

Lower Thames Crossing Examining Authority

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Submitted online

19th September 2023

Dear Sirs,

**Lower Thames Crossing – Planning Inspectorate Ref: TR010032:
Supplementary Evidence Following Compulsory Acquisition Hearing 2 (CAH2) –
Individual & Site-Specific Objections Relating to Compulsory Acquisition &
Temporary Possession**

**Item 3C - Affected Person: Mrs J. Carver, of [REDACTED],
[REDACTED] (Interested Party Refs: LTC-AP1205 and 20035706)**

1. Following the individual and site-specific hearing in relation to Mrs J. Carver's property, [REDACTED], held on 15th September 2023, we write to provide further information and clarification of the unresolved matters raised, as requested by the Examining Authority (ExA). We understand that the Applicant, National Highways, will be given the opportunity to respond to this statement and the ExA will then decide whether a further related hearing is considered to be necessary.
2. The basis of Mrs Carver's concerns and objections are consolidated in our letter of representation (23rd February 2023) (Ref: RR-0753), as supplemented by acoustic impact related evidence provided by Sharps Redmore (23rd May 2023) (Ref: REP1-390) and our accompanying letter (28th June 2023) (Ref: REP1-389). Two further plans (Refs: AS 152 & AS 153), showing the [REDACTED] property in relation to the related parts of the DCO boundary were also submitted to the ExA on 13th September 2023. Finally, a further acoustic Technical Note (12th September 2023), prepared by Sharps Redmore, has also been prepared in relation to the Applicant's response to REP1-390 (Ref: REP2 - 051) and the Examining Authority's Written Questions (Ref: PD-029), which is appended to this statement.

Background

3. The DCO area includes part of the M25 Motorway which abuts, and is contiguous with, the entire eastern boundary of [REDACTED] (the property). Within the property, a swath of land is proposed to be compulsorily acquired to allow for the widening of the M25 northern slip road to facilitate two further lanes to feed into an expanded junction with the A127 (Junction 29). Land extending to

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approximately 41 to 50 metres wide (Plot Refs¹ 44-21 & 44-32) is required to provide for a widened carriageway and associated embankment, which reduces to approximately 17.7 to 24.4 metres at the northeastern end where a vertical retaining wall is proposed in place of an embankment (Clause S14.09 in the Applicant's Design Principles Report (Ref: REP3-110)). The retaining wall is to allow for the limited distance between the highway and the commercial part of the property centred around the former farmyard, containing several Grade II curtilage listed buildings (consented to be converted into offices/ commercial leisure uses).

4. As a consequence of the proposed works and land take on the eastern side of the property, a significant quantity of trees planted by Mrs Carver mostly in excess of 20 years ago, would need to be removed along with the existing trees planted by National Highways on the motorway embankment itself. This will expose views of the M25 from many viewpoints within various parts of the property, as well as exposing views to the property from the elevated parts of the M25, which Mrs Carver has been at pains to conceal with the extensive woodland planting belts. This diminished outlook from the property, which contains a Grade II listed farmhouse and several Grade II curtilage listed buildings, requires appropriate mitigation and compensatory screening measures, which are yet to be agreed.
5. Also, at the northeastern corner of the property, the Applicant is proposing to acquire temporary possession of a rectangular block of land with permanent acquisition of rights to facilitate underground utility works (Plot Ref:¹ 44-16). As pointed out at the Accompanied Site Inspection on 14th September 2023, this area contains a private water treatment plant serving the existing buildings located around the courtyard, which would need to be replaced in advance of any enabling works.
6. The proposed planting of shrubs with intermittent trees over Plot Ref: 44-16 (as shown on Sheet 2 of the Environmental Masterplan (Ref: REP2-031) may need to be reviewed as it may not be compatible with the maintenance access requirements associated with the proposed underground utilities to be installed.
7. At the southern end of the property the Applicant is proposing to permanently acquire land to allow for the provision of a drainage pond (Plot Ref¹ 44-21), with temporary possession and permanent acquisition of rights to allow for underground utility works.
8. Also, at the southern end of the property on the western side of the private driveway (Plot Ref¹ 44-07) temporary possession of approximately 0.54 hectares (1.34 acres) of land is proposed to facilitate utility works and provision of temporary storage and laydown areas. Within these areas, all established driveway trees and hedgerows are indicated to be removed (see Page 47 of 51 of Document Ref: REP1-151), with no mitigation apparent.

Mrs Carver's Position

9. Mrs Carver does not contest the need for the development in the national interest. However, we are not convinced that all of the land identified to be permanently or temporarily acquired is necessary to enable the development to go ahead, particularly if more suitable alternative land is potentially available (i.e. a key statutory test).

¹ Plot Refs are as shown on Sheet 44 of Document Ref: REP1-013

10. Also, given the scale and significance of the impacts of the development on Mrs Carver's amenity and quality of life, in addition to the likely negative effect on the value of her property, suitable mitigation/compensation measures need to be secured. Such necessary and reasonable measures are yet to be agreed. In addition, some of the background desktop studies, which informed the Applicant's assessment of environmental effects are in part inconclusive and defective and, therefore, their related conclusions on the extent of mitigation may not be substantiated and require further consideration.
11. With this in mind, it is noted that the National Policy Statement for National Networks (NPSNN) refers to the National Planning Policy Framework (NPPF) as an important consideration for Nationally Significant Infrastructure Projects (NSIPs), but only to the extent where relevant to the project. As the NPPF covers relevant planning considerations including mitigation and compensation measures for new development, as well as guidance on design, landscaping, ecology and the setting of listed buildings etc, the application of relevant planning policy is considered to be appropriate to the consideration of the proposed development, which is referred to in our previous representations. As discussed at the Hearing, if it is considered that the proposed development is not justified in planning terms, the consequential compulsory purchase merits may also not be justified.
12. Furthermore, in accordance with good practice guidance on compulsory acquisition, and at Mrs Carver's expense, we have been engaging with the Applicant's technical team since 2018, with a view to seeking agreement over various land acquisition and development mitigation measures. The last meeting was held by video conference on 12th September 2023 (with Sarah Collins and Anne Richards). This was a productive session with a number of measures provisionally agreed, subject to further justification. However, when the same measures were referred to at the Hearing on 15th September, the Applicant's legal representative said that none of the measures were agreed, prompting the ExA to request further clarification on the matter.

Matters to be Determined and Agreed

13. With the above background in mind, we have set out our position and understanding of the outstanding matters below.

Extent of Land to be Temporarily Acquired

14. At the meeting held on 12th September 2023, the LTC Team agreed to consider the potential to relocate the temporary storage area (Plot¹ 44-07) to the solar panel site south of St Mary's Lane. If this was feasible, it would move the facility out of Franks Farm, further away from residential receptors, i.e. Mrs Carver's property and adjacent existing housing on the northern side of St Mary's Lane, with consequential amenity benefits.

Extent of Land to be Permanently Acquired

15. It was agreed at the meeting held on 12th September 2023, that the LTC Team would review the location of the proposed drainage pond at the southern end of the property (Plot Ref:¹ 44-21), with a view to potentially relocating it to the solar panel site, south of St Mary's Lane, proposed for flood compensation and ecological habitat creation (including ecology ponds), as shown on the Applicant's Environmental Masterplan (Ref: REP2-031 Sheet 1) . It seems that the relocation of the pond to this area would be compatible with the land use

intentions (identified in Document Ref: REP3-106 'Outline Landscape and Ecology Management Plan' as "*designed primarily as habitat to support GCNs*") and would also alleviate construction and operational phase impacts on Frank's Farm as a residential receptor.

16. The LTC Team explained that, if it was not feasible to relocate the pond off site, it was acknowledged that further detailed design work would need to be undertaken by the appointed contractor to revisit the size, shape and siting of the pond, with a view to reducing the impact of the pond on the property. It was also explained that such works could be referred to in a Stakeholder Actions & Commitments Register (SACR), which Mrs Carver would welcome.
17. At the Meeting held on 12th September 2023, the extent of land to be acquired to provide the proposed embankment was discussed, with a view to pursuing a reduction in the amount of land required and consequential woodland loss, if feasible. This could also be referred to in a SACR.
18. At the Hearing on 15th September 2023, reference was made to the area of land west of the proposed retaining wall within Plot Ref. 44-32, which seemed unnecessarily wide for its purpose. A strip of land for temporary land possession and permanent access rights acquisition to the west of the intended permanent acquisition section is shown and it is requested that the permanent acquisition area is revisited with a view to reducing its width.

Potential Dual Drive Track to Serve Acquired and Retained Land

19. At the meeting held on 12th September 2023, it was agreed that the provision of a dual-purpose access drive to serve the operational highway land on the eastern boundary of the property and the courtyard area framed in part by the curtilage listed buildings, to be used for commercial office and leisure uses, had merits. The intention would be for this to be aligned on the western side with a 2 metre high solid timber fence to allow for privacy and security.
20. It was also explained to the LTC team that Mrs Carver would be prepared to consider an alternative and safer point of access to the operational land from her main drive, as indicated on the submitted plan Ref: AS-152. It was also explained that such works could be referred to in a SACR and potentially secured via Accommodation Works at the detailed design stage. This gesture was welcomed by the LTC team who agreed to consider the matter further.

Suitable Landscaping and Ecological Mitigation

21. Mrs Carver is very concerned over the loss of a significant number of semi-mature trees that she had planted more than 20 years ago to create a purpose planned woodland area to screen the property from the M25 carriageway, associated lighting and high sided vehicles, etc. As evidenced at the Accompanied Site Inspection on 14th September 2023, this woodland belt is currently fulfilling its intended landscape and screening function, particularly during the summer months when the deciduous trees are in leaf. The woodland also has an ecological value which would be additionally lost to the development.
22. In response to the tree loss Clause S14.09 of the Applicant's Design Principles Document (Ref. REP3-110) states:

“To limit the land required to the listed Franks Farm and the property of St Mary’s Lane, a retaining wall rather than earthworks shall be provided. Planting shall be provided to soften the visual impact structures. Planting on the embankment south of Franks Farm to include larger stock trees as part of the planting/woodland screening mix as defined in the Environmental Masterplan (Application Document 6.2 Figure 2.4).”

23. However, as explained at the Hearing on 15th September 2023, the Environmental Masterplan (Ref: REP2-031 Sheets 1 and 2 (August 2023), indicates shrub planting with intermittent tree planting within these areas, together with species-rich grassland. Such a suggested alternative approach in our view is woefully sub-optimal and requires revision, as made clear at the Hearing, and especially considering the impacts arising from the increased elevation and closer proximity of the proposed slip lanes and their associated lighting to the property.
24. Again, at the Meeting held on 12th September 2023 with LTC officers, it was explained that a suitable approach to replacement woodland planting to deliver the required woodland buffer could be included within a SACR and could refer to an agreed number, location, size and species of proposed tree planting taking account of the baseline position concerning the extent and nature of tree cover. This measure could also address on-site ecological mitigation, which does not appear to have been addressed to date.

Suitable Measures to Preserve the Setting of Designated Heritage Assets

25. As explained at the Hearing on 15th September 2023, the property contains a Grade II listed former farmhouse comprising a timber framed building with C15th , C17th and C19th elements, and part of a former moat which has been extended in modern times. The farmhouse was added to the statutory list in 1955 and the list description was submitted to the ExA on request on 15th September 2023.
26. In addition, the property contains three Grade II curtilage listed buildings dating from the C19th, comprising a barn, stable blocks and former kennels, all shown on the 1896 Ordnance Survey plan extract appended to Document Ref: RR-0753 and Plan Ref: AS 152. The curtilage listed buildings lie on the eastern part of the property and their setting will clearly be negatively affected by the proposed exposed embankment and retaining wall works.
27. The proposed retaining wall would be sited immediately to the east of the former farmyard close to the location of a former barn, which burnt down prior to Mrs Carver acquiring the property. An aerial photograph of the former barn together with an illustrative plan showing its intended recreation and its siting on the 1896 Ordnance Survey extract are appended to Document Ref: RR-0753.
28. The Applicant’s Cultural Heritage Desk-based Assessment (Heritage Assessment) (Document Ref: APP-351), submitted with the DCO, identified the listed farmhouse and the curtilage listed barn at the northern end of the former farmyard, but unfortunately incorrectly referred to the barn as a non-designated historic building. In addition, it failed to identify the curtilage listed horseshoe shaped stable and kennel block and separate curtilage listed former stable block, all shown on Plan Ref AS-152. Consequently, the Heritage Assessment omits the related curtilage listed buildings which are absent from the baseline position and overall impact assessment.

29. Concerning the setting of the farmstead generally, the Heritage Assessment at paragraph 5.3.263 says that the rural landscape has been disturbed by the M25 motorway and that the wider setting of the asset makes a lesser contribution to its significance. However, the desk-based study fails to acknowledge the extensive woodland planting carried out by Mrs Carver, which currently screens the motorway structure and contributes to the rural setting of Franks Farm and the surrounding countryside.
30. Therefore, taking account of the Heritage Assessment's omissions, it is considered that its baseline position cannot be relied upon as a suitable position from which to assess the impacts of the development, including widescale woodland removal and highway infrastructure works abutting the property to the east.
31. The Heritage Assessment also considers the impact of the proposed development on the significance (setting) of the listed building and northern barn (but not the other identified curtilage listed buildings omitted from the report, as mentioned above). The Heritage Assessment fails to acknowledge the removal of the extensive semi mature woodland areas, which would visually expose the heritage assets and their settings seen within the grounds of the property to the detriment of their significance.
32. This level of impact is considered to amount to 'substantial harm' in the context of paragraph 201 of the NPPF, and although such harm could be justified in the national interest of delivering the LTC scheme, such harm would need to be mitigated to fulfil the preservation tests required in paragraph 197 of the NPPF and Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
33. Therefore, the construction and operational phases of the development would not, in our view, adequately offset the degradation of the setting even with the addition of a 'green wall' or 'soft planting' referred to in the Heritage Assessment (paragraph 6.6.348). These negative impacts would amount to a significant adverse impact (in terms of an Environmental Assessment) requiring compensation to satisfy the preservation policy tests for designated heritage assets.
34. A key identified mitigation/ compensation measure would be to reinstate the former barn referred to above, to be sited on the eastern side of the former farmyard. This structure if built, would seal off the yard, reinstate the enclosed courtyard character, and provide permanent and effective screening of parts of the extended M25 carriageway and high vertical concrete walling. The barn could also serve as an additional noise mitigation measure for the benefit of users of the courtyard buildings.
35. As explained at the Hearing, Mrs Carver would be willing to apply for planning permission for the barn, which if supported by the Applicant, would help to provide the 'very special circumstances' planning policy justification needed in this Green Belt location. A commuted sum could then be agreed to help deliver the barn in the event that the LTC development went ahead.
36. Noting that the Applicant has identified that mitigation of the impacts on heritage interests within the property is required (albeit in the form of 'green walls' which would require significant ongoing maintenance responsibility), it is considered that a financial contribution towards delivering the reinstatement of the former barn would be more effective and would require less ongoing management.

Suitable Noise Mitigation Measures

37. An independent noise assessment was undertaken by Sharps Redmore (May 2023) on behalf of Mrs Carver (Ref: REP1-390). The Applicant's response to this (Ref: REP2-051) was produced in August 2023. In response to the Applicant's latest document and the Examining Authority's Written Questions (Ref: PD-029), Sharps Redmore have prepared a further document, Technical Note 1 (12th September 2023), which is appended to this statement.
38. Whilst the Sharps Redmore response (12th September 2023) addresses the main matters in contention, attention is drawn to a number of points relevant to the consideration of the requested acoustic measures.
39. The Applicant has not undertaken night-time noise measurements and the reason given is that it was not practicable to undertake such an assessment for a scheme of this size. Also, the noise monitors have been located well away from the farmhouse, which is the most sensitive receptor location within the property. However, notwithstanding the scale of the project, it is considered necessary to monitor night-time readings for sensitive receptors such as the occupants of Franks Farm. Night-time is also a particularly sensitive part of a 24 hour period in a residential context and its omission, therefore, leaves the Applicant's assessment incomplete and inconclusive for both the construction and operational stages of the development.
40. Any 'slight reduction' on noise levels referred to by the Applicant may not be perceived on the ground in the context of 10 lanes of heavy motorway traffic adjacent to the property and the resulting level will remain significantly above the recommended level set out in BS 8233:2014.
41. Consequently, with reference to Section 5.195 of the NPSNN, Sharps Redmore point out that "developments should "contribute to improvements to health and quality of life through effective management and control of noise"". With this in mind, Sharps Redmore recommend that acoustic screening should be provided along the boundary of the new carriageway to reduce noise levels and, in line with the policy aims of the NPSNN, to improve health and the quality of life. The current and future noise levels have and will disproportionately impact on the quality of life of the occupants of Franks Farm.
42. However, notwithstanding the acknowledged benefits of mitigating the development, the Applicant's noise response says that it is not considered to be cost effective or proportionate and therefore, no such mitigation has been offered. It is hoped that the Applicant will have a change of heart over this approach and support the requested acoustic screening. However, if such a measure is not forthcoming, it is requested that the ExA considers the position with a view to including the screening within the scheme at the specified location.

Ensuring Site Security

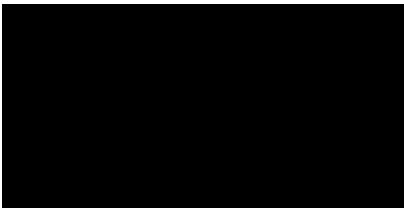
43. The proposed removal of mature hedgerows along St Mary's Lane would result in a site security issue for Mrs Carver until replacement planting has matured sufficiently. As such, replacement/ alternative security measures would need to be put in place during the construction phase of the development.

44. The proposed extensive tree removal discussed above would also result in a site security issue, as it would result in increased views into the property from the elevated slip road. Accordingly, replacement/ alternative securing measures are required to mitigate the loss of privacy and security.

Securing Mitigation Measures

45. We would also like to add that a further matter to clarify is the mechanism for securing the requested compensation and mitigation measures as part of the DCO, which could be via a combination of scheme revisions, conditions and obligations.
46. We would be grateful if you could confirm receipt of this submission, and we look forward to receiving your decision on whether a further hearing is warranted to consider the matters raised.
47. In the meantime, as mentioned at the CAH2 Hearing, we will endeavour to seek agreement with the Applicant over the outstanding matters and measures raised.

Yours faithfully



John Lawson
Lawson Planning Partnership Ltd

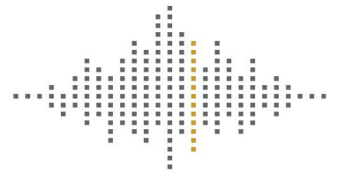
Encs (Sharps Redmore Technical Note 1 (12.09.23))

Cc: Sarah Collins and Anne Richards – LTC National Highways
Heidi Smith - Sworders Chartered Surveyors
Mrs J Carver



Appendix A

Lower Thames Crossing – Noise and Vibration Technical Note 1 (Sharps Redmore)



Reference: Lower Thames Crossing – Noise and Vibration

Project No: 2321638

Date: 12 September 2023

Technical note 1

Sharps Redmore (SR) has previously provided comments on the noise and vibration assessment (ES Chapter 12) carried out at part of the Lower Thames Crossing (LTC) Development Consent Order (DCO).

These comments were included in a report dated 23 May 2023 (SR report) and summarised in the letter from Lawson Planning Partnership LLP dated 28 June 2023, which was submitted on behalf of Mrs J Calver of Franks Farm, St Marys Lane, Cranham.

National Highways (NH) have responded and their comments are included in the Lower Thames Crossing, document 9.53 'Comments on WR's – Appendix F – Landowners.'¹ The purpose of this note is to respond to comments made in this document (REP1-389).

Point 2: Baseline Noise Levels.

SR would accept that in relation to the assessment of road traffic noise, the use of computer modelling based on traffic flows, is the preferred method to predict noise levels.

The comments in relation to the baseline survey is relevant to the assessment of construction noise, where the noise limits in BS 5228 are based on existing ambient noise levels. (Table E.1 BS 5228). Reference is made in the NH Response to Table 2.8 of ES Appendix 12.4 Construction Noise and Vibration Assessment and the daytime measurements carried out at noise monitoring location A-NML 27 which have been used to set the LOAEL and SOAEL for construction noise.

Although no night time measurements were recorded at A-NML-27 it is noted that in Table 2.8 measured noise levels of 44.9 dB are recorded. It is unclear where this level has been derived from and should be confirmed.

Point 3: Construction Noise

With regard to construction noise as outlined within the SR Report the main consideration is the noise impact from night time activity. The NH response refers to the assessment within ES Chapter 12: Noise and Vibration which concludes following mitigation the noise impact from night time construction noise at Franks Farm (Receptor CN134) will be reduced from 'major' to an acceptable level below the significant observed adverse effect level (SOAEL). The mitigation measures are set out in ES Appendix 2.2: Code of Construction Practice, First Iteration of Environmental

¹ Planning Inspectorate Scheme Ref:TR010032, Document reference TR010032/EXAM/9.53

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Management Plan. These mitigation measures including NV001, NV002 and NV004 refer to the guidance in BS 5228 (NV001), preparation of Noise and Vibration Management Plan (NVMP) (NV002) and the application for prior consents (NV004) under the Control of Pollution Act 1990. The impact of these mitigation measures have not been quantified and relate to management controls rather than any physical measures.

The impact of construction noise at Franks Farm is specifically referred to in Table 12.35 of the ES Chapter 12, where it is advised that the unmitigated reasonable worst case construction noise levels will have a 'moderate or greater impact during the evening and night-time periods. Where reference is made to greater than moderate impacts it is assumed that this is 'major' as outlined in section on construction noise impact criteria within the ES Chapter. It is reported that there would be a maximum exceedance of 3.3 dB(A) above evening SOAEL and 13.2 dB(A) above night time period SOAEL.

As advised the main consideration is in relation to night time construction noise, using the noise levels predicted in Appendix 12.4 Construction Noise and Vibration Assessment for Franks Farm (CN 134) the SOAEL will be exceeded by around 13dB for 10 consecutive months (Months 3- 13), 5 dB (months 18 – 23), and 6dB (month 45). It is evident that without mitigation noise level from night time construction work will cause a major impact for 11 consecutive months. Therefore, to reduce noise levels it is recommended that the trenchless installation at work no.MU83 is carried out inside a temporary acoustic enclosure/building with adequate ventilation and robust implementation of BPM measures (NV007). It is suggested that the BPM measures will reduce noise levels by around 10 dB and the acoustic enclosure around 15 dB (based on BS 5228-1).

In relation to the acoustic enclosure the advice in BS 5228-1 is that an enclosure will reduce noise levels from up to (SR emphasis) 15 dB. In addition, it is not possible with any degree of accuracy to quantify the impact of the BPM measures as set out in NV007.

It is advised in paragraph 2.2.8 of Appendix 12.4 Construction Noise and Vibration Assessment that a significant adverse effect (the test in the section 5.195 of the NPSNN) will occur where noise levels will exceed the SOAEL for (a) 10 or more days or nights in any 15 consecutive days or nights or (b) a total number of days exceeding 40 in any consecutive months.

As advised above it has been predicted that noise levels will exceed Franks Farm (CN134) by more than 13dB for 10 consecutive months. Therefore, to avoid significant adverse impact, as suggested in the ES Chapter 12, it will be necessary to reduce noise levels by at least 13dB during this period. It is SR's view that based on the mitigation measures proposed, this is highly optimistic, and that even with the mitigation measures, there will be a significant adverse residual impact at Franks Farm from night time construction activity in contradiction to the policy aims of the NPSNN.

Point 4 &5 – Operational Noise

It is accepted that the assessment of noise Design Manual for Roads and Bridges (DMRB) LA111 is not based upon internal noise level within BS 8233:2014. SR also has no comments to make in relation to the assessment of road traffic noise and as advised in the conclusions of the SR report it is agreed that based on this assessment there will be a slight reduction in short-term and long-term noise levels.

However, BS 8233 does provide useful guidance on suitable noise levels for residential properties. The guidance levels in the document (Table 4) are based on a wide body of research including the World Health Organisation (WHO). It is evident from the survey carried out by SR and the noise assessment (ES Chapter 12) that noise levels at [REDACTED] are significantly above the recommended criteria in BS 8233:2014. SR are advised the Mrs Carver has lived in the property since 1980's and as result of the previous widening of the M25 and increased traffic has since a gradual deterioration in quality of life resulting from increased noise levels.

Section 5.195 of the NPSNN requires that developments should *“contribute to improvements to health and quality of life through the effective management and control of noise.”* It is SR's view that the proposed development is an opportunity, through the use of acoustic screening along the boundary of the new carriageway, to reduce noise levels and in line with the policy aims of the NPSNN to improve health and quality of life.

Gary King MIOA MCIEH

Director

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