

A303 Sparkford to Ilchester Dualling Scheme TR010036

9.19 The Applicant's Written Submissions of Oral Case at Hearings

Planning Act 2008

March 2019



Infrastructure Planning

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**A303 Sparkford to Ilchester Dualling
Scheme**

Development Consent Order 201[X]

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Oral Case at Hearings**

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1 Introduction

- 1.1.1 A summary of each of the issue specific hearings, open floor hearing and compulsory acquisition hearing are provided below.

2 Issue Specific Hearing 1: Traffic and Transport; Socio-Economic Effects on Surrounding Communities (including effects on local businesses, public, footpaths, bridleways and other non-motorised users)

2.1 Need for the Scheme

2.1.1 The Applicant referred to the "Case for the Scheme" [APP-149] which fully sets out the need for the proposed scheme. By way of summary, the proposal is to upgrade the A303 to increase the traffic capacity and safety of the road. The project will improve connectivity of the south west, particularly with south east. It will also result in general economic benefits for the area.

2.2 Alternatives and Design Flexibility

Hazlegrove Junction

- 2.2.1 The Applicant explained that it has submitted a topic paper that has addressed the way in which this junction design has evolved [REP2-005]. The Applicant explained that the paper provides a commentary on the evolution of the junction through the various design stages and explains how it has evolved from a fairly conventional junction layout to the layout it is now. The design of this junction has been heavily influenced by certain constraints, including the impact on the Hazlegrove Registered Park and Garden ("RPG") and technical constraints such as compliance with Highways England geometric design standards. The Applicant stated that it believes that the design it has proposed is the most appropriate.
- 2.2.2 The Applicant did not agree with the Parish Councils' submissions that the design of the junction will cause gridlock at peak hours. The Applicant has undertaken comprehensive traffic modelling, which is set out in the Combined Modelling and Appraisal Report [APP-151]. That Report contains a detailed explanation of the assessment undertaken, including that specific junction, and shows that it operates within the thresholds of acceptability (Table 12.16 of that report), taking into account any traffic generated by Hazlegrove School.
- 2.2.3 The Applicant confirmed that it will submit a position statement with Hazlegrove School at Deadline 4, which will address any concerns raised previously by the School. This position statement will also help address the concerns raised by the Parish Councils that Hazlegrove School were concerned about the junction layout and that insufficient engagement has taken place.
- 2.2.4 With regards to the junction layout proposal suggested by the Parish Councils, the Applicant understands that the Parish Councils will be submitting further detail and information at Deadline 4, which the Applicant proposes responding to in full at Deadline 5. For the avoidance of doubt, the Applicant confirmed that it does not intend to amend the design of this junction within its DCO application, nor does it believe that it is possible or appropriate to undertake a comparative exercise with the Parish Councils' proposed junction layout in terms of costing or on any other basis.

Parallel road

- 2.2.5 The Applicant confirmed that it had set out its response in relation to the parallel local road at Deadline 3 [REP3-003]. The Applicant does not deny that there could be benefits to parallel local road but it is not the best solution in the circumstances. The Applicant confirmed that it is not possible to include a parallel local road due to the constraints at Camel Hill.
- 2.2.6 The Applicant confirmed that the main constraint is the pinch point at Camel Hill between the scheduled ancient monument and the land belonging to MOD. The MOD is using the land for operational purposes. The Applicant confirmed that it will provide a note setting out the nature of its discussions with the MOD at Deadline 4.
- 2.2.7 The Applicant confirmed again that it does not have sufficient detail of the proposal prepared by the Parish Councils but, from a brief review, it is considered that the parallel local road within that proposal does not comply with the relevant geometric standards in relation to carriageway width and verge width. The Parish Council's proposal comprises a 6m wide carriageway whereas the standard for a rural single carriageway is 7.3m. Furthermore the Parish Council's proposal includes a 1.5m verge whereas the standard verge width is 2.5m. These narrow cross sectional elements are likely to make this an unsuitable route for non-motorised users. The applicant agreed to provide a more comprehensive commentary at Deadline 4.
- 2.2.8 The Applicant confirmed that it will respond to the points raised by Joy Whittington once she has submitted these to the examination at Deadline 4.

Traits Lane / Gason Road

- 2.2.9 The Applicant proposed that this matter was dealt with under item 4 of the agenda.

Expressway

- 2.2.10 The Applicant confirmed that there is a future aspiration to upgrade the busiest A roads to provide a motorway quality experience and that this will be assessed on case by case basis. The Applicant would need to take into account value for money. The term "expressway" is used to refer to new design standard but the process for assessment is not yet in place and the standard itself has not yet been published as part of DMRB so is not an available design standard. The upgrading of any roads to expressway status is not yet in any funded plan by the Applicant. The Applicant confirmed that because of this, it was not able to comment on whether the A303 would be likely to be a candidate for expressway status or what additional works would be required in order to convert the road to expressway status.

Limits of deviation

- 2.2.11 The Applicant was asked about Work Nos. 81, 85 and 92 with regards to the 1 metre upwards and 5 metre downwards limits of deviation proposed. The Applicant explained that until it has carried out detailed design and ground investigations it is not possible to finalise this design.

- 2.2.12 The Applicant explained its view that there needs to be a balance between flexibility and certainty in terms of the design. The limits of deviation proposed are within the Rochdale envelope set out in the Applicant's Environmental Statement. Ground investigation works are being progressed but haven't been undertaken yet and the timetable is uncertain for those works. However, the Applicant explained that a more compact design may involve a small degree of excavation rather than embankments in order to optimise environmental impact.
- 2.2.13 The Applicant explained that Work Nos. 81, 85 and 92 are the Camel Hill Link, the Hazlegrove Junction Eastbound Onslip, and the Hazlegrove School Access. Each of those links is on embankments, which carry a degree of environmental impact. The Applicant is not proposing to change the layout of junction, but the proposed limits of deviation will provide downward flexibility on elevations. If, at detailed design stage, an opportunity to lower these elements by a greater amount than 1 metre is identified, it does not want to constrain such innovation. Any such design development would be more compact in terms of overall earthworks footprint and elevation. It would consume less land take if links were on lower embankments and the earthworks footprint would be more compact. The Applicant confirmed that it would explain this more clearly in the Explanatory Memorandum to the DCO [Rep2-006] and would submit an updated version at Deadline 4.

2.3 NMUs Convenience and Safety

Alternative route put forward by SCC and SSSC

- 2.3.1 The Applicant confirmed that its position on the route sought is as set out in the submitted Topic Paper on Eastmead Lane Y30/28 (REP3-006). The Applicant's position remains that there is no Non-Motorised User (NMU) crossing of the A303 at the end of Eastmead Lane and no facilities for such. Any person crossing the A303 at this location would need to enter the cross-hatched area in the centre of the highway which should not be entered, such crossings are not safe or comfortable. Accordingly, the journey sought by the County Council is not currently possible as there is no path or way on the southern side of the A303 to cross to and therefore no route which is being cut off which would require mitigation. The comparison given of a 5.2km diversion in the Applicant's proposals to 1.5km under the County Council's proposal is not a like for like or reasonable comparison as there is no route between the points concerned at the moment to mitigate – neither route is a diversion of an existing journey.
- 2.3.2 The County Council's submission that it does not accept that a route is not possible between Eastmead Lane and Podimore was predicated on users using the A303. The Applicant does not consider that this is likely to be attractive to users given the speed of traffic on the road and the lack of off-carriageway facilities in this location and has seen no evidence of such journeys being made.
- 2.3.3 The Applicant explained how rights of way had been identified and assessed. The network of ways was identified from mapping and consultation with the Councils and user groups following which NMU surveys were undertaken to

identify the levels of use of PRoWs. The levels of use were generally found to be very low, generally below 10 users a day. In determining a strategy, it is not possible to predict the future levels of use from user surveys alone given the existing low use and input on that was sought from user groups and the County Council. The low levels of observed use led to a proportionate response being developed with grade separated crossing targeted to locations where highest use had been observed, at Hazlegrove and Canegore corner (Stear Hill/Howell Hill). All other rights of way connect to these grade-separated crossings to connect the network and provide a high-quality journey experience. Although some journeys will be longer they will also be safer, more comfortable and more attractive.

- 2.3.4 The Applicant confirmed that the project has been assessed assuming that right of way Y30/29 exists but notes the very recent advice that the legal basis of that route is in doubt.
- 2.3.5 The Applicant confirmed that the NMU surveys were carried out in accordance with DMRB and there is no intention on the part of the Applicant to carry out further surveys.
- 2.3.6 The Applicant was asked to confirm how it considers it has complied with NPSNN and in particular the encouragement of provision of high quality cycling and walking environments. The Applicant explained that the assessments undertaken included a focus on the safety and quality of the journey experience. The Applicant maintains that the current A303 is a significant barrier in the network of routes in this area and in north-south connectivity.
- 2.3.7 At present there are 6 opportunities to cross the A303 within the scheme area, 3 of which can be made by cycle or horse. Of these 6, 5 involve crossing 3 lanes and the sixth involves crossing four lanes due mainly to location of turning lanes; this is assessed as providing a very poor experience for NMUs. The creation of grade separated crossings and the connections between rights of way in high-quality, off carriageway facilities improves the journey experience for NMUs and makes journeys safer, more comfortable and more attractive.

Provision for bridleway and byways

- 2.3.8 In response to South Somerset Bridleways Association's submissions on provision for equestrian users and in particular the lack of a clockwise pathway at Hazlegrove roundabout, the Applicant explained how this has been approached. A crossing of the A359 at Hazlegrove roundabout presents a number of challenges. This is heavily trafficked and the geometry means visibility southwards along the A359 for crossing would be restricted below that required for an equestrian crossing. In taking a proportionate view usage has to be taken into account. There is very low usage in this area that means provision of a Pegasus crossing is not warranted. Furthermore the scheme does not affect journeys to and from the east or south at this location. Any such journey which is currently being made would require use of the roundabout carriageway in the same way as under the scheme proposals.

Hazlegrove underpass.

2.3.9 The Applicant confirmed that while the underpass will be lit during the day it will not be lit at night. This is because the lighting appraisal does not show any justification for lighting this or any other element of the proposed road network, other than the existing Hazlegrove Roundabout, at night. Following discussion as to whether this would be a suitable facility for NMU use at night given that it could not be lit in the hours of darkness, the Examining Authority asked how they could secure that in the DCO. While the Applicant notes that this would be straightforward in drafting terms and could be added to the lighting strategy requirement, the Applicant also notes that there are a number of technical and environmental considerations and assessments relating to such a proposal which have not been carried out. In particular the effect on ecology of lighting the underpass at night, the landscape impact given the sensitive location in relation to Hazlegrove RPG and that a lighting appraisal on the safety and effect on motorised users of such lighting has not been carried out. The Applicant would strongly object to such a requirement being imposed as a drafting change given that, in addition to maintaining that lighting is not required, the impacts of overnight lighting has not been fully assessed.

2.3.10 The Applicant noted that none of the proposed NMU routes are being lit, that this is not an urban location, and that there is no evidence of anti-social behaviour which would create any lower level of safety than elsewhere on the network.

Provision for cyclists

2.3.11 Cycling use has been identified in two areas within the vicinity, at Steart Hill and Howell Hill and through the village of Podimore. No existing commuter routes have been identified nor have any future developments which would give rise to such routes.

2.4 Alternatives and design flexibility approach to unrecorded rights of way

Applications to modify definitive maps

2.4.1 The Applicant has taken into account all established rights of way in the application, including those shown in the definitive map in error for which legal eventing had not occurred. The Applicant's assessment and mitigation proposals are therefore complete, proportionate and appropriate. The applications for higher rights of way on some PRowS are not yet determined. It is therefore not yet established that such higher rights exist. The Applicant should not, as a matter of principle, be required to mitigate to address uncertain future determinations. The Applicant has considered the rights as they stand, they cannot reasonably be expected to address a future, unknown decision by another party which may take between 2 and 331 years to be made and which may ultimately find that such higher rights do not exist.

¹ Based on the comments made by the County Council in session that they have 330 applications in process and determine around 10 per annum.

- 2.4.2 The Applicant disagrees with the County Council's submission in the session that amending the rights of way following a finding of higher rights in the applications before the Council would require public path creation agreements and the agreement of the landowner. That is legally incorrect. The public rights of way will exist, either because they do currently or because they have been created by the DCO. It is only the class of rights entitled to use them which is under determination. A highway is a defined route over which "the public at large" can pass and repass as frequently as they wish, without hindrance and without charge. The right to use the highway may be limited to a particular class of user, such as pedestrians in the case of a footpath. The public rights of way which these applications are concerned already exist. They are legally highways but their use is restricted to the prescribed classes of user. The applications made seek determination that those prescribed classes of user should be extended.
- 2.4.3 The Road Traffic Regulation Act 1984 (RTRA) uses the term road rather than highway in that Act road is defined as "any length of highway or of any other road to which the public has access" (our emphasis). As PRoWs are highways under the Highways Act, they are therefore also roads under the RTRA, and the RTRA provides that the County Council as traffic authority may make an order regulating the use of a road, and specifically at section 2(3) that such an order may include prohibiting, restricting or regulation the use of a road by any class of pedestrian².
- 2.4.4 Should the rights for further classes of user be found to exist on any PRoW created by the DCO, it is entirely within the powers of the County Council to amend the prescribed classes of user to allow for that determination – a public path creation agreement is not required. There is no need for the Applicant to attempt to address this uncertain future event in the DCO as all of the legal powers necessary to accommodate it are in place. The County Council's submission that a provision should be included in the DCO obliging owners to dedicate ways for higher rights if they are found to exist is entirely rejected. That is not an appropriate use of a DCO.
- 2.4.5 The County Council's submission that provision for the Applicant to increase widths and specification of ways (at an unspecified time) later should rights be found to exist should be included in the DCO are entirely rejected. If rights are found to exist then the Council should engage with affected landowners as it would in any other case, where that is Highways England then Highways England will respond to such determinations as landowner at the relevant time.
- 2.4.6 The Applicant agreed to amend the outline traffic management plan to be submitted as part of the updated OEMP at deadline 5 to more specifically address how the NMU routes will be managed.
- 2.4.7 The Applicant confirmed that the intention is that where public rights of way are located on the Applicant's land and in particular are coincidental with the Applicant's maintenance tracks these will be maintained by the Applicant. A

² For the avoidance of doubt, Section 127 of the RTRA provides that pedestrian includes any person driving, riding or leading a horse or other animal of draught or burden and therefore includes the equestrian uses for determination of existence of rights is sought.

DCO amendment to address this will be proposed in the next revision to be submitted at Deadline 5.

2.5 Local traffic effects/mitigation

2.5.1 The Examining Authority asked Somerset County Council and South Somerset District Councils if they were satisfied with the modelling carried out. Both councils agreed they were and referred to the Statement of Common Ground which states this.

Sparkford High Street and West Camel

2.5.2 In response to the traffic calming proposed by Somerset County Council, the Applicant confirmed that it would set out its methodology for determining that no mitigation is required in these areas in its Deadline 4 submission. The Applicant reiterated its position that its assessments do not show a need for traffic calming on Sparkford High Street or in West Camel as a result of the scheme and so it is not proposing it. The Applicant confirmed that none of these junctions would exceed capacity and it is confident that its assessment does not show a need for it.

2.5.3 The Applicant confirmed that construction traffic will be managed through the Traffic Management Plan, which is still in draft form (as would be expected at this stage of the examination). Requirement 11 of the dDCO requires the Traffic Management Plan to be in place prior to commencement. An updated version of the draft Traffic Management Plan will be submitted during the examination but the final version will not be available until after close of the examination.

2.5.4 The Applicant confirmed that it would address the County Council's concerns in relation to approval of the Traffic Management Plan in the DCO hearing.

Podimore roundabout

2.5.5 In relation to the potential for changes to the traffic lights at the Podimore roundabout, the Applicant confirmed that for 2023 March PM (the worst of the three time periods), the Ratio of Flow to Capacity (RFC) value will be 0.65 and in 2038 will be 0.87. The desirable maximum capacity is 0.85 and the maximum capacity is 1. [Post-hearing comment: this was an error, the desirable maximum capacity for a signalised junction is 0.9. This is usually referred to as a Degree of Saturation]. The phasing of traffic lights at the Podimore roundabout would be dealt with by the Applicant as an operational issue.

2.6 Traffic management plan baseline measurements and summer peak

2.6.1 The Applicant confirmed that the Podimore roundabout RFC values discussed do not take account of summer peak; they are for March PM. The summer figures are 1.1 RFC for 2038 and 0.97 for 2023. To put this in context, the summer base RFC is 0.86.

- 2.6.2 The Applicant confirmed that the base model was March 2015 based on Monday – Friday. The March flows have been annualised for the whole year to annual average daily traffic. Table 2.1 of the Combined Modelling and Appraisal Report [APP-151] gives October and August daily flows. The Applicant confirmed that the Friday RFC values are likely to be higher due to the higher flows and further information on this point is provided at the Applicant's Deadline 4 submission responding to the ExA's action points.
- 2.6.3 The Applicant confirmed that it would check the queue lengths stated in Table 3 of the LIR and provide its response at Deadline 4.
- 2.6.4 With regards to the comparison of hourly two-way traffic flows between the do minimum and do something (which the Applicant believes is referring to Figures 24.1 – 24.3 of the Combined Modelling and Appraisal Report [APP-151]), the Applicant confirmed that this is not an annual average and is taken from the March model.
- 2.6.5 The Applicant confirmed that the time period modelled in the summer model was 10am – 7pm. A description of this is included at paragraph 11.1.2 of the Combined Modelling and Appraisal Report [APP-151] and will be explained further in the Applicant's Deadline 4 submission. The Applicant confirmed that a peak hour had not been modelled within that period *[post-hearing comment: the summer model represents an average hour in the 10am - 7pm period but the traffic profile shows a reasonably constant level of traffic within this period, so a peak doesn't exist. Further information is included within the Applicant's Deadline 4 submissions.]*
- 2.6.6 The Applicant confirmed that it would explain how the annualisation was undertaken and would submit this information for Deadline 4. The Applicant also confirmed that it would submit information to clarify how traffic varies during the year at Deadline 4.
- 2.6.7 In relation to the potential delay at Podimore roundabout, the ExA asked how much of the A303 would need to be upgraded in order for this to be addressed. The Applicant confirmed that it did not have that information as it has not assessed anything further outside of the proposed scheme.

2.7 Safety and traffic issues

- 2.7.1 The Applicant undertook to provide further explanation about the methodology used for the analysis of scheme impacts on accidents in response to queries raised by Somerset County Council..

2.8 Effects on farms and local businesses

- 2.8.1 The Applicant outlined the mitigation proposed during and post construction for businesses that would be potentially affected by the proposed scheme (specifically Wayne's Bistro and the Mattia Diner). The Applicant confirmed that the scheme design will actively seek to avoid any direct land take of properties and that access to those properties will remain at all times during construction and operation.
- 2.8.2 The Applicant confirmed that the impacts on those businesses have been assessed following DMRB, which requires an assessment of demolition of

private property and associated land take. No demolitions or land take affecting local businesses are proposed. Post-construction, both businesses will be located on public highways and so it will be possible to drive to/from them, but they would not be directly accessible from A303.

- 2.8.3 The Applicant confirmed that it has not made an assessment of the specific impact on local businesses along the A303. There is not a robust methodology for assessing impact on those businesses and the ability to model the impacts suggested by the ExA is not very reliable. This applies to businesses on Sparkford High Street and other businesses potentially affected by the scheme.
- 2.8.4 The Applicant confirmed that a signage strategy will be implemented for the scheme, which has been discussed with the County Council. The signage strategy will be an appendix to the Traffic Management Plan, a draft of which is being submitted at Deadline 5.
- 2.8.5 The County Council raised concerns in relation to the de-trunking of the A303 creating a cul-de-sac (for example at the Traits Lane/Gason Lane/Podimore turning head) which could lead to anti-social behaviour. The Council confirmed that it is concerned particularly in relation to unlawful traveller encampments and is seeking a contingency payment from the Applicant to seek to address this. The Applicant confirmed that it would be happy to discuss the design of the scheme with the County Council in order to seek to ensure that the design minimises potential for such anti-social behaviour. However, the Applicant acknowledged that there is a limit to how narrow the road in question could be without removing access to the Diner, thus creating other adverse impacts. The Applicant disagrees that a contingency payment in this regard is required as mitigation for the scheme, nor is it appropriate for the Applicant to provide this payment voluntarily.
- 2.8.6 The economic benefits of the scheme are set out in the Combined Modelling and Appraisal Report [APP-151], particularly at Appendix M page 524. The applicant undertook to provide further explanation of the journey time benefits presented in the AST in Appendix M.

2.9 Cumulative effects

- 2.9.1 In the Local Impact Report submitted by the County and District Councils, a number of additional developments were said to be required to be taken into account by the Applicant in its cumulative effects assessment.
- 2.9.2 The Applicant confirmed that cumulative effects are presented in Chapter 14 Combined and Cumulative Effects [APP-051) of the Environmental Statement. The assessment of cumulative effects was undertaken in advance of submission of the application and the cut-off date was 12 April 2018. The Applicant has no intention to update that assessment and confirmed that no additional cumulative effects will be taken into account. This follows the guidance set out in the Planning Inspectorate's Advice Note 17.

3 Issue Specific Hearing 2: Archaeology and Cultural Heritage, Landscape and Visual Effects, Biodiversity, Ecology and Natural Environment, and Flooding/Drainage Strategy

3.1 Archaeology and cultural heritage

General approach

- 3.1.1 The Applicant confirmed that an additional photomontage will be submitted in relation to the Hazlegrove Registered Park and Garden ("RPG") at Deadline 4. The Applicant confirmed it will also agree the location of the wireframe in relation to Camel Hill with Historic England and submit a wireframe at Deadline 5.
- 3.1.2 In relation to paragraph 1.7.5 of its submissions at Deadline 3 [REP-003], which concerned the impact of the scheme on the RPG, the Applicant confirmed that minor works can result in substantial harm. However, the Applicant considered harm to this particular asset and, given the extent of the RPG that would be harmed by the scheme, overall the scheme would result in less than substantial harm to the RPG, with which Historic England agreed.

Archaeology

- 3.1.3 The Applicant did not make any submissions on this point.

Hazlegrove House and RPG

- 3.1.4 The Applicant confirmed that the reference to 14% of the RPG being lost as a result of the proposed scheme is 14% of the whole RPG.
- 3.1.5 The Applicant confirmed that it is continuing discussions with Historic England in relation to the extent of harm to the RPG and an updated statement of common ground will be submitted at Deadline 4.
- 3.1.6 In relation to the chronology of the evolution of the RPG, the Applicant confirmed that it has undertaken a map progression exercise and considered published sources. It has not found any direct evidence of the design intention for the RPG but has drawn conclusions from professional judgement and consideration of how the landholding has changed over time. The Applicant will submit its chronology at Deadline 5.
- 3.1.7 The height of the proposed bunds near the RPG was discussed and the Applicant confirmed that it will be submitting cross sections of these at Deadline 4. The Applicant confirmed that in terms of planting, there is a depth of planting proposed – not just planting on the bunds – and there is also planting by the Hazlegrove access. The depth of planting gives better screen cover. The ExA asked whether the limits of deviation would have any effect on that and the Applicant stated that the bunds would need to serve their function in order to be compliant with the Environmental Statement.
- 3.1.8 With regards to Pond 5, the Applicant confirmed that the pond is required and needs to be the size stated in the application. The pond was considered within

the assessment in the Environmental Statement. That assessment was based on the description of the scheme set out in Chapter 2 of the Environmental Statement [APP-039]. In terms of the impact of the pond on the RPG, there are other existing ponds within the RPG. An environmental masterplan has been put forward and also the OEMP, which provides an ability for landscape design mitigation to come forwards. The pond may look large on plans but for the majority of the time, the permanent area of water will be restricted to a smaller area of the pond and it will be similar in terms of character to the ponds in other parts of the RPG, for example a small area of water with planting around. It is a new element for this part of the park but is not out of keeping for the overall RPG. The outline drainage works plans [APP-012] sheet 4 contains the layout of the drainage system around the RPG. The plan shows the pond shaded in two shades of blue. The internal shading shows permanent water area and the larger shading shows the amount of water that would be in the pond during the maximum design event (1 in 100). The Applicant confirmed it would submit details of the surface area of the pond that would usually be covered in water for Deadline 4. The Applicant confirmed that the fence and track around the pond would be designed in a way that is within the character of the RPG. This will be set out on the environmental masterplan and in the OEMP and the Applicant will seek to agree the design of the fence and track with South Somerset District Council and Historic England.

- 3.1.9 With regards to the soils stock pile, the Applicant confirmed that there will be a need to stockpile top soil during construction. The need for stockpiling of other earthworks materials has been allowed for within the DCO boundary but the amount of stockpiling will depend on phasing. Ideally, it would not be necessary but this is constrained by other aspects of programme. The alternative would be to place excavated material closer to the point of excavation.
- 3.1.10 The ExA noted that it may take up to 15 years for screening to take effect with regards to lighting on the RPG. The Applicant confirmed that it is not proposing any temporary works to mitigate effects in the meantime, which would likely need to consist of a very large fence but this has not been assessed and is not within the scope of the current proposal.
- 3.1.11 The Applicant confirmed that the OEMP is being updated and a section is being added in relation to the RPG. This will be submitted at Deadline 5.
- 3.1.12 The Applicant was asked about the harm that would be caused to the RPG by the Parish Councils' proposed junction design. The Applicant confirmed that the Parish Councils' option is not an alternative design. It has not been designed to an adequate level and it has not been assessed. In any case, the Applicant was of the view that it would cause harm to the RPG (a view with which Historic England agreed). The Applicant is very concerned about seeking to compare the Parish Council's proposals with the scheme as applied for in order to assess harm. This would be very misleading. The Applicant will respond in full on this point once further details have been submitted by the Parish Councils at Deadline 4.
- 3.1.13 South Somerset District Council raised concerns in relation to the proposed driveway alignment through the RPG. The Applicant stated that REP3-003

includes a description of how one would move through the landscape, which discusses the sense of arrival through woodland and coming through the RPG with parkland on the left and woodland on the right and then onto the existing drive. The Applicant expressed its view that the design of the driveway reinstates a sense of arrival that one doesn't necessarily get now.

3.1.14 In relation to the wish by Historic England for the Applicant to provide a Conservation Management Plan for the entire RPG, the Applicant confirmed that it has responded to this point in REP3-003. The Applicant does not accept that a CMP for the whole RPG is necessary mitigation for the impact on the RPG. As set out in its written submission, the Applicant has carefully assessed the impact and a CMP is not necessary to secure the necessary mitigation, which is already secured. The Applicant confirmed that it believes there are 3 freehold owners for the RPG, as well as tenants.

3.1.15 South Somerset District Council raised concerns in relation to the environmental barrier at Bund 7. The Applicant confirmed that the barrier will be there and that there will be planting screening, although it will be 10-15 years before the barrier is no longer visible within the RPG. In terms of landscape design, the Applicant confirmed that can be considered and is included in the OEMP.

Camel Hill Scheduled Monument

3.1.16 The Applicant confirmed that it would liaise with Historic England in order to assist with understanding the limits of deviation and proximity to the scheduled monument.

Downhead Medieval Village Scheduled Monument

3.1.17 The Applicant confirmed that no excavation is required in the area of this scheduled monument and so it does not anticipate any impact on archaeology. In terms of visual impact, the area is a grassland management area so the Applicant does not consider there will be a substantial change. The Applicant confirmed that it will simply be enhancing the existing grassland and that there may also be some light fencing. The updated OEMP to be submitted at Deadline 5 will include reference to fencing.

Listed milestone

3.1.18 The Applicant made no submissions on this point, other than to confirm that it does not know the location of the missing listed milestone.

Queen Camel Conservation Areas (including heritage assets)

3.1.19 The Applicant confirmed its position that no mitigation is necessary within the Queen Camel conservation area. In terms of the works, management of traffic will be very limited. With regards to the Grade II listed bridge, the Applicant pointed out that HGVs currently use this bridge and so the scheme will not be increasing that risk to such an extent. The Applicant confirmed that HGV traffic would be transient in nature. The proposals would be to direct HGVs along the A359 when the A303 is closed and this would be regulated by the Traffic Management Plan, an updated draft of which will be part of the updated OEMP being submitted at Deadline 5.

West Camel Conservation Area

3.1.20 West Camel Parish Council indicated that the Traffic Management Plan would be ineffective in ensuring that diversion routes are used. The Applicant confirmed that it would consider this but its initial view is that this is a detailed point and it is too early to consider it.

Sparkford Village

3.1.21 Sparkford Parish Council raised concerns in relation to the impact of any increase in traffic through Sparkford High Street on the triumphal arch. The Applicant confirmed that it has not seen any evidence of how traffic would damage the triumphal arch and so is not in a position to respond. The Applicant confirmed that its response at paragraph 1.7.52 of REP3-003 is relevant to the asset in question.

Non-designated heritage assets

3.1.22 The Applicant confirmed that it would offer the road gully cover (within the red line boundary) to a local museum. The Applicant confirmed that the gully at Plowage Lane is outside of the scheme boundary and so will not be affected.

3.1.23 In relation to the Howell Hill stone boundary wall, the Applicant confirmed that there will be a mix of some of that being dismantled and rebuilt, staying in situ and being lost, details of mitigation for the areas to be lost are included in the outline WSI.

3.1.24 With regards to the pre-war boys crossroads warning sign, the Applicant confirmed that this is outside the red line boundary and so is unaffected, but was assessed as part of the Podimore group of assets.

3.1.25 In relation to the coppiced bank track at Hazlegrove House (which it is believed is the same asset as Hazlegrove Lane and associated features), the Applicant confirmed that it has provided a detailed response to this in paragraph 1.7.23 of REP3-003. This will be addressed within the Outline Heritage Written Scheme of Investigation (OHWSI).

3.1.26 The Applicant confirmed that it stands by its original assessment of the Martock Sparkford turnpike road. The extent of the road being impacted is quite small compared to the full extent of the 10 mile road and much of the turnpike is remaining.

3.1.27 The Applicant also stands by its original assessment of the Bakery.

3.2 Landscape and visual effects

General approach

3.2.1 The Applicant did not make any submissions on this point.

Key views

3.2.2 It was noted that the query in relation to the photomontage from the RPG had already been discussed.

Approach to baseline

3.2.3 In relation to FWQ 1.5.9, the Applicant confirmed that it had already provided an initial response [REP2-004]. The Applicant hasn't undertaken an assessment of the existing A303 on the landscape but it has been included in establishing a baseline.

Landscape effects

3.2.4 The Applicant confirmed that it would respond to queries regarding the impact of the cutting near Bund 4 on West Camel and the height of screening above the road level.

Visual effects

3.2.5 The Applicant confirmed that it would provide a written response in relation to the potential loss of long distance views from visual receptors 14 and 17 (Slate Lane). It also confirmed that it would respond to a number of other queries regarding visual receptors 25, 27, 28 and 38.

Landscaping, design (including of structures)

3.2.6 The Applicant confirmed that an updated OEMP will be provided at Deadline 5. The OEMP is in outline form only – it contains principles and standards, not detailed plans. It will include design approach and the Applicant confirmed it would discuss this with Historic England and South Somerset District Council. A number of detailed design points were raised, which the Applicant confirmed it is not in a position to respond to because it has not reached detailed design stage yet.

3.3 Biodiversity, ecology and natural environment

Geological investigations

3.3.1 The Applicant did not make any submissions on this point.

Biodiversity generally

3.3.2 The Applicant confirmed that it would submit a mitigation route map at Deadline 5 and the Defra metric exercise at Deadline 4.

Habitats generally

3.3.3 The Applicant did not make any submissions on this point.

Protected species

3.3.4 In relation to the number of proposed bat boxes, the Application confirmed that it has had discussions with South Somerset District Council and has agreed to reduce the number of boxes to around 60 (the precise number to be confirmed at detailed design). This will be included in the updated statement of common ground to be submitted at Deadline 4.

3.3.5 In relation to great crested newts, the Applicant stated that its assessment is that the existing A303 is a significant barrier to great crested newts and so the

Applicant does not consider that the scheme will make this worse. The Applicant has proposed to provide mitigation within drainage features as a precaution.

- 3.3.6 In relation to otter, badger and deer casualties, the Applicant confirmed that it monitors casualties within the highway as a matter of operational practice. The Applicant confirmed that it would check with its operations team whether that information is publicly available and respond in writing at Deadline 4 or 5.
- 3.3.7 The Applicant confirmed that it had recently discussed invertebrates with South Somerset District Council, including locations. The parties have agreed that there are no significant effects on invertebrates.

Veteran trees

- 3.3.8 With regards to the veteran trees to be affected by the scheme, the Applicant indicated that it would consider the implications of moving one of these trees, but there would be landscape implications. The Applicant confirmed that the veteran tree would be left elsewhere as mitigation.
- 3.3.9 In response to a query from Mr Turner in relation to Rawlins Copse, the Applicant confirmed that details with regards to soils in that woodland are included in OEMP – the soils will be translocated to new planting around Pepper Hill Copse in order to retain soil structure.

Amenity grassland

- 3.3.10 The Applicant confirmed that the proposed reduction of top soil does not have an effect on soil and waste strategy because the volume from the overall scheme is so minimal that there is no real impact from that change.

European sites

- 3.3.11 The Applicant confirmed that the only outstanding issue in its discussions with Natural England was the Defra metric, which has now been undertaken and just needs to be agreed. The Applicant confirmed that agreement has now been reached on the effect on European sites.

3.4 Flooding/drainage strategy

- 3.4.1 The Applicant confirmed that it would clarify the infographic in UKCP18, which was referenced by the Applicant in its response to FWQ 1.8.12 [REP2-004].
- 3.4.2 No further submissions were made on flooding or drainage as the ExA confirmed that, in the absence of the Environment Agency, they did not propose covering this any further at the hearing.

4 Open Floor Hearing 2

4.1.1 The Applicant did not make any submissions at Open Floor Hearing 2.

5 Issue Specific Hearing 3: Noise, Vibration and Air Quality

5.1 Adequacy of the baseline information for noise assessment

- 5.1.1 The Applicant confirmed that the basis of assessment for operational noise is a model which includes the road traffic flows and speeds and the local topography (for the “do minimum” case). For the “do something” case the basis is the same but with the modified traffic flows and incorporation into the model of CAD design in order to ensure like for like comparison. The model itself is not based on the survey data. The survey is supplementary information.
- 5.1.2 The Applicant confirmed that the CAD design incorporates bunds, vertical and horizontal alignment of the new road and any noise barriers. The size of the bunds used in the noise model were based on the information contained in the general arrangement drawings (APP-102) and Chapter 2 of the Environmental Statement (APP-039), as well as a masterplan illustrating the bunds and heights of fencing, etc.
- 5.1.3 The Applicant confirmed that the assessment methodology used in the noise assessment is set out in DMRB, which requires an Applicant to consider annual average weekday traffic (“AAWT”) for noise. By its nature, this approach cannot account for variations that may happen at peak times. The Applicant submitted that the impact might reasonably be expected to be similar at peak times to the annual average figure, although acknowledged that noise is likely to be higher when there is a higher volume of traffic. For example, as a general rule, an increase in traffic of 25% produces a 1dB increase in noise level and doubling of traffic would result in a 3dB change in noise level.
- 5.1.4 The Applicant confirmed that the evidence is limited to the impact that arises from the AAWT, which is fully in accordance with the methodology set out in DMRB. Carrying out any other assessment would be departing from the recognised and accepted methodology set out in DMRB.
- 5.1.5 With regards to the account taken of wind in undertaking an assessment of noise at Sparkford Hall, the Applicant confirmed that it would liaise with Sparkford Hall to produce a paper setting out the differences between the two parties in this regard, which would be submitted at Deadline 4. It is the Applicant's position that moderately adverse wind conditions have been taken into account in the noise assessment.
- 5.1.6 In response to concerns raised by Sparkford Parish Council, the Applicant confirmed that the operational model has taken into account all of the effects of the vertical and horizontal alignment of the new road, and compared these with the existing road. No significant effects are expected. Construction noise is also covered in the Environmental Statement (APP-048).

5.2 Noise impacts and mitigation measures during the construction and operational periods

- 5.2.1 With regards to the Environmental Statement Chapter 11 Table 11.9 (APP-048), the Applicant confirmed that the use of noise insulation regulation thresholds for the Significant Observable Adverse Effect Level (SOAEL) value is consistent with what has been done on all other major infrastructure schemes.
- 5.2.2 The Applicant confirmed that it would clarify at Deadline 4 which developments had been taken into account for the purposes of the noise assessment.
- 5.2.3 In relation to speed-banding for Sparkford High Street, the Applicant confirmed that it had used a value based on speed-banding which although higher than the speed limit would, if anything, over-predict noise levels. The Applicant explained that speed-banding takes account of all vehicles using the road. The speed-band of 97 kilometers per hour has been used for the new A303, which is the maximum that the Applicant has access to in terms of banding tools.
- 5.2.4 In relation to "long-term" and "short-term" readings, the Applicant confirmed that the short-term readings are undertaken on an attended basis by a noise engineer and the long-term readings are taken from equipment which is set up by acoustic engineers and left in place for a period of several days. Long-term measurements were taken along the main route alignment and no long-term measurements were taken in Sparkford High Street.
- 5.2.5 The Applicant's assessment of noise at Sparkford High Street and Queen Camel, was based on modelled values, which is a requirement of DMRB. The Applicant explained that measurements are not a satisfactory basis for determination of a comparison between opening year and future year because measurements may themselves be subject to man-made/non-man-made noise sources. The preferred methodology is therefore to rely on calculation.
- 5.2.6 The Applicant explained that a low flow correction is applied when flows are between 1,000 and 4,000 vehicles/day and when flows are below 1,000 the CRTN calculation method is not reliable.
- 5.2.7 Maintenance of all road surfaces, including quieter surfacing, is undertaken in accordance with the Design Manual for Roads and Bridges, with the frequency and type of maintenance intervention derived from results of condition surveys. Quieter surfacing does not have any additional maintenance requirements such as sweeping, or cleaning in order to maintain its noise properties and will typically require resurfacing every 12 years, depending on a number of factors such as traffic levels and HGV percentages. The required maintenance is carried out by Highways England operations as part of its regular maintenance regime for the whole strategic road network.
- 5.2.8 The Applicant confirmed that details of movement of construction vehicles on surrounding roads at night time was a point of detailed design which would be included in the CEMP. It is not possible to provide this information without the

detailed design and phasing. However, the OEMP to be submitted at Deadline 5 will provide a very broad indication of the extent to which construction vehicles may use surrounding roads.

- 5.2.9 In relation to potential traffic changes due to diversions and road closures, the Applicant confirmed that it might be necessary to restrict speed of traffic, which may be required for safety reasons, and this would give a corresponding reduction in noise.
- 5.2.10 The Applicant confirmed that it would clarify which days were included in the "consecutive days" referred to in paragraph 11.4.13 of the Environmental Statement. BS5228 Part 1 (the construction noise standard) confirms that construction noise limits refer to a period of 10 or more days of working in any 15 consecutive days or for a total number of days exceeding 40 in any 6 consecutive months.

5.3 Specific noise impacts – Sparkford Hall and Long Hazel Park

Long Hazel Park

- 5.3.1 The Applicant confirmed that it would seek to submit an updated statement of common ground for Deadline 4 but that very little was likely to be agreed. The Applicant confirmed that it has no intention to undertake any further noise survey work at Long Hazel Park. The Applicant referred to its full response given in REP3-003, which included addressing comments made about external amenity.
- 5.3.2 The Applicant explained its view that in the long-term, the noise level impact in the external amenity areas of the proposed lodges in this location would be classified by DMRB as negligible or minor. In the short-term, they would also be classified as negligible or minor.
- 5.3.3 The Applicant also raised additional concerns in relation to Mr Walton's submission, including that account had not been taken of the fact that the modelled noise levels quoted from information supplied by the Applicant are façade levels at 4m and not free field levels for receptors at ground level. If account had been taken of this, a reduction of 2.5dB should have been made to correct from façade to free-field with a further reduction for receptors at ground level compared with levels at 4m in the levels reported in Mr Walton's submission.

Sparkford Hall

- 5.3.4 The Applicant explained that the model used in the Sparkford Hall submission seems to have accepted the predicted change in noise at Sparkford Hall of 0.2dB short term and 1.3dB long term and that the change without the scheme would be 0.7dB. In all cases, these are negligible insofar as DRMB is concerned. The Applicant confirmed its position that the scheme makes no material difference to the noise levels at Sparkford Hall because any changes would be classified as negligible.
- 5.3.5 The Applicant confirmed that there is no evidence to suggest that a "startle effect" would arise due to the transition from the new to old road surface, as suggested by Sparkford Hall. The Applicant explained that an individual

vehicle would produce less noise on one surface than the other surface but that when there is a large flow of vehicles the transition sound would be masked by all other vehicles and so would not be audible. When traffic conditions are so slight that individual vehicles can be heard then this would not be in the domain of significant noise. Comparing the transition from one road surface to another to the noise made by potholes and manhole covers is disingenuous as it is not a comparable phenomenon.

5.4 Vibration impacts and mitigation measures during the construction and operational periods

5.4.1 The Applicant confirmed its position that vibration from the passage of individual vehicles is discrete and the entity used to characterise vibration – the peak particle velocity – is not cumulative.

5.5 Air quality and emissions

5.5.1 The Applicant confirmed that no significant effects are predicted with regards to air quality and so there is no requirement for air quality monitoring.

5.5.2 The Applicant explained that an air quality assessment had been undertaken on Sparkford High Street and certain receptors were assessed (set out in APP-042). The worst case receptor, receptor 14 at Sparkford Road, was predicted to experience a maximum annual mean nitrogen dioxide (NO₂) concentration of 14.5 micrograms – considerably below 40 micrograms which is the applicable air quality objective set for this pollutant. That has led the Applicant to the conclusion that no mitigation or monitoring is required. Concentrations at other receptors located along Sparkford High Street would experience concentrations below this level.

5.5.3 Based on predicted traffic flows, the Applicant confirmed that the predicted flows would need to increase by well over 100% to potentially have a significant effect on air quality.

5.5.4 With regards to the impacts on air quality due to potential traffic congestion during construction, the Applicant confirmed that there was not expected to be any significant air quality impact. The air quality assessment presented in APP-042 has demonstrated that existing NO₂ concentrations are well below the annual mean air quality objective of 40 micrograms and any short term disruption would not have a significant affect on the annual mean concentrations. Therefore the annual concentrations would not be expected to exceed 40 micrograms.

6 Compulsory Acquisitions Hearing 1

6.1 Summary of outstanding objections and progress with negotiations on alternatives to compulsory acquisition

6.1.1 The Applicant was asked to advise on the outstanding objections and as noted the Applicant is only aware of two:

- (a) Hewletts (Blackwell Farm): extensive discussions are ongoing. One of the main concerns relates to the proposed alternative footpath should MoD land not be secured. The Examining Authority has asked to be updated on discussions with MoD separately however for the purposes of this update the intention remains to route the footpath on the MoD land as the first preference and the Applicant considers that progress has been made towards securing that and although it is not yet finalised the Applicant is confident that can be resolved before the end of the Examination.
- (b) Church Commissioners: discussions are ongoing and are considered to be progressing well. Further detail is provided in the update on landowner negotiations.

6.1.2 The Applicant confirmed it would submit an up to date schedule of negotiations with landowners at Deadline 4.

6.2 Statutory undertakers

6.2.1 As discussed, draft statements of common ground with affected statutory undertakers are being submitted at Deadline 4 along with this note.

6.3 Draft Development Consent Order Schedule 5

6.3.1 The Book of Reference has been updated to refer to rights, as requested, and is being submitted at Deadline 4 along with this note.

7 Issue Specific Hearing 4: Draft Development Consent Order

7.1 General

- 7.1.1 The Examining Authority noted that the Councils made various submissions on the DCO at Deadline 3 and the Applicant agreed to respond to those in writing where they were not picked up by the discussion in the session.
- 7.1.2 The Applicant was asked about the DCO drafting which provides that the Secretary of State for Transport will be the discharging authority. The Applicant maintains its position but as this scheme is primarily concerned with the construction of a trunk road, the Secretary of State for Transport is the appropriate discharging authority. The Applicant notes the Councils' submissions that approvals should be taken at the lowest practical level. The Applicant does not agree that it is appropriate to have more than one discharging body for separate elements of the project and feels strongly that this creates a risk of conflict. The Applicant does not consider that it is practical to split the project into elements to be approved at the local level and at the Secretary of State's level. The Applicant has however agreed to consider the proposals for splitting the project to be put forward by the County Council.

7.2 Draft DCO articles

Article 2, Definitions

Definition of commence

- 7.2.1 The Applicant considers that all of the works which are scoped out of the definition of "commence" in the draft DCO are low impact works and can be carried out prior to work starting as they will have no likely significant effects. The Applicant notes the comments in the session that a traffic management plan would need to be in place for such works and that the Applicant does not agree with this position. The works which are scoped out of the definition of "commencement" are small scale works which would not require active traffic management to be undertaken. They would also not require any significant number of construction vehicles. There is accordingly no need for the traffic management plan to be in place for these works.

Definition of relevant highway authority

- 7.2.2 The Applicant confirmed that it is happy to amend the DCO drafting to specify the relevant highway authority for the local highways.

Definition of trunk road

- 7.2.3 The Applicant notes that it was raised that there was a temporal issue when something becomes or ceases to be a trunk road. The Applicant considers that Article 13 is of assistance in that regard. The Applicant notes that the County Council has some concerns with Article 14. The County Council's submission that roads should be de-trunked when they are completed and

adopted is not agreed with. The DCO does not require the County Council to adopt any local highway created under the DCO. That is an unnecessary step. The very core of the DCO is that it should be a one stop shop and as few other permissions and consents should be required as possible.

7.3 Article 24

7.3.1 In response to a question from the Examining Authority, the Applicant explained that the reason that measurements are given 'as thereby' is because plans are correct within 1 metre; this is because the OS mapping used as a base has a margin of error of up to 1 metre.

7.4 Article 3

7.4.1 The Applicant advised on the progress of discussions on the wording of protective provisions. The Environment Agency's drafting as provided to the Applicant is predicated on the Applicant affecting a main river. The Applicant has responded that they do not consider a main river is affected by the project and therefore the EA's protective provisions are not appropriate. This position is still under discussion between the parties.

7.4.2 The local drainage board consortium has confirmed that they are happy with the draft protective provisions and that is set out in the draft SoCG. The Applicant advised that the local lead flood authority has advised that they are not happy and they are seeking some amendments. Discussions are ongoing with the lead local flood authority.

7.5 Article 5

7.5.1 The Applicant clarified that they do not have any ancillary works in this DCO only ancillary matters. There should be no reference to ancillary works in the DCO and the Applicant is not aware of any. The Applicant undertook to double check the DCO and to ensure that any references to ancillary works are amended prior to the submission of the next revision of the dDCO.

Article 5(2) – definition of "adjacent"

7.5.2 The Applicant advised that what is adjacent requires to be looked at on a case by case basis. The Applicant has generally considered "adjacent" to mean land which is more or less abutting the DCO red line i.e. is immediately adjacent. The Applicant has no intention of using this power widely. The Applicant notes the District Council's submissions that this could be used to make traffic regulation orders for traffic management. The Applicant had not actually proposed to make traffic regulation orders other than the stated temporary removal of the 7.5 tonne weight limit however, the Applicant will discuss this point further with the Councils. The Applicant agreed to seek to resolve this matter with the Councils in order to propose some wording at Deadline 5.

7.6 Article 8 limits of deviation

7.6.1 The Applicant has already agreed to produce some cross sections showing the effects of the bunds in the vicinity of the Hazlegrove RPG. The Applicant agreed that the limits of deviation could be added to these cross sections. The Applicant notes that bund height has to move with carriageway height; this is specified in the ES Environmental Statement Chapter 2 in the (project description) (APP-039) where the bund heights are given as 2 metres from the verge of the carriageway.

7.7 Article 11

7.7.1 The Applicant notes the County Council's position that this article is superfluous and will respond to this point in its responses to the DCO drafting comments.

7.8 Article 12

7.8.1 The Applicant agreed to progress discussions on this Article with the County Council.

7.9 Article 13

7.9.1 The Applicant again notes that the use of the term 'adoption' does not align with any process set out in the draft DCO. The Applicant is however happy to set out a process to ensure that any works which require remediation within the 52 week defect period are remediated through Highways England's contract and at no cost to the County Council. The Applicant considers that this could appropriately set out in either the protective provisions in favour of the local highway authority or in a legal agreement and a draft of both options has been provided to the County Council.

7.9.2 The Applicant notes the County Council's submission that this Article should provide for a 12 month defect remedy period and that for any other developer adoption would not occur until a Road Safety Audit (Stage 4) had been carried out. The Applicant confirms that a Road Safety Audit Stage 4 will be carried out. The Applicant also confirms that its standard contract terms include a 52 week defect period where its contractor will be liable to remediate any defects in the works carried out.

7.9.3 The Applicant again notes that the use of the term "adoption" does not align with any process set out in the draft DCO. The Applicant is however happy to set out a process to ensure that any works which require remediation within the 52 week defect period are remediated through Highways England's contract and at no cost the County Council. The Applicant considers that this could appropriately be set out in either the protective provisions in favour of the local highway authority or in a legal agreement and a draft of both options has been provided to the County Council.

7.9.4 The Applicant confirmed it is happy to propose an amendment to the DCO which specifies that any access track which is on Highways England's land

will be maintained by Highways England. This will include tracks where rights of way are routed over the maintenance tracks.

7.10 Article 14

7.10.1 The Applicant notes the request that the process for notifying of the date to be determined is more clearly set out. The Applicant is considering that and will propose an amendment at submission of the DCO at Deadline 5.

7.11 Article 15

7.11.1 The Applicant notes the District Council's submission that this Article would allow the Applicant to deliver measures under the traffic management plan and the Applicant has already agreed to consider that.

7.11.2 The Applicant notes the County Council's submission that "street" would not include public rights of way. The Applicant responded that they do not need to temporarily stop up any public right of way so there is no need to add "highway" to Article 15. It would however, amend Article 16. The County Council submitted that this should be reconsidered as part of a wider review of how the terms "street" and "highway" have been used. As the Applicant noted, the change sought increases flexibility and the Applicant has therefore agreed to add "highway" into the appropriate street provisions in the next revision of the draft DCO.

7.11.3 There was some discussion about the power under Article 15(2) where stopped up streets can be used as temporary working sites. The Applicant wishes to be very clear that working sites does not mean compounds. Working sites simply means the area within which the Applicant can carry out works. The Applicant has agreed to consider how this could be clarified and made to be distinct from compounds and will propose amended wording at Deadline 5.

7.11.4 The Applicant notes the District Council's request that it be consulted on any consent to be given under this Article and confirmed that the Applicant has no objection to this. The Applicant will again propose an amendment to the wording of the draft DCO at Deadline 5.

7.12 Article 16(5)

7.12.1 It was noted that there has already been considerable discussion over rights of way and in particular unrecorded rights of way and the applications for changes to the status of rights of way on the definitive map in previous hearing sessions earlier in the week. The Applicant agreed to undertake further discussion with the Councils on this point.

7.13 Article 17

7.13.1 The Applicant agreed to amend the title to make it clearer what the scope of the Article is.

7.14 Article 19

- 7.14.1 The Applicant was asked what would happen if the local traffic authority responded but the chief police officer did not; the Applicant clarified that while the consent of the local traffic authority is being sought, the chief of police is only being consulted. Accordingly, no response from the chief of police would be taken to mean no objection and the local traffic authority could proceed to determination.
- 7.14.2 The Applicant notes the District Council's request that they are also consulted and again has no objection. The Applicant is proposing an amendment to the wording of the Article at Deadline 5.

7.15 Article 20

- 7.15.1 The Examining Authority queried why other DCOs include articles regarding damage to the beds and banks of water courses and why this DCO does not. The Applicant explained that the scheme does not affect any main rivers and that all other water discharge is to be reduced to greenfield rate so this is not considered to be an issue.

7.16 Article 21

- 7.16.1 The Examining Authority noted that there is some confusion as to what this Article is designed to achieve. The Applicant explained that this Article has been included on a precautionary basis to empower it to undertake such works should they be required. The Applicant confirmed that they had not, to date, identified any works which would be required under this Article. The Examining Authority asked whether this Article should make specific provision in relation to listed buildings. The Applicant is considering this and will propose an amendment to the draft DCO at Deadline 5.

7.17 Article 22

- 7.17.1 The Applicant confirmed that the works covered by this power would be pre-commencement works. These powers to survey and investigate the land are partly used in order to understand whether and if so what archaeological remains on the land need to be protected. This is a very standard power which is used to carry out investigations.

7.18 Article 31

- 7.18.1 The Applicant notes that it slightly misunderstood the context to the question when it is asked in session, given that discussion had previously related to construction and pre-commencement issues. The purpose of acquisition of airspace only under Article 31 is to minimise interference with owners' rights where it is possible to do so. The ability to acquire only rights to the airspace allows for structures which overhang at a height which would not interfere with the ground level use to be acquired, sometimes needed for structures such as signs and bridges. The Applicant is not aware that it is currently necessary to

acquire any air space in this matter, however, this is a standard article which allows the minimal rights to be acquired should it become possible to do so.

7.19 Article 33

7.19.1 The Applicant was asked whether, given that Article 33 allows the removal of buildings and hedgerows, when ecological impacts of this would have been considered and how ecology would be protected. The Applicant notes that this power would be subject to all the normal controls including any pre-commencement requirements. The Applicant also confirmed that permanent mitigation would not be installed under temporary possession powers and that where mitigation was to be installed, permanent rights would be acquired. The Applicant agreed to provide a schedule of mitigation locations and that is provided along with this note. This schedule can be found within the Deadline 4 Report, in response to Action Point 40 [EV-007].

7.20 Article 38

7.20.1 The Applicant notes the District Council's concern that this is a freestanding power which would allow removal of any tree or hedgerow within the Order land. The Applicant also notes that is an entirely standard DCO power. The Applicant has however agreed to discuss with the District Council how this power could be restricted to removal of trees and hedgerow as approved through detailed design. The Applicant has agreed to seek agreed wording for this at Deadline 5.

7.21 Article 38

7.21.1 The Examining Authority queried whether the Natural Environment and Rural Communities Act 2006 could be added to this Article; the Applicant has no objection and will propose this amendment at Deadline 5.

7.22 Article 43, certification of plans

7.22.1 The Applicant was asked whether or not electronic copies of the plans could be made available for inspection by the public. The Applicant is looking into this and will confirm at Deadline 5 how long plans could be made available for.

7.22.2 The Applicant was asked if the requirement to submit plans as soon as practical could be made more precise. The Applicant has agreed to propose a long stop date of a maximum number of working days for this submission in the revised draft DCO at Deadline 5.

7.23 Article 47

7.23.1 The Applicant notes that the removal of human remains is a function of the District Council and that they would like to be consulted on any works carried out under this Article. The Applicant has no objection to this and will propose a wording amendment in the draft DCO at Deadline 5.

7.24 Schedule 2 requirements

7.24.1 The Examining Authority noted that the requirements do not have dates by which works should be completed. The concern is that the carriageway could be open before the mitigation is in place. There could therefore be an operational road without mitigation on one side. The Examining Authority considers that a mechanism is required to ensure that necessary mitigation is in place at the appropriate time. The Applicant notes that this is a difficult issue at this stage given that final detailed design and therefore the phasing of the works is not yet known. The Applicant is taking advice on this point and will respond as soon as practicable.

7.24.2 The Examining Authority requested clarification on whether drawings are included within requirements that request written details. The Applicant notes that written details in the planning context is considered to include plans however, if the Examining Authority considers that further precision is necessary, an amendment to the definitions in this part of the DCO will be made to the draft DCO at Deadline 5.

7.25 Requirement 7

7.25.1 There was a query as to where the Manual of Contract Documents for Highway Works could be found. The Applicant advised that it was part of the design manual for roads and bridges and is available at <http://www.standardsforhighways.co.uk/ha/standards/mchw/index.htm>.

7.26 Requirement 8

7.26.1 The Applicant gave an update on discussions with the Environment Agency. The Applicant considers that all of the changes that the Environment Agency has requested to requirements could be accommodated and has proposed most of those changes already. A further change to the requirement will be proposed at Deadline 5 to ensure that this also aligns with the agreement reached with the lead local flood authority.

7.27 Requirement 9

7.27.1 The Applicant notes the County Council's request that a clear timescale should be provided for requirement 9(6) rather than it being open ended, and the Council's suggestion that this should be within 2 weeks of the completion of the authorised development. The Applicant is taking advice on this and will propose a timescale in discussion with the County Council and attempt to reach an agreed position ahead of Deadline 5.

7.28 Requirement 10

7.28.1 The Applicant confirmed that it would consider the drafting of Requirement 10 in relation to a potential buffer for protected species. [*Post hearing note: The Applicant has previously responded to this point in its submission at Deadline 2 (REP2-017). For protected species other than nesting birds that are newly identified during construction (that have not already been identified as part of*

the pre-construction surveys), it is not appropriate to create a cordon sanitaire in the same way as for nesting birds. In this situation, works in the vicinity would cease until a written scheme for the protection of such species is prepared and implemented and any necessary licences obtained. Measures for the protection of protected species will be fully documented within the LEMP and the relevant protected species licences, which are for badgers and great crested newts.]

7.29 Requirement 11

7.29.1 The Applicant agreed that the reference to the Traffic Management Plan should be to the outline Traffic Management Plan and will propose an amendment to the requirement at Deadline 5.

7.30 Requirement 11

7.30.1 The Applicant is aware of the County Council's position that they want to be a discharging authority rather than a consultee. The Applicant is also aware of the submission that a detailed local operating agreement with the County Council is required. The Applicant does not agree with the County Council on this point. Discussion between the parties is ongoing.

7.30.2 If required, the Applicant would consult the Parish Councils under this requirement.

7.31 Requirement 12

7.31.1 The Applicant noted that it intended to submit proposed amendments to requirement 12 at the next revision of the dDCO at Deadline 5. It is therefore happy to address the point raised by the Examining Authority that this is one very long sentence and could be made easier to read.

7.31.2 The Applicant again notes the County Councils position that it should be discharging authority. The Applicant's position remains as previously stated that, while it will consider the submission to be made by the County Council, it does not consider that having more than one discharging authority is appropriate as a matter of principle.

7.31.3 The County Council made submissions that it should be paid its costs in reviewing detailed design documents. The Applicant continues to note that the County Council has requested to be more involved with the detailed design. The Applicant notes that there is no provision under the Planning Act 2008 for consultees to be paid for engaging in consultation. The Applicant notes the Examining Authority's request that the County Council provide an indication of other DCOs where such provision is made by Deadline 5 and the Applicant will respond to that submission once it has had an opportunity to review it.

7.32 Requirement 13

7.32.1 The Applicant notes that some amendments have already been made to this requirement in response to Environment Agency's comments. A further minor

amendment relating to the Qbar rate is still to be made. This will be included at Deadline 5.

7.33 Signage strategy

7.33.1 It was agreed that a note outlining how the signage strategy will be secured within the DCO will be issued at Deadline 5.

7.34 Schedules 3 & 4

7.34.1 The Applicant confirmed that it is proposing a number of amendments to the draft DCO to reflect the comments made by the Councils with regards to the omission of a number of rights of way from these schedules.

7.34.2 The Applicant confirmed that it is not proposing a schedule of limitations and widths for PRowS as this would be a matter of detailed design and is therefore premature at this stage. The Applicant has proposed to discuss with the County Council a set of parameters for each type of public right of way which would be acceptable and this would be used to inform a detailed design.

7.34.3 The Applicant undertook to provide an updated version of the schedules to the Council ahead of submission at Deadline 5 so that the Council has an opportunity to comment on them ahead of such submission.

7.35 Revocation of a side roads order

7.35.1 The Applicant confirmed that it is happy to revoke the order in so far as it has effect. The Applicant has noted the point that any such revocation should not revoke the existence of the bridleway to the east of Eastmead Lane and it will consider that in drafting the inclusion of the revocation of this order in the revised dDCO.

7.36 Temporary work elements shown in figure 2.9 of the es

7.36.1 The Examining Authority asked for clarity as to where various temporary work elements shown in Figure 2.9 of the ES are listed in the works. The Applicant does not quite understand the figure referred by the Examining Authority and would be happy to provide further explanation if that could be clarified as Figure 2.9 of the ES relates to temporary closures of public rights of way.

7.36.2 The works listed in the section of the ES referred to are temporary works required to construct the permanent works. They are therefore not listed in the list of permanent works in schedule 1. It is unnecessary to list within the scope of the permanent works the temporary elements required simply to construct them.

7.37 CEMP

7.37.1 The Applicant has confirmed that a revised OEMP will be submitted at deadline 5.

7.37.2 The Applicant advised that the habitat management plan for the grassland at Hazlegrove Registered Park and Garden (RPG) will be included as part of the Landscape Environmental Management Plan (LEMP) once submitted. The LEMP will also include the standard for trees and hedgerow planting. The LEMP will include the required management regime for the grassland areas within the red line boundary to increase biodiversity, which has been included in the OEMP which is being updated.

7.37.3 The Examining Authority queried whether a Conservation Management Plan (CMP) for the RPG should be included with the OEMP. The Applicant does not consider that this would be appropriate. A CMP for the whole of the RPG would cover land out with the red line boundary and therefore a different area to the OEMP. A CMP for the part of the RPG within the redline boundary is not currently being proposed because mitigation for this area is already included within the OEMP. If a CMP for the RPG is to be progressed, it will be done outside of the DCO process and would be reliant on securing designated funds, The Applicant is in discussions with Historic England in this regard.

7.38 Explanatory memorandum

7.38.1 The Applicant noted the request from the Examining Authority that a track changed version between the updated Explanatory Memorandum to be submitted at Deadline 4 and the original submitted version be produced and submitted at Deadline 4. The Applicant has submitted that herewith.