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Dear Sirs,

## **PLANNING ACT 2008 APPLICATION FOR THE PROPOSED A30 CHIVERTON TO CARLAND CROSS DEVELOPMENT CONSENT ORDER**

1. I am directed by the Secretary of State for Transport (“the Secretary of State”) to say that consideration has been given to:
  - the report dated 6 November 2019 (“the ExA’s Report”) of the Examining Authority (“the ExA”), Heidi Cruickshank, who conducted an examination into the application made by Highways England (“the Applicant”) for a Development Consent Order (“the Order”) under section 37 of the Planning Act 2008 as amended (“the 2008 Act”) for the A30 Chiverton to Carland Cross Development (“the Development”); and
  - responses to further consultation undertaken by the Secretary of State in respect of the application.
2. The application was accepted for examination on 27 September 2018 and the examination was concluded on 6 August 2019. The examination was conducted on the basis of written and oral submissions submitted to the ExA and by a series of meetings held in the location of the Development. The ExA also undertook two unaccompanied and two accompanied site inspections.
3. The Order as applied for would grant development consent for the construction of a 14-kilometre (8.7 mile) 70mph dual carriageway, connecting to the existing A30 dual carriageway at either end. The proposal includes 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 roads connecting to the new dual carriageway; replacement of the existing roundabout at Carland Cross with a 2-level motorway-style junction; and new bridges and accesses across the proposed road and the existing A30. The proposed retention of the existing A30 includes the construction of further local roads to maintain connectivity and associated development includes the realignment and/or provision of off-road routes for pedestrian, cycle and equestrian use, drainage works and the diversion of utilities (ER 1.2.2). The Secretary of State is content that the proposals qualify as a Nationally

Significant Infrastructure Project (“NSIP”) under sections 14(1)(h) and 22(1)(a) and (2) of the 2008 Act.

4. Published with this letter on the Planning Inspectorate’s website is a copy of the ExA’s Report. The main features of the Development and the Development site and setting are described in Chapter 2 of the ExA’s Report. The ExA’s findings and conclusions are set out in Chapters 4 to 7; the ExA’s views on the DCO and related matters are contained in Chapter 8; and the ExA’s conclusions and recommendation are in Chapter 9 of the ExA’s Report.

### **Summary of the ExA’s Recommendations**

5. The principal issues considered during the examination on which the ExA has reached conclusions on the case for development consent are set out in the ExA’s Report under the following broad headings:
  - Legal and Policy Context (Chapter 3);
  - Findings and Conclusions in relation to the planning issues (Chapter 4) which includes consideration of: socio-economic effects; public interest balance; transportation and traffic; walking, cycling and horse-riding; air quality and emissions; biodiversity, ecology and natural environment; historic environment; landscape and visual impact; noise and vibration; water environment; other strategic projects and proposals; and other policy topics and relevant considerations;
  - Findings and Conclusions in relation to Habitats Regulations Assessment (Chapter 5);
  - Conclusions on the Case for Development Consent (Chapter 6);
  - Compulsory Acquisition and Related Matters (Chapter 7); and
  - Draft Development Consent Order and Related Matters (Chapter 8).
6. For the reasons set out in the Summary of Conclusions and Recommendation (Chapter 9), the ExA recommended that the Order be made, in the form set out in Appendix E to the ExA’s Report.

### **Summary of Secretary of State’s Decision**

7. **The Secretary of State has decided under section 114 of the 2008 Act to make, with modifications, an Order granting development consent for the proposals in this application.** This letter is the statement of reasons for the Secretary of State’s decision for the purposes of section 116 of the 2008 Act and regulation 31(2)(d) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (“the 2017 Regulations”).

### **Secretary of State’s Consideration**

8. The Secretary of State’s consideration of the ExA’s Report, responses to consultation and all other material considerations are summarised in the following paragraphs. Where not stated in this letter the Secretary of State can be taken to agree with the ExA’s findings, conclusions and recommendations, as set out in the ExA’s Report, and the reasons for the Secretary of State’s decision are those given by the ExA in support of the conclusions and recommendations. All paragraph references, unless

otherwise stated, are to the ExA's Report ("ER") and references to "requirements" are to those in Schedule 2 to the DCO as recommended by the ExA at Appendix E to the ExA's Report.

## **Legal and policy context**

9. As noted by the ExA, under section 104(3) of the 2008 Act the Secretary of State must decide this application in accordance with the designated National Networks National Policy Statement ("NNNPS") subject to exceptions set out in section 104(5) to (8) of the 2008 Act, which are not relevant to this case. The Secretary of State has also had regard to the Local Impact Report ("LIR") submitted within the statutory timetable by Cornwall Council ("CC") that showed that CC were satisfied about the majority of matters in relation to highways and transport although there was an outstanding matter in relation to impacts on the local road network ("LRN") (ER 4.3.9). CC recognised in the LIR that the scheme would bring demonstrable benefits to Cornwall and the wider sub region (ER 4.3.13). The Secretary of State accepts the ExA's assessment of the relevant legislation and policy that are relevant and the other important considerations in considering this application as set out in Chapter 3 of the ExA's report. Furthermore, the Secretary of State agrees with the ExA that the Development generally conforms to high-level policy in NNNPS (ER 4.4.7).
10. The Secretary of State notes that changes to application documents, including the wording of the draft Development Consent Order ("dDCO") were submitted between Acceptance and the start of the Examination and during the Examination (ER 2.3.1). The Secretary of State accepts the ExA's recommendation that the changes do not constitute a significant change to the application (ER 3.11.3). The Secretary of State is also satisfied that, taking into account the further minor drafting changes to the DCO recommended by the ExA and discussed later in this letter, the Development has not changed to the point where it is a different application. The Secretary of State is therefore satisfied that it is within the powers of section 114 of the 2008 Act to make the Order in the form recommended with modifications.
11. The Secretary of State agrees with the ExA, in being satisfied that the Environmental Statement (ES), together with the other environmental information submitted by the Applicant during the Examination, is adequate and that it meets the requirements under the 2017 Regulations (ER 4.20.7).

## **Findings and Conclusions in relation to the Planning Issues (ER Chapter 4)**

### **Socio-economic effects (ER Section 4.8)**

12. The Secretary of State has had regard to the ExA's conclusions on the assessments undertaken by the Applicant on the impacts of the development on people and communities. The Secretary of State notes that issues were raised about the effect of the Proposed Development in respect of some rural properties (ER 4.8.7), and about the loss of agricultural land (ER 4.8.10 to ER 4.8.13), but agrees with the ExA that the Applicant has generally taken appropriate action to minimise the effect of the losses, both permanent and temporary on those affected (ER 4.8.19). Overall, the Secretary of State agrees that on balance, there are no significant issues in respect

of economic, land use and social effects that would justify the DCO to not be made (ER 4.8.20).

#### **Public Interest balance (ER Section 4.9)**

13. The Secretary of State notes the concerns raised regarding the effect of the proposed route of the Development on the community in the hamlet of Marazanvose (ER 4.9.1) and notes that the people living in Marazanvose would have a preference for moving the proposed road further from their home and businesses (ER 4.9.6). The Secretary of State notes that the design process was informed by environmental, socio-economic, technical and cost considerations, as well as feedback received during non-statutory and statutory consultation engagement with the public, landowners and other relevant stakeholders (ER 4.9.6) and no alternative route has been sought by any statutory bodies (ER 4.9.24). The Secretary of State agrees with the ExA that an appropriate options appraisal assessment has been undertaken in relation to the Development and it is not necessary to reconsider the process (ER 4.9.25).
14. The Secretary of State notes that the ExA considers that the decrease in the annual average daily traffic is predicted to be a significant reduction and in combination with reducing the speed limit to 30mph through the hamlet would lead to improvements in the immediate environs of Marazanvose (ER 4.9.21); the Secretary of State agrees.

#### **Transportation and Traffic (ER Section 4.10)**

15. The Secretary of State notes that the Transport Report summarises the development of the traffic model used in the appraisal of the Development in terms of impact on the highway network and the economic benefits of the Proposed Development (ER 4.10.1). The Secretary of State also notes the Proposed Development Assessment Report ("SAR") identified the issues on the current A30 between Chiverton and Carland Cross (ER 4.10.2) and notes that the consequences of these issues were: congestion and longer journey times (particularly during peak times); unreliable journey times; queuing at the junctions, due to the interaction between local and strategic traffic, particularly at peak times; and queuing when incidents occur with knock on effects to surrounding local routes (ER 4.10.3).
16. The Secretary of State notes that the SAR sets out that the impact of the Development would be significant with A30 journey times decreasing by 40%-50% when travelling on the proposed route (ER 4.10.5). He further notes that the Development would reduce the amount of traffic on the LRN as vehicles reassign to the Development rather than routing via alternative routes on the local network (ER 4.10.5). The Secretary of State agrees with the ExA that the Development would improve the road network in relation to journey times due to reduced congestion and increased capacity (ER 4.10.6).
17. The Secretary of State notes that the opportunity to improve safety should be taken in line with paragraphs 4.60 to 4.66 of the NNNPS (ER 4.10.7). The Secretary of State notes that the Development design complies with the Design Manual for Roads and Bridges and that this forms the basis of a safe highway design. The Secretary of State therefore agrees with the ExA that the Development would minimise the risk of road casualties and contribute to an overall improvement in the safety of the strategic road network ("SRN") (ER 4.10.12).

18. The Secretary of State notes CC's concerns that the junction priority at Boxheater junction needs to be adjusted to reflect the predominant flows of traffic as a result of the proposed development and that CC remain of the view that the Applicant should fund the de-trunking aspects of the Proposed Development (ER 4.10.19 to ER 4.10.21). The ExA notes that there will be significantly less traffic on the A30 with the Proposed Development and is therefore satisfied that the junction priority need not be a matter dealt with under the DCO (ER 4.10.22); the Secretary of State agrees. On the issue of funding, the ExA notes the contribution being made by the Applicant to the Designated Funds programme, which will address longstanding severance issues arising from the A30 and includes the design of Walking, Cycling and Horse Riding ("WCH") measures on the existing A30 once it is de-trunked (ER 4.10.32). While the ExA has some concern that the Designated Funds programme funding cannot be guaranteed at this time, the ExA is satisfied that the proposed funding through the DCO is sufficient to meet the Applicant's obligations in relation to the NNNPS (ER 4.10.37) and the Secretary of State sees no reason to disagree.
19. The Secretary of State notes the concerns raised regarding the lack of east-facing slips at Chybucca (ER 4.10.38) and the potential for driver frustration for users of the A30 travelling westbound wishing to access local communities, facilities and services around that junction (ER 4.10.47). The ExA notes that the data supports the decision not to include the east facing slips due to the low number of vehicles making the turning movements which they would provide for (ER 4.10.43). The Secretary of State agrees with the ExA that, having balanced the cost to the public purse with the advantages of the provision of the slips, it is reasonable to make the DCO without the addition of the east facing slips at Chybucca junction (ER 4.10.49).

### **Walking, Cycling and Horse Riding (ER Section 4.11)**

20. The Secretary of State notes that a number of concerns were raised in relation to cycle access, in particular regarding the provision of a new underpass for WCH west of the new Chiverton junction which would result in users needing to travel a longer distance and use an underpass (ER 4.11.3). The ExA noted the proposal by CC to provide a cycle footbridge on the desire line from St Agnes to Truro which they felt may make the proposed underpass redundant (ER 4.11.7). The Secretary of State agrees with the ExA that weight cannot be placed on the provision of the proposed cycle bridge as this relies on factors external to the Proposed Development (ER 4.11.11). The Secretary of State agrees with the ExA that the Chiverton underpass provision is not ideal due to the length of the route away from the desired line to the west, but agrees that it would be just sufficient to meet the policy regarding the modal shift set out in the NNNPS when the advantages of the Proposed Development are taken into account. The Secretary of State notes these considerations are finely balanced (ER 4.11.12 and ER 4.11.13).
21. With regard to the Church Lane underpass, the Secretary of State notes the suggestion made by St Allen Parish Council to provide a tunnel under both the proposed and existing routes in this location but agrees with the ExA that the reduced traffic flows and speeds on the existing A30, in combination with a tunnel under the proposed road, appears to facilitate improved access and is therefore an appropriate outcome in this location (ER 4.11.19).
22. The Secretary of State notes that the Ramblers considered that a bridleway should be provided to the south of the proposed new road to connect with the realigned

C0049 road to the east (ER 4.11.26) and notes the ExA's view that such a provision would have improved connectivity with other nearby off-road routes and does not acknowledge the fact that the existing A30 acts as a barrier to non-motorised users ("NMU") (ER 4.11.29). The Secretary of State agrees with the ExA that the Applicant has missed an opportunity to address the existing severance issues in line with paragraph 3.17 of the NNNPS in relation to the Chiverton Roundabout provision and the bridleway but agrees that with the possible use of the overbridge being provided and the likely low-level use of the bridleway these matters represent limited weight against the making of the DCO (ER 4.11.33).

### **Air Quality and Related Emissions (ER Section 4.12)**

23. The Secretary of State notes that concerns were raised regarding air and light pollution in relation to residential properties (ER 4.12.10). With regard to air quality, the Secretary of State notes that Chapter 5 of the ES 'Air Quality' indicates that the Development would change traffic flows on the existing A30, as well as flows on other roads in the wider area, and as such, this would result in changes to pollutant emissions from vehicle traffic (ER 4.12.2). The assessment found that there would be a decrease in emissions in NO<sub>2</sub> and CO<sub>2</sub> pollutants on a regional scale as a result of the Proposed Development (ER 4.12.5). The Secretary of State further notes that the Statement of Common Ground ("SoCG") with CC shows that they were content with the impact and proposed mitigation in relation to air quality had been satisfactorily addressed and the proposed mitigation was adequate (ER 4.12.21). Similarly, the Secretary of State notes that the SoCG with Natural England ("NE") indicated no matters outstanding (ER 4.12.22). The Secretary of State agrees with the ExA that there would be no significant adverse effects on air quality, including no new exceedances, no exceedances made worse and no Air Quality Management Areas with significant adverse effects (ER 4.12.24).
24. The Secretary of State notes that a Health Impact Assessment was carried out, assessing various aspects of health during the construction and operation of the Proposed Development, the results of which indicated that the minor adverse impacts that would arise during construction would be temporary and did not find that there would be any long-term adverse impacts on health during operation (ER 4.12.14). With regard to light pollution the Secretary of State notes the proposed mitigation measures of planting and visual screening (ER 4.12.12) and agrees with the ExA that the mitigation measures are appropriate (ER 4.12.26).
25. The Secretary of State notes that the carbon assessment conducted identified that the Proposed Development would result in a net reduction in carbon, with the benefit from the reduction in congestion outweighing the carbon associated with the extra distance travelled and the carbon associated with the Proposed Development construction (ER 4.12.17). The Secretary of State notes the Applicant's position that the revised carbon reduction target did not alter the assessment of the proposed development and agrees that the Development would not have a long-term detrimental impact of the Government's ability to meet its carbon targets and the effect would remain not significant for the purposes of the ES (ER 4.12.20).

### **Biodiversity, Ecology and the Natural Environment (ER Section 4.13)**

26. The Secretary of State notes that from the SoCGs with NE and CC that there are no matters outstanding in relation to biodiversity, ecology and the natural environment

(ER 4.13.5). The ExA found that the ES has considered the full range of potential impacts on ecosystems and showed how the project has taken advantage of opportunities to conserve and enhance biodiversity and geological conservation interests (ER 4.13.6). The Secretary of State agrees with the ExA that all relevant matters in relation to requirements of the NNNPS with regard to biodiversity and ecological conservation have been appropriately addressed (ER 4.13.6) and is satisfied by the mitigation measures set out in the Environmental Masterplans, which are secured through the Register of Environmental Actions and Commitments (“REAC”), the Construction Environmental Management Plan (“CEMP”) and the dDCO. The Secretary of State is therefore satisfied that the Proposed Development meets the requirements of the NNNPS in relation to biodiversity, ecology and the natural environment (ER 4.13.7).

#### **Historic Environment (ER Section 4.14)**

27. The Secretary of State notes that the SoCG with CC indicated no matters outstanding in relation to cultural heritage and that whilst there was agreement across the majority of relevant matters with Historic Buildings and Monuments Commission for England (“HMBCE”), there were some outstanding matters (ER 4.14.3 and ER 4.14.4). The Secretary of State notes the concerns of HMBCE regarding the loss of views of Warrens Barrow which would result in a loss of significance derived from this aspect of its setting and their suggestion to reduce the levels of the slip road and carriageway (ER 4.14.4 and ER 4.14.5). The Applicant indicated that the barrows had not been treated individually and considered that the reuniting of the barrows resulted in a slight beneficial effect (ER 4.14.6) and could not commit to lowering the A30 vertical alignment through the Carland Cross junction at this stage (ER 4.14.9). The ExA concluded that there would be a large adverse significant effect, but there would be a beneficial impact in reuniting Warrens Barrow with the barrow cemetery. Taking this into account, together with the additional access and an elevated viewing location adjacent to the proposed A30, the Secretary of State agrees with the ExA that this issue does not weigh against the making of the DCO (ER 4.14.11 and 4.14.12).

28. The ES notes that the majority of listed buildings within the study area would be expected to experience negligible permanent impacts as a result of the Proposed Development (ER 4.14.15). The Secretary of State notes that at Nancarrow, the Grade II listed building would experience a moderate adverse effect which would be mitigated via appropriate screening, and direct impacts on buried archaeological remains would be mitigated through archaeological recording as set out in the CEMP annexes (ER 4.14.15). The Secretary of State, taking account of the requirements of the NNNPS, agrees with the ExA that any harmful impact of a designated heritage asset, when weighed against the public benefit of the Development, is not of such significance that the DCO should not be made. In reaching this conclusion, the Secretary of State has taken account of the proposed mitigation secured via the REAC, the CEMP and the dDCO (ER 4.14.16).

#### **Landscape and Visual Impact (ER Section 4.15)**

29. The Secretary of State notes that the Applicant’s assessment concludes that, with regard to construction impacts, there would be no significant adverse impacts on the landscape, and any slight to moderate adverse impacts would be temporary and reversible (ER 4.15.3). The Secretary of State notes that the operation of the Proposed Development would result in direct and significant short and medium-term

impacts on the landscape without mitigation but that the mitigation proposed, once established over 15 years, would reduce the impact to an insignificant slight adverse level (ER 4.15.4).

30. The Secretary of State notes that there will be significant adverse residual visual effects on a number of residential and recreational receptors but that the Applicant considered that these impacts were not of such significance to outweigh the public benefit of the proposed development (ER 4.15.5). The Secretary of State understands that landscape and visual impact were considered in designing the Proposed Development through embedded design and mitigation measures to minimise impact and harm (ER 4.15.5). The Secretary of State also understands that landscape mitigation measures, including substantial areas of woodland, hedgerow and tree planting, have been included where appropriate to integrate the Proposed Development into the landscape, and, where possible and appropriate, screen views of the Proposed Development (ER 4.15.11). The Secretary of State notes that the SoCG with NE indicated no matters outstanding in relation to landscape and visual impacts (ER 4.15.12). The Secretary of State agrees with the ExA that the effects have been appropriately considered, with landscape mitigation designed to reduce adverse effects and maximise beneficial effects (ER 4.15.14).
31. The Secretary of State notes the concerns raised regarding the design of the proposed underpass where the C0075 passes under the road to its junction with the A30. The Secretary of State notes that the ExA considers that the preliminary proposed development design is limited in what it requires in terms of detailed delivery and the Applicant can engage further with the requirements on good design in the NNNPS at the detailed design stage (ER 4.15.24). The Secretary of State sees no reason to disagree and agrees with the ExA that the DCO as proposed would not prevent the detailed design that may be required in this respect (IR 4.15.26).

#### **Noise and Vibration (ER Section 4.16)**

32. The Secretary of State notes the concerns raised around the impacts of noise from the construction and operation of the Proposed Development. With regard to construction noise effects, the Secretary of State notes that there are a number of residential locations where the Significant Observed Adverse Effect Levels (“SOAEL”) would be exceeded during some months of the construction phase (ER 4.16.3). The Secretary of State notes that, with regard to mitigating the effects of construction noise, the control of noise and vibration using Best Practicable Means is incorporated in the Outline CEMP (ER 4.16.25).
33. With regard to operational noise the Secretary of State has noted that some of the residential locations would exceed SOAEL without the proposed development and that the impacts on the largest residential community likely to experience direct likely significant adverse effects (which would be nearest to the proposed new Chiverton junction) would be minimised due to the mitigation design incorporated around the proposed junction (ER 4.16.10 and ER 4.16.11).
34. The Secretary of State notes that the SoCG with CC shows they were content that the issues in relation to noise and vibration had been satisfactorily addressed and the proposed mitigation was adequate (ER 4.16.28); CC were satisfied that noise would be reduced for most residents through the use of low noise surfacing and that the Proposed Development would reduce noise effects at the higher bands, resulting in

an overall benefit (ER 4.16.19). The Secretary of State agrees with the ExA that the CEMP appropriately mitigates against the noise and vibration impact of construction, and the road design and associated mitigation means that the development in operation would offer benefits to a number of properties close to the existing A30 (ER 4.16.29).

#### **Water Environment (ER Section 4.17)**

35. The Secretary of State notes that the ExA reported that the Water Framework Directive (“WFD”) compliance assessment in the ES indicated that the Proposed Development would not result in a change in status of WFD quality elements or prevent any water bodies from reaching good status in the future (ER 4.17.4) and that the assessment carried out within the EIA concludes that there would be an overall neutral impact on water quality in both surface water and groundwater in the short and long term (ER 4.17.6).

36. The Secretary of State notes that matters relating to private water supplies in the rural area and the proximity of an attenuation pond at Trevalso have been raised and that arrangements would be taken forward as part of the detailed design (ER 4.17.8 and ER 4.17.9). The Secretary of State also notes that in relation to water environment matters, including private water supplies and flooding issues, the SoCG’s with the Environment Agency (“EA”), CC and the National Farmers Union indicate that there were no matters outstanding (ER 4.17.10). The Secretary of State agrees with the ExA that, taking account of the NNNPS requirements, the assessments and the agreements reached, matters in relation to the water environment have been appropriately dealt with (ER 4.17.11).

#### **Other Strategic Projects and Proposals (ER Section 4.18)**

37. The Secretary of State notes that the LIR confirmed that the cumulative impact of the Proposed Development and major projects in the vicinity had been assessed by the Applicant in the ES (ER 4.18.1). The Secretary of State agrees with the ExA that major projects have been identified and appropriately reviewed and the relevant relationships between them and the Proposed Development have been considered, so far as possible, with no significant adverse cumulative effects indicated to arise (ER 4.18.5).

#### **Other Policy Topics and Relevant Considerations (ER Section 4.19)**

38. The Secretary of State notes that the SoCG with EA and CC raise no outstanding issues with regard to materials sourcing and waste management and agrees that the waste policy considerations arising from NNNPS are appropriately addressed by the dDCO and associated documents (ER 4.19.9 and ER 4.19.10). The Secretary of State notes that the Health Impact Assessment identified both positive and adverse impacts which could affect the health and wellbeing of the local population and that mitigation and enhancement measures were identified and have been appropriately addressed within the application (ER 4.19.15). The Secretary of State agrees that the Proposed Development would not give rise to any material adverse effects on human health (ER 4.19.21). The Secretary of State agrees with the ExA that the issue of signs being provided in the Cornish language fall outside the scope of the DCO (ER 4.19.25).

39. The Secretary of State notes the sections of the A30 occupy the technical safeguarding zone surrounding RAF Portreath and the Defence Infrastructure Organisation (“DIO”) have requested that they are added as a list of consultees whose approval would be required when detailed design was assessed through any relevant requirements (ER 4.19.11). Through further consultation the Applicant has confirmed that they are content with the proposal and the Applicant’s proposed wording which reflects the DIO request has been incorporated into requirements 3 and 12.

## **Findings and Conclusions in relation to Habitats Regulations Assessment (ER Chapter 5)**

40. Under regulation 63 of the Conservation of Habitats and Species Regulations 2017 (“the Habitats Regulations”), the Secretary of State is required to consider whether the Development would be likely, either alone or in-combination with other plans and projects, to have a significant effect on a European Site<sup>1</sup>. The Proposed Development is not directly connected with or necessary to the management of any European Site. The Secretary of State must therefore undertake an appropriate assessment (“AA”) if likely significant effects on the conservation objectives of a European Site, either alone or in combination with other plans or projects cannot be ruled out.

41. In order to establish whether there is likely to be a significant effect on any European Site, the Secretary of State must consider whether such significant effects can be ruled out. If not, the Secretary of State may grant development consent only if it has been ascertained that the project will not, either on its own or in combination with other plans and projects, adversely affect the integrity of a European Site, unless there are no feasible alternatives or imperative reasons for overriding public interest apply.

42. The Secretary of State notes that the Applicant provided a Habitats Regulations Assessment Report (“HRAR”) with its DCO application (ER 5.2.5) which identified four European sites for inclusion within the assessment. These being:

- Newlyn Downs Special Area of Conservation (“SAC”);
- Fal and Helford SAC;
- Breney Common and Goss and Tregoss Moors SAC; and
- River Camel SAC.

43. The Secretary of State notes that the Applicant’s screening assessment concluded that the Development would have no likely significant effect, either alone or in combination with other plans or projects, on the qualifying features of Fal and Helford SAC and River Camel SAC (ER 5.3.9) but concluded that the potential for likely significant effects on Newlyn Downs SAC and Breney Common and Goss and Tregoss Moors SAC could not be ruled out at the screening stage. As such the Applicant conducted a Stage 2 assessment to identify any adverse effects which the Development may produce on the integrity of these two European sites (ER 5.5.1). The Secretary of State notes that this assessment concluded that the Development would not adversely affect the integrity of the two European sites and qualifying features considered in the Stage 2 assessment (ER 5.5.5). The Secretary of State notes that a final and signed Statement of Common Ground was signed with NE

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<sup>1</sup> The term “European Site” in the ExA’s Report and in this decision letter includes Ramsar Sites.

confirming that all matters were agreed, and that the Applicants' conclusions were not disputed by NE or any other Interested Party (ER 5.5.6).

#### Secretary of State's consideration

44. The Secretary of State for Transport, as the competent authority for transport NSIPs, has given consideration to the assessment material submitted during the Examination and considers that likely significant effects in relation to construction and/or operation could not be ruled out. The Secretary of State therefore considered an AA should be undertaken to discharge his obligations under the Habitats Regulations. This is attached at Annex A of this letter.
45. In the Secretary of State's view, the material provided during the examination contains sufficient information to inform consideration under regulation 63 of the Habitats Regulations as to the likely impact on the European Sites. The AA has considered the conclusions and recommendation of the ExA and has taken account of the advice of the Statutory Nature Conservation Body, which in this case is NE and the views of other interested parties as submitted during the examination.
46. The Secretary of State is satisfied, that given the relative magnitude of the identified effects to the qualifying features of these European sites and where relevant, the mitigation measures in place to reduce the potential harmful effects, there would be no implications for the achievement of the conservation objectives for the relevant European sites. The Secretary of State therefore agrees with the ExA that the Development would have no adverse effect, either alone or in-combination with other plans of projects, on any European site (ER 5.6.1)

#### **Overall Conclusion on the Case for Development Consent (ER Chapter 6)**

47. The Secretary of State notes that in reaching the overall conclusions for the granting of development consent, the ExA has had regard for the NNNPS, the NPPF, the LIR and all other matters which the ExA considers to be important and relevant (ER 6.2.3). The Secretary of State considers that there is strong policy support for Proposed Developments that seek to deliver a well-functioning SRN and that this Development would assist in delivering the policy (ER 6.2.4) and that the Development is supported by both the host local authority and the neighbouring local authority (ER 6.2.1). The ExA noted that that there will be some harmful effects but many of these will be limited to the construction period and temporary, and all are mitigated as far as possible through controls secured through the recommended dDCO. The Secretary of State agrees with the ExA that all harmful effects are within the scope envisaged in the NNNPS as still being policy compliant (ER 6.2.5). The Secretary of State agrees that the strategic benefits of the Proposed Development in addressing existing and predicted congestion, improving use experience of the A30 and enhancing connectivity and economic benefits in the region, are significant, and as such, these matters outweigh any negative impacts identified in relation to the construction and operation of the Proposed Development (ER 6.3.1).

#### **Compulsory Acquisition and Related Matters (ER Chapter 7)**

48. The Secretary of State notes that article 33 of the DCO permits the undertaker to take temporary possession ("TP") of the land in Schedule 7 and any other Order land in respect of which no notice of entry has been served and no declaration has been

made (that is, this permits the Applicant to take TP of any land which is subject to compulsory acquisition ("CA")) (ER 7.2.2). The Secretary of State notes that article 33(8) in the DCO as applied for would limit the undertaker's powers of CA in the land listed in Schedule 7 to the acquisition of new rights under article 26 (ER 7.2.3) or to the acquisition of subsoil of, or airspace over, that land. The Secretary of State notes that a concern arose that the effect of article 33(8) might enable the creation of undefined new rights over the land listed in Schedule 7, despite there being no indication of that possibility in the Statement of Reasons and the Book of Reference and despite that land being shown as required for TP on the land plans (ER 7.2.4). The Secretary of State notes that the Applicant proposed amendments to article 33(8) which would limit the power to create new rights in Schedule 7 land so that it could only be exercised for the purposes for which TP may be taken, as described in Schedule 7. However, the ExA remained concerned that, while this approach would limit the power to create new rights, it would still not define specifically what new rights were being sought (ER 7.2.8). Further clarification was sought from the Applicant by the Secretary of State through further consultation and the Applicant stated that it had not identified a specific need to create permanent rights over any of the land in Schedule 7 at this point but that article 33(8) provides important flexibility to the Applicant to do so should the creation of a permanent right prove to be necessary at a future stage.

49. The Secretary of State has had regard to the fact that a number of previous DCOs have included similar provisions, but by no means all. However, the Secretary of State considers that a significant number of plots could be affected by this provision. The Secretary of State has had regard to the ExA's position that without definition of the new rights it is difficult to see how a judgement can be made on whether there is a compelling case in the public interest for authorising the CA of the new right, and the ExA's view that in the absence of consultation with the relevant landowners and persons with an interest in the land in Schedule 7 it is questionable whether these persons have been given adequate opportunity to effectively participate in the examination and receive a fair hearing in relation to the CA of new rights in this land (ER 7.2.9). The Secretary of State notes the Applicant's response to further consultation was that statutory consultation was undertaken, but the Secretary of State is not convinced in this instance that it addresses the concern of the ExA if the landowner was unclear as to the nature of the rights being sought.

50. The Secretary of State notes the ExA's consideration of CA and Related Matters at Chapter 7 and agrees with the ExA that the proposed development satisfies the tests in section 122(2) and (3) of the 2008 Act, namely that the land proposed to be compulsorily acquired is needed for the development to which the development consent relates, and that there is a compelling case in the public interest to acquire the land for the Development, outweighing the private loss that would be suffered by affected persons (ER 7.12.5). The Secretary of State agrees with the ExA that: the development for which the land is sought would be in accordance with national policy as set out in the NNNPS and development consent should be granted; the NNNPS identifies a national need for new road infrastructure of the type that is the subject of the application; the need to secure the land and rights required and to construct the development within a reasonable timeframe represent a significant public benefit to weigh in the balance; the private loss to those affected has been mitigated through the selection of the application land, and the extent of the land, rights and interests proposed to be acquired; the Applicant has explored all reasonable alternatives to the CA of the rights and interests sought, and there are no alternatives which ought

to be preferred; adequate and secure funding would be available to enable the CA within the statutory period following the Order being made; and taking these various factors together, there is a compelling case in the public interest for the CA powers sought in respect of the CA land shown on the final Land Plans. The proposal would thus comply with s122(3) of the 2008 Act (ER 7.12.8).

#### Special category land

51. The Secretary of State notes the approach taken by the ExA to plots 9/3 and 9/3a which have been treated as open space land using a precautionary approach due to its designation under the Countryside and Rights of Way Act 2000 (ER 7.8.3). The Secretary of State also considers that the area of the replacement land (plot 9/4h) to be provided to the West of Carland Cross in exchange for that land which would become part of the proposed dual carriageway would be more advantageous to the public in terms of access and quality. Further, that the Proposed Development would have an overall beneficial impact on open space with a net gain and better access to the “replacement land” and part of the remaining land than the current position (ER 7.8.10). The Secretary of State agrees with the ExA and considers that plot 9/4h satisfies the definition of “replacement land” for the purposes of section 131(12) of the 2008 Act. The Secretary of State is therefore satisfied that section 131(4) of the 2008 Act applies and that the DCO should not be subject to the Special Parliamentary Procedure (ER 7.8.13).

#### Edward Buckland Chartered Surveyors *on behalf of The Harvey Family*

52. The Secretary of State notes that the matter of acquisition of the stream and access on the eastern side of the meadow remains unresolved (ER 7.10.27) and that the Statement of Reasons indicated that the purpose for which the land (plot 8/2c) is required would relate to a “New right to construct, use, protect, inspect and maintain drainage attenuation pond no. 14, associated drainage facilities, access and landscaping” (ER 7.10.29). The Secretary of State notes that the landowners dispute that CA or permanent rights are necessary to enable the proposed development and argue that the stream is not connected to either the attenuation pond or the new A30 (ER 7.10.30). The Applicant proposed to change the status of plot 8/2c from permanent acquisition to acquisition of permanent rights but have reverted to the original proposed permanent acquisition of plot 8/2c (ER 7.10.32 and ER 7.10.33). The Secretary of State notes the ExA’s consideration of the need for CA in relation to this plot, and agrees that the stream may be required for the construction of the proposed development and that the acquisition of rights as requested at Deadline 3 should be implemented in the DCO as the Applicant has indicated that the acquisition of rights rather than permanent acquisition would provide the necessary access for maintenance (ER 7.10.35 and ER 7.10.36). The Secretary of State notes that in relation to the rest of the affected land there is nothing in this objection that would prevent the grant of the CA or TP powers sought and agrees that there is a compelling case for the CA and TP powers sought (ER 7.10.38).

#### Scottish Power Renewables (UK) Ltd (“SPR”)

53. The Secretary of State notes that SPR sought to ensure that both the Eastern and Western Arrays of their windfarm could be accessed safely and efficiently during both

construction and operation of the Development (ER 7.10.40). The Secretary of State sought further clarification on the status of the legal agreement between the Applicant and SPR and issued a consultation letter on 28 November 2019. The Secretary of State notes from the Applicant's and SPR's response that a legal agreement has not yet been reached and therefore the DCO should include appropriate protective provisions to protect the interests of SPR. The Secretary of State notes that competing protective provisions were submitted by the two parties and agrees with the ExA that the provisions relating to arbitration in the DCO provide sufficient protection to SPR, and that a wide-ranging indemnity provision would not be appropriate (ER 7.10.46-48). The Secretary of State agrees with the ExA that the appropriate protective provisions for SPR, which would provide the protection needed for SPR without leaving the Proposed Development in a situation that could mean that it would be delayed unnecessarily, would be those set out by the Applicant (ER 7.10.48). The Secretary of State agrees with the ExA that with the protective provisions in place, the various land plots subject to permanent acquisition, TP, and acquisition of rights could be taken without serious detriment to the carrying on of SPR's undertaking and that there is nothing to prevent the grant of the CA and TP powers as requested by the Applicant (ER 7.10.53).

#### Western Power Distribution (South West) PLC ("WPD")

54. The Secretary of State notes that WPD does not object to the Development but is concerned to ensure it can continue to deliver its own statutory duties (ER 7.10.60). The Secretary of State sought further clarification on the status of the legal agreement and WPD and issued a consultation letter on 28 November 2019. The Secretary of State notes from the response issued by Osborne Clark LLP (who are acting for WPD) that the agreement between WPD and HE was completed on 26 November 2019 and as such, WPD has withdrawn its objection to the Development.

### **General Considerations**

#### Equality Act 2010

55. The Secretary of State has had regard to the public sector equality duty set out in section 149(1) of the Equality Act 2010 and the need to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not share it. The Secretary of State has concluded in light of the ExA's findings and conclusions that the Development is not likely to result in any significant differential impacts on any of the protected characteristics referred to in section 149(7). On that basis there is no breach of the public sector equality duty.

#### Natural Environment and Rural Communities Act 2006

56. The Secretary of State, in accordance with the duty in section 40(1) of the Natural Environment and Rural Communities Act 2006 ("the 2006 Act") must have regard to the purpose of the conservation of biodiversity and must in particular have regard to the United Nations Environmental Programme on Biological Diversity of 1992 when making a decision on whether to grant development consent. The Secretary of State notes that the ExA has had regard to the 2006 Act and biodiversity duty in the relevant sections of Chapter 4 and 5 of the Report. In reaching a decision to grant

development consent, the Secretary of State has had due regard to conserving biodiversity.

### **Secretary of State's overall conclusions and decision**

57. For all the reasons set out in this letter and the ExA's Report, the Secretary of State considers that there is a clear justification for authorising the Development. The Secretary of State has therefore decided to accept the ExA's recommendation at ER 9.2.1 and grant development consent, subject to the changes in the Order mentioned in paragraph 58. The Secretary of State is satisfied that none of these changes constitute a material change and is therefore satisfied that it is within the powers of section 114 of the 2008 Act for the Secretary of State to make the Order as now proposed.

### **Modifications to the Order by the Secretary of State**

58. The following modifications have been made to the Order

- The definition of "environmental masterplan" has been removed from article 2 as the term is only used in requirement 5 in Schedule 2. The term has been defined in sub-paragraph (5) of that requirement.
- The definition of "limits of deviation" has been removed from article 2 as the term is only used in article 8, which is the article in which the term is defined.
- The definition of "maintain" has been extended to refer to works not giving rise to any materially new or materially different environmental effects from those identified in the Environmental Statement. This has been carried over into the other provisions that contain this wording.
- The definition of "the special category land plans" has been removed from article 2 as the term is only used in Schedule 10 (documents to be certified by the Secretary of State).
- The definition of "the tribunal" has been removed from article 2 as the term is only used in article 47 (arbitration). The term has now been set out in full in article 47.
- In article 4 (disapplication legislation etc.) the references to articles 33 (temporary use of land for carrying out the authorised development) and 34 (temporary use of land for maintaining the authorised development) have been inserted.
- Article 33(8) has been amended to remove the reference to sub-paragraph (a) which provided for the acquisition of new rights over any part of the land to be acquired under article 26. However, there is no crossover of any land referred to in Schedules 5 and 7.
- The definition of "hedgerow" in article 39(6) has been reworked to refer to a "Cornish hedge".
- Article 48 (appeals relating to the Control of Pollution Act 1974) has been removed. There is sufficient cover by virtue of the arbitration clause or by virtue of the appeal provisions to the Magistrates' Court under the 1974 Act.
- The reference to "approximately" was removed from Schedule 1 in light of article 2(3).
- In Schedule 2, a definition of "European protected species" has been inserted into paragraph 1.
- In Schedule 2, Requirements 3(1) and 12(1) to impose a requirement to consult the Defence Infrastructure Organisation on matters concerning its functions.

- In Schedule 5, Land Plans - Sheet 8, the reference to 8/2c has no entry in column 3. It is an amendment made by the Examining Authority. Amendments will be needed to Sheet 8 of the Land Plans and the Book of Reference.

**Challenge to decision**

59. The circumstances in which the Secretary of State's decision may be challenged are set out in the note attached at Annex B to this letter.

**Publicity for decision**

60. The Secretary of State's decision on this application is being publicised as required by section 116 of the 2008 Act and regulation 31 of the 2017 Regulations.

Yours faithfully,

**Richard Serlin**

**Annex A**

**HABITATS REGULATIONS ASSESSMENT FOR AN  
APPLICATION UNDER THE PLANNING ACT 2008**

**A30 CHIVERTON TO CARLAND CROSS**

**06 FEBRUARY 2020**

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- Annex 1 Documents used to inform this HRA Report
- Annex 2 Conservation Objectives

# 1. INTRODUCTION

## Background

- 1.1. This document is a record of the Habitats Regulations Assessment ("HRA") that the Secretary of State for Transport has undertaken under regulation 63 of the Conservation of Habitats and Species Regulations 2017 ("the Habitats Regulations") in respect of the Development Consent Order ("DCO"), for the proposed A30 Chiverton to Carland Cross project ("the Development"). This document ("the HRA Report") includes an appropriate assessment for the purposes of regulation 63 of the Habitats Regulations.
- 1.2. Highways England ("the Applicant") applied to the Secretary of State for a DCO under section 37 of the Planning Act 2008 ("PA 2008") for the Development. The Development to which the Application relates is described in more detail in section 2 of this HRA Report.
- 1.3. The Development constitutes a Nationally Significant Infrastructure Project (NSIP) by virtue of it being the "construction" of a highway within the meanings of sections 14(1)(h), 22(1)(a) and 22(2) of the PA2008. The application for the Development was accepted for examination by the Planning Inspectorate ("the Inspectorate") (under the delegated authority of the Secretary of State) on 9 August 2018.
- 1.4. The Secretary of State for the Ministry of Housing, Communities and Local Government appointed Heidi Cruickshank as the Examining Authority ("ExA") for the Application on 2 November 2018. The examination commenced on 6 February 2019.
- 1.5. The Applicant submitted two requests to make changes to the Development to which the Application relates during the examination. The Applicant requested four changes to the Application on 24 April 2019, and two on 18 June 2019. The Applicant also provided an update on the previous requests for amendments to the scheme on 4 July 2019.
- 1.6. These changes were accepted as non-material amendments by Procedural Decisions from the ExA issued on 1 July 2019 and 22 July 2019 respectively. The Applicant had produced revised / updated application documents as relevant in support of these non-material amendments.
- 1.7. The examination concluded on 6 August 2019. The ExA submitted the report of the examination, including its recommendation ("the ExA's Recommendation Report") to the Secretary of State on 6 November 2019. The Secretary of State's conclusions in relation to European sites have been informed by the ExA's report and the documents submitted during the examination as described below.

## Habitats Regulations Assessment

- 1.8. Council Directive 92/43/EEC ("the Habitats Directive") and Council Directive 2009/147/EC ("the Birds Directive") provide for the designation of sites for the protection of certain species and habitats. The sites designated under these Directives are collectively termed European sites and form part of a network of

protected sites across Europe, known as the Natura 2000 network. In the UK the Habitats Regulations transpose these Directives into national law and apply up to the 12 nautical mile limit of territorial waters.

- 1.9. The UK Government is also a signatory to the Convention on Wetlands of International Importance 1972 ("the Ramsar Convention"). The Ramsar Convention provides for the listing of wetlands of international importance. UK Government policy is to give sites listed under this convention ("Ramsar sites") the same protection as European sites.
- 1.10. For the purposes of this HRA Report, in line with the Habitats Regulations and relevant Government policy, the term European sites includes Special Areas of Conservation (SAC), Special Protection Areas (SPA), candidate SACs (cSAC), potential SPAs (pSPA), possible SACs (pSAC), Sites of Community Importance (SCI), listed and proposed Ramsar sites and sites identified or required as compensatory measures for adverse effects on any of these sites.
- 1.11. Regulation 63 of the Habitats Regulations requires that:

*"(1) A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which-*

*(a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and*

*(b) is not directly connected with or necessary to the management of that site,*

*must make an appropriate assessment of the implications of the plan or project for that site in view of that site's conservation objectives..."*
- 1.12. The Development is not connected with or necessary to the management of any European sites. Accordingly, the Secretary of State for Transport, as the competent authority for the purposes of Transport NSIPs under the PA2008, has undertaken an assessment in line with the requirements of the Habitats Regulations. This HRA Report is the record of the appropriate assessment for the purposes of regulation 63 of the Habitats Regulations.

### **The Report on the Implications for European Sites and Consultation with the Appropriate Nature Conservation Body**

- 1.13. The ExA, with support from the Inspectorate's Environmental Services Team, produced a Report on the Implications for European Sites ("the RIES"). The purpose of the RIES was to compile, document and signpost information submitted by the Applicant and Interested Parties ("IPs") during the examination up to deadline 9 of the examination. It was issued to ensure that IPs, including Natural England ("NE") as the appropriate nature conservation body in respect of the Application for the Development, had been formally consulted on Habitats Regulations matters during the examination. The consultation period ran between 21 May 2019 and 18 June 2019.
- 1.14. Regulation 63(3) of the Habitats Regulations requires competent authorities (in this case the Secretary of State), if they undertake an appropriate assessment, to consult the appropriate nature conservation body and have regard to any representations made by that body.

- 1.15. NE made submissions on 17 June 2019 in response to the ExA's first and further written questions but did not comment on the RIES. However, a signed Statement of Common Ground ("SoCG") was agreed between the Applicant and NE and submitted to the examination on 19 March 2019. The SoCG confirmed that all matters relating to HRA were agreed between the two parties, and that there were no matters outstanding between them in relation to this or any other aspect of the Development.
- 1.16. The Secretary of State is satisfied that NE have been consulted and has been given suitable opportunities to make representations in accordance with regulation 63(3) of the Habitats Regulations.

### **Changes to the Application during Examination**

- 1.17. In respect of the non-material amendments to the Application described above and at paragraphs 2.3.6 – 2.3.10 of the ExA's Recommendation Report, the Secretary of State is satisfied that the changes constituted non-material amendments that did not have any bearing on HRA matters. The Secretary of State is therefore satisfied that the findings in the Applicant's HRA Report (as described below) are unaffected by the non-material amendments.

### **Documents Referred to in this HRA Report**

- 1.18. This HRA Report has taken account of and should be read in conjunction with the documents produced as part of the application and examination as listed in Annex 1 to this HRA Report.
- 1.19. The Applicant submitted a report entitled 'Statement to Inform an Appropriate Assessment Report' ("the SIAA") as part of their DCO application. This is the principal document prepared by the Applicant in support of HRA matters. The SIAA was accompanied by a total of ten appendices as follows:
- Appendix 1 - Screening Matrices
  - Appendix 2 - Integrity Matrices
  - Appendix 3 - Air Quality Calculations
  - Appendix 4 - Natura 2000 Citations
  - Appendix 5 - NVC Habitat mapping for the area around the A30 at Breney Common SAC
  - Appendix 6 - Habitat within 10M of the A30 at Breney Common SAC
  - Appendix 7 - European Sites Air Quality Screening Process
  - Appendix 8 - Key Correspondence with Natural England relating to HRA
  - Appendix 9 - Marsh Fritillary Habitat
  - Appendix 10 - DMRB Screening Matrices

### **Structure of this HRA Report**

1.20. The remainder of this HRA Report is presented as follows

- Section 2 provides a general description of the Development.
- Section 3 describes the location of the Development and its relationship with European sites.
- Section 4 identifies the European sites and qualifying features subject to likely significant effects, alone or in-combination with other plans or project.
- Section 5 considers adverse effects on the integrity of European sites, alone or in-combination with other plans or projects.
- Section 6 summarises the Secretary of State's appropriate assessment and HRA conclusions.

## 2. DEVELOPMENT DESCRIPTION

- 2.1. The Development comprises the construction of 14km (8.7 miles) of a new dual two lane rural all-purpose road (D2AP) standard. The Development also involves the de-trunking of the existing A30 trunk road between Chiverton and Carland Cross and the provision of new bridges and accesses across the proposed road and the existing A30.
- 2.2. Approximately 12.7km (7.9miles) of the existing A30 would be de-trunked and downgraded to county road status. The Development also includes for the construction and alteration of local roads to maintain connectivity.
- 2.3. The Development connects the existing A30 Blackwater Bypass near to the Chiverton Cross roundabout (at the western extent) and the Mitchell Bypass located approximately 500m east of the Carland Cross roundabout (at the eastern extent).
- 2.4. The existing Chiverton Cross and Carland Cross roundabouts are to be replaced with new grade separated all-movement gyratory junctions. A grade separated restricted movement dumbbell junction is also to be included at Chybucca.
- 2.5. Associated development includes the realignment and/or provision of off-road routes for pedestrian, cycle and equestrian use, drainage works and the diversion of utilities along the length of the re-aligned A30 and around the replacement / reconfigured junctions.
- 2.6. A detailed description of the Development is provided in Chapter 2 of the ES (section 2.6). The design of the Development is also set out on Figures 2.1 (General Arrangement plans) and 7.6 (Environmental Masterplans) of the ES.
- 2.7. The construction of the Development is expected to take approximately 30 months, including two full earthworks seasons and excluding advanced / preparatory works that may be required, as set out below.
- 2.8. The construction would broadly involve the following activities:
  - Advanced / preparatory works to be undertaken prior to construction, including vegetation clearance, major utility diversions archaeological testing and works associated with the de-trunking of the existing A30;
  - Site establishment (including two main construction compounds for traffic management, material storage, offices, fuel storage, washout facilities and waste segregation areas. Separate compounds will be required for the junction and side road overbridge and underbridge construction);
  - Main construction works involved in the scheme drainage and bulk earthworks;
  - Junction bridge structure construction at Chiverton, Chybucca and Carland Cross;
  - Road works and other associated side road, non-motorised user and ecology structures; and

- Tie-ins and soft landscaping works.

- 2.9. Chapter 2 of the ES (section 2.7) provides further detail on the construction phase including: programme and sequencing of activities, environmental management, access and construction traffic management, waste management and effects on public rights of way.
- 2.10. In terms of operation and maintenance, the overall approach for the Development is stated by the Applicant as being "normal for a D2AP". Maintenance operations would include routine activities required on a cyclical or regular basis (with potential for infrequent, non-routine activities with less predictable access requirements).
- 2.11. The Development includes lay-bys and access provisions for maintenance of drainage, landscaping and other works. Some maintenance activities would require lane closures, carriageway closures (the existing A30 single carriageway could be used as the diversion route) or contraflow arrangements.
- 2.12. Decommissioning and / or demolition works at the end of the Development's operational life are yet to be determined. The Applicant has advised that the design life for the operation of the Development is 120 years.
- 2.13. The potential effects on European sites associated with the construction, operation and decommissioning of the Development are addressed in section 4 of this HRA Report.

### 3. PROJECT LOCATION AND RELATIONSHIP WITH EUROPEAN SITES

#### Location and Existing Land Use

- 3.1. The existing A30 is one of two trunk roads connecting the counties of Devon and Cornwall. The Development at the Chiverton to Carland Cross section of the A30 lies 9km north west of Truro and the existing route serves the populations of Chiverton, Marazanvose, Zelah, Mitchell and Carland Cross in a predominantly rural location
- 3.2. The receiving landscape for the Development is largely agricultural. The existing route is flanked by grass verges, trees, hedgerows, as well as isolated and small groups of residential dwellings, farms, other businesses and renewable energy installations.
- 3.3. There are several watercourses in the vicinity of the Development connecting to the River Allen, Kenwyn, Tresillian, and Tinney.
- 3.4. The Newlyn Downs Special Area of Conservation (SAC) is located north west of Carland Cross. Several SSSI, County Wildlife Sites and Cornwall Wildlife Trust (CWT) Reserve sites are also located within proximity of the Development.
- 3.5. Figures 1.3 and 7.7 of the ES depict these sites in relation to the Development on an environmental constraints plan and environmental masterplan respectively.

#### European Sites Potentially Affected by the Development

- 3.6. The Order limits of the Development do not overlap with the boundaries of any European sites. The Applicant's SIAA identifies four European sites for which there could be pathways of effect from the Development. These four European sites were identified, in accordance with DMRB HD 44/09<sup>2</sup> site location criteria as set out in Table 1 below.

**Table 1 European sites potentially affected by the Development**

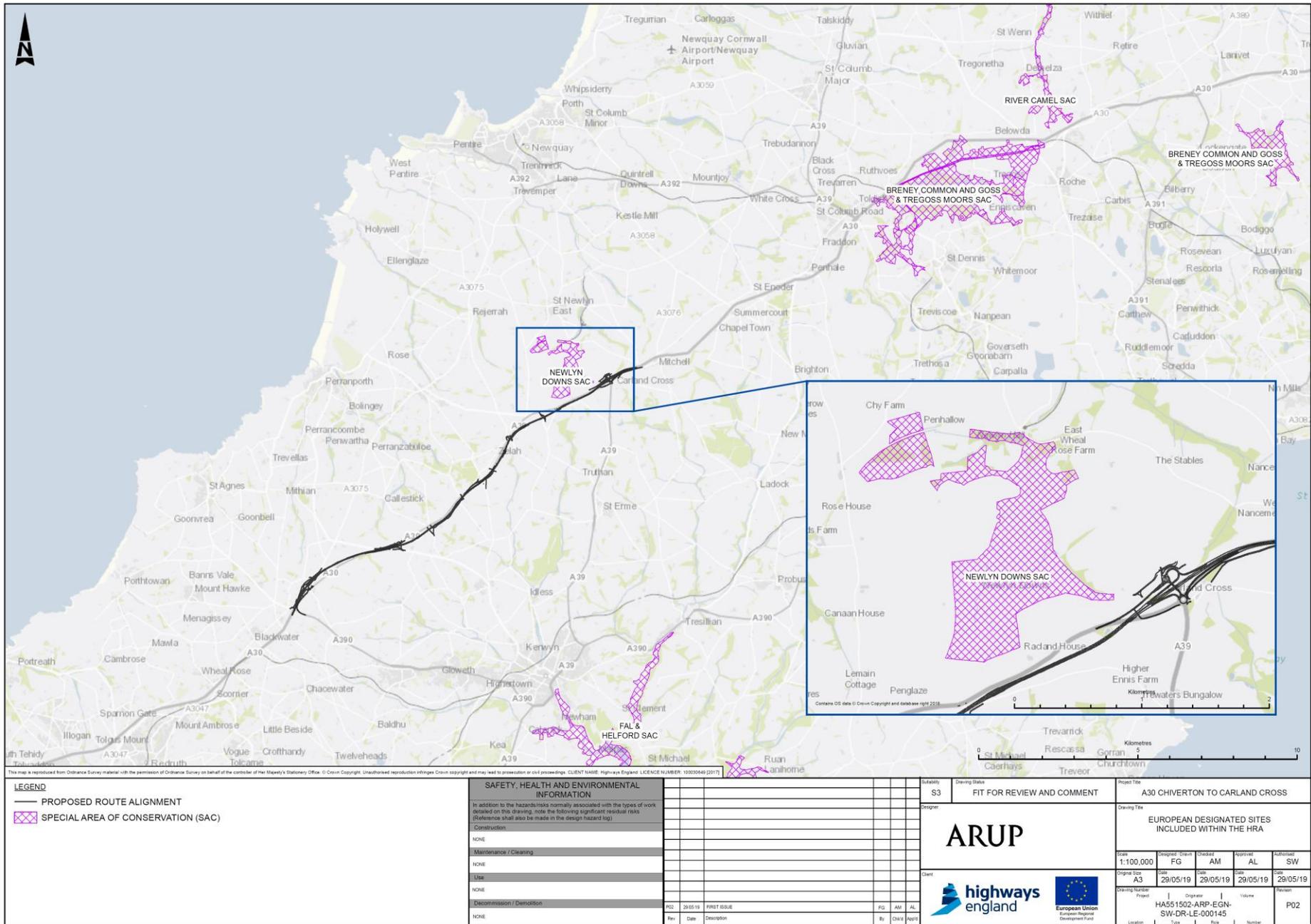
European site location criteria	European site(s) identified
Sites within 2km of the Development	<ul style="list-style-type: none"> <li>• Newlyn Downs SAC</li> </ul>
Sites where bats are a primary qualifying feature within 30km of the Development	<ul style="list-style-type: none"> <li>• None identified</li> </ul>
Sites where wintering birds are qualifying features within 5km of the Development	

<sup>2</sup> DMRB Volume 11 Section 4 Part 1 (HD 44/09) Environmental assessment. Assessment of implications on European Sites. Assessment of implications (of highways and/or roads projects) on European Sites (including appropriate assessment)

<b>European site location criteria</b>	<b>European site(s) identified</b>
Sites where the Development is crossing/adjacent to upstream of, or downstream of, designated (i.e. in hydrological connectivity with the Development)	<ul style="list-style-type: none"> <li>• Fal and Helford SAC</li> </ul>
Sites within 200m of roads affected by changes in air quality from the Development	<ul style="list-style-type: none"> <li>• Newlyn Downs SAC</li> <li>• River Camel SAC</li> <li>• Breney Common and Goss and Tregoss Moors SAC</li> </ul>

- 3.7. The location of the Development in relation to the four identified European sites is shown in Figure 1 below (provided by the Applicant as Appendix A of document 8.21 (responses to the ExA’s second written questions)). As noted in paragraph 5.2.2 of the ExA’s Recommendation Report, the order limits of the Development are within c. 35m of the Newlyn Downs SAC (as the nearest European site), albeit c. 180m from the route alignment of the Development itself. The distances to the identified European sites and relevant pathways of effect are considered further in section 4 and Table 2 of this HRA Report.
- 3.8. No evidence was presented during the examination to suggest that effects from the Development could occur to any other European site.
- 3.9. The Secretary of State is therefore satisfied that no other European site needs to be addressed in this HRA Report and agrees with the findings of the ExA at paragraph 5.2.8 of the Recommendation Report in this regard.
- 3.10. The Secretary of State is also satisfied that the Development is not directly connected with or necessary to the management of any European site, as stated by the Applicant in paragraph 3.3.3 of the SIAA.

**Figure 1 Location of the Development in relation to European sites potentially affected**



## 4. ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS (LSE)

### Potential Effects from the Development

- 4.1. Section 3.2 of the SIAA outlines the Applicant's approach to screening for LSE, including the regard given to the judgement of the European Court of Justice (ECJ) in respect of *People Over Wind, Peter Sweetman v Coillte Teoranta*<sup>3</sup> around taking account of any measures intended to avoid or reduce the harmful effects at the LSE screening stage.
- 4.2. Section 4.3 of the SIAA identified the following potential effects which could occur as a result of construction, operation and decommissioning activities necessary for the Development:
- Changes in air quality from atmospheric pollution associated with increased traffic;
  - Changes in air quality from atmospheric pollution associated with construction activities<sup>4</sup>;
  - Changes in water quality;
  - Loss or degradation of habitat supporting qualifying features;
  - Impacts on the management of the site;
  - Changes in hydrological conditions; and
  - Spread of invasive/non-native species.
- 4.3. There is also a summary in paragraph 4.3.3 of the SIAA as to the reasons for other pathways of impact having been considered and excluded from further assessment, including:
- Loss of habitats through direct land-take;
  - Severance, where a scheme may create a barrier and divide existing habitats or wildlife corridors (e.g. Hedgerows);
  - Creatures being killed trying to cross a road which cuts across their traditional territory or foraging routes;
  - Disturbance of species; and
  - Effects of road lighting.

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<sup>3</sup> <http://curia.europa.eu/juris/document/document.jsf?docid=200970&doclang=EN>

<sup>4</sup> This is not listed at paragraph 4.3.1 of the SIAA as one of the 'potential impacts of the scheme' but is listed in section 5.1 (paragraph 5.1.3) as one of the 'impacts with the potential to lead to significant effects'.

- 4.4. No evidence was presented during the examination that the Development was likely to give rise to any other effects on European sites than had been considered by the Applicant as set out at paragraph 4.1 above.

**Sites and Features which could be Affected**

- 4.5. The Applicant's SIAA screened the sites and qualifying features listed in Table 2 to establish if significant effects were likely. The Secretary of State is content that this list includes all of the sites and qualifying features which require consideration given the nature, scale and location of the Development.

**Table 2 Sites screened into Applicant's SIAA**

Name of European site and location in relation to the Development	Qualifying features	Pathways of effect
<p><b>Newlyn Downs SAC</b></p> <p>(c. 35m from the order limits and c. 180m from the route alignment of the Development)</p>	<ul style="list-style-type: none"> <li>• Temperate Atlantic wet heaths with <i>Erica ciliaris</i> and <i>Erica tetralix</i></li> <li>• European dry heaths</li> </ul>	<ul style="list-style-type: none"> <li>• Changes in air quality from atmospheric pollution associated with increased traffic</li> <li>• Changes in air quality from atmospheric pollution associated with construction activities</li> <li>• Changes in water quality / changes in hydrological conditions during construction and operation</li> <li>• Impacts on the management of the site</li> <li>• Inappropriate management (introduction of invasive species)</li> </ul>
<p><b>Fal and Helford SAC</b></p> <p>(6.4km downstream, south of the Development)</p>	<ul style="list-style-type: none"> <li>• Sandbanks which are slightly covered by sea water all the time</li> <li>• Mudflats and sandflats not covered by seawater at low tide</li> <li>• Large shallow inlets and bays</li> <li>• Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>)</li> <li>• Estuaries</li> <li>• Reefs</li> <li>• Shore dock <i>Rumex rupestris</i></li> </ul>	<ul style="list-style-type: none"> <li>• Changes in water quality</li> </ul>

Name of European site and location in relation to the Development	Qualifying features	Pathways of effect
<p><b>Breney Common and Goss and Tregoss Moors SAC</b></p> <p>(9.2km northwest of the Development)</p>	<ul style="list-style-type: none"> <li>• Northern Atlantic wet heaths with <i>Erica tetralix</i></li> <li>• European dry heaths</li> <li>• Transition mires and quaking bogs</li> <li>• Marsh fritillary butterfly <i>Euphydryas (Eurodryas, Hypodryas) aurinia</i></li> </ul>	<ul style="list-style-type: none"> <li>• Changes in air quality from atmospheric pollution associated with increased traffic</li> </ul>
<p><b>River Camel SAC</b></p> <p>(15.7km northwest of the Development)</p>	<ul style="list-style-type: none"> <li>• European dry heaths</li> <li>• Old sessile oak woods with Ilex and Blechnum in the British Isles</li> <li>• Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion, Alnion incanae, Salicion albae</i>)</li> <li>• Bullhead (<i>Cottus gobio</i>)</li> <li>• Otter (<i>Lutra lutra</i>)</li> <li>• Atlantic salmon (<i>Salmo solar</i>)</li> </ul>	<ul style="list-style-type: none"> <li>• Changes in air quality from atmospheric pollution associated with increased traffic</li> </ul>

## **Conservation Objectives**

- 4.6. The conservation objectives for European sites define the desired state for a European site when it will contribute to favourable conservation status for the designated features. The conservation objectives, as published by NE and the Joint Nature Conservation Committee are provided in Annex 2 of this HRA Report.

## **Assessment of In-combination Effects**

- 4.7. Paragraphs 3.3.47 - 3.3.59 of the Applicant's SIAA describes the process for the identification of other plans and projects which were reviewed for potential in-combination effects with the Development on European sites. The projects assessed in the SIAA were based on the following:
- Cornwall Council current planning applications within 2km;
  - Local policies from the Cornwall Local Plan Strategic Policies (2010-2030) and Truro and Kenwyn Neighbourhood Development Plan; and
  - Other relevant NSIPs which are recorded on the Planning Inspectorate's Programme of Projects.
- 4.8. In terms of air quality effects from increased road traffic, paragraphs 3.3.58 – 3.3.59 of the SIAA explain that that Trip End Model Presentation Program (TEMPRO) modelling on which the assessments are based takes into account forecast traffic growth based on the combined background growth and relevant other developments (identified through review of the local plan and major planning applications, as set out in Section 5.2 of the Transport Reports, document 7.4). As such, the Applicant explains that the air quality assessment informing the SIAA addresses in-combination impacts arising from traffic growth.
- 4.9. Chapter 15 of the ES outlines the approach for each assessment topic and the relevant 'other developments' identified within the in-combination assessment. In-combination impacts with a total of 75 other developments were considered by the Applicant, reducing to a 'short list' of 11 relevant other developments (using criteria provided in Table 13-5 of ES Chapter 15). The list of relevant other developments to the SIAA in-combination effects was presented in Annex 2 of the RIES.
- 4.10. Having considered the list presented in the SIAA and ES Chapter 15, the Secretary of State is content that all plans and projects with the potential to have in-combination effects have been identified, and that the scope of the in-combination assessment was not the subject of any dispute during the examination. The list of plans and projects considered by the Secretary of State for the purposes of this HRA Report remains as was presented in Annex 2 of the RIES.

## **LSE Screening Conclusions**

- 4.11. The SIAA concludes that the Development would have no likely significant effect, either alone or in-combination with other plans or projects, on any of

the qualifying features of the Fal and Helford SAC and River Camel SAC from any of the impact pathways identified.

- 4.12. The Development is located at some distance from the Fal and Helford SAC with neutral effects on water quality anticipated, and on this basis, LSE has been ruled out. Air quality modelling predicts that although levels of NO<sub>x</sub> would increase slightly above baseline conditions with the Development, the levels would remain considerably lower than the critical level/limit values for the relevant qualifying features and therefore LSE were also ruled out for River Camel SAC.
- 4.13. These conclusions are summarised in section 5.3.1 of the SIAA.
- 4.14. In relation to the Newlyn Downs SAC, the Applicant concluded that LSE could be excluded for all qualifying features from the following impacts:
- Habitat degradation caused by changes in air quality during operation (alone and in-combination);
  - Increases in predicted NO<sub>x</sub> levels (alone and in-combination) considering that existing levels are considerably below the critical level/limit values for the relevant qualifying features and are either equal to or only slightly higher than baseline conditions; and
  - Impacts to land relevant to the management arrangements of the European site (alone). No LSE is concluded on the basis that an area of land (to be secured by agreement) can be converted to grazing land ensuring that cattle can continue to be used to graze the European site.
- 4.15. In relation to the Breney Common and Goss and Tregoss Moors SAC, the Applicant concluded that LSE could not be excluded for impacts from the Development alone and in-combination for all qualifying features (as a result of changes in air quality from atmospheric pollution associated with increased traffic increased traffic).
- 4.16. The SoCG between NE and the Applicant stated that NE agreed with the Applicant's assessment conclusions in the SIAA.
- 4.17. The Secretary of State considers that the screening exercise carried out by the Applicant in the SIAA is appropriate and agrees that there are no LSEs for the Fal and Helford SAC and River Camel SAC for the Development alone or in-combination with other plans and projects for the impact pathways and qualifying features presented in Table 2 above.
- 4.18. Similarly, the Secretary of State agrees that LSE to the Newlyn Downs SAC (alone and in-combination) can be excluded in relation to changes in air quality during operation.
- 4.19. The potential for LSE in relation to the reduction of grazing land (supporting the management of the Newlyn Downs SAC) is considered by the Applicant in paragraphs 3.3.43 – 3.3.46 in the SIAA (and paragraphs 1.2.39 – 1.2.45 of SIAA Appendix 1)<sup>5</sup>. In particular, footnote 6 of the SIAA explains that an

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<sup>5</sup> Paragraph 3.3.43 of the SIAA states that “Cattle are required on the European Site during the growing season to suppress scrub and grasses in order to prevent the qualifying heathland species being outcompeted”

existing management agreement is in place between NE and a tenant farmer (land manager) which allows cattle grazing on land parcels adjacent to the SAC to access the SAC over winter (the adjacent land parcels would be affected by the Development).

- 4.20. The land manager stated that the Applicant's calculation of 4ha<sup>6</sup> of existing grazing land being lost to the Development would, "*significantly constrain*" the continuation of existing management arrangements in relation to the European site.
- 4.21. The Secretary of State considers that the loss of approximately 4ha of grazing land does not represent either a direct or indirect effect on the European site. Any impacts that might occur would not be within the European site, would not concern functionally linked land and would not expressly prohibit continuation of the European site's management practices. However, both NE and the land manager have requested that existing management arrangements are maintained.
- 4.22. The Secretary of State notes that there is approximately 37.7ha of suitable arable land adjacent to the European site available to effectively address the loss resulting from the Development. The SIAA confirms this land is capable of conversion to pasture for the purpose of maintaining current management arrangements (paragraph 1.2.44 of SIAA Appendix 1). The Secretary of State is satisfied that the maintenance of existing management arrangements is not a matter specifically relevant to the findings of LSE in this HRA Report. The Secretary of State is also satisfied that the conversion and management of this additional land is capable of being secured via separate agreement with the land manager to the satisfaction of NE.
- 4.23. The Secretary of State is therefore content that there is no LSE on the SAC from the reduction of adjacent grazing land and that there are equally no relevant pathways of in-combination effect in this regard.

#### LSE Summary

- 4.24. The Secretary of State is content that the correct European sites and features have been identified and assessed in relation to LSE. The Secretary of State is also content that the correct European sites, features and effects are identified as requiring an appropriate assessment by the Secretary of State as the competent authority. These sites and relevant LSEs are summarised as follows (for the Development alone and in-combination with other plans and projects):
- Newlyn Downs SAC
    - Habitat degradation caused by increased dust levels during construction
    - Changes in water quality / changes in hydrological conditions during construction and operation
    - Introduction of invasive species

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<sup>6</sup> This figure is referred to paragraph 1.2.42 of SIAA Appendix 1, but a figure of "*approximately 2.67ha*" is stated in the Applicant's SoCG with NE. For the purposes of this HRA Report, the Secretary of State refers to the 4ha figure as set out in the SIAA.

- Breney Common and Goss and Tregoss Moors SAC
  - Habitat degradation resulting from changes in air quality as a result of increased traffic flows.

4.25. These issues are considered further in the following section of this HRA Report.

## 5. APPROPRIATE ASSESSMENT

- 5.1. As LSE cannot be excluded, the Secretary of State, as the competent authority is required to undertake an appropriate assessment to determine the implications for the conservation objectives of the affected European sites. In line with the requirements of regulation 63 of the Habitats Regulations, the competent authority:

*'...may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site...In considering whether a plan or project will adversely affect the integrity of the site, the competent authority must have regard to the manner in which it is proposed to be carried out or to any conditions or restrictions subject to which it proposes that the consent, permission or other authorisation should be given'.*

- 5.2. As noted in section 1 of this HRA Report, the competent authority is obliged to consult the appropriate nature conservation body and have regard to any representations made by that body. For this purpose, the ExA prepared a RIES as set out in paragraphs 1.13 - 1.16 of this HRA Report, and the Secretary of State is satisfied that NE have been consulted in line with regulation 63 of the Habitats Regulations.
- 5.3. If the competent authority cannot exclude adverse effects on the integrity of the affected European sites on the basis of objective scientific evidence, then it can only consent a plan or project if it complies with the requirements of regulation 64 of the Habitats Regulations. This means that there must be no alternative solutions to the delivery of the plan or project that would have lesser effects on the European sites, the plan or project must be delivered for imperative reasons of overriding public interest. In addition, regulation 68 requires compensatory measures to be secured which maintain the overall coherence of the Natura 2000 network.

### **Adverse Effects on the Integrity of the European sites**

#### Newlyn Downs SAC

##### *Habitat degradation caused by dust during construction*

- 5.4. The Applicant's conclusion in the SIAA is that adverse effects on the integrity of the Newlyn Downs SAC from dust during construction would not occur. At its closest point, the European Site is located approximately 35m from the site boundary, although the area of the order limits that is located 35m from the site boundary is included for proposed heathland restoration as a part of the Development. Therefore, no significant dust generating activities will occur in this area, and the nearest such activities are located approximately 105m from the European site at its closest point. This is shown in Figure 1 of Appendix 2 to the Applicant's SIAA.

- 5.5. The Institute of Air Quality Management's (IAQM) guidance<sup>7</sup> on the assessment of dust from demolition and construction suggests that ecological receptors located beyond 50m of dust generating activities are unlikely to experience significant effects. At distances beyond 50m where the need for a more detailed assessment has been screened out, it can be concluded that the level of risk to the European site is "negligible".
- 5.6. There are no areas on the public highway and within 500m of the construction compounds that come within 50m of the European site, therefore 'tracking' impacts are not anticipated, nor are any of the construction traffic access and delivery routes to the construction compounds within the vicinity of the European site.
- 5.7. The Applicant also sets out that "*best practice mitigation measures will be implemented through an Air Quality Management Plan, as outlined in the Outline CEMP*". The outline CEMP (revision D) is provided as Document Ref 6.4 (Appendix 16.1 of the ES) and is a certified document under DCO article 45. CEMPs for each part of the Development must be prepared in substantially accordance with the outline CEMP prior to the commencement of works for that part of the Development as defined by Requirement 3 in the DCO. The Secretary of State has the ultimate approval of the CEMP after consultation with the relevant planning authority and the local highway authority.
- 5.8. In particular, Annex L of the outline CEMP provides an Air Quality Management Plan which includes measures the main contractors must implement in order to limit emissions during construction from:
- Construction plant and vehicles;
  - Transportation and storage of materials;
  - Construction plant and vehicles;
  - Demolition activities;
  - Excavations and earthworks activities;
  - Drilling activities; and
  - Processing, crushing, cutting and grinding activities.
- 5.9. The Applicant does not identify any other developments within sufficient proximity (200m as stated in the DMRB) for air quality impacts on designated sites, and therefore adverse in-combination effects on the integrity of the European site resulting from changes in air quality during construction can be excluded.
- 5.10. The Secretary of State agrees that, having regard to the relative distance between the European site and the dust generating activities from the Development, along with the measures set out in the CEMP the level of risk to the is Newly Downs SAC "negligible".

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<sup>7</sup> IAQM (2014) 'Guidance on the assessment of dust from demolition and construction'  
<http://iaqm.co.uk/text/guidance/construction-dust-2014.pdf>

- 5.11. The Secretary of State also agrees with the Applicant's conclusions that adverse effects on the integrity of the Newly Downs SAC from air quality effects during construction can be excluded, alone and in-combination with other relevant plans and projects. The Secretary of State is also satisfied that the provisions for the CEMP in DCO requirement 3 secure these measures that must be implemented by the main contractor to reduce the potential for emissions from construction activities to affect the European site.

*Changes in water quality / changes in hydrological conditions during construction and operation*

- 5.12. This section considers (during construction and operation):
- Impacts on surface and groundwater quality; and
  - Hydrological changes - impacts on local groundwater levels.
- 5.13. Chapter 13 of the ES identifies one surface water receptor in proximity to the Development (c. 220m to the north) that flows through northwards through the Newlyn Downs SAC.
- 5.14. During construction, relevant mitigation for potential effects on the SAC is set out in Annexes G and H of the outline CEMP (Ground and Surface Water Management Plan and Pollution Prevention and Control Management Plan respectively). These require the following measures and will be secured through adherence with the CEMP in accordance with DCO requirement 3:
- Application of standard measures based on the Environment Agency's Pollution Prevention Guidelines (PPGs); and
  - Site-specific measures including:
    - A surface water management system (e.g. temporary silt fencing, cut off ditches, settlement ponds and bunds to capture runoff and prevent ingress of sediments and contaminants);
    - Containment and treatment of water with a higher risk of contamination (e.g. coagulation of sediments, dewatering and pH neutralisation via package treatment plants). Where it cannot be treated on site it would be exported off site for treatment at an appropriately permitted facility;
    - Areas of exposed sediment to be protected using either temporary measures or semi-permanent measures (e.g. sheeting or matting)
    - Suspension of work during out-of-bank river flow events; and
    - A water quality monitoring programme prior to and during construction works is to be agreed with the EA.
- 5.15. Taking into account the 'negligible' magnitude of any likely spillage or pollution event with these measures in place and, the relative distance of the SAC from the Development, and in view of the site's conservation objectives, the Secretary of State agrees that an adverse effect on the integrity of the European site can be excluded for the Development alone.

- 5.16. During operation of the Development, the levels of treatment (filter drains, detention ponds and grassed swales) embedded in the Development design through the drainage strategy are considered by the Applicant to be sufficient to reduce pollutants from road drainage discharges to levels acceptable in accordance with the Highways Agency Water Risk Assessment Tool (HAWRAT)<sup>8</sup>, including compliance with the Environmental Quality Standards (EQS) set out in the Water Framework Directive (Standards and Classifications) Directions 2015. This assessment is set out in further detail in Appendix 13.3 of the ES.
- 5.17. The Secretary of State is satisfied that the that the proposed drainage strategy incorporated into the design represents an overall improvement on the existing situation. Requirement 14 of the DCO precludes commencement of any part of the Development until written details of the surface and foul water drainage system for that part, reflecting the mitigation measures in Chapter 13 of the ES have been approved in writing by the Secretary of State following consultation with the relevant planning authority and the local highway authority. The ES forms a certified document under article 45 of the DCO.
- 5.18. With these measures in place, the Secretary of State agrees that there would be no adverse effect on the integrity of the European site for the Development alone.
- 5.19. The Applicant prepared a ground investigation report (Appendices 9.2 and 9.3 of the ES) to consider the potential effects of the Development on groundwater. Only the Development's proposed cutting referred to as "Penglaze Mainline Cutting", located approximately 270m to the south of the SAC, was considered to have the potential to affect groundwater levels and for those qualifying habitats that are water dependent (such as Temperate Atlantic wet heaths with *Erica ciliaris* and *Erica tetralix*) to be affected. This particular cutting is considered in detail in relation to the SAC at section 13.6 of ES Appendix 13.3.
- 5.20. The assessment concluded that the bedrock formations underlying both the Development and the SAC are unlikely to be in hydraulic continuity due to the nature of hydrogeological setting, primarily the underlying bedrock formations and geological fault lines). Therefore, the activities associated with the construction and operation of the Development would not affect the SAC in terms of groundwater.
- 5.21. The Secretary of State is satisfied that the Applicant's assessment demonstrates there would be no adverse effect on the integrity of the Newlyn Downs SAC from impacts to groundwater.
- 5.22. Turning to in-combination effects in respect of each of both water quality and hydrological changes, the Applicant has concluded that none of the 11 'shortlisted projects' as set out in Chapter 15 of the ES are within sufficient proximity to have the potential to act in-combination with the Development (due to lack of hydraulic connectivity). As such, in-combination effects can be excluded.

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<sup>8</sup> Highways Agency Water Risk Assessment Tool (HAWRAT), DMRB HD45/09 (Road Drainage and the Water Environment)

5.23. As set out in paragraphs 4.7 - 4.10 of this HRA Report, the Secretary of State is content that the SIAA and ES Chapter 15 identify the relevant plans and projects with the potential to have in-combination effects. The Secretary of State is satisfied that there would be no adverse effect on the integrity of the site in terms of surface water quality and hydrology in-combination with other plans and projects.

*Introduction of invasive species*

5.24. The Applicant concludes that the construction of the Development could result in the introduction of invasive species and potentially alter the distribution of qualifying habitats and species, and the form and function of qualifying habitats within the SAC.

5.25. The Applicant's SIAA concludes that with the construction management measures to be implemented through the outline CEMP, there would be no adverse effect on the integrity of the SAC alone or in-combination with other plans and projects. The outline CEMP (revision D) is provided as Appendix 16.1 of the ES and is a certified document under DCO article 45. CEMPs for each part of the Development must be prepared substantially in accordance with the outline CEMP prior to the commencement of works for that part of the Development as defined by Requirement 3 in the DCO. The Secretary of State retains authority for the final approval of the CEMP following consultation with the relevant planning authority and the local highway authority.

5.26. Annex D of the outline CEMP (Outline Invasive Species Management Plan) includes the following provisions around the management and control of potential spread of invasive species during construction:

- Pre-construction surveys of all areas within construction footprint to identify the location of any invasive species;
- Method Statements for preventing the spread of any invasive species to be produced as part of the detailed design stage and included within the CEMP (to include requirements that should be undertaken through site set up prior to commencement of works (e.g. toolbox talks)).

5.27. The Secretary of State is satisfied that the provisions of the outline CEMP and CEMPs to be prepared in accordance with DCO requirement 3 will be sufficient to ensure that the qualifying habitats and species (and their form and function) will not be affected by the spread of invasive species. In this regard, and in view of the relevant site conservation objectives, an adverse effect on the integrity of the European site alone and in-combination with other plans and projects can be excluded.

Breney Common and Goss and Tregoss Moors SAC

5.28. The Applicant concluded there was the potential for habitat degradation at the Breney Common and Goss and Tregoss Moors SAC resulting from potential changes in air quality as a result of increased traffic flows during operation. The site is located some 9.2km northwest of the Development.

5.29. These effects are considered in the form of:

- Nutrient nitrogen deposition; and
- NOx concentrations in air.

*Northern Atlantic wet heaths with Erica tetralix, European dry heaths and Transition mires and quaking bogs qualifying features*

- 5.30. At some of the modelled receptor points within the SAC, predicted NOx concentrations in air exceed the 30µg/m<sup>3</sup> critical level within 0-10m of the roadside. The assessments consider both NOx concentrations as well as resultant nutrient nitrogen deposition (expressed as expressed as kg N ha<sup>-1</sup> yr<sup>-1</sup>). Appendix 3 of the SIAA demonstrates that at locations 10m and beyond, there are no exceedances of the 30µg/m<sup>3</sup> critical level for the 2016 baseline, or the 'do minimum' or 'do something' future projections. Modelled effects of the Development also decrease with distance from the road. Therefore, the focus of the assessment is within 10m of the road as shown in Appendix 6 of the SIAA.
- 5.31. In respect of the above qualifying features, the Applicant's assessment found that the Development would only contribute very small increases in nitrogen deposition within the site. The critical loads for these qualifying features (expressed as kg N ha<sup>-1</sup>yr<sup>-1</sup>) are set out in table 2-4 of Appendix 2 to the Applicant's SIAA.
- 5.32. Based on habitat mapping information<sup>9</sup> and professional judgement, the qualifying habitat within 10m of the A30 is identified as being within the National Vegetation Classification (NVC) habitat types that make up European dry heath, and therefore effects of nitrogen deposition is considered against a critical load of 10-20 kg N ha<sup>-1</sup> yr<sup>-1</sup>.
- 5.33. The Applicant explains that based on the guidance from the UK Air Pollution Information System (APIS), the upper limit for the critical load is appropriate (based on high levels of precipitation in Cornwall). The greatest recorded change in Nitrogen Deposition associate with the Development is 0.13 kg N ha<sup>-1</sup> yr<sup>-1</sup>, which is below 1% of the upper limit of critical load and would therefore comprise an 'imperceptible impact' in the view of the Applicant. This increase is marginally above 1% when compared to the lower end of the critical load. In the areas affected by such an increase, there is already an exceedance of the lower limit of the critical load under baseline conditions.
- 5.34. The Applicant cites that a change of less than 1% against the critical load '*can be reasonably taken to mean that an impact of this magnitude will have an insignificant effect*', as is advised in the IAQM Position Statement on the 'Use of a Criterion for the Determination of an Insignificant Effect of Air Quality Impacts on Sensitive Habitats'<sup>10</sup>. Similarly, this guidance explains that a '1%

<sup>9</sup> As shown in Table 2-5 of SIAA Appendix 2. Information is based on: (a) phase 1 and NVC Habitat surveys undertaken for and contained within a previous Environmental Statement for the A30 Bodmin to Indian Queens Improvement Scheme in 2003 (which comprises the stretch of the ARN that runs through the Breney Common and Goss and Tregoss Moors SAC); and (b) Phase 1 and NVC Habitat surveys undertaken by Natural England in 2015 to inform a review of the Mid-Cornwall Moors SSSI Boundary.

<sup>10</sup> The SIAA cites this IAQM publication, dated January 2016. The Secretary of State is aware that this IAQM position statement has been superseded by IAQM guidance published in June 2019: 'A guide to the assessment of air quality impacts on designated nature conservation sites'.  
<https://iaqm.co.uk/text/guidance/air-quality-impacts-on-nature-sites-2019.pdf>

screening criterion' is not itself a threshold of harm and exceeding this threshold should not be automatically taken as implying damage to a habitat.

- 5.35. The Applicant has also calculated that the area within 0-10m of the kerbside within the SAC amounts to 1.6ha (0.2% of the SAC), and that the area of habitat mapped as European dry heath within 0-10m of the roadside accounts for just 0.07% of the total recorded habitat type within the SAC.
- 5.36. The Secretary of State is satisfied that there is no direct loss of qualifying habitat and no change to the distribution of such habitats within these modelled locations within 10m of the A30. The Secretary of State considers that the Applicant has applied professional judgement and provided sufficient analysis (the conclusions of which are supported by NE) to conclude that the increases in nitrogen deposition between the 'do minimum' and 'do something' would not have a discernible degradational effect on the relevant qualifying habitats, taking into account the '1% criterion' as set out above.
- 5.37. In view of the relevant site conservation objectives, the Secretary of State agrees that an adverse effect on the integrity of the European site from the Development can be excluded.

#### *Marsh fritillary qualifying feature*

- 5.38. The only qualifying species of the Breney Common and Goss and Tregoss Moors SAC is marsh fritillary butterfly *Euphydryas* (*Eurodryas*, *Hypodryas*) *aurinia*, and the SAC contains marsh fritillary sub-populations over a 'complex of wet heathland sites'.
- 5.39. As set out in paragraph 5.30 above, Appendix 3 of the SIAA demonstrates that at distances of 10m and beyond, there are no exceedances of the  $30\mu\text{g}/\text{m}^3$  critical level for NO<sub>x</sub> and therefore the assessment is focused on habitat 10m of the road.
- 5.40. The SAC falls wholly within the Mid-Cornwall SSSI, which is also designated in part for its population of marsh fritillary, and for which NE have NVC Habitat Mapping as cited by the Applicant (SIAA Appendix 9). The Applicant identified habitat within 0-10m of the roadside that could represent primary and secondary habitat for marsh fritillary (table 2-8 of SIAA Appendix 2).
- 5.41. The Applicant concludes that, given the 'very small' increases in nitrogen deposition ( $0.12\text{-}0.13\text{ kg N ha}^{-1}\text{yr}^{-1}$ ) that are predicted, any increase is only likely to affect secondary habitat for the marsh fritillary, and the area potentially affected is small, and makes up only 0.016% of all available secondary habitat for marsh fritillary in the SAC.
- 5.42. Further, the Applicant states that there have not been any known sightings of the species within 0-10m of the roadside (the nearest two sightings are over 100m from the roadside with the majority of sightings located over 500m south of the A30).
- 5.43. The Secretary of State is satisfied that the increases in nitrogen deposition between the 'do minimum' and 'do something' would not have a discernible degradational effect on the marsh fritillary population of the SAC. In view of the relevant site conservation objectives, the Secretary of State agrees that an adverse effect on the integrity of the European site can be excluded.

*In-combination effects*

- 5.44. As set out in paragraphs 4.7 - 4.10 of this HRA Report, the Secretary of State is content that the SIAA and ES Chapter 15 identify the relevant plans and projects with the potential to have in-combination effects. In particular, the air quality effects from increased road traffic considers forecast traffic growth based on a combination of background growth and relevant other developments and therefore accounts for any in-combination impacts arising.
- 5.45. The Secretary of State is therefore satisfied that there would be no adverse effects on the integrity of the site in terms of air quality impacts in-combination with other plans and projects.

## 6. HRA CONCLUSIONS

- 6.1. The Secretary of State is satisfied that there would be no likely significant effects from the Development alone or in-combination with other plans and projects on the following European sites for the reasons set out in section 4 of this HRA Report:
- Fal and Helford SAC; and
  - River Camel SAC.
- 6.2. The Secretary of State is satisfied that no measures intended to avoid or reduce the harmful effects of the Development on these sites site are relied upon to support those findings.
- 6.3. As the competent authority for Transport NSIPs as defined under the PA2008, the Secretary of State for Transport has undertaken an appropriate assessment under Regulation 63 of the Habitats Regulations in relation to the following European sites:
- Newlyn Downs SAC; and
  - Breney Common and Goss and Tregoss Moors SAC.
- 6.4. The Secretary of State is satisfied that, given the relative magnitude of the identified effects on the qualifying features of these European sites and where relevant, the mitigation measures in place to reduce the potential harmful effects, there would not be any implications for the achievement of the conservation objectives for those European sites.
- 6.5. Based on the submissions to the examination as summarised in the ExA's RIES and Recommendation Report, the Secretary of State is satisfied that the views of NE as the appropriate nature conservation body have been considered and that they are in agreement with the scope and conclusions of the Applicant's SIAA.
- 6.6. The Secretary of State agrees with the conclusions of the ExA's Recommendation Report that there would be no adverse effects on the integrity of any European site.

## **Annex 1 Documents used to inform this HRA Report**

### Application Documents

- A30 Chiverton to Carland Cross Environmental Statement (including supporting Figures and Appendices)
- A30 Chiverton to Carland Cross Habitats Regulations Assessment Report (including Appendices 1 – 10) (June 2018)

### Examination Documents produced by Applicant

- Guide to the Application (Revision H)
- Deadline 3 Submission - Response to the Hearing Action Points - ISH2 on draft DCO
- Deadline 5 Submission - Request for Non-Material Amendments to the draft DCO (and Revision A at Deadline 6)
- Deadline 5 Submission - Responses to The Examining Authority's Second Written Questions
- Statement of Common Ground between Highways England and Natural England

### Examination Documents produced by Interested Parties

- Natural England's Response to ExA's Further Written Questions

### ExA Procedural Decisions

- Report on the Implications for European Sites for the A30 Chiverton to Carland Cross
- Request for Further Information - Rule 17 (July 2019)
- Request for Further Information – R17 and Notification of Change to Timetable R8(3) (22 July 2019)
- ExA's First Written Questions
- ExA's Further Written Questions

## **Annex 2 Conservation Objectives**

Available from: <http://publications.naturalengland.org.uk/category/6490068894089216>

Nb. In the case of all European sites identified below, the conservation objectives are to be read in conjunction with the accompanying Supplementary Advice documents, which provides more detailed advice and information to enable the application and achievement of the Objectives set out.

### **Breney Common and Goss and Tregoss Moors SAC (UK0030098)**

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;

- The extent and distribution of qualifying natural habitats and habitats of qualifying species
- The structure and function (including typical species) of qualifying natural habitats
- The structure and function of the habitats of qualifying species
- The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely
- The populations of qualifying species, and,
- The distribution of qualifying species within the site.

The conservation objectives should be read in conjunction with the accompanying Supplementary Advice document, which provides more detailed advice and information to enable the application and achievement of the Objectives set out above.

### **Fal and Helford SAC (UK0013112)**

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;

- The extent and distribution of qualifying natural habitats and habitats of qualifying species
- The structure and function (including typical species) of qualifying natural habitats
- The structure and function of the habitats of qualifying species
- The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely

- The populations of qualifying species, and,
- The distribution of qualifying species within the site.

The conservation objectives should be read in conjunction with the accompanying Supplementary Advice document, which provides more detailed advice and information to enable the application and achievement of the Objectives set out above.

## **Newlyn Downs SAC (UK0030065)**

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;

- The extent and distribution of qualifying natural habitats
- The structure and function (including typical species) of qualifying natural habitats, and
- The supporting processes on which qualifying natural habitats rely

The conservation objectives should be read in conjunction with the accompanying Supplementary Advice document, which provides more detailed advice and information to enable the application and achievement of the Objectives set out above.

## **River Camel SAC (UK0030056)**

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;

- The extent and distribution of qualifying natural habitats and habitats of qualifying species
- The structure and function (including typical species) of qualifying natural habitats
- The structure and function of the habitats of qualifying species
- The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely
- The populations of qualifying species, and,
- The distribution of qualifying species within the site.

**LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT  
CONSENT ORDERS**

Under section 118 of the Planning Act 2008, an Order granting development consent, or anything done, or omitted to be done, by the Secretary of State in relation to an application for such an Order, can be challenged only by means of a claim for judicial review must be made to the High Court during the period of 6 weeks beginning with the day after the day on which the Order is published. Please also copy any claim that is made to the High Court to the address at the top of this letter.

The A30 Chiverton to Carland Development Consent Order 2020 (as made) is being published on the Planning Inspectorate website at the following address:

<https://infrastructure.planninginspectorate.gov.uk/projects/south-west/a30-chiverton-to-carland-cross-scheme/>

These notes are provided for guidance only. A person who thinks they have grounds for challenging the decision to make the Order referred to in this letter is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (020 7947 6655)