

M42 Junction 6 Development Consent Order

Scheme Number TR010027

8.95 Applicant's Comments on any Additional Information or Submissions Received by Deadline 7

Planning Act 2008

Rule 8 (1)(k)

The Infrastructure Planning (Examination Procedure) Rules 2010

Volume 8

November 2019

Infrastructure Planning

Planning Act 2008

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M42 Junction 6
Development Consent Order 202[]

**Applicant's Comments on any Additional Information or Submissions
Received by Deadline 7**

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1 Applicant's Comments on any Additional Information or Submissions Received by Deadline 7

- 1.1.1 This document provides the comments of Highways England (the Applicant) on some of the responses made by Interested Parties to the Planning Inspectorate on Deadline 7, 28 October 2019 in respect of the M42 Junction 6 scheme (the Scheme) Development Consent Order (DCO) application.
- 1.1.2 The Applicant has sought to provide comments where it appeared to be helpful to the Examination to do so, for instance where a response includes a request for further information or clarification from the Applicant or where the Applicant consider that it would be appropriate for the Examining Authority (ExA) to have the Applicant's comments on a matter raised by an Interested Party in its response.
- 1.1.3 Where an issue raised within a response has been dealt with previously by the Applicant, for instance in the Applicant's own response to a question posed by the ExA in its second round of written questions or within one of the documents submitted to the Examination, a cross reference to that response or document is provided to avoid unnecessary duplication. The information provided in this document should, therefore, be read in conjunction with the material to which cross references are provided.
- 1.1.4 The Applicant has not provided comments on every response made by an Interested Party to the questions raised. In some cases, no comments have been provided, for instance, because the response provided a short factual response, it reiterated previously expressed objections in principle to the Scheme or expressions of opinion without supporting evidence, or it simply contradicted the Applicant's previous response to a question without providing additional reasoning.
- 1.1.5 For the avoidance of doubt, where the Applicant has chosen not to comment on matters raised by Interested Parties this is not an indication that the Applicant agrees with the point or comment raised or opinion expressed in that response.

Table 1-1 Applicant's comments

Submitted by	Title	Comments	
Heath Cotterill	Deadline 7 Submission – Post hearing submissions including written submissions of oral cases, arising from Compulsory Acquisition Hearing – 22 nd October 2019 and Issue Specific Hearing on 23 rd October 2019	1.1	<p>Heath Cotterill Comment</p> <p>... I ... understand that trees G6, G7, G8 and G60 are located in the Conservation Area but am not sure from current documentation if they are to be removed. Due to the screening they provide and the benefits they give Rto the historic feel of Bickenhill Village and the Conservation Site I would request that they remain in situ.</p> <hr/> <p>The Applicant's Response:</p> <p>Commitment G20 of the Register of Environmental Actions and Commitments (REAC) [APP-172/Volume 6.11] commits the Applicant to the “<i>retention of all mature trees and boundary features within the Order Limits that are outside the limits of the permanent works Figure 8.4 [TR010027/APP/6.2] in Appendix 9.1 of the ES [TR010027/APP/6.3], except where loss is required for construction of the Scheme, including temporary works.</i>”</p> <p>Recognising the limitations of commitment G20, the Applicant provides the following commitment that will be included in the REAC at D9:</p> <p>The Applicant and/or its Principal Contractor will use reasonable endeavours in carrying out the authorised development to retain as many trees and hedgerows as reasonably practicable having regard to programme, cost and safety.</p> <p>As presented within Appendix 8.2 Arboricultural Survey [APP-128/Volume 6.3] of the Environmental Statement and presented within Appendix A – Trees Overlaid on Works Plans from the Actions Arising out of ISH on dDCO 4 on 23 October [Volume 8.89/REP7-014], the following information is provided on G6, G7, G8 and G60:</p> <ul style="list-style-type: none"> • G6: is a boundary line of mature trees, mixed species. Exhibiting some good condition, some deadwood and dieback throughout with Dense undergrowth. The survey recommended G6 is retained where possible. • G7: is a group of trees in garden of a property outside of the Order limits. Mostly good condition with robinia species showing some cavities and poor condition. The survey recommended G7 is retained where possible.

Submitted by	Title	Comments	Comments
			<ul style="list-style-type: none"> • G8: is a line of boundary trees adjacent to the existing road side. Noted as being overgrown, unmanaged, impeding the road and mostly exhibiting good condition. The survey recommended G8 are removed or retained as per development plans. • G60: is a line of trees growing along grass verge adjacent to road. Rowan species shows some signs of decline, all others exhibit good health overall. The survey recommended G60 is retained where possible.
Heath Cotterill	Deadline 7 Submission – Post hearing submissions including written submissions of oral cases, arising from Compulsory Acquisition Hearing – 22 nd October 2019 and Issue Specific Hearing on 23 rd October 2019	1.2	<p>Heath Cotterill Comment:</p> <ul style="list-style-type: none"> - ... I would request that any lighting added is done so at as low a height as possible and with no visual impact on my property or the Conservation Area. We would also be affected by the effects of headlights along the newly rerouted road, traffic queuing at the new junction layout, the main site compound and the satellite compounds situated to the north west side of Catherine De Barnes Lane and at the proposed Catherine De Barnes Lane road bridge, noise, vibration, air quality and the detrimental health effects both physically and mentally that the cumulative effects these will bring. <p>The Applicant's Response:</p> <p>The Applicant refers Heath Cotterill to commitment G6 specified in the Register of Environmental Actions and Commitments [APP-172/Volume 6.11] which stipulates the following:</p> <p><i>“Lighting</i></p> <p><i>The Scheme shall be designed positioned and directed so as not to unnecessarily intrude on adjacent buildings, and on the setting of the identified heritage assets of Bickenhill Conservation Area and the listed features within it. Lighting shall be confined to locations where road safety is a priority so as to limit spill at night.”</i></p> <p>Furthermore, the Applicant has submitted at Deadline 8 the Outline Compound Management Plan [Volume 8.96] which sets out measures to reduce the likelihood of an environmental incident or nuisance which includes:</p> <ul style="list-style-type: none"> j) controls on lighting/illumination to minimise visual intrusion or any adverse effects on sensitive ecology;

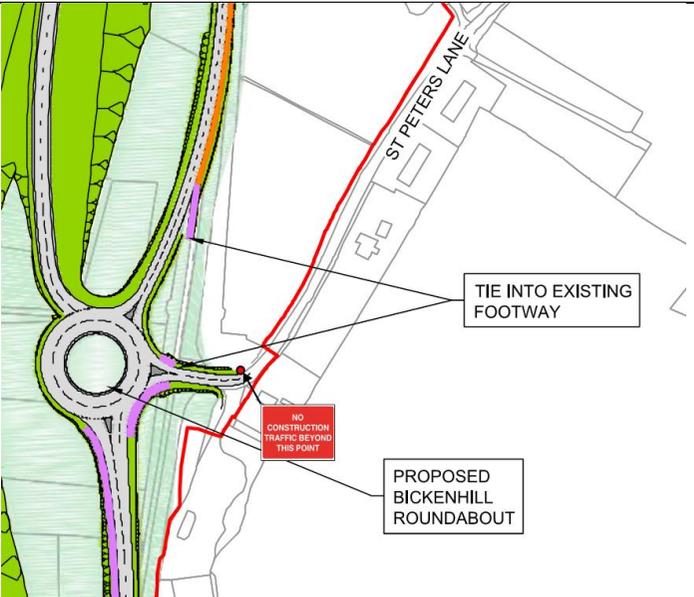
Submitted by	Title	Comments
		This measure applies to both the Main Site Compound and the Satellite Compounds across the Scheme.
Heath Cotterill	Deadline 7 Submission – Post hearing submissions including written submissions of oral cases, arising from Compulsory Acquisition Hearing – 22 nd October 2019 and Issue Specific Hearing on 23 rd October 2019	<p>1.3</p> <p>Heath Cotterill Comment:</p> <ul style="list-style-type: none"> - Due to the above I would like to thank you for confirming that the Parish Council should be consulted on landscaping matters and therefore feel that to ensure that I/Bickenhill & Marston Green Parish Council have involvement and input to the landscaping both during and post construction that the wording "Marston Green and Bickenhill Parish Council" be added to schedule 2 section 5 (1) of the Development Consent Order after the wording stating "following consultation with". <p>The Applicant's Response:</p> <p>As was confirmed by Mr Evans on behalf of the Applicant at the ISH on the dDCO on 23 October (see paragraphs 2.1.12 to 2.1.14 of the written submission of oral case for the dDCO hearing [REP7-008/Volume 8.84]) the REAC would be updated to contain a commitment to provide to the Parish Councils the information regarding proposed landscaping but that it was up to SMBC to decide how it would engage with the Parish Councils in this regard.</p> <p>Information regarding responsibilities of the community liaison officer (to be appointed by the PC) will also be added to the REAC.</p> <p>The relevant changes to the REAC will be submitted at Deadline 9.</p> <p>The Applicant's view is that it is not necessary to include reference to the parish councils in requirement 5 (Landscaping) if there is a commitment in the REAC as compliance with the REAC is secured under Requirement 4.</p>

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Heath Cotterill	Deadline 7 Submission – Post hearing submissions including written submissions of oral cases, arising from Compulsory Acquisition Hearing – 22 nd October 2019 and Issue Specific Hearing on 23 rd October 2019	1.4	<p>Heath Cotterill Comment:</p> <ul style="list-style-type: none"> ... The absence of a Community Liaison Officer on site 24 hours a day does little to appease residents concerns on how to report and halt noisy operations effectively if being performed outside of any proposed hours. Whilst we realise there will be a dedicated line to report these occurrences to by the time respective action taken is taken to cease operations it will often be too late... <p>The Applicant's Response:</p> <p>The Applicant can confirm that a Community Liaison Officer will be appointed by the Principal Contractor to communicate with the public during construction works. The role and responsibilities of this officer are summarised in the Register of Environmental Actions and Commitments contained within the Outline Environmental Management Plan [APP-172 / Volume 6.11].</p> <p>It is intended that the role will be full-time, with a point of contact available 24 hours a day to record and respond to any issues, concerns or complaints relating to the works.</p> <p>Commitment G33 within the Register of Environmental Actions and Commitments contained within the Outline Environmental Management Plan confirms that the Principal Contractor will undertake noise and vibration surveys to demonstrate noise and vibration compliance during the construction period.</p>
Godfrey-Payton Chartered Surveyors (for Camilla and David Burton)	Deadline 7 Submission – Post hearing submissions including written submissions or oral cases, arising from Hearings	2.1	<p>Godfrey-Payton Comment:</p> <p>Attenuation Tank and Access Track</p> <p>The Applicant's Response:</p> <p>The Applicant has provided a response to these matters as part of the Applicant's response to Actions Arising out of ISH on Compulsory Acquisition and Temporary Possession on 22 October for Deadline 8 [Volume 8.93].</p>

Submitted by	Title	Comments	
<p>Godfrey-Payton Chartered Surveyors (for Camilla and David Burton)</p>	<p>Deadline 7 Submission – Post hearing submissions including written submissions or oral cases, arising from Hearings</p>	<p>2.2</p>	<p>Godfrey-Payton Comment:</p> <p>1) Main Site Compound (please see Appendix 2 ‘Compound and Exits Reconfigured’ in support of the following comments):</p> <p>a) We wish to draw the ExA’s attention to the full implications for proposed left-turn only exit from the re-designed main compound on to the Catherine-de-Barnes Lane – as discussed in detail at last week’s hearing - with all traffic now being directed south towards Bickenhill and Catherine-de-Barnes villages, rather than towards the nearby Trunk Roads and Motorway.</p> <p>b) We urge the panel to consider the possibility of providing a right turn from the exit lane out of the re-designed main compound (should the current layout be adopted) on to the existing Catherine-de-Barnes Lane, but under new Traffic Lights.</p> <p>c) The existing proposed road layout and junction priorities immediately to the west side of Bickenhill village (but on the east side of the new road) must be amended as otherwise traffic flow will continue directly in to St Peter’s Lane and hence in to centre of village, which is a Conservation Area. Such disturbance to the residents and neighbourhood of the village should be deemed as being unacceptable in context of 3 key criteria outlined by the Inspector at the opening of each day of the Public Enquiry. We do not believe that such solution could be considered to be either a necessary or proportionate solution for DCO purposes.</p> <p>d) We have already submitted plans identifying an alternative solution for the exit from the re-designed compound area – directly on to the southern feeder road of the A45 towards Birmingham Airport, thereby passing under the Catherine-de-Barnes Lane.</p> <p>e) The vast majority of that route would be within the red line of the existing DCO scheme, and hence be deliverable. We do not propose to go in to the detail of our proposal in this document, as it was discussed in oral submissions at last week’s hearings – and was apparently found to be a possible exit route from the main site compound.</p> <p>f) Existing highway infrastructure for that route appears to be more appropriate and hold greater capacity than local roads in vicinity of the villages.</p>

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		<p>g) We ask the Inspector and his Panel to consider the implications of HGV's having to turn round in Bickenhill Village when they realise that they have made a directional error and cannot travel down narrow lanes (Eg St Peters & Church Lane etc).</p> <p>h) We believe that it is likely to be in the best interests of Skanska (the principal contractor) for all Site Compound traffic to be able to return directly on to the Trunk Road network (ie via the Airport), rather than to have to travel on more minor roads after exiting the compound area, not least to ensure minimal travelling inconvenience to those visiting, and to reduce detrimental environmental impact from those travelling to the site.</p> <p>i) We ask the Panel to give full consideration to the arrangements for exiting Compound Traffic once the new link road has been constructed and whilst the existing Junction 6 improvement works are being undertaken?</p> <p>The Applicant's Response:</p> <p>In respect to the range matters raised above, the Applicant has provided the following responses:</p> <p>In respect to point a), the proposed left turn only out of the compound exit road on to the B4438 (Catherine-de-Barnes Lane) will prevent vehicles leaving the compound from crossing over two lanes of traffic, a detail often incorporated into the site traffic management plan for highways schemes. Traffic would be directed south along the B4438 to the Catherine-de-Barnes roundabout, from where the traffic would be directed north, back along the B4438, where it would join the Clock Interchange. and the strategic Road Network. Traffic will not need to enter the villages of Bickenhill or Catherine-de-Barnes.</p> <p>In respect to point b), traffic lights could be utilised to provide a right-hand turn from the compound exit onto the B4438. This solution has not been selected as the primary solution due to the potential conflict with the traffic signals and traffic entering the Clock Interchange. The option to use a signalised system at the compound exit will be further reviewed with the local highway authority and developed in the traffic management plan.</p> <p>Regarding point c) and the change in priorities, the Applicant has provided a response to this as part of the Actions Arising out of ISH on Compulsory Acquisition and Temporary Possession on 22 October [REP7-013/Volume 8.88].</p>

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		<p>In respect to point d), e) and f), the Applicant has submitted a response as part of its Deadline 8 submission in the Actions Arising out of ISH on Compulsory Acquisition and Temporary Possession on 2 October for Deadline 8 [Volume 8.93].</p> <p>Regarding point g), the traffic management plan will detail the locations where “no construction traffic” signage will be positioned. Two such locations will be at the northern and southern ends of St Peter’s Lane (refer to indicative plan below). These locations enable vehicles to stop and turn around outside of the village if an incident of driver error occurs. The prohibited routes will be clearly identified by means of fixed signage and reinforced in the order details provided to suppliers delivering to the scheme.</p>  <p style="text-align: center;">Figure 1 – “No Construction Traffic” Signage at St Peters Lane North</p>

Submitted by	Title	Comments
		 <p data-bbox="969 954 1888 981">Figure 2 – “No Construction Traffic” Signage at St Peters Lane South</p> <p data-bbox="819 1002 2029 1161">In respect to point h), the exit on to the B4438 will be designed to meet a number of factors, traffic safety, highway alignment, impact to existing traffic flow and length of journey for the construction vehicles. As stated in the response to point b, options to reduce the journey length for site traffic by using traffic signals will be reviewed as part of the traffic management plan and assessed against all influencing factors.</p> <p data-bbox="819 1182 2029 1401">In respect to point i), There are two possible routes available for traffic exiting the compound following completion of the new link road. The first utilises the original exit proposals, along the maintenance access road. Traffic would head south along the realigned Catherine-de-Barnes Lane and join the slip road to the northbound carriageway of the new link road at Barber’s Coppice roundabout. The second available solution would be to construct a temporary exit onto the southbound carriageway of the new link road. Traffic could then either continue south to Junction 5A or exit at the Bickenhill Roundabout and join the northbound carriageway of the link</p>

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			road from Barber's Coppice Roundabout. This detail will be set out and agreed in the Traffic Management Plan.
Catherine-de-Barnes Residents' Association (with support from Hampton in Arden Parish Council)	Deadline 7 Submission – Comments on any additional information or submissions received by previous deadline	3.1	<p>Catherine-de-Barnes Residents' Association and Hampton in Arden Parish Council Comment:</p> <p>This document details our responses to various submissions for Deadline 6 and would be grateful if you would confirm its acceptance into the EA's records.</p> <p>1) Highways England</p> <p>Deadline 6 Submission - 8.8(c) Statement of Common Ground with Solihull Metropolitan Borough Council</p> <p>Construction Page 14: Reference is made in HE's response to a Traffic Management Plan. We confirm our verbal submission for Parish Councils(Hampton in Arden (HiA) and Marston Green & Bickenhill Parish Council (MGBPC) to be involved in any discussions and or consultations involving construction traffic routing and to be given at least 7 days notice of any highway closures affecting these Parishes.</p> <p>Noise: At the recent hearing we requested that noise monitoring equipment should be available at an agreed location in the main compound , to be capable of measuring noise against the limits that will be set out in the relevant management plan so as to enable a timely response to any noise complaints arising from a particular event and that there is an authorised member of the contractor's team available or at least contactable who has the authority to shut down/change a particular operation if found to exceed the limits in the relevant management plan. Physical records should be kept by the Contractor of reported incidents of noise levels being breached..</p> <p>Traffic Modelling: we refer to HE's response and in particular to the last Paragraph. The paragraph states".....engage with key stakeholders....." Accordingly we request a firm commitment from the Applicant and SMBC to ensure that the Parish Councils referred to above are involved in this process .</p> <p>Signage : We refer to HE's response where it states" strategy is being refined following feed back from SMBC and other stakeholders". The Parish Councils referred to above have not been</p>

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		<p>involved /consulted in any way during this process and would request we are, where signage falls within the relevant Parish.</p> <p>Traffic: We refer to HE's response where they state they will produce a Traffic Management Plan in consultation with SMBC. We requested at the last hearing that this 'consultation' include the two Parish Councils, HinA and MGBPC, both of whom were represented at the hearing, and whose Parishes this project falls within .</p> <p>We would point out to the Examiners that there is a Parish/Town Council Charter in place with SMBC. There is an undertaking for SMBC to ask Parish and Town Councils to comment on issues affecting their community . At no time have we have we been approached or made aware of an opportunity of discussing any of the matters mentioned above with SMBC or HE.</p> <p>The Applicant's Response:</p> <p>As discussed during the Issue Specific Hearing on the dDCO held on the 23 October 2019, the Applicant explained that Requirement 10 requires the Applicant to consult with the Local Highway Authority in respect to the Traffic Management Plan. As explained at this hearing, the Applicant will share a copy of the draft Traffic Management Plan with the parish councils at the same time as it submits this information to the local highway authority. It will be for the local highway authority to decide how it will engage with the relevant parish councils on this matter. The Applicant notes that SMBC's 'Charter for Better Working' with the parish councils provides that SMBC will "ask parish and town councils to comment on issues affecting their community".</p> <p>In respect to noise, the Outline Dust, Noise and Nuisance Management plan contains provisions for the installation of noise monitors, the training of staff on noise management and a requirement to follow a specified complaints procedure which would apply to the whole site. Any noise monitoring equipment and locations needed will be agreed with the environmental health officer at SMBC.</p> <p>If a member of the public wishes to make complains in regards to noise, the Applicant set out in the Written Submission of Oral Case for ISH on dDCO on 23 October 2019 [REP7-009/Volume 8.84] the following complaint and escalation procedure:</p> <ol style="list-style-type: none"> 1) <i>Report of disturbance made to community liaison officer or to the 24hr reporting line.</i>

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			<p>2) <i>Duty manager identifies work area and contacts supervisor to stop works.</i></p> <p>3) <i>Investigation of incident undertaken (in event of abusive language or antisocial behaviour), noise monitoring undertaken to determine noise levels.</i></p> <p>4) <i>Report back to individual(s) who has raised complaint.</i></p> <p><i>If reports of abusive language/behaviour are received the individuals involved would be stopped from working and an investigation undertaken. In the event of the findings confirming that the complaint is correct the individuals involved would face disciplinary process, which can include removal from site. All subcontracts on the Scheme are likely to contain a clause that permits termination of the contract in the event of non-conformance to the site rules. The values and behaviours expected from all workers on the project will be set out within all subcontracts on the Scheme. This will include the behaviours laid down in the Considerate Constructors Scheme</i></p>
<p>Catherine-de-Barnes Residents' Association (with support from Hampton in Arden Parish Council)</p>	<p>Deadline 7 Submission – Comments on any additional information or submissions received by previous deadline</p>	<p>3.2</p>	<p>Catherine-de-Barnes Residents' Association and Hampton in Arden Parish Council Comment:</p> <p>Applicants Response to Actions in respect of !SH on Living Conditions on 1st October 2019</p> <p>Ref No 18 Barbers Coppice Roundabout Lighting</p> <p>Following the verbal submission by Mr Philip O'Reilly concerning the data used to calculate BCR which were used to establish whether lighting of the roundabout was justified. It was agreed at the hearing that HE would investigate the discrepancy in Mr O'Reilly's and HE's calculations and conclusions based on the calculations and look forward to viewing them in a future HE submission. The question is :Does Barbers Coppice Roundabout and the approach roads to it need lighting ?</p> <p>Following Mr O'Reilly's submission it is our belief that the speed limits on Catherine de Barnes Lane approaching and egressing Barbers Coppice Roundabout will be reviewed by HE and SMBC, as will the speed on the slip from the Link Road to Bickenhill Roundabout currently shown as 70mph (which we believe is an error) as we assume this to be a single carriageway slip but may be mistaken. There may well be an opportunity for standardising the speed limits on all roads</p>

Submitted by	Title	Comments	
			<p>entering and departing the Barbers Coppice say to 40mph .We suggest the link road from Barbers Coppice to the new dual carriageway should, on safety grounds, be no more than 40mph.</p> <p>The Applicant's Response:</p> <p>The Applicant refers the Catherine-de-Barnes Resident's Association to the response on lighting, reference ExA Ref No 18, provided as part of the Actions Arising out of ISH on dDCO4 on the 23 October for Deadline 8 [Volume 8.94].</p> <p>With regard to the query relating to the speed limit on the slip road from the new mainline link road to Bickenhill Roundabout, the Applicant can confirm that the speed limit for this will be 70mph. As set out in the Traffic Regulation Measures Plans including Speed Limits [APP-011/Volume 2.6] and Schedule 3, Part 5 of the dDCO [AS-036/Volume 3.1(b)]. This is not an error, as the slip road is a separated carriageway.</p> <p>The Applicant can also confirm that the slip road from Barber's Coppice Roundabout, onto the new mainline link road will be 40mph around the bend and up to the back of the nosing of the mainline link. From the nosing onwards, the speed limit will be 70mph, so that vehicles can get up to speed in order to enter the mainline link road safely.</p> <p>Speed limits will be kept under review by the respective highway authorities.</p>
Catherine-de-Barnes Residents' Association (with support from Hampton in Arden Parish Council)	Deadline 7 Submission – Comments on any additional information or submissions received by previous deadline	3.3	<p>Catherine-de-Barnes Residents' Association and Hampton in Arden Parish Council Comment:</p> <p>In Summary</p> <p>So as to ensure that there is no future misinterpretation/possible misunderstanding regarding the involvement of the 2 Parish Councils(Hampton in Arden and Marston Green and Bickenhill PC's) in discussions relating to Traffic Management and Landscaping, we request that the DCO is worded to reflect these agreements that were made at the hearings of 22nd & 23rd October 2019.In addition we request that "Signage" is also bought into the scope of this arrangement .</p>

Submitted by	Title	Comments	
			<p>The Applicant's Response:</p> <p>The Applicant has prepared, in consultation with the Local Highway Authority SMBC, a signage strategy for the Scheme. As the local highway authority, it would be up to SMBC to decide how it engages with parish councils on these matters.</p>
Mr O'Reilly	Deadline 7 submission – Comments on any additional information or submissions received by previous deadline – 8.68 Responses to ExA's Third Round of Written Questions	4.1	<p>Mr O'Reilly Comment:</p> <p>[Question 3.4.1]</p> <p>Highways England document 'TR010027-000215-TR010027_M42J6_6-3_Environmental_Statement_Appendicies_Appendix_8.1' confirms "the magnitude of impact (on my property) is likely to be major, resulting in large adverse effect impact on views". It states that "the new road corridor would dominate the view" and "planting along the new alignments would help to integrate them within the view, but the large-scale changes to this view would remain".</p> <p>From viewpoint EE the view is across open land towards the M42. The outlook does not have 'a general light spill in the night sky from nearby transportation, aviation and commercial infrastructure'.</p> <p>I included three images in my Deadline 6 document 'Issue Specific Hearing on Living Conditions (1st October 2019)' which show the current view from my property looking towards the north-east, the east and the south-east.</p> <p>There is no street lighting outside my property. There is no street lighting visible from viewpoint EE. There is no street lighting in the near vicinity of my property. The proposed location for 'Barber's Coppice Roundabout' is currently open greenbelt land which is unlit. The proposal is for lighting to also be installed on the approaches to 'Barber's Coppice Roundabout', and not solely on the Roundabout. Lighting is proposed to be installed along the full length of the eastern boundary to my property. Night time views from viewpoint EE will effectively stop at the location of any light source that is introduced into the surrounding darkness.</p>

Submitted by	Title	Comments
		<p>The Applicant's Response:</p> <p>As indicated by Mr Gleave at the ISH on dDCO on 23 October 2019, the Applicant can clarify that Viewpoint EE is located adjacent to Four Winds and was selected during the scoping of the landscape and visual impact assessment to represent the general outlook afforded to receptors from this location, rather than the outlook available from rooms within the property.</p> <p>The photographs provided by Mr O'Reilly appear to have been taken from the upper floor of his property. These are not reflective of the outlook available from Viewpoint EE, which was taken from the roadside at ground level.</p> <p>The outlook available from Four Winds is predominantly orientated towards an east-north-east direction. Ground floor views in this direction are generally well screened and contained by existing boundary hedging, whilst upper floor views feature the stand of woodland east of Catherine-de-Barnes Lane as a point of focus set within the wider agricultural landscape.</p> <p>In relation to the changes that will be introduced by the Scheme, the upper floor windows within Four Winds will permit a view from an acute angle of elements of the new Barber's Coppice roundabout and its associated lighting towards the east and south-east. As recognised by Mr O'Reilly the lighting at Barber's Coppice Roundabout will obscure views beyond the roundabout and so there will be no significant in-combination effect with the lighting at Junction 5A.</p>
Mr O'Reilly	Deadline 7 submission – Comments on any additional information or submissions received by previous deadline – 8.68 Responses to ExA's Third Round of Written Questions	<p>4.2</p> <p>Mr O'Reilly Comment:</p> <p>[Question 3.4.2]</p> <p>There is no street lighting outside my property. There is no street lighting visible from viewpoint EE. There is no street lighting in the near vicinity of my property. The proposed location for 'Barber's Coppice Roundabout' is currently open greenbelt land which is unlit. The proposal is for lighting to also be installed on the approaches to 'Barber's Coppice Roundabout', and not solely on the Roundabout. Lighting is proposed to be installed along the full length of the eastern boundary to my property. Night time views from viewpoint EE will effectively stop at the location of any light source that is introduced into the surrounding darkness.</p>

Submitted by	Title	Comments
		<p>The Applicant's Response:</p> <p>As indicated by Mr Gleave at the ISH on dDCO on 23 October 2019, the Applicant wishes to clarify to Mr O'Reilly that its response to Question 3.4.2 in Volume 8.68 [REP6-010] relates to the assessment of the effects of the Scheme on landscape character, not its effects on the visual environment.</p> <p>The landscape character and visual impact are two separate elements considered in the assessment. Accordingly, it is not appropriate to associate the outlook from Four Winds (and Viewpoint EE) to the understanding and appreciation of local landscape character.</p> <p>The Applicant confirmed in its response to Question 3.4.2 that the southern and western extents of LCA 2 – the character area with which the new Barber's Coppice roundabout would emerge – is already disrupted by existing lighting.</p>
Mr O'Reilly	Deadline 7 submission – Comments on any additional information or submissions received by previous deadline – 8.68 Responses to ExA's Third Round of Written Questions	<p>4.3</p> <p>Mr O'Reilly Comment:</p> <p>[Question 3.4.4]</p> <p>The visualisations depicted on Figure 8.7 Viewpoint Location Plan B (Sheet 1 to 9) of Volume 2 of the Environmental Statement [APP-094/Volume 6.2] do not include a visualisation from my property. If a visualisation had been included it would demonstrate that the Scheme does emerge in all views from my property, as confirmed by Highways England in their statement that "the magnitude of impact (on my property) is likely to be major, resulting in large adverse effect impact on views".</p> <p>The Applicant's Response:</p> <p>As indicated by Mr Gleave at the ISH on dDCO on 23 October 2019, the Applicant refers Mr O'Reilly to its response to the above comment which clarifies that Viewpoint EE is representative of the general outlook afforded to receptors at this location, rather than the outlook available from Four Winds.</p> <p>In relation to Mr O'Reilly's observation that a visualisation was not provided for Viewpoint EE, the Applicant can confirm that when undertaking landscape and visual impact assessments in line</p>

Submitted by	Title	Comments	Comments
			<p>with the advice contained within the Guidelines for Landscape and Visual Impact Assessment (3rd Edition), visualisations are not generated for every viewpoint identified in the assessment.</p> <p>Visualisations were generated from a number of the representative viewpoints to illustrate how the Scheme would likely appear in close proximity, mid-distant and long-distance views across the study area. Visualisations are not generated for the purposes of 'proving' how adverse a visual change will likely be.</p>
Mr O'Reilly	Deadline 7 submission – Comments on any additional information or submissions received by previous deadline – 8.69 Post Hearing submissions - Written summary of Oral Case for the ISH on Living Conditions on 1 October 2019	4.4	<p>Mr O'Reilly Comment:</p> <p>[Mr O'Reilly set out the errors which he considered had been made in the Applicant's calculations of the size of Barber's Coppice Roundabout]</p> <hr/> <p>The Applicant's Response:</p> <p>The Applicant refers Mr O'Reilly to the response provided in the Actions Arising out of the ISH on dDCO 4 on 23 October for Deadline 8 [Volume 8.94].</p>
Mr O'Reilly	Deadline 7 submission – Comments on any additional information or submissions received by previous deadline – 8.69 Post Hearing	4.5	<p>Mr O'Reilly Comment:</p> <p>My concerns are with regard to the proposed 'Barber's Coppice Roundabout' (and the three roads connected to it) and the increased noise and pollution at my property due to standing traffic, and traffic accelerating away, particularly at night.</p>

Submitted by	Title	Comments
	submissions - Written summary of Oral Case for the ISH on Living Conditions on 1 October 2019	<p>The Applicant's Response:</p> <p>The Applicant has provided a response to Mr O'Reilly regarding the acceleration and deceleration of vehicles at roundabouts within the noise model as part of its responses in Volume 8.80 [REP7-006] which was submitted at Deadline 7.</p>
Mr O'Reilly	Deadline 7 submission – Comments on any additional information or submissions received by previous deadline – 8.69 Post Hearing submissions - Written summary of Oral Case for the ISH on Living Conditions on 1 October 2019	<p>4.6</p> <p>Mr O'Reilly Comment:</p> <p>3. Responses to questions from Interested Parties</p> <p>3.1.6 POR suggested that the Sport England guidance used to determine the noise impact of the Warwickshire Gaelic Athletic Association on his property only considered the noise level of practice sessions, not actual matches. JG said that the Applicant would check the guidance and confirm the position.</p> <p>POR Comments:</p> <p>HE Deadline 6 document 'TR010027-000762-TR010027_M42J6_8.77_Applicant's_Response_to_Actions_in_Respect_of_ISH_on_Living_Conditions_on_1_October_2019' states that 'the noise data in the Sport England guidance are based on what Sport England describe as 'typical' artificial grass pitch sessions. It is not clear from the guidance whether these typical sessions are training sessions or matches'.</p> <p>Highways England are relying on third party data as the basis of their noise level calculations, and thus the impact on my property, but have failed to verify the validity of that data.</p> <p>The response from HE fails to address the concern raised</p> <p>The Applicant's Response:</p> <p>The Applicant would like to draw attention to the paragraph that followed the excerpt provided above from Volume 8.77 [REP6-018], which stated that:</p> <p><i>"Nevertheless, the Applicant considers that it is appropriate to use the Sport England data for the purposes of its noise assessment. As it was not possible to undertake measurements at WGAA sports pitches at the time of the assessment, the source level of 58 dB LAeq, 1hr at 10 m from the</i></p>

Submitted by	Title	Comments
		<p><i>side line half way marking from Sport England guidance was used and this approach was confirmed as acceptable by the Environmental Health Officer at Solihull Metropolitan Borough Council. It is important to note that the primary purpose for using the Sport England data was to allow prediction of noise level 'change' due to the reconfiguration of the sports pitches.</i> [emphasis added]</p>
Mr O'Reilly	<p>Deadline 7 submission – Comments on any additional information or submissions received by previous deadline – 8.73 Applicant's Responses to Actions in respect of ISH on Compulsory Acquisition on 20 August 2019</p>	<p>4.7</p> <p>Mr O'Reilly Comment:</p> <p>[Action no. 7 - The Applicant is to consider by Deadline 6, options for landscaping and appropriately enclosing land to the front (east) and side (south) of the residential property known as Four Winds, and potential access issues arising from any proposed drainage features in this location.]</p> <p>The response provided by Highways England does not correspond to the action requested by the ExA.</p> <p>The question I asked at the ISH held on Tuesday 20th August 2019 was with regard to the new boundary to my property and how the rear entrance to my property would be enclosed.</p> <p>I highlighted the fact that there had been no further consultation with Highways England and I was still waiting on Highways England to produce drawings showing the boundary treatment to my property.</p> <p>I understood these drawings would be produced for Deadline 6 but that has not happened.</p> <p>The Applicant's Response:</p> <p>The Applicant has written to Mr O'Reilly setting out the parameters regarding ongoing discussions regarding boundary treatments. Mr O'Reilly has responded requesting further detail which the Applicant is unable to provide at this time as this information would be finalised in advance of the construction works surrounding his property. The Applicant will continue to liaise with Mr O'Reilly on this matter.</p>

Submitted by	Title	Comments	Comments
Mr O'Reilly	Deadline 7 submission – Post hearing submissions including written submissions or oral cases, arising from Compulsory Acquisition Hearing – 22 nd October 2019	4.8	<p>Mr O'Reilly Comment:</p> <p>HE document '4.1 Statement of Reasons' states that "It is the intention of the Applicant to submit further updates post-application, either when appropriate or as directed by the Examining Authority in the form of a Compulsory Acquisition Schedule". However, no updates appear to have been provided.</p> <p>Four Winds:</p> <ul style="list-style-type: none"> - Highways England (HE) have provided a drawing but unfortunately it lacks sufficient detail for meaningful discussion. - HE have committed to further discussions regarding the boundary works around my property but nothing has been scheduled. - Given it has now been confirmed that a number of issues will impact my property and will require professional advice – boundary changes, the Ad Medium Filum rule and compulsory purchase – I would ask that HE agree to cover the cost of a professional advisor. <p>WGAA:</p> <ul style="list-style-type: none"> - In its DCO application for the Scheme, Highways England (HE) seeks compulsory acquisition powers in respect of certain land interests. - The HE scheme will impact one of the pitches located in the north of the Warwickshire Gaelic Athletic Association (WGAA) site, may also impact the pitch located in the south of the site, will impact 39 parking spaces and will impact access to the clubhouse. As a consequence of this HE have proposed to reconfigure the WGAA site. - HE document '<i>TR010027-000444-TR010027_M42J6_8.21_WGAA_Proposed_Reconfiguration</i>' includes a drawing (Figure 8.21) of the proposed reconfigured site and item 1.2.3 of that document confirms that the key elements of the proposed WGAA reconfiguration are as follows: <ul style="list-style-type: none"> o a. a new access off Catherine-de-Barnes Lane and access track to the existing clubhouse and new car parking area;

Submitted by	Title	Comments
		<ul style="list-style-type: none"> ○ b. new car parking to the west and north of the clubhouse broadly equivalent in size to that which will be lost by the Scheme; ○ c. two new, approximately north-south facing sports pitches (85m x 135m and 80m x135m respectively) with the third pitch retained; ○ d. ball stop fencing; and ○ e. relocation of the memorial <ul style="list-style-type: none"> - Item 1.2.3 a. specifically states the new access and access track are to the existing clubhouse and new car parking area only. - Item 1.2.3 b. specifically states new car parking equivalent in size to that which will be lost is to be provided to the west and north of the clubhouse only. - Item 1.2.3 c. specifically states two new pitches will be 85m x 135m and 80m x135m respectively. - Figure 8.21 specifically shows the size and position of the two new pitches on the reconfigured site. - The compulsory acquisition powers are therefore to be used for the specific purpose of facilitating the above works under the DCO. - That said, it is hard to conclude that HE can justify the acquisition of land outside the existing WGAA site to facilitate these works as there does not appear to be a compelling case in the public interest to do so, particularly as HE confirmed a number of relocation sites were offered to the WGAA and rejected out of hand. - Furthermore, HE are unable to provide any reasonable justification for the use of compulsory acquisition powers to acquire land that currently provides income to a landowner in order to provide leisure facilities to a private members club, other than as a means to remove an objection to their proposed scheme. - It is also difficult to understand how compulsory acquisition powers can be used to facilitate works that will have a detrimental impact on my property and are therefore in

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		<p>contravention of the right to peaceful enjoyment of possessions under The Human Rights Act.</p> <ul style="list-style-type: none"> - Should these works be taken out of the DCO and submitted under a separate planning application it is difficult to understand how, in that event, any compulsory acquisition powers in respect of the proposed reconfiguration of the WGAA site (under the DCO) can still apply. - In the event that these works are taken out of the DCO and submitted under a separate planning application, one can only conclude that, given the difficulties in justifying the use of compulsory acquisition powers under the DCO, any land required could only be acquired through negotiation as compulsory acquisition powers could not be used. <p>The Applicant's Response:</p> <p>The Applicant has engaged with Mr O'Reilly about how his land and property is affected by the Scheme and does not consider that further updates to the Book of Reference [AS-006/Volume 4.3(rev 2)] and the Statement of Reasons [APP-018/Volume 4.1] are required in this respect.</p> <p>The Applicant considers that the reconfiguration proposals for the WGAA contained within Volume 8.21 [REP2-019], represent the minimum land take required to adequately mitigate the effects of the Scheme on the WGAA facility. This land is therefore "required to facilitate" the DCO Scheme within the meaning of Section 122(2)(b) of the Planning Act 2008. The Applicant considers that there is a compelling case in the public interest for this land to be acquired given the strong protection that the National Policy Statement for National Networks provides to sports and recreational buildings and land.</p> <p>The Applicant has attached the Document entitled 'Warwickshire Gaelic Athletic Associate [sic] Relocation Site Assessment Technical Note May 2018' (the Technical Note) as Appendix 1 to Volume 8.93. This document was originally produced in May 2018 as an internal Technical Note (which is why it retains the draft watermark) but contains options that were shared with the WGAA in Autumn 2018 for discussion. This document is unaltered since this time but contains redacted information where this is deemed sensitive for publication. This technical note shows the alternative locations and reconfiguration options that were considered.</p>

Submitted by	Title	Comments
		Section 6 of the Applicant's Statement of Reasons sets out why the compulsory acquisition of land for the DCO scheme complies with the convention rights.
The Gooch Estate	Deadline 7 Submission – Post hearing submissions including written submissions of oral cases, arising from Compulsory Acquisition Hearing – 22 nd October 2019	<p>5.1</p> <p>The Gooch Estate comment:</p> <p>4. Teardrop Land Bat Mitigation</p> <p>4.1 The Teardrop Land is proposed to be surrounded by roads emitting light, noise and air pollution and is one of the few areas of the scheme which will be lit by road lighting from Barber's Coppice roundabout. The Environmental Statement notes in general terms that road lighting and vehicles are likely to adversely affect habitats and ecology (9.7.3). Specific harm is caused to bats by light as set out in the Environmental Statement (9.9.163) as light discourages bats from settling. The use of the Teardrop Land for bat mitigation does not, therefore, appear to be appropriate. It will not provide suitable habitat for bats and its acquisition for that purpose is not reasonable or necessary.</p> <p>4.2 Page 23 of Document 8.73 refers to the habitat creation being "essential" due to loss elsewhere. However it does not provide an explanation for this essentiality and does not refer the Examining authority to the excess provision already being provided through the scheme to replace its losses, even without the Teardrop Land. The Gooch Estate is not satisfied that HE has made the case out for this habitat creation even with directional lighting and the use of a retaining tree for the bat box and does not consider that this can be the best location within the scheme for bats especially when there is other land available.</p> <p>4.3 The Gooch Estate stated that the information provided is inadequate and HE has not made out the case for CA.</p> <p>The Applicant's Response:</p> <p>The Applicant has set out its response to the Gooch Estate's concerns about the use of land parcels 2/3v and 3/4a, including the provision of bat mitigation, in section 3.6.1-3.6.6 of its Written Summary of Oral Case for ISH on Compulsory Acquisition and Temporary Possession on 22 October 2019 [REP7-008/Volume 8.83]. Further information is also provided in the Applicant's response to the Actions Arising out of ISH on Compulsory Acquisition and Temporary Possession on 22 October for Deadline 8 [Volume 8.93].</p>

Submitted by	Title	Comments	
The Gooch Estate	Deadline 7 Submission – Post hearing submissions including written submissions of oral cases, arising from Compulsory Acquisition Hearing – 22 nd October 2019	5.2	<p>The Gooch Estate comment:</p> <p>6. Pump Solution within the Teardrop Land</p> <p>6.1 During the hearing, HE stated that part of the Teardrop Land may need to be acquired as a fall back to the SSSI Mitigation should the passive solution fail and would need to provide a pump solution at the northern end of the Teardrop Land coupled with rights.</p> <p>6.2 The Gooch Estate has not heard this explanation previously. The Gooch Estate cannot comment at this stage as it is the first that it had heard of this. Further information should be provided by HE to justify this proposed use of the Teardrop Land.</p> <p>The Applicant's Response:</p> <p>The Applicant refers the Gooch Estate to the response provided to Action Number 11, as set out in the Applicant's Responses to Actions in respect of ISH on Compulsory Acquisition on 20 August 2019 [REP6-015/Volume 8.73] in the section titled "Long-term ownership of the teardrop land", which referred explicitly to the pumped system.</p> <p>The pumped system described relates to Work Number 76, described in Schedule 1 to the dDCO [AS-036] and was included in the dDCO as applied for on 2 January 2019.</p>
The Gooch Estate	Deadline 7 Submission – Post hearing submissions including written submissions of oral cases, arising from Compulsory Acquisition Hearing – 22 nd October 2019	5.3	<p>The Gooch Estate comment:</p> <p>7.8 It was agreed at the hearing that HE would provide a written explanation, including figures, of the quantum of topsoil that will need to be stored and the land required to accommodate its storage. the Gooch Estate would provide a response to these figures and the use of Plot 2/3w by Deadline 8.</p> <p>The Applicant's Response:</p> <p>The Applicant refers to the Gooch Estate to the Applicant's Written Submission of Oral Case for ISH on Compulsory Acquisition and Temporary Possession on 22 October 2019 [REP7-008/</p>

Submitted by	Title	Comments	
			<p>Volume 8.83], where the Applicant set out its reasons in Sections 3.6.12 to 3.6.15 for temporary possession.</p> <p>The Applicant is of the view that land parcel 2/3w is essential for the construction of the Scheme.</p>
The Gooch Estate	Deadline 7 Submission – Post hearing submissions including written submissions of oral cases, arising from Compulsory Acquisition Hearing – 22 nd October 2019	5.4	<p>The Gooch Estate comment:</p> <p>9. Conclusion</p> <p>9.1 HE has not made out its case for the compulsory acquisition of the Teardrop Land or for Plot 2.3w. It has not shown that the land is required; proportionate and no more than reasonably necessary. It has not properly explored alternatives that would obviate the need to compulsorily acquire the Gooch Estate land comprised in those plots. As such, the Gooch Estate respectfully invites the ExA to omit those plots of land from the DCO.</p> <p>The Applicant's Response:</p> <p>For the reasons set out above and in the documents referred to, the Applicant considers that the acquisition of the teardrop land is necessary for the construction and mitigation of the Scheme. The Applicant confirms that it does not propose to acquire plot 2/3w. However the Applicant considers, for the reasons previously given, that the temporary possession of this land is essential for the construction of the Scheme.</p>
Barlow Associates Limited on behalf of Mr Geoff Cattell	Deadline 7 Submission – Post hearing submissions including written submissions of oral cases, arising from Compulsory Acquisition Hearing – 22 nd October 2019	6.1	<p>Barlow Associates Comment:</p> <p>1. I confirm that we have been in discussions with Highways England for some considerable time and over a year ago wrote to Jonathan Pizzey to confirm that Mr Cattell was amenable to discussions for voluntary land-take (at market value) provided that all of his land was taken and he was not left with uneconomic areas. This stance has been maintained throughout, including a recent letter that I sent to Nicola Harrington of Ardent of the 20th June 2019 and, again, at the meeting of the 12th September, the minutes from that of the 18th and my email of the 20th (see attached).</p>

Submitted by	Title	Comments
		<p>The Applicant's Response:</p> <p>The Applicant has held extensive discussions with Mr Cattell and his Agent to try and purchase his land needed for the Scheme by agreement and also to try and agree details of a Private Means of Access (PMA) for Mr Cattell to be able to continue farming his remaining land plot 3/1d.</p> <p>Since the start of the Examination, the following engagement has occurred between the Applicant and Mr Cattell's Agent:</p> <p>01/05/2019 - Meeting between both parties</p> <p>19/06/2019 - Meeting between both parties</p> <p>27/06/2019 - draft option agreement sent to Agent</p> <p>17/07/2019 - Meeting between both parties including the district valuer</p> <p>14/08/2019 - Agent notified of the Applicant's intention to remove Plot 3/1d from the Scheme</p> <p>20/08/2019 - Letter received from Agent stating that all of Mr Cattell's land should be purchased by HE including plot 3/1d</p> <p>27/08/2019 - Notice for proposed non-material design changes to the DCO sent and emailed to Agent 28/08/2019</p> <p>12/09/2019 - meeting between both parties</p> <p>18/09/2019- meeting minutes provided to Agent</p> <p>20/09/2019 - letter from Agent confirming Mr Cattell will not sell part of land without 3/1d being purchased by HE</p> <p>01/10/2019 - email to Agent from the Applicant not accepting condition to purchase all of the land</p> <p>17/10/2019 - Letter from the Applicant to Mr Cattell and his Agent confirming the extent of land required for the WGAA reconfiguration</p> <p>30/10/ 2019, Heads of terms sent to Mr Cattell and his Agent</p> <p>1/11/2019 – response on Heads of Terms received from Mr Cattell's Agent</p>

Submitted by	Title	Comments
<p>Barlow Associates Limited on behalf of Mr Geoff Cattell</p>	<p>Deadline 7 Submission – Post hearing submissions including written submissions of oral cases, arising from Compulsory Acquisition Hearing – 22nd October 2019</p>	<p>6.2</p> <p>Barlow Associates Comment:</p> <p>2. Acquiring authorities are charged with resolving matters by agreement first without the use of compulsory purchase powers, where possible. Mr Cattell has been amenable to this process but on the basis that either all of his land was taken (namely plots 3/1a, 3/1b, 3/1c, 3/1d, 3/1f, 3/1g, 2/76a, 2/76b, 2/76d), or as a concession, he might be prepared to retain land to the south of the current GAA outline on Fig.8.21 provided that the remaining land was capable of being farmed economically and had suitable accesses both off the reconfigured Catherine de Barnes Lane and his existing farm drive (as at present).</p> <hr/> <p>The Applicant's Response:</p> <p>As set out above, the Applicant has sought to purchase the land it needs from Mr Cattell by agreement. However, it will only do so where it can agree reasonable terms of purchase. Mr Cattell has been clear that he will only sell land to the south of the current WGAA site if the Applicant also purchases Plot 3/1d.</p> <p>As is clear from Volume 8.21, there is no requirement to purchase Plot 3/1d to facilitate the proportionate reconfiguration of the WGAA facility and accordingly it has been proposed to remove this land.</p> <p>Furthermore, Plot 3/1d is a former landfill site which was purchased a number of years ago by the landowner, there is no historical information available about what is in the landfill and any possible pollution issues that may arise as a result of this. The Applicant is therefore not willing to purchase the land with the possibility of future pollution liability and has demonstrated that this land is not required for their Scheme and that access can reasonably be provided to it so the landowner can continue to farm this in the same manner as currently occurs.</p> <p>The Applicant confirmed to Mr Cattell and his Agent on 17 October 2019, the proposed extent of land permanently required to facilitate the reconfiguration of the WGAA, and that required on a temporary basis.</p> <p>The total land requirements from Mr Cattell (excluding plot 3/1d) have therefore been reduced by the Applicant to 7.521 acres leaving 8.179 acres of retained land (not including plot 3/1d) around the WGAA for Mr Cattell to continue to farm. He will be provided with an access track over plots 3/1g, 3/1f and 3/1a of a reduced length of approximately 200m and as there is retained land on</p>

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			<p>either side of this, it can be left open for stock to freely travel between the residual land and plot 3/1d or stock can be driven this short distance into the field if this if required.</p> <p>The current access into the land block off the private farm drive is some 850m from the main farmstead and cattle are driven along this route (or part of this route) to get to the land when they are being moved between pastures. It is proposed to create a short approximately 200m long private means of access to get to a block of land 11.96 acres in size (plot 3/1d). There will also be access from Catherine-de-Barnes Lane. This land can therefore be farmed in the same manner as takes place now and in conjunction with the remaining 8.179 acres of retained land.</p> <p>The farming system and distance of access to get to the block of land is not changing with the Applicant's proposals. The Applicant considers that this remaining land could still be farmed economically.</p>
<p>Barlow Associates Limited on behalf of Mr Geoff Cattell</p>	<p>Deadline 7 Submission – Post hearing submissions including written submissions of oral cases, arising from Compulsory Acquisition Hearing – 22nd October 2019</p>	<p>6.3</p>	<p>Barlow Associates Comment:</p> <p>3. In meetings with Highways England / AECOM and Ardent, we were told in May and June 2019 that we would “imminently” be sent heads of terms with a draft option for the acquisition of Mr Cattell’s land. (The same undertaking was given in respect of William Freeman & Sons, Messrs Ali and Choudhry Jacqui Melbourn, for whom I am also acting). Whilst we received the draft option, it was no use without the heads of terms which are still awaited. As the Inspector heard at the Inquiry, Highways England have indicated that they should be able to provide these draft heads of terms by deadline 8 ie., on the 5th November 2019 ie., over six months after they told us they were imminent. We have agreed that, provisionally, I will consider these heads of terms by the 14th December, after the Inquiry has closed (Regulation 17).</p> <p>The Applicant’s Response:</p> <p>Final Heads of terms could not be sent to the Agent earlier in the discussions as the areas to be purchased were not agreed between the parties. Land values were discussed on 19th June 2019 and 17th July 2019 with the District Valuer and draft Option agreement terms were sent on 27th June 2019. The Agent has chosen not to make any comments on these until the land areas were confirmed (which they have now been).</p>

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		<p>Formal heads of terms have now been sent by the Applicant to purchase the required 7.521 acres they need for their Scheme. Mr Cattell's Agent has responded to say that all of his client's land should be acquired.</p>
<p>Barlow Associates Limited on behalf of Mr Geoff Cattell</p>	<p>Deadline 7 Submission – Post hearing submissions including written submissions of oral cases, arising from Compulsory Acquisition Hearing – 22nd October 2019</p>	<p>6.4</p> <p>Barlow Associates Comment:</p> <p>4. As explained at the Inquiry, our client does not wish to be left with the difficulty of farming 3/1d for reasons highlighted in my letter to Nicola Harrington of the 20th September 2019 (attached). Mr Cattell can run stock from his adjoining land to all of the plots in question and the stock can run between the fields without the need to drive them or to move them. The third paragraph of the letter of the 20th September explains the position clearly.</p> <p>The distance from his existing farm drive to plot 3/1d is over 400m and it is simply unacceptable to accept "skittish" suckler cows with calves at foot to be driven that length past noisy rugby pitches and over the ESSO pipeline. Access provisions to 3/1d have provisionally been discussed with Highways England and are simply not workable for my elderly client..</p> <p>We maintain that the DCO process, already outlined, i.e. Highways England acquiring all plots set out in 2 above (or varied as set out there) should be adhered to.</p> <p>The Applicant's Response:</p> <p>The current proposal for access which were sent to Mr Cattell recently has reduced the length of the private means of access between his retained land to the South of the WGAA re-configuration (which he wants to retain) and plot 3/1d to approximately 200m. The stock will have free access over the land to the North and South of the WGAA proposals, there is no requirement to drive them through this section and they can be allowed to have free access between the land blocks as the access will be suitable designed for stock and machinery to use. Should there be a need to keep stock either to the South or North of the WGAA, suitable gates can be provided to allow this and stock can be driven at times when the WGAA are not playing matches if cattle welfare is an issue as a result of noise at these times.</p> <p>If the land value is considered to be affected by this access proposal or the route deemed to be less commodious, this is a compensation issue and a matter for negotiation between the parties.</p>

Submitted by	Title	Comments
		<p>The provision of the private means of access will allow land block 3/1d to be farmed in the same manner as it is currently by Mr Cattell.</p> <p>The Esso fuel line is underground and stock freely cross this in the land currently, any private meant of access created above this to facilitate access into 3/1d would be done by the Applicant in consultation with the pipeline operator and under their Health and Safety rules so this would not fetter access or be detrimental to gaining access to field plot 3/1d.</p>
<p>Barlow Associates Limited on behalf of Mr Geoff Cattell</p>	<p>Deadline 7 Submission – Post hearing submissions including written submissions of oral cases, arising from Compulsory Acquisition Hearing – 22nd October 2019</p>	<p>6.5</p> <p>Barlow Associates Comment:</p> <p>6. I made the point at the Inquiry that the Planning Act 2008 and in particular the guidance related to procedures for compulsory purchase, makes a number of points c/o Section 122 of that Act. This requires that there is a compelling case in the public interest for compulsory acquisition –</p> <ul style="list-style-type: none"> are there any reasonable alternatives; is it necessary and proportionate; and is the land required no more than is necessary? <p>In particular, in paragraph 8 of the Government Guidance, it states that:</p> <p>“The applicant should be able to demonstrate to the satisfaction of the Secretary of State that <u>all reasonable alternatives</u> to compulsory acquisition (including modifications to the scheme) have been explored. The applicant will also need to demonstrate that the proposed interference with the rights of those with an interest in the land is for a legitimate purpose, and that it is necessary and proportionate.”</p> <p>As you heard at the Inquiry, Highways England have not made reasonable efforts to negotiate with my client nor to find alternative areas of land. There were discussions with another of my clients about the possible acquisition of land southwest of the current GAA site, but after an early indication that the land might be required, nothing further was heard at all and the land was dropped from the DCO process. There were no discussions with me or my clients after an early indication it might be required; for the same reason that I have highlighted above, namely that it is unreasonable to dispossess one party at the expense of the other was deemed legally to be the position.</p>

Submitted by	Title	Comments	
			<p>As I said, it is not reasonable unless on agreed terms, and without the use of compulsory powers, to deprive one person trying to earn a living at the expense of another who is purely there for recreational purposes. <u>Highways England have not demonstrated reasonable endeavours to find alternative sites elsewhere and the Inspector required them to so demonstrate or engage with Mr Cattell to acquire, at market value, all of his plots.</u></p> <p>The Applicant's Response:</p> <p>The Applicant considers that the reconfiguration proposals for the WGAA contained within Volume 8.21 [REP2-019], represent the minimum land take required to adequately mitigate the effects of the Scheme on the WGAA facility. This land is therefore "required to facilitate" the DCO Scheme within the meaning of Section 122(2)(b) of the Planning Act 2008. The Applicant considers that there is a compelling case in the public interest for this land to be acquired given the strong protection that the National Policy Statement for National Networks provides to sports and recreational buildings and land.</p> <p>The Applicant has attached the Document entitled 'Warwickshire Gaelic Athletic Associate [sic] Relocation Site Assessment Technical Note May 2018' (the Technical Note) as Appendix 1 to Volume 8.93. This document was originally produced in May 2018 as an internal Technical Note (which is why it retains the draft watermark) but contains options that were shared with the WGAA in Autumn 2018 for discussion. This document is unaltered since this time but contains redacted information where this is deemed sensitive for publication. This technical note shows the alternative locations and reconfiguration options that were considered.</p>
Barlow Associates Limited on behalf of Mr Geoff Cattell	Deadline 7 Submission – Post hearing submissions including written submissions of oral cases, arising from Compulsory	6.6	<p>Barlow Associates Comment:</p> <p>In summary, my clients Mr Cattell, Mr Ali and Mr Choudhry and William Freeman & Sons are all suffering material detriment to their remaining land holdings as a result of Highways England coming up with a variety of different schemes, some of which do not currently demonstrate the full acquisition of their holdings. This is what they are seeking. HE "surprised" the Inspector that the DCO boundaries might now not be followed.</p> <p>A) In respect of Mr Cattell, we have outlined that the ability for him, at his age, to economically farm the remainder of the land (after the GAA pitch alteration) and particularly plot 3/1d is not met and not feasible. Highways England have not demonstrated reasonable alternatives to relocating</p>

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	Acquisition Hearing – 22 nd October 2019	<p>the GAA nor have they provided heads of terms to my client for the voluntary acquisition of this land. Finally, they most definitely have not demonstrated why it is reasonable in all the circumstances and particularly related to the Planning Act, that it is fair and equitable to dispossess my client of land which he uses to earn a living in favour of a club which would use the land for recreational purposes only.</p> <p>B) In respect of William Freeman & Sons, if HE do not take all of their land the remainder of the land that is left out the acquisition of plots 3/45a, 3/45b and 3/45c would definitely make the remainder of this land uneconomic. Access to this area of land, as proposed, is significantly less good because the current direct accesses off Catherine de Barnes Lane will be lost by a proposed feeder road which will be narrow and involve access through Bickenhill.</p> <p>C) In respect of Mr Ali and Mr Choudhry, plots 3/53a, b, c, d and e, the Inspector was unaware that Highways England were considering only acquiring part of their land, despite the fact that all of their land is demonstrated in the DCO as being needed. Therefore the same point as B) above applies.</p> <p>D) In respect of both William Freeman & Sons and Messrs Ali and Choudhry, the areas that Highways England are saying may not be of use to them would usefully be available for landscaping and additions to Bickenhill Meadows SSSI. If the acquiring authority are so keen on conservation and mitigation, then amenity woodland and planting would provide “legacy” in the same way as the GAA and prevent our clients being so adversely affected. It is not reasonable that they should be made to try and justify material detriment when they have indicated that they would willingly sell all their land, on terms, but have never been approached with proper heads of terms at all.</p> <p>The Applicant's Response:</p> <p>In relation to point A above, see above summary of extensive discussions between the parties.</p> <p>In relation to point B, the following comments are made:</p> <p>William Freeman and Sons Limited will still have a retained block of land (3/45c) which is 19868 m² (4.909 acres) in size. The previous use of the land (a number of years ago as currently unfarmed) was for stock / equestrian grazing and grass conservation and the reduced block of land could still have the same activities carried out on it by the landowner in its reduced size.</p>

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		<p>Access will be provided by the Applicant to the land for agricultural / equestrian uses.</p> <p>The Applicant considers that an access that is no less commodious than the current unfixed route used across plot 3/45a can be provided to give continued unfettered access to plot 3/45c with stock and machinery so that agricultural activities of hay / silage conservation and stock grazing can continue on the land.</p> <p>The Agent was asked whether he wanted a meeting on site between the parties to discuss the non-material change application further and look at practical access provisions to the retained land so these could be agreed and documented between the parties, this was not taken up.</p> <p>If the land value is considered to be affected by this access proposal or the route deemed to be less commodious, this is a compensation issue and a matter for negotiation between the parties.</p> <p>The provision of the private means of access will allow land block 3/45c to be used in the same manner as it is currently by William Freeman and Sons Limited.</p> <p>Heads of terms for land purchase of the 12.942 acres of land were sent to William Freeman and Sons Limited's Agent on 30.10.2019. The Agent responded on 1 November 2019 and negotiations continue.</p> <p>In relation to point C, the following comments are made:</p> <p>Messrs Ali and Choudhry will retain plot 3/53b (1.074 acres) which is already separated from the main land block owned by them and located on the East side of Catherine De Barnes Lane. Any current use of this land can therefore continue after the Applicant's temporary use has ceased as the plot will not change.</p> <p>Plot 3/53d to be retained by Messrs Ali and Choudhry is 12.432 acres, access will be provided by the Applicant by means of a private means of access to the land for agricultural / equestrian uses. This land block is currently unfarmed / not used by the landowner.</p> <p>If the land value is considered to be affected by this access proposal or the route deemed to be less commodious, this is a compensation issue and a matter for negotiation between the parties.</p> <p>The provision of the private means of access will allow land block 3/53d to be farmed/ used in the same manner as it is currently by Messrs Ali and Choudhry.</p>

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		<p>Heads of terms for land purchase of the 12.374 acres of land were sent to Messrs Ali and Choudhry's Agent on 30.10.2019. A response was received from the Agent on 1 November 2019 and negotiations continue.</p> <p>In relation to point D, the following comments are made:</p> <p>In undertaking the biodiversity assessment as presented within the Environmental Statement the Scheme has adequately provided an appropriate level of mitigation without the need for additional land. Notwithstanding this, the Applicant is willing to discuss whether land referred to by Mr Barlow in point D above, could be used to bring forward environmental enhancements, as part of the negotiations mentioned above.</p>