has consulted with the land interests in this plot in order to gain consent for the change. A letter enclosing a plan of the proposed changes was sent on 17 May 2019, requesting responses in writing by 17 June 2019.
- 1.2.12 Those with an interest in the land are:
- Mr Frank Matthews (Category 1, freeholder)
 - Western Power Distribution (South West) PLC
 - Wales and West Utilities Ltd
 - Fisher German LLP on behalf of the Defence Infrastructure Organisation
 - Global Crossing & Level 3 Communications (Instalcom)
- 1.2.13 Highways England has gained consent in writing for the proposed amendment from the following. The evidence of written consent is provided in Appendix B to the Highways England **Response to the Examining Authority's Second Written Questions** (Document Reference 8.21):
- Wales and West Utilities Ltd
 - Fisher German LLP on behalf of the Defence Infrastructure Organisation
 - Global Crossing & Level 3 Communications (Instalcom)
- 1.2.14 Highways England has received verbal consent from the freeholder Mr Frank Matthews' agent. This will be submitted in writing at Deadline 6. Highways England is still awaiting consent from Western Power Distribution and this forms part of the ongoing engagement between Highways England and WPD.
- 1.2.15 Highways England request the proposed amendment to be considered pending the receipt of these written consents.

Environmental effects

- 1.2.16 The requested amendment is proposed to mitigate the effects of the scheme on the Carland Cross barrow cemetery and to promote access to existing open access land. It is considered that the proposed amendment, which is within the existing Order limits, would not give rise to any new or significantly worse effects from those presented in the Environmental Statement. The proposed change has been considered by the authors of the relevant chapters of the Environmental Statement.
- 1.2.17 The changes have been reviewed by the authors of **Chapter 7 Landscape** and **Chapter 8 Ecology and Nature Conservation** of the Environmental Statement (Document Reference 6.2) [APP-060; APP-061].
- 1.2.18 As the proposed amendment does not displace or add any proposed habitats or screening, it is considered that the same level of mitigation is provided in terms of landscape and ecology.
- 1.2.19 As such, the addition of the elevated viewing area and footpath to open space land shown on Sheet 18 of **Figure 7.6 Environmental Masterplans** (Document Reference 7.6(B)), would not change the results of the assessment of landscape and visual effects as reported in **Chapter 7 Landscape** or **Chapter 8 Ecology and Nature Conservation** of the Environmental Statement (Document Reference 6.2) [APP-060; APP-061].

1.2.20 It is not considered that the requested amendment would give rise to any new or significantly worse environmental effects.

1.2.21 Table 1-1 below shows the changes to documents required to accommodate the proposed amendment, and which have been submitted at Deadline 5:

Table 1-1

Document Reference	Document name	Description of amendment to the document
2.2(C)	Land Plans, Complete Set	Sheet 9 A small portion of plot 9/2c changed to permanent acquisition (new plot 9/2d)
2.4(D)	Works Plans, Complete Set	Sheet 8 Amended layout to suit new access west of existing Carland Cross roundabout and addition of label for Work No. 5q
2.5(D)	Rights of Way and Access Plans, Complete Set	Sheet 8 Amended layout to incorporate Reference WW and addition of label for WW and PR16
2.6(B)	General Arrangement and Section Plans, Complete set	Sheet 8 Amended layout to suit new access west of existing Carland Cross roundabout
3.1(E)	Draft Development Consent Order	Schedule 1 Addition of number and description to Schedule 1 as Work No. 5(q): “a new footpath (PR16) linking to open access land and Roundbarrow viewing area” Schedule 3- PART 8 (column 1) Additional Parish Council inserted: St Erme, St Newlyn East Civil Parishes Schedule 3 Part 8 (column 2) Reference WW (PR16) Amended description as “90 metres footpath as shown on Sheet 8 of the Rights of Way and Access plans” Schedule 4- PART 2 (column 1) Additional Parish Council inserted: St Erme, St Newlyn East Civil Parishes Schedule 4- PART 2 (column 4) Reference WW (PR16) “A new footpath south of the existing A30(T) west of the existing Carland Cross junction for a total length of 90 metres”
4.1(C) (to be submitted at Deadline 6)	Statement of Reasons Appendix A	Table 1: Acquisition of Land Plot numbers added where traversed by amended layout for new access west of existing Carland Cross roundabout

Document Reference	Document name	Description of amendment to the document
4.3(B) (to be submitted at Deadline 6)	Book of Reference	A new plot 9/2d, 84 square meters, will be added to the updated Book of Reference (Document Reference 4.3) at Deadline 6 There will be a corresponding reduction to area of plot 9/2c
6.3 Figure 7.6 (B)	Environmental Masterplans, Complete Set	Sheet 18 Amended layout for new access west of existing Carland Cross roundabout
6.4(B)	CEMP Annexes, Annex M Public Rights of Way Management Plan	Annex M Addition of description of new location of access west of existing Carland Cross roundabout Annex M Figure 4 – Public Rights of Way Management Plan Amended layout to suit new access west of existing Carland Cross roundabout and addition of label for PR16

1.3 Bridleway VV realignment

- 1.3.1 At the ISH for Walking Cycling and Horse Riding on 4 April 2019, the status of the highway (which is outside the Order limits) continuing from the proposed Bridleway VV to the Carland Cross roundabout was discussed. As stated in section 7 of the Highways England **Comments on Responses to Hearing Action Points** (Document Reference 8.17) [REP4-005], Cornwall Council confirmed that the highway required to connect Bridleway VV to Carland Cross roundabout is stopped up.
- 1.3.2 The area of stopped up highway necessary to access Bridleway VV is outside the Order limits. Given this, Highways England would be unable to secure the necessary land acquisition or highway classification through the existing **dDCO** (Document Reference 3.1(D)) [REP3-007] without changing the Order limits.
- 1.3.3 In order to provide access for walkers, cyclists and horse riders from Carland Cross to Mitchell, Highways England proposes an amendment to the **dDCO** (Document Reference 3.1(D)) [REP3-007] and associated documents and plans to realign Bridleway VV as shown on Sheet 8 of the **Rights of Way and Access Plans** (Document Reference 2.5(C)) and Sheet 19 of **Figure 7.6 Environmental Masterplans** (Document Reference 7.6(B)).
- 1.3.4 The proposed amendment would realign Bridleway VV to the north of its previous position from a point around Chainage 13+850 to Carland Cross. It runs along the northern boundary of the vegetation to be retained, the Toyota Garage and the Carland Cross services station. It turns south adjacent to the southern roundabout of the proposed Carland Cross junction.
- 1.3.5 The proposed realignment meets the existing highway at the junction of Carland Cross and the entrance to the service station access road, opposite the proposed Bridleway UU, and includes a holding area for horses at this location.
- 1.3.6 The area no longer required for Bridleway VV will be retained for the proposed private means of access for the benefit of Treventon Farm (PMA 24), as shown

on Sheet 8 of the **Rights of Way and Access Plans** (Document Reference 2.5(C)).

Compulsory acquisition

- 1.3.7 The realigned section of Bridleway VV is proposed within land that is proposed for permanent acquisition for which Highways England is the freeholder. The proposed amendment is within plots: 9/1k, 9/1n, 9/1d, 9/1j, 9/1p, 9/1v, 9/1x and 9/1z.
- 1.3.8 Plots 9/1k, 9/1n, 9/1d, 9/1j, 9/1p continue to be proposed for permanent acquisition. Plots 9/1z and 9/1x have been subdivided to create new plots 9/1ad and 9/1ac, which are proposed for permanent acquisition.
- 1.3.9 The remainder of plots 9/1v, 9/1x, 9/1z were previously proposed for permanent acquisition. As Bridleway VV no longer requires these plots, and they are to be used as a private means of access only following construction, they are proposed to be changed to temporary possession.
- 1.3.10 As the realigned Bridleway is within areas proposed for permanent acquisition, no changes to the proposed acquisition would be required in this area. The proposed change of plots from permanent acquisition to temporary possession amounts to a reduction in the extent of compulsory acquisition powers being sought. Highways England is of the view that the Regulations are not engaged in relation to the proposed amendments.

Consultation

- 1.3.11 Nonetheless, in keeping with the spirit of the Regulations, Highways England has sought and gained approval in writing for the proposed amendment from all parties with an interest in plots 9/1v, 9/1x and 9/1z. The evidence of written approval is provided in Appendix B to the Highways England **Response to the Examining Authority's Second Written Questions** (Document Reference 8.21).

Environmental effects

- 1.3.12 It is considered that the proposed amendment, which is within the existing Order limits, would not give rise to any new or significantly worse effects from those presented in the Environmental Statement. The proposed change has been considered by the authors of the relevant chapters of the Environmental Statement.
- 1.3.13 The proposed amendment is to maintain access for walkers, cyclists and horse riders to Mitchell, as proposed as part of the scheme since the submission of the application. It is proposed to ensure that the connection is deliverable, without relying on changes to highway classifications outside of the Order limits.
- 1.3.14 The changes have been reviewed by the authors of **Chapter 7 Landscape** and **Chapter 8 Ecology and Nature Conservation** of the Environmental Statement (Document Reference 6.2) [APP-060; APP-061].
- 1.3.15 The Bridleway has been realigned to be as close as possible to the boundary of the Toyota Garage and Carland Cross service station, to retain the proposed areas for landscape and ecology mitigation as far as possible. It has been designed to avoid the areas of vegetation to be retained to the west of Carland Cross service station and to the east of the Toyota Garage.

- 1.3.16 It is considered that the proposed amendment does not displace or add any proposed habitats or screening. As a result of this, it is considered that the same level of mitigation is provided in terms of landscape and ecology.
- 1.3.17 As such, the realignment of Bridleway VV as shown on Sheet 8 of the **Rights of Way and Access Plans** (Document Reference 2.5(D)) and Sheet 19 of **Figure 7.6 Environmental Masterplans** (Document Reference 7.6(B)), would not change the results of the assessment of landscape and visual effects as reported in **Chapter 7 Landscape** or **Chapter 8 Ecology and Nature Conservation** of the Environmental Statement (Document Reference 6.2) [APP-060; APP-061].
- 1.3.18 Table 1-2 below shows the changes to documents required to accommodate the proposed amendment, and which have been submitted at Deadline 5:

Table 1-2

Document Reference	Document name	Description of amendment to the document
2.2(C)	Land Plans, Complete Set	Sheet 9 Land comprising plots 9/1v, 9/1x and 9/1z changed to temporary use Creation of new plots 9/1ac and 9/1ad
2.4(D)	Works Plans, Complete Set	Sheet 8 Amended layout to suit realigned Bridleway and addition of label for Work No. 5o
2.5(D)	Rights of Way and Access Plans, Complete Set	Sheet 8 Amended layout to suit realigned Bridleway east of existing Carland Cross roundabout
2.6(B)	General Arrangement and Section Plans, Complete Set	Sheet 8 Amended layout to suit realigned Bridleway and addition of WCH label
3.1(E)	Draft Development Consent Order	Schedule 3- Part 8 (column 1) Additional Parish Council inserted: St Newlyn East St Erme, Civil Parishes Schedule 3- PART 8 (column 2) Reference VV (PR15) Amended description as "1127 metres bridleway as shown on Sheet 8 of the Rights of Way and Access plans" Schedule 4- Part 2 (column 1) Additional Parish Council inserted: St Newlyn East St Erme, Civil Parishes Schedule 4 Part 2 (column 4) Reference VV (PR15) Amended description as "A new bridleway south of the existing A30(T) to its junction north of Treventon Farm, for a total length of 1127 metres" Schedule 7 Plots 9/1v, 9/1x and 9/1z added

Document Reference	Document name	Description of amendment to the document
4.1(C) (to be submitted at Deadline 6)	Statement of Reasons Appendix A	Table 1: Acquisition of Land Additional text to be added relating to amended bridleway with reference to traversing plots 9/1h,k,m,n,ac, ad
4.3(B) (to be submitted at Deadline 6)	Book of Reference	Plots 9/1v, 9/1x, 9/1z will be amended in the updated Book of Reference at Deadline 6 (Document Reference 4.3) to state that the land is for temporary possession Plot 9/1ac, 9/1ad – new plot numbers added to land to be acquired permanently (landowner Highways England)
6.3 Figure 7.6 (B)	Environmental Masterplans, Complete Set	Sheet 19 Amended layout to suit realigned Bridleway VV
6.4(B)	CEMP Annexes, Annex M Public Rights of Way Management Plan	Annex M Amended description of new location of Bridleway VV Annex M Figure 4 – Public Rights of Way Management Plan Amended layout to suit realigned Bridleway VV and add additional label for PR15

2 Update on requests for non-material amendments at Deadline 3

Everything Everywhere (“EE”) Telecommunications Mast

- 2.1.1 All parties with an interest in the affected plots were notified of the proposal to make changes to the application documents to give effect to the relocation of the mast in a letter sent on 27 March 2019, which invited them to provide comments on the proposed changes to Highways England by Monday 22 April 2019.
- 2.1.2 Highways England has received written consent to the changes from the following land interests:
- BT Openreach
 - South West Water
 - Wales and West Utilities
- 2.1.3 Highways England is still in negotiation with the freehold landowner Mr Vivian George, Western Power Distribution, and KS SPV 11 Ltd to gain written consent for this change. An update to the status of these discussions will be provided at Deadline 6.

Pennycomequick

- 2.1.4 Highways England has been in ongoing discussions with the Harvey Family regarding the change in the proposed acquisition of plot 8/2c from permanent acquisition to acquisition of permanent rights. The letter contained at Appendix A to the **Highways England Comments on Interested Party Submissions at Deadline 4** (Document Reference 8.19) states the latest position of the Harvey Family that acquisition of permanent rights is acceptable, following a meeting held on 10 June 2019. Further confirmation of this position will be provided at Deadline 6.

If you need help accessing this or any other Highways England information, please call **0300 123 5000** and we will help you.