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29 January 2021

Dear Sirs,

PLANNING ACT 2008 APPLICATION FOR THE PROPOSED A303 SPARKFORD TO ILCHESTER DUALLING DEVELOPMENT CONSENT ORDER

1. I am directed by the Secretary of State for Transport (“the Secretary of State”) to say that consideration has been given to:

- the report of 12 September 2019 of the Examining Authority (“the ExA”), a Panel of two examining Inspectors consisting of Lesley Coffey and Robert Jackson, who conducted an examination into the application by Highways England (“the Applicant”) for the A303 Sparkford to Ilchester Dualling Development Consent Order (“the Order”) under section 37 of the Planning Act as amended (“the 2008 Act”);
- late representations received by the Secretary of State following the close of the examination;
- responses to further consultation undertaken by the Secretary of State in respect of the application; and
- the responses received from the Applicant and interested parties in response to the “minded to refuse” letter of 21 July 2020.

2. The application was accepted for examination on 23 August 2018. The examination began on 12 December 2018 and was completed on 12 June 2019. The examination was conducted on the basis of written and oral submissions submitted to the ExA and by eight issue-specific hearings, two compulsory acquisition hearings and three open floor hearings. The ExA also conducted three unaccompanied site inspections and one accompanied site inspection.

3. The Order as applied for under the 2008 Act would grant development consent to Highways England to provide a continuous dual carriageway on the A303 linking the Podimore Roundabout and the Sparkford Bypass. The proposals would include the removal of at-grade junctions and direct accesses. Any new junctions would be constructed to grade separated standards, or to compact grade separated standards depending upon anticipated traffic flows (“the Development”).

4. This letter should be read in conjunction with the Secretary of State's "minded to refuse" letter dated 21 July 2020 and the ExA's Report of Findings, Conclusions and Recommendation to the Secretary of State dated 12 September 2019 ("the ExA's Report"), as amended by the Errata Sheet (Ref TRO10036) which were published on the Planning Inspectorate's website on 21 July 2020. The ExA's findings and conclusions are set out in sections 4 to 15 of the ExA's Report, and the ExA's summary conclusions and recommendation are in section 17.

Summary of the ExA's Recommendation

5. The principal issues considered during the Examination on which the ExA reached conclusions on the case for development consent are set out in the ExA's Report under the following headings:

- Legal and Policy Context;
- Planning Issues;
- Archaeology and Cultural Heritage;
- Air Quality and Emissions;
- Biodiversity, Ecology and Natural Environment;
- Noise and Vibration;
- Landscape and Visual Effects;
- Traffic and Transport;
- Socio-Economic Effects;
- Water Environment;
- Habitats Regulations Assessment;
- Compulsory Acquisition and Related Matters; and
- Draft Development Consent Order and Related Matters

6. The ExA recommended that the Secretary of State should **not grant development consent**.

Summary of the Secretary of State's Decision

7. The Secretary of State has carefully considered the ExA's Report and has decided under section 114(1)(a) of the 2008 Act to grant development consent. This letter is the statement of reasons for the Secretary of State's decision for the purposes of section 116 of the 2008 Act and regulation 31(2)(d) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 ("the 2017 Regulations").

Secretary of State's Consideration

8. The Secretary of State has considered the ExA's Report, the further representations received after the close of the examination, responses to consultation, responses to the "minded to refuse" letter, and all other material considerations. The Secretary of State's consideration of these matters is set out in the following paragraphs. Where not stated in this letter the Secretary of State can be taken to agree with the ExA's findings, conclusions and recommendations, as set out in the ExA's Report and the reasons given for the Secretary of State's decision are those given by the ExA in support of the conclusions and

recommendations. All “ER” references are to the specified paragraph in the ExA’s Report. Paragraph numbers in the ExA’s Report are quoted in the form “ER x.xx.xx” as appropriate.

Legal and Policy Context

9. Given that the application requires development consent, section 104(2) of the 2008 Act has effect in relation to the development to which the application relates. In determining this application, the Secretary of State must therefore have regard to the relevant National Policy Statements (“NPS”), and Local Impact Reports (“LIR”) submitted, any matters prescribed in relation to development of the description to which the application relates, and any other matters the Secretary of State considers to be both important and relevant to the decision [ER 3.1.2]. Under section 104(3) of the 2008 Act the Secretary of State must decide this application in accordance with any relevant NPS which in this case is the National Networks National Policy Statement (“NNNPS”), subject to any of the exceptions in section 104(4) to (8) of the 2008 Act applying. The Secretary of State does not consider any of them does on the facts of this case.

10. The LIRs and the relevant development plans the Secretary of State has had regard to are described in ER 3.10 and 3.11. The Secretary of State also notes the ExA’s assessment set out in ER 3.3, 3.4, 3.5, 3.6, 3.7, 3.8, and 3.9 of European Law and related UK regulations, other relevant legal provisions, previous DCO’s, transboundary effects, Government Transport Policy, other relevant policy statements and the National Planning Policy Framework (“the Framework”), and agrees these are matters to be considered in deciding this application. The Secretary of State notes that European Law and related UK regulations set out in ER 3.3 remain in place despite the UK having left the EU on 31 January 2020 and despite transition arrangements ending on 31 December 2020. These are therefore still relevant to this application.

“Minded to refuse” letter

11. On 21 July 2020 the Secretary of State published a “minded to refuse” letter. In the letter he explained that he was not yet in a position to decide whether to accept the ExA’s recommendation but was minded to agree with the ExA that development consent should be refused unless the Applicant could provide further evidence demonstrating how four issues identified by the ExA can be satisfactorily addressed. The four issues set out in the letter were:

“1. in relation to the concerns by the Defence Infrastructure Organisation (“DIO”) regarding the potential for “birdstrike” as the proposed ponds at RNAS Yeovilton would have the potential to attract birds that are hazardous to aircraft, information from the Applicant on:

- i. the potential scope of a Bird Hazard Management Plan (“BHMP”), the extent to which it would address DIO’s concerns around birdstrike, and confirmation that any changes proposed to the design of the ponds as part of the BHMP would be consistent with the Environmental Statement (“ES”) and Drainage Strategy, and delivered.*

2. in relation to the adverse effects on Non-Motorised Users and the Local Road Network, information on:

- i. *the deliverability of the mitigation proposed by the ExA for the three routes of particular concern: Eastmead Lane/Higher Farm Bridge route; Traits Lane/Gason Lane bridleway; and the Hazlegrove underbridge.*

3. *in relation to the detrunked section of the A303 that would continue to provide access to the Mattia Diner and filling station information on:*

- i. *how the Applicant would be able satisfactorily to address the risks of anti-social behaviour and the financial responsibilities for the detrunked section other than by the amendment to article 13(4) proposed by the ExA.*
- ii. *whether the Applicant is able to secure the delivery of a parallel road along the retained parts of the A303 detrunked section and, if so, the extent to which such a parallel road would address the negative impacts identified by the ExA, such as the risk of anti-social behaviour and the impact on local businesses such as the Mattia Diner and filling station, and how delivery of this parallel road would be secured.*

4. *in relation to the Applicant's proposals to use temporary possession powers to deliver permanent Works on land that that would then be designated as public highway, information from the Applicant on:*

- i. *how the Applicant would address and secure the delivery of permanent turning heads if it is not able to use temporary possession powers in the way it originally proposed."*

12. The Applicant responded on 17 August 2020, along with three other interested parties. On 19 August 2020 the Secretary of State sought views from all interested parties on the Applicant's response. The Secretary of State received a further 22 representations from a range of interested parties.

Birdstrike

13. The Secretary of State notes the Ministry of Defence's ("MOD") concern submitted via the Defence Infrastructure Organisation ("DIO") in the ExA's Report about the potential for ponds proposed as part of the Development to attract birds hazardous to aircraft using Royal Naval Air Station ("RNAS") Yeovilton [ER 10.5.89 and 10.5.91]. The ExA's conclusion was that the Development would have significant implications for birdstrike and therefore would be contrary to the policy guidance at paragraph 5.47 of the NNNPS [ER 10.5.103].

14. The Secretary of State also notes the ExA's view that the suggestions of the DIO that the ponds could be predominately dry, or alternatively could provide steep sides and dense planting, would both fail to accord with the assessed Drainage Strategy. As a consequence, the ExA considered a revised Drainage Strategy would be required and this would have significant implications for other areas in the ES and could also have significant implications for both non-motorised users ("NMUs") and motorists [ER 10.5.104].

15. On the basis of the evidence submitted to the examination and taking account of the potential loss of life, the ExA was not persuaded that the design of the ponds in terms of their precise location, size and depth should be a matter of detailed design [ER 10.5.106].

16. The Secretary of State consulted the Applicant and other interested parties on this issue in his letter of 5 November 2019. In their response of 26 November 2019, the DIO

highlighted the need for a Bird Hazard Management Plan (“BHMP”) to be secured through the Order which would contain measures to ensure that the ponds created as part of the scheme will be managed to ensure that the landscaping and planting is maintained to reduce the risk of attracting and supporting bird species deemed hazardous to aviation safety. The Applicant in their response of 26 November 2019 rejected the suggestion of a BHMP as being unnecessary and something which would impose an unreasonable burden on the Applicant with which it could not comply. They noted that other provisions to reduce the risk of birdstrike are already secured in the Order, and noted that the imposition of a BHMP requirement was not debated during the examination.

17. In the Applicant’s response of 17 August 2020 to the “minded to refuse” letter, they proposed revisions to requirement 3 of the Order to add a BHMP to the plans required as part of the Construction Environmental Management Plan (“CEMP”) and Handover Environmental Management Plan (“HEMP”). In addition, DIO would also be added as a consultee on both requirement 3 and requirement 12, which relates to detailed design. No works can commence until requirements 3 and 12 have been discharged. The Applicant noted that the discussions with DIO had focused on points of detail, not the principles of having ponds in the required locations. The Applicant also identified a number of measures in a Birdstrike Hazard Review, such as bank gradient, depth of pond, and pond layout, which are to inform the detailed design discussions and they consider all the measures listed are within the scope of the ES and the drainage strategy. The Secretary of State notes the DIO’s response of 16 September 2020 to the Secretary of State’s consultation of 19 August 2020, which indicated that the Applicant and DIO had made significant progress towards addressing DIO’s concerns and DIO were confident that issues could be resolved ahead of the statutory deadline for this application.

18. The Secretary of State notes that in South Somerset District Council’s (“SSDC”) response of 16 September 2020 to the “minded to refuse” letter, they were supportive of the measures relating to birdstrike. Historic England’s (given the abbreviation “HBMCE” for consistency with the ExA’s report¹) response of 16 September 2020 pointed out the apparent lack of an assessment of the impact of any use of lines of plastic flags at pond 5 and expressed concern about the negative impact of any such flags on the significance of the Hazlegrove House Registered Park and Garden (“RPG”). The Secretary of State notes that HBMCE have to be consulted regarding landscaping plans in the RPG under requirement 6 of the DCO and is therefore content that their concerns can be addressed through this mechanism.

19. On 5 October 2020 the Applicant provided a signed section 106 Unilateral Undertaking of 30 September 2020 which is intended to secure measures relating to the long-term management and monitoring of the site. However, in their letter of 28 October 2020 the DIO indicated that the signed undertaking lacked some of the elements MOD would consider fundamental to managing the impact of the development on the operation of RNAS Yeovilton but indicated their willingness to discuss the content of the undertaking further with the Applicant.

20. On 12 November 2020 the Secretary of State sought further information from the Applicant and the DIO regarding the matters raised by DIO in their letter of 28 October 2020. On 11 December 2020 the Secretary of State received a joint letter from the

¹ See footnote 22 of the ExA’s report.

Applicant and DIO enclosing a revised signed Unilateral Undertaking of 10 December given by the Applicant. The letter highlighted the changes made to the September Unilateral Undertaking in light of ongoing discussions between them and the DIO. These changes included more frequent reporting on the use by birds of the ponds and more frequent inspections of the ponds, ensuring adequate liaison between the Applicant and the MOD, and allowing for the Bird Management Measures to be reassessed by the Applicant and the MOD on a more frequent basis. They also included the deletion of a provision which provided that the obligations in the Unilateral Undertaking would cease to have effect where (i) no birds had been detected on the Ponds for a period of five years and (ii) there had been no Request for Action in the same period. The letter indicates that DIO is content that the December Unilateral Undertaking (together with the amendments proposed to the Order in response to the “minded to refuse” letter) satisfies its concerns in respect of the birdstrike issue arising from this scheme.

21. SSSDC provided a number of comments regarding the drafting of the September version of the Unilateral Undertaking in their response of 26 November 2020 and expressed their concern that the Unilateral Undertaking lacked clarity on whether the Applicant would become the freehold landowner of the ponds, which was necessary to ensure that the obligations within the Undertaking were capable of enforcement. In their email dated 18 December 2020, SSSDC indicated that the Applicant has responded directly to them regarding their concerns and SSSDC expressed their confidence that the matters they raised could be clarified. In a subsequent email of 5 January 2021, and following their consideration of the Applicant’s response to their concerns, SSSDC confirmed that they were content to proceed on the basis that the MOD and the Applicant are confident that the Unilateral Undertaking is an appropriate means to ensure that the possible maintenance and mitigation measures for birdstrike are in place and to rely on both parties as public bodies to act in accordance with the intention of the document.

22. The Secretary of State notes that there are now a number of mechanisms intended to address birdstrike as part of the Order and elsewhere, including the signed December Unilateral Undertaking, the addition of a BHMP to the plans required as part of the CEMP and HEMP under requirement 3, and the addition of DIO as a consultee to requirements 3 and 12. Regarding SSSDC’s concern about the enforceability of the Unilateral Undertaking, the Secretary of State notes that all the land on which the ponds are to be constructed is within the Order limits and is subject to compulsory acquisition. He further notes the most recent comments of SSSDC in their email of 5 January 2021 and is satisfied that the obligations in the Unilateral Undertaking are capable of enforcement. The Secretary of State notes the position of the MOD, as expressed in their letter of 11 December, that they consider the position to be satisfactory. Having regard to DIO’s expertise in this matter, the Secretary of State is reassured that the DIO’s concerns around birdstrike have now been addressed and is therefore content that the issue of birdstrike has been resolved consistently with the ES and the Drainage Strategy. The Secretary of State considers that this aspect is compliant with the NNNPS policy and is therefore a neutral consideration in the planning balance.

Non-Motorised Users (“NMU”)

23. The Secretary of State notes that the Development includes the permanent diversion of all at-grade crossings of the A303 between Hazlegrove and Podimore, which involves the stopping up or diverting of a number of existing NMU routes and the creation of new

rights of way [ER 10.5.20]. The Secretary of State notes that the ExA had concerns with specific NMU routes which include Eastmead Lane connection, the Traits Lane/Gason Lane link and the Hazlegrove Underbridge and the consideration given to them in ER 10.5.26 to 10.5.87.

Eastmead Lane

24. The Secretary of State notes that the Right of Way Y30/28 (also known as Eastmead Lane) is to be stopped up over a distance of 27m northwards from its junction with the existing A303 [ER 10.5.26]. The Secretary of State notes the Applicant's mitigation for stopping up Y30/28 is the provision of a new NMU route from Eastmead Lane to Sparkford via Downhead [ER 10.5.27].

25. The Secretary of State notes the debate at examination regarding the status of bridleway Y30/29, which was authorised as part of the Side Roads Order that came into effect on 7 November 1996 and authorised the provision of a bridleway connecting Eastmead Lane with Higher Farm Lane [ER 10.5.28 and 10.5.29]. The Secretary of State notes that in the absence of any evidence to suggest that Somerset County Council ("SCC") was notified that bridleway Y30/29 was complete and open to traffic, the ExA concluded that the bridleway was not delivered as part of the 1996 Side Roads Order. The Secretary of State notes that the ExA concluded that bridleway Y30/29 has no legal status and accordingly there is no connection for walkers, horse-riders or cyclists via Y30/31 between Podimore and Y30/28 [ER 10.5.33 and 10.5.35].

26. The Secretary of State notes that the ExA said that the route proposed by the Applicant would involve a journey of about 5.2km for those wishing to cross the A303 at this point [ER 10.5.36]. This journey would reconnect Eastmead Lane with its historically severed southern projection at a point to the south of the A303 where the bridleway used to go to before the A303 Podimore bypass was constructed in the late 1970s (see paragraph 4 of Topic Paper: Right of Way Y30/28 (Eastmead Lane) – library reference REP3-006). The ExA considered that this failure to provide a suitable and convenient crossing would be contrary to the Government's aim of providing people with sustainable transport choices by attractive and convenient routes [ER 10.5.37] and would effectively sever the community, which is at odds with the policy in the NNNPS [ER 10.5.41].

27. The Secretary of State notes the Applicant's position that there is no north-south crossing at this location and that it should not be expected to remedy this missing link as part of the Development. The ExA accepted that crossing the A303 at this location is not ideal in terms of safety and that the ExA acknowledged that the number of NMUs using this route is likely to be low due to the speed and flow of traffic, but said that since it is an existing route it should be mitigated. He further notes that the ExA disagreed that the road cannot be crossed at this point [ER 10.5.38].

28. The Secretary of State notes the alternative proposed by SCC, SSDC and South Somerset Bridleway Association ("SSBA"), which would follow Y30/29 until it reached Y30/UN to Higher Farm Lane, where the existing Higher Farm Lane Bridge could be used to cross the A303 into the village of Podimore; this route would mean that the distance to the historically severed southern projection referred to above would be about 1.5km in length rather than 5.2km. The Secretary of State notes that this route would require Y30/UN

to be upgraded from footpath to bridleway status [ER 10.5.36] and would require alterations to Higher Farm Lane Bridge [ER 10.5.40].

29. The Secretary of State consulted on these issues in November 2019. The Applicant's response in their letter of 26 November 2019 reiterated the point made in the examination that it should not be expected to remedy a missing link as part of the Development. The Applicant also noted that the feasibility study on upgrading the Higher Farm Overbridge had been completed but funding would need to be secured through the Highways England Designated Funds and would remain separate from the Development.

30. In their response to the "minded to refuse" letter, the Applicant maintains that there is no existing north south NMU route to be severed by the closure which requires to be replaced. In their view East-West NMU routes are provided by the Development, the design includes a continuous NMU route along the length of the Development and it does not cause severance in this case as there is no existing route to the south of the A303 which is being lost. Although the Applicant concludes that the provision of a bridleway over Higher Farm Lane Overbridge is not necessary mitigation for the Development, they are, however, prepared to accept the inclusion of requirement 17 subject to amendments. The Applicant considers that delivery of this route would be outside its control, as it would be dependent upon a Traffic Regulation Order ("TRO") being positively determined. The Applicant therefore considers that the extent of its obligation should be to obtain approval of a scheme for delivery and to enter into a legal obligation for delivery with SCC securing the necessary funding, and has proposed amendments to requirement 17 accordingly.

31. In response to the Applicant's representation, SSBA and the British Horse Society indicated their strong support for the ExA's proposed mitigation. SCC also agreed with the ExA's suggested mitigation measures and on the information currently available, did not consider that a section 278 agreement would be the correct mechanism through which it should be delivered as it is currently outside their powers to carry out works to a bridge owned by a third party and over which bridleway rights do not currently exist.

32. The Secretary of State accepts the Applicant's argument that there is not an existing north-south NMU route affected by the Development at this location that needs to be replaced. However, the Secretary of State notes under paragraph 3.17 of the NNNPS there is an expectation that applicants will use reasonable endeavours to address the need of cyclists and pedestrians in the design of new schemes and to identify opportunities to invest in infrastructure in locations where the national road network severs communities and acts as a barrier to cycling and walking, by correcting historic problems. Paragraph 3.22 of the NNNPS expects applicants to deliver improvements that reduce community severance. The Secretary of State considers that the amendments proposed by the ExA provide an opportunity to reduce community severance in line with the NNNPS. The Secretary of State considers that the requirement introduced by the ExA would help to deliver against this policy expectation but he has accepted the Applicant's amendments to requirement 17 for the reasons given by the Applicant. These amendments require the Applicant to submit details of a scheme to the Secretary of State, following consultation with SCC, and the scheme must include an explanation of the mechanisms for delivery of the measures and works set out in it.

Traits Lane

33. The Secretary of State notes that the application proposes the stopping up of Traits Lane and Gason Lane on the south side of the A303; consequently, neither pedestrians nor horse riders would be able to cross the proposed road at this point. He further notes that the Applicant proposed the diversion of a number of footpaths which would have provided a continuous bridleway link along the southern side of the Development [ER 10.5.48]. As a result of a non-material change to the application there would be no connection between the proposed bridleway to the west side of Traits Lane and the east side of Gason Lane [ER 10.5.50]. The ExA concluded that no mitigation has been provided for horse riders and others that are currently able to cross the A303 at grade crossing [ER 10.5.51] and that this severance of the existing Public Rights of Way network would be contrary to paragraphs 5.184 and 5.205 of the NNNPS [ER 10.5.52].

34. The Secretary of State notes that the provision of an alternative route linking Traits Lane to Gason Lane would require either the acquisition of the land immediately adjacent to the proposed footpath diversion, or permission from the MOD to use the proposed diversion as a bridleway as well as a footpath. The Secretary of State notes the former would involve land that now lies outside the red line boundary and could involve acquisition beyond that shown on the land plans and the Book of Reference [ER 10.5.54]. The Secretary of State notes that the MOD confirmed in their response of 26 November 2020 they were content with a footpath diversion across their land but they were not content with a bridleway diversion.

35. The Secretary of State consulted the Applicant in November 2019 regarding potential mitigation. In their response of 26 November 2019, the Applicant stated that for cyclists and horse-riders (who they said are less sensitive than pedestrians to small increases in journey length) the proposed alternative route through Traits Lane to Blackwell Road and then along Blackwell Road to Gason Lane is reasonable in all the circumstances.

36. The Applicant's response of 17 August 2020 to the "minded to refuse" letter set out their efforts in securing a bridleway in this location and view that they have no ability to upgrade the footpath to a bridleway on Crown Land given that consent to do so has been sought from and refused by the DIO. They stated that the ExA recommendation to include a new requirement 19 as drafted would make the Development undeliverable and requested its deletion.

37. In response to the Applicant's representation, SSBA and the British Horse Society expressed support for the ExA's proposed mitigation and disagreed that the Applicant's suggested alternative route was appropriate for NMUs. SCC indicated that although they would prefer to see a bridleway delivered they consider a footpath to be sufficient mitigation, as horse riders would still be able to travel between Traits Lane to Gason Lane via the local road network. However, both SCC and SSSDC suggested that it may be possible to resolve MOD's concerns regarding the provision of a bridleway at this location, and SCC suggested that the minimum standards widths and gradients for new rights of way could be negotiated in extraordinary circumstances.

38. The Secretary of State notes the requirements within the NNNPS, including those at paragraph 5.216 which requires applicants, where development would worsen accessibility, to mitigate these impacts as far as is reasonably possible. The Secretary of

State notes the efforts of the Applicant in securing a bridleway between Traits Lane to Gason Lane and the inability to deliver a bridleway link in the absence of MOD consent. He welcomes the provision of the footpath in this location, and notes the position of SCC that the provision of a footpath is sufficient mitigation. Together with the alternative route for equestrian users via Blackwell Road, the Secretary of State considers that the mitigation provided meets the tests within the NNNPS and is therefore content to delete the ExA's proposed requirement 19 on the grounds that it is unnecessary. Notwithstanding this, the provision of a bridleway to link Traits Lane to Gason Lane is desirable and the Secretary of State would therefore encourage the Applicant to continue to explore options to deliver this, particularly in light of the comments from SSDC and SCC, and SCC's willingness to negotiate on minimum weights and gradients for this particular right of way. In the absence of the bridleway link, the Secretary of State considers that moderate negative weight should be given to this issue in the planning balance.

Hazlegrove Underbridge

39. The Secretary of State notes that the importance of the Hazlegrove underbridge to the NMU network is explained in Chapter 12 of the ES, as it would provide the primary crossing point for NMUs towards the eastern end of the Development. The Secretary of State notes that it is proposed that the underbridge would be used for motorised and non-motorised traffic and only lit during the daytime. The ExA questioned the safety implications of not providing lighting during the hours of darkness; the Applicant indicated that no specific security assessment of the underbridge or its approaches has been undertaken with respect to the provision of lighting for the NMU route [ER 10.5.58 to 10.5.60].

40. The ExA considered that, in the absence of lighting, the underbridge would not provide an attractive route for NMU's and as a consequence fails to accord with paragraph 5.184 of NNNPS [ER 10.5.61]. The ExA also considered that night-time lighting is a reasonable step that is essential to minimise the risk of road casualties and improve road safety [ER 10.5.75]. The ExA therefore recommended a new sub paragraph (2) to requirement 15 for the scheme to include measures for lighting the Hazlegrove Junction underbridge during hours of darkness [ER 16.6.154 Table 9].

41. The Applicant's response of 17 August 2020 to the "minded to refuse" letter indicated that lighting of the underbridge at night is not necessary to comply with any relevant design standard and has not been demonstrated to be necessary by any assessment undertaken in accordance with the Design Manual for Roads and Bridges ("DMRB"). The Applicant also said that lighting of the underbridge could not be delivered safely without lighting the carriageway and approaches as well. The Applicant provided a high level environmental assessment which found that the disbenefits, particularly for landscape, cultural heritage and ecology, of lighting the underpass and approaches outweigh the benefits. Other interested parties, such as SSDC, and HBMCE share the Applicant's concerns regarding the wider effects of lighting the underbridge.

42. The Secretary of State has considered carefully the issues raised by the ExA and interested parties, particularly in relation to road safety. In light of the Applicant's expertise in road safety, the Secretary of State is persuaded by the Applicant's submission that it is not possible to light only the underbridge for the use of NMUs. The Secretary of State notes that the carriageway and approaches to the underbridge would also need to be lit, which could cause a number of wider environmental impacts which have not been subject to a

separate environmental assessment. Furthermore, the Secretary of State notes that the rest of the NMU route is largely unlit and is persuaded that the approach adopted by the Applicant in this instance is consistent with the DMRB standards. For these reasons, the Secretary of State considers that the change proposed by the ExA is not necessary to ensure road safety and has not included the ExA's recommended change to requirement 15. As the Secretary of State considers that this change is not necessary mitigation for the scheme, he concludes that the scheme is in compliance with the NNNPS. However, he agrees with both the ExA and the Applicant that lighting the underbridge (if it had been possible to achieve safely without causing wider environmental impacts) would have made the NMU route more comfortable and therefore considers that the issue should be given moderate negative weight in the overall planning balance.

Conclusion on NMUs

43. The ExA concluded that the Development would fail to mitigate the effects on NMUs in terms of safe and convenient routes, and would increase severance of local communities [ER 17.2.3]. The Secretary of State has considered the specific issues raised by the ExA. He considers that the requirement relating to Eastmead Lane has resolved the ExA's concern regarding that specific issue and concluded that this weighs neutrally in the planning balance. The Secretary of State has concluded that the mitigation proposed by the ExA for Traits Lane is not necessary and therefore complies with the NNNPS, but has attributed moderate negative weight to it in the planning balance. The Secretary of State has concluded that the mitigation provided regarding the Hazlegrave underbridge is acceptable without lighting it at night time for NMUs and is therefore compliant with the NNNPS, although has given the issue moderate negative weight in the planning balance. The Secretary of State has concluded that the proposals for NMUs at Hazlegrave roundabout are NNNPS compliant without the additional mitigation proposed by the ExA and has given it neutral weight in the planning balance (see paragraphs 105 to 108 of the decision letter). The Secretary of State considers that overall the issue of NMUs is compliant with the NNNPS but weighs moderately against the Development in the planning balance.

Socio-Economic Effects on Surrounding Communities

44. The Secretary of State notes that the NNNPS promotes the delivery of environmental and social benefits as part of new schemes and requires any adverse impacts to be mitigated in line with the principles set out in the Framework and the Government's Planning Practice Guidance ("PPG") [ER 11.2.1]. The Secretary of State notes the Applicant's case set out in ER 11.3 and the case for the interested parties set out in ER 11.4.

45. The ExA found that overall the proposal would fail to mitigate the social effects of the Development in accordance with paragraph 3.3 of the NNNPS and would also fail to address the concerns in the LIR in relation to the de-trunked section of the A303 [ER 11.6.5]. The Secretary of State notes that the adverse effect of the Development on businesses in the locality, such as the Mattia Diner and adjacent filling station, together with the failure of the Applicant to provide signage to help to mitigate these adverse effects is afforded very significant weight by the ExA [ER 11.6.6].

46. SCC expressed concern that the de-trunked road could be subject to anti-social behaviour, such as fly-tipping, and could leave SCC with significant on-going financial liabilities [ER 11.4.4 and 11.4.5]. The ExA shared these concerns and considered that the long unlit nature of the de-trunked section is likely to deter NMUs from accessing the adjacent proposed NMU route, adding to severance [ER 11.5.15, and ER 11.6.3]. The ExA considered that SCC is likely to incur financial liabilities as a result of the de-trunked section of the road [ER 11.5.17, ER 16.6.104] and that such liabilities are likely to be an on-going problem [ER 16.6.106]. The ExA has proposed that article 13(4) be amended which would involve separating Schedule 3 Part 2 into Section A (de-trunked roads to become vested in SCC) and Section B (de-trunked roads to remain under the control and management of the Applicant) [ER 16.6.108].

47. The ExA also considered whether a parallel road should be provided, as sought by the parish councils and other interested parties [ER 10.5.108]. The Applicant considered that it would require an area of MOD land, which if it could not be acquired by agreement within the necessary timescale would represent a risk to the project [ER 10.5.109]. The ExA considered that the provision of a parallel road would provide clear benefits for local communities, provide resilience in the event of an accident and benefits during the construction period as the existing road could remain open [ER 10.5.113]. The ExA also concluded that the provision of a parallel road would assist in addressing the isolation of the Mattia Diner and filling station that is a direct consequence of the Development [ER 11.5.18]. However, the ExA concluded that while a parallel road would be a desirable and prudent modification to the Development and will address some of the issues with the NMU routes, the failure to provide it did not justify withholding consent [ER 10.5.114] and should be afforded moderate weight [ER 10.5.134].

48. In November 2019 the Secretary of State consulted on measures that could be adopted to mitigate any potential anti-social behaviour. The Applicant's response of 26 November 2020 was that SCC had not provided any evidence regarding the potential for anti-social behaviour and they opposed the request that it should mitigate potential (and unproven) effects that are in any event outside of the Applicant's remit or control. The Applicant reiterated that it was happy to discuss design measures with SCC which could be incorporated to address potential anti-social behaviour.

49. The Applicant in their response of 17 August 2020 to the "minded to refuse" letter indicated they were prepared to accept continuing responsibility for the de-trunked section of the existing A303 serving the Mattia Diner and Camel Hill Services (and noted that they were in the process of acquiring the filling station). The Applicant expressed concern that the proposed wording for article 13 did not work in law and proposed some amendments. The Secretary of State agrees with the Applicant but has amended article 13 in a different way. The Applicant also put forward a revised signage strategy for the Mattia Diner in response to the ExA's observations on this matter, which SSDC have welcomed.

50. A number of interested parties expressed their support for the provision of a parallel road. SCC considered that a failure to provide a parallel road did not warrant refusing consent for the Development and one landowner was against the provision of a parallel road if it resulted in greater land take. The Applicant indicated that delivery of the parallel road cannot be delivered with the current Order and there were no mechanisms to secure the delivery of a parallel road outside of the Order.

51. The Applicant also responded to the ExA's suggestion that the de-trunked section of the A303 should be lit for the convenience of NMUs and to help prevent anti-social behaviour. In their response to the "minded to refuse" letter the Applicant considered that lighting the de-trunked A303 was not justified and provided a high level environmental assessment of the lighting for the de-trunked A303, which identified a number of wider environmental impacts. SSDC and HBMCE agreed with the Applicant's concerns. Additionally, the Applicant undertook a cumulative high level environmental assessment for lighting both the Hazlegrove underbridge and the de-trunked local roads, which suggested that the impacts would be greater if both were lit rather than lighting either of these sections individually.

52. The Secretary of State considers that the adoption of the de-trunked road by the Applicant and the provision of signs in relation to the Mattia Diner (and the acquisition of the filling station) helps to mitigate the impact of the Development. The Secretary of State is persuaded that lighting is not justified for the de-trunked section of the A303 for the reasons given by the Applicant in their response of 17 August 2020 to the "minded to refuse" letter. The Secretary of State also accepts that a local parallel road cannot be provided within the scope of the Order and agrees with the ExA that this does not warrant refusing consent. Taking these mitigation measures into account, the Secretary of State considers overall that the Development will have a neutral impact with regard to socio-economic matters.

53. The Secretary of State notes the ExA's conclusion that the Development would fail to deliver any health benefits due to the attractiveness and convenience of the NMU route, and that the increases in noise levels would add to the harm; the ExA gave this significant weight in the planning balance [ER 14.3.49]. In light of the Secretary of State's conclusions on NMU routes and noise (see paragraphs 43 and 92 of the decision letter respectively), he considers that the issue of health is a neutral consideration in the planning balance.

Turning Heads

54. The Secretary of State notes the discussion at the examination regarding the provision of turning heads and in particular the inclusion of the land required for the heads within Schedule 5 to the DCO [ER 15.9.1 to 15.9.43]. The Secretary of State notes the ExA's conclusion that in the absence of these turning heads the ExA considered that there would be an adverse effect on highway safety and convenience [ER 15.11.10].

55. The Secretary of State notes that the Applicant has sought to achieve the delivery of the turning heads by:

- Listing the turning heads works in Schedule 2 as part of the authorised development;
- Listing the turning heads in Schedule 3, Part 4, thus classifying them as unclassified roads under article 14(3);
- Listing the turning heads in Schedule 3, Part 6, thus imposing speed limits on them; and
- Listing the relevant parcels of land in Schedule 5, thus enabling permanent rights to be acquired over them.

56. During the examination SCC disputed that the creation of new sections of public highway could be achieved through the acquisition of permanent rights and temporary occupation of the land [ER 15.9.11], and suggested that under circular 2/97, acquisition of the full title would be more appropriate [ER 15.9.13]. The ExA considered whether it was

legally possible to deliver the turning heads using the Applicant's proposed approach. The ExA found that in strict legal terms article 33 of the Order would allow the temporary possession ("TP") of the land required for the turning heads Works in so far as the Works comprise mitigation for the Development [ER 15.9.27].

57. However, the ExA also considered whether the use of such powers would be appropriate and found that the use of TP and the compulsory acquisition ("CA") of rights as a means of delivering permanent Works on land that would then be designated as public highway to be inappropriate, lacking in transparency and procedural fairness [ER 15.10.8]. The ExA considered there is a genuine possibility that Affected Persons may be unaware that they are effectively disposed of their land [ER 15.9.43]. The ExA concluded that a compelling case in the public interest as required by section 122(3) has not been made out in so far as it relates to the acquisition of rights in relation to plots 4/4b, 5/3], 7/1c, 7/5a, 7/7c, 7/7d, and 7/8c [ER 15.10.9].

58. The Secretary of State consulted on this issue in November 2019. The Applicant's response of 26 November 2019 indicated that they intended to acquire highways rights over the turning head land, and this was consistent with the position of the existing roads which the turning heads adjoin. The Applicant indicated that all landowners were aware of the proposed approach to the provision of turning heads and did not object. The Applicant considered that the approach sought to minimise the interference with private rights and interests, and that the compensation for highway dedication and outright acquisition is likely to be the same. They considered that the approach was reasonable and proportionate.

59. The Applicant's response of 17 August 2020 to the "minded to refuse" letter stated that they have been in negotiation with the affected landowners, many of whom have indicated a willingness to negotiate the sale of the freehold. Were the Secretary of State to remove the acquisition of permanent rights in relation to these plots, the Applicant indicated that, if those negotiations did not reach a satisfactory outcome, then they would bring forward a material change application to the Order to authorise the acquisition of the freehold. The Applicant considers that if the acquisition of permanent rights were to be removed, the temporary possession powers should still be granted for the purposes of the construction of the Development.

60. SCC's response of 16 September 2020 to the "minded to refuse" letter set out their view that it would be reasonable to impose a negatively worded requirement which secured the delivery of the turning heads, "in accordance with a scheme which, after consultation with the County Council, has been submitted and approved by the Secretary of State, and that temporary arrangements are put in place prior to the closure of the roads to no through traffic, and that permanent turning heads are constructed prior to completion of the authorised development."

61. The Secretary of State has considered carefully the ExA's report and the submissions before him. He agrees that the provision of turning heads is necessary for highway safety. He is also reassured by the Applicant's representations that there has been dialogue with the landowners affected; they are aware of the proposed approach to turning heads and most have indicated a willingness to sell the land in principle. Consequently, in the light of the further information, the Secretary of State does not agree with the ExA that there are implications for the human rights of these land owners.

62. The Secretary of State notes that the approach adopted by the Applicant appears to be unprecedented and agrees with the ExA that this approach does not represent best practice nor is it consistent with Government guidance [ER 15.9.43]. Full acquisition of the land would have been preferable and a more appropriate approach to have adopted and therefore the Secretary of State would encourage the Applicant to continue to seek to secure the voluntary acquisition of the relevant plots. Nevertheless, the Secretary of State agrees with the ExA that the turning heads could be delivered through the approach proposed by the Applicant [ER 15.9.27]. While the proposed approach appears to be unprecedented and does not represent best practice, the Secretary of State is, in light of the absence of any objection from affected landowners to the approach that has been proposed by the Applicant, prepared to accept this approach on this occasion but with modifications to Schedule 5. The modifications are (a) to make clear that the land would be designated as a highway from the date of completion and (b) the removal of the references to the transfer of responsibility for maintenance of the way to SCC as one of the purposes for which rights over the land may be acquired (as article 13(1) of the Order already provides that SCC is responsible for the maintenance of any highway from its completion).

Other issues covered by the ExA

Archaeology and Cultural Heritage

NNNPS, the Framework and PPG, and Local Plan

63. The Secretary of State notes that paragraphs 5.128 to 5.142 of the NNNPS identifies the historic environment decision-making considerations to be taken into account by him [ER 5.2.1 to 5.2.6]. The Secretary of State notes that the Framework sets out a similar approach to the NNNPS, and that the Local Plan includes Policy EQ3: Historic Environment which indicates that heritage assets will be conserved and where appropriate enhanced for their historic significance and important contribution to local distinctiveness, character and sense of place [ER 5.2.10 and 5.2.11].

Hazlegrove House and Registered Park and Garden ("RPG")

64. The Secretary of State notes the ExA's assessment of the Development on the Grade II listed Hazlegrove House and RPG [ER 5.3.18 to 5.3.32] and the ExA's considerations in ER 5.7.1 to 5.7.33. The Secretary of State acknowledges the ExA's view that the existing A303, including the Sparkford bypass, has already had a significant adverse effect on the RPG but notes that the Development, which will involve substantial earthworks in the southern part of the parkland, would result in a permanent loss of parkland, copse, boundary features, a veteran tree and the introduction of substantial man-made features in the southern end of the RPG. The Secretary of State notes that there would also be fencing around the area of Pond 5 subdividing this otherwise open parkland area, which could have been avoided had this pond and its surrounds been located outside the RPG. The Secretary of State therefore agrees with the ExA that the Development would have a very significant effect on the overall character and integrity of the RPG [ER 5.7.34 and 5.8.1].

65. The Secretary of State notes that there would be some mitigation through additional planting and bunds within the southern area of the RPG as seen in the Environmental Masterplan. The Secretary of State notes that the proposed amendment to requirement 4,

which would require the Landscape and Ecological Management Plan to be drawn up in consultation with HBMCE and therefore ensure the longer term management of that part of the RPG, would mitigate the effects further. He further notes the ExA's view that, taken together, this would lead to less than substantial harm to the RPG but would nevertheless be significant [ER 5.7.35 and 5.8.2].

66. The Secretary of State notes that SSDC considered that this harm is at the upper level of such harm within the category, but the ExA noted there is no differentiation with this category of harm in the NNNPS, the Framework or the PPG. The Statement of Common Ground ("SOCG") between HBMCE and the Applicant agreed that the Development would have significant effects on the RPG that would result in less than substantial harm to the significance of the RPG. The Secretary of State agrees with the ExA's conclusions that there would be less than substantial harm to Hazlegrove House and its associated nearby buildings but there would be no effect on the Triumphal Arch [ER 5.5.12, 5.6.1, 5.7.36, 5.8.2 and 5.8.10].

Conservation areas

67. The ExA considered that the Development does not have any direct effects on the conservation areas of West Camel and Queen Camel and any effects would be indirect [ER 5.7.38]. The ExA concluded that the Development would preserve the character of the West Camel and Queen Camel conservation areas [ER 14.3.7]. The Secretary of State has had regard to the desirability of preserving or enhancing the character or appearance of the West Camel and Queen Camel conservation areas and agrees with the ExA's conclusion on these matters.

Camel Hill scheduled monument

68. The Secretary of State notes that the Development would be in close proximity to the Camel Hill scheduled monument ("SM") and would adversely affect it through proximity and the noise and disturbance from traffic in the area. He further notes that there would be insufficient space to provide any mitigation that would have a material effect, principally because the proposed A303 would be at existing ground levels and with no space in which to provide mitigation [ER 5.7.50]. The Secretary of State agrees with the ExA that there would be less than substantial harm to the SM and to its setting on the basis that the Development does not physically affect the SM and the existing situation with traffic already in very close proximity [ER 5.7.51].

Listed buildings

69. The Secretary of State notes that one of the construction compounds was located within 30m of the Grade II listed Eyewell House and its associated buildings (which are also listed as Grade II in their own right) but following the accepted material change to the Application this has been relocated, reducing the construction effects of the Development on this heritage asset. The Secretary of State agrees with the ExA's conclusions that the Development would result in less than substantial harm to the significance of Eyewell House and its associated buildings both during construction and when operational [ER 5.3.39, 5.8.10 and 14.3.5].

Non-designated heritage assets

70. The Secretary of State notes that Pepper Hill Cottage is a dwelling located a short distance north off the existing A303 and that much of the southern part of the setting of the property would be permanently removed with the Development. The Secretary of State notes that the Applicant acknowledges that there would be a moderate adverse effect on the asset both during construction and operation and accepts that due to the proximity to the new A303 these effects could not be effectively mitigated. The Secretary of State agrees with the ExA's conclusion that as a non-designated heritage asset the Development would result in less than substantial harm to its significance [ER 5.3.53, 5.3.54 and 5.8.10].

71. The Secretary of State notes that the Martock to Sparkford Turnpike Road is approximately 10 miles long and the Development would replace approximately 3 miles of this length in the sense that the route of the Turnpike would be built over. The Secretary of State notes the Applicant considers that the character and heritage value of the turnpike has been significantly altered with the introduction of modern surfacing and traffic but SSDC consider that the Applicant underestimates the effects. SSDC sought information boards to describe the heritage significance of the turnpike as mitigation; the ExA recommended an amendment to requirement 12 to provide for two information boards. The Secretary of State agrees with the ExA's conclusions that the Development would represent less than substantial harm to the significance of the Martock to Sparkford Turnpike road as a non-designated heritage asset [ER 5.3.62, 5.8.8, 5.8.10 and 14.3.8].

72. The Applicant's response of 17 August 2020 to the "minded to refuse" letter indicated they were willing to accept the principle of providing two information boards; however, they requested the wording of the requirement is amended to specify that these are to be provided "along the route" rather than in lay-bys. The Applicant notes that space in lay-bys is necessarily restricted to minimise land take. The Secretary of State is broadly content with the Applicant's proposed approach, although has made further drafting changes to ensure the information boards remain accessible.

73. The Secretary of State notes that the northern section of the Howell Hill Stone Wall would need to be demolished to allow for the cutting for the proposed carriageway and the proposed right of way to be created [ER 5.7.46]. The Secretary of State notes that SSDC considered that there is no reason for any of the wall to be lost [ER 5.5.10]. The Secretary of State agrees with the ExA's view that the loss of the section of wall is regrettable but the Applicant's proposals in this regard are reasonable and proportionate given the nature of the heritage asset [ER 5.7.49]. The Secretary of State agrees with the ExA's conclusions that due to the amount of demolition proposed, this would represent substantial harm but agrees it can only be given limited weight as a non-designated heritage asset [ER 5.8.10 and 14.3.9].

Air Quality and Emissions

74. The ExA agreed with the Applicant that there would be an overall net worsening in local air quality within the study area even taking into account the appropriate mitigation in the construction phase; however, the Development is unlikely to have a significant harmful effect on air quality nor would it result in the breach of any international or statutory obligations [ER 6.7.1]. The ExA found that whilst the Development would be likely to increase the quantity of NO_x and particulate levels in the area, the increase would not be

significant given that air quality in the area at present is good, nor would it result in a new exceedance of the NO₂ and PM₁₀ annual mean air quality objectives [ER 6.7.2 and 6.8.2]. The ExA considered that the Development would be in accordance with the policies relating to air quality in the NNNPS and is neutral in the planning balance; the Secretary of State agrees.

75. The Secretary of State notes that the Development is estimated to cause an increase of 631,167tCO₂e in non-traded emissions and increase by 5,972tCO₂e in traded emissions over 60 years. The ExA found that the Development would not be of sufficient scale to materially bear on the achievement of the statutory carbon budget, and its immediate carbon impact has been taken into account within the Benefit Cost Ratio. The ExA concluded that the Development would be in accordance with the NNNPS and also would be neutral in the overall planning balance [ER 6.8.3]. Since the close of examination, amendments have been made to the Climate Change Act 2008 by the Climate Change Act 2008 (2050 Target Amendment) Order 2019², which amends section 1 so that the target is for net zero greenhouse gas emissions (following an adjustment for trading in carbon units). In view of the small increase in greenhouse gas emissions identified as a result of the Development, the Secretary of State is satisfied that the Development would not have a material impact on the ability of the Government to meet its amended 2050 climate change targets.

Biodiversity, Ecology and Natural Environment

76. The Secretary of State notes the policy framework relating to biodiversity, ecology and natural environment as set out in ER 7.2, and the Applicant's case set out in ER 7.3.

77. The Secretary of State notes that although there would be a number of significant effects in the construction phase on hedgerows, bats and owls, these would be partially mitigated by the measures outlined in the Outline Environmental Management Plan ("OEMP"), particularly through hedgerow protection, replacement planting and the provision of bat and bird boxes so that these effects would only be temporary during the construction period. The Secretary of State notes that following representations from SSDC the number of bat boxes was amended and a more targeted approach utilised, which is considered appropriate by the ExA [ER 7.6.4].

78. The ExA considered that there would be a significant positive effect as a result of the Development on biodiversity as evidenced in the offsetting matrix. The ExA was satisfied that, even if the results were overly optimistic as Natural England suggested, there is sufficient margin of error so that the overall effect would be beneficial and should be given moderate weight [ER 7.6.9].

79. The Secretary of State agrees with the ExA that the Development would be in accordance with policy within the NNNPS aimed at protecting habitats and species and ensuring mitigation of impacts [ER 7.6.6, 7.6.7 and 7.7.1], and the positive effects on biodiversity should be given moderate positive weight in the planning balance.

² <http://www.legislation.gov.uk/uksi/2019/1056/contents/made>

Noise and Vibration

80. The Secretary of State has had regard to the ExA's consideration of the policy framework on noise and vibration set out in the NNNPS, the Noise Policy Statement for England ("NPSE"), the Framework and PPG, the Local Plan and the World Health Organisation Guidelines ("WHO") contained in ER 8.2, the case for the Applicant in ER 8.3 and the case for other interested parties in ER 8.5, as well as the responses received from the Applicant and other interested parties to the Secretary of State's "minded to refuse" letter of 21 July 2020 and a late representation from an individual.

81. The Applicant's approach to the assessment of noise was to consider whether the increase in noise emissions is significant by reference to the extent of any increases in circumstances where the level exceeds Significant Observed Adverse Effect Level ("SOAEL"). Where a potentially significant adverse effect is indicated, the Applicant used professional judgement to determine if a significant adverse effect was likely to arise [ER 8.6.1].

82. The ExA considered that this approach differs from the NNNPS and NPSE; paragraph 5.195 of the NNNPS aims to avoid significant adverse impacts on health and quality of life and it also states that the Secretary of State should not grant development consent unless satisfied that such effects will be avoided. The ExA noted that SOAEL is the level above which significant adverse effects on health and quality of life can be observed and whilst SOAEL is not a fixed value, exceeding it would give rise to significant adverse effect [ER 8.6.2].

83. The Applicant's construction assessment for residential properties found that there is a potential for a significant adverse effect as defined by DMRB at 10 residential properties [ER 8.6.6]. The detailed assessment of those parts of construction operations that could potentially give rise to noise levels above SOAEL suggests for the most part such operations would be short lived and that levels would only be exceeded for some aspects of the Works [ER 8.6.7]. The measures secured by the CEMP, such as restrictions on hours of work and night-time working, and the OEMP would assist with minimising these adverse effects on the local community during construction [ER 8.6.7 to 8.6.8, and 8.6.11]. The Secretary of State notes that the ExA said that the Addendum to the ES identified four additional properties that would be subject to noise impacts during the construction period, and that an assessment in accordance with BS5228-1:2009 is necessary in order to ensure that any adverse effects on these dwellings are minimised [ER 8.6.9]

84. The ExA found that construction noise is likely to exceed the Applicant's SOAEL threshold on occasion even with proposed mitigation in place. Having regard to the proposed mitigation measures, the ExA concluded that, although a number of residential receptors would, during construction, experience noise levels in excess of SOAEL as assessed by the Applicant, the effect of the Development on these residential receptors is acceptable subject to the mitigation measures secured by the CEMP [ER 8.6.10 and 8.6.11]. The Secretary of State agrees with that conclusion.

85. With regard to operational noise, the ES concluded that, with the exception of The Spinney and Annis Hill Farm, the impact at all receptors is considered to be not significant, and that with mitigation at the two properties mentioned, the Development would meet the operational noise aims of the NPSE and the Framework [ER 8.3.19].

86. The Secretary of State notes that the Applicant's SOAEL threshold for operational noise during the day-time is taken from the *Noise Insulation (Amendment) Regulations 1988* [ER 8.6.12] and the threshold adopted considerably exceeds the level in the WHO Environmental Noise Guidelines ("ENG"). The Secretary of State also notes that, for night-time noise, the Applicant's Interim Target Level is above the level associated with adverse effects on sleep as recommended by the ENG [ER 8.6.14 and 8.6.15]. The ExA considered that the recommendations within the ENG provide a more robust assessment of SOAEL than the Noise Insulation Regulations used by the Applicant and that the ENG figures would also accord with the principles of NPSE, which advises of the Government's intention to keep research on health effects of long-term exposure to noise under review [ER 8.6.17 and 8.6.18].

87. The ExA was concerned that higher traffic volumes than those identified in the Applicant's assessment may result in SOAEL being exceeded at residential receptors and in the absence of mitigation there is a potential for noise during these times to adversely impact on health and quality of life [ER 8.6.21]. The ExA recommended that requirement 14 be amended to require an assessment of the effect of the Development on previously permitted but not yet implemented residential and other developments, including Long Hazel Park, and taking account of the WHO ENG. The Applicant would then be required to provide any additional mitigation as identified in these assessments [ER 8.6.26]. The ExA found that the failure to provide mitigation to bring the level of operational noise below an appropriate SOAEL would be contrary to the first aim of the NPSE and paragraphs 4.8.1 and 5.195 of the NNNPS [ER 8.6.27].

88. The Applicant's response of 26 November 2019 to the Secretary of State's consultation in November 2019 provided further details of the noise assessment undertaken in relation to Long Hazel Park and Sparkford High Street, identifying that the approach adopted to SOAEL reflected the methodology used in the ES. The Applicant's assessment suggested that receptors in Sparkford High Street and in the Long Hazel Park development would not be subject to significant adverse effects, and as such mitigation measures were not deemed to be required.

89. The Applicant's response of 17 August 2020 to the "minded to refuse" letter disputed the ExA's approach to noise. The Applicant disagreed with the ExA's use of peak flow traffic rather than annual averages, arguing that this would lead to schemes being overdesigned to cater for short, temporary peaks. They argued that the use of the WHO ENG was inappropriate as the standard has not been adopted in the UK and the adoption of a single figure for SOAEL was inconsistent with the NPSE. It was also inconsistent with the requirements of the DMRB, used throughout the UK for highways noise assessment. The Applicant therefore considered that the ExA had adopted unreasonably low thresholds for noise.

90. The Applicant also disputed the need for additional mitigation to be provided by the Applicant at Long Hazel Park, arguing that the increase in noise predicted at the property is caused by the predicted increase in traffic volumes generally rather than a design change prompted by the scheme. The Applicant also notes that the owners of the park are required to provide noise mitigation measures as part of their recent planning permission, as a result of the proximity of the scheme to the existing A303. The owners of Long Hazel Park in their

response reiterated their request for noise mitigation at this location, noting that any increase in noise, however small, will be adverse.

91. The Applicant considers that no evidence was considered at the examination regarding the effectiveness of the ExA's suggestion of low noise road surfaces or noise attenuating fencing. The Applicant's response of 17 August 2020 to the "minded to refuse" letter objected to the proposal from the ExA to amend requirement 14, which would have required the Applicant to undertake further assessments in relation to previously permitted but not yet implemented residential and other developments, and provide necessary mitigation.

92. The Secretary of State notes the concerns of the ExA in relation to the Applicant's approach to SOAEL not being consistent with the NPSE and NNNPS, and that the threshold adopted by the Applicant for SOAEL is too high. He also notes the ExA's concern that, should the values arising from higher traffic volumes exceed SOAEL at residential receptors, there is potential for noise to adversely impact on health and quality of life. However, the Secretary of State also notes that the approach to noise assessment adopted by the Applicant reflects the approach used on similar DCO schemes and is consistent with the approach recommended in DMRB. He is content to rely on the Applicant's conclusions within the ES, and their submissions relating to Sparkford High Street and Long Hazel Park provided as part of the consultation, that the Applicant's approach as regards SOAEL is acceptable and that noise impacts have been adequately mitigated in line with the NNNPS. The Secretary of State has amended requirement 14 as suggested by the Applicant for the reasons given by the Applicant in their response of 17 August 2020 to the "minded to refuse" letter.

Landscape and Visual Effects

93. The Secretary of State notes the ExA's assessment of the policy framework relating to landscape and visual effects set out in ER 9.2, the case for the Applicant set out in ER 9.3 and the position of other interested parties in ER 9.5.

94. The ExA found that the Development would have a significant adverse effect on the landscape of the area and on visual receptors which it would not be possible to avoid. The proposed environmental barrier in the vicinity of Viewpoint 38 would harm the immediate landscape in the area close to Hazlegrove Lane but this would be limited in visual corridor and the additional planting to the north would mitigate the effect over time. The ExA concluded that the Development would be in accordance with paragraph 5.149 of the NNNPS but the ExA found it should be given limited weight given the harm to the landscape [ER 9.8.1]. The Secretary of State sees no reason to disagree with this conclusion.

95. The Secretary of State notes that there are two bridges proposed, the Steart Hill Overbridge and the Hazlegrove Underbridge [ER 9.7.5]. The Secretary of State notes that SSDC raised concerns as to the current designs of both bridges. He notes that there is sufficient information at present to show that any design would be given careful consideration in line with NNNPS paragraph 5.160, and that the decision maker would have the comments of SSDC on consultation when the final designs are submitted. The Secretary of State agrees with the ExA that SSDC's concerns could be adequately addressed at the detailed design stage [ER 9.7.7].

Traffic and Transport

96. The Secretary of State notes the NNNPS sets out the Government's vision and strategic objectives for National Networks which includes networks that support and improve journey time, reliability and safety; as well as join up communities and link them to each other. The Secretary of State notes that the policies within the Framework generally reflect the policies within the NNNPS in so far as they encourage a high-quality environment for pedestrians, easy connections for cyclists and seek to facilitate social interaction between communities [ER 10.2.1 to ER 10.2.13]. The Secretary of State notes the Applicant's case in ER 10.3.

97. The Secretary of State notes the objectives for the Development include increasing capacity, improving safety, reducing community severance, improving the connectivity of the south west and improving journey time reliability and resilience [ER 10.3.3]. The ExA concluded that the Development would deliver a number of objectives set out within the Applicant's case for the Development and that it is probable that there would be improvements in journey reliability and some benefits in terms of journey time and safety [ER 10.5.124]. The Secretary of State has no reason to disagree with these conclusions.

98. The Secretary of State notes the Applicant's case that the Development would provide a number of benefits to road users, businesses, the local community and tourists, including relieving traffic congestion on a vital link to the South West peninsula, providing more reliable journey times, improving safety and reducing driver stress, and supporting the local economy [ER 15.7.5]. The Development is expected to deliver economic benefits of up to £122.2 million (2010 prices, discounted to 2010) and business user reliability benefits of over £10.2 million (2010 prices, discounted to 2010) [ER 15.7.9]. The social benefits include journey time benefits of up to £74.5 million, other user reliability benefits of over £16.4 million, and accident reduction benefits of up to £11 million [ER 15.7.11]. The ExA was doubtful that the economic benefits are as great as the Applicant's modelling suggests [ER 11.5.6], but concluded that the Development would deliver some economic benefits to the wider area due to the reduction in journey time, and some benefits arising from the improved connectivity and greater journey reliability [ER 11.6.1]. At the local level the ExA considered there would also be some economic benefits during construction [ER 11.6.2]. The Secretary of State agrees with the ExA's conclusion on economic benefits.

99. The Secretary of State also notes the responses from a number of interested parties to the "minded to refuse" letter which highlighted an independent economic assessment of improving the whole A303/A30/A358 corridor. The assessment identified a range of benefits, including creating 21,400 jobs and a £39 billion boost to the economy, delivering £21.2 billion of taxation, welfare savings, disposable income and tourism benefits, and reducing carbon emissions by 9%.

Local Traffic Impacts

100. The Secretary of State notes the ExA's view that the Development would give rise to increases in traffic at some locations, including Sparkford High Street and West Camel. He also notes that while SCC and SSDC do not dispute the modelled figures, they consider that significance of the increase has not been assessed [ER 10.5.4].

101. The Secretary of State notes that Sparkford Parish Council is concerned that the speed and volume of traffic, which may include additional HGVs would impact on the ability of local residents to cross the road safely and could potentially have an adverse effect on parking and accidents [ER 10.5.6]. The Secretary of State notes that traffic in West Camel would increase under the Do-Something scenario by comparison with the Do-Minimum scenario [ER 10.5.10] and notes that West Camel Parish Council consider that the proposed increase in traffic, while modest compared to other locations, would be significant given the narrow rural roads that characterise West Camel [ER 10.5.12]. The ExA concluded that the increase in traffic arising from the Development has the potential to exacerbate existing problems and adversely affect West Camel [ER 10.5.15].

102. The Secretary of State notes that the LIR recommends that mitigation, such as traffic calming, is provided at Sparkford High Street and West Camel. The ExA found that since the significance of the increase in traffic through these communities has not been assessed there is a potential need for mitigation and proposed that following completion of the Development there should be a period of monitoring to establish whether mitigation is required, and any mitigation should then be provided at the Applicant's expense. The ExA recommended a new requirement to this effect [ER 10.5.17 and 10.5.18].

103. The Applicant's response of 17 August 2020 to the "minded to refuse" letter considered that this requirement was unnecessary as the traffic calming works have been secured through a signed section 278 Agreement for West Camel and a design for both Sparkford and West Camel has already been produced and delivered to SCC. A copy of the signed section 278 agreement for the West Camel traffic calming scheme was provided to the Secretary of State. Furthermore, the Applicant argued that such a requirement would prevent them accessing the designated funds provision for the works. In their response of 16 September 2020, SCC confirmed that the scheme for West Camel was scheduled for delivery. SCC noted that discussions had not taken place with the Applicant regarding delivery of a scheme for Sparkford and they were therefore supportive of the approach advocated by the ExA for the Applicant to agree a scheme of monitoring and mitigation and deliver a scheme if impacts are identified. SSSDC were also supportive of the approach advocated by the ExA.

104. The Secretary of State notes the advanced stage that the works for West Camel have reached (including a signed section 278 agreement with SCC) and therefore considers that a requirement for West Camel is unnecessary. With regard to Sparkford High Street, the Secretary of State agrees with the ExA's approach. However, the Secretary of State has amended requirement 22 proposed by the ExA (now requirement 20) to require the Applicant to provide details of a traffic impact monitoring and mitigation scheme for Sparkford to be approved by the Secretary of State, which includes an explanation of the mechanisms for delivery of any necessary mitigation measures. The traffic calming measures could reflect the design of the measures which the Applicant say was completed by them in March 2020 in consultation with the local Parish Councils and which has been passed to Somerset County Council. The Secretary of State has given the issue neutral weight in the planning balance.

Hazlegrove Roundabout

105. The Secretary of State notes the concerns of SSBA regarding the exclusion of horse riders from the proposed footpath/cycle track in the verge at Hazlegrove roundabout [ER

10.5.84]. While the Applicant strongly asserted that Pegasus crossings are not justified at Hazlegrove roundabout or Plowage Lane, the ExA considered that Pegasus crossings at these locations would provide a significant safety improvement in accordance with paragraphs 4.64 and 4.66 of the NNNPS. The ExA concluded that the Applicant's DCO should be amended to include a provision for a bridleway as part of the footway/cycleway in the verge at the Hazlegrove roundabout and that an additional requirement is included for the provision of a Pegasus crossing at the roundabout [ER 10.5.85 to 10.5.88].

106. The Applicant's response of 17 August 2020 to the "minded to refuse" letter set out their view that a Pegasus crossing cannot be delivered within the Order limits, is unnecessary as there is no existing bridleway provision in the areas affected by the scheme, and considers a poorly designed crossing will not improve safety. The Applicant considered that the requirement proposed would result in the scheme not being able to be constructed or would impose a Grampian style requirement which, in effect, would require a future change to any Order granted.

107. In responding to the Applicant's representation, SSBA reiterated their support for the provision of a crossing at Hazlegrove roundabout and disagreed that there was no existing provision for horse riders in the area. SCC is also supportive of the provision of a crossing and notes the live applications to create bridleways in the area. Both SCC and SSBA considered that a crossing could be accommodated, potentially through a modified design.

108. The Secretary of State notes that the Development includes provision for a bridleway to the west of the roundabout, which is intended to provide a considerable improvement over the current situation at Hazlegrove roundabout for NMUs. The Secretary of State also notes the Applicant's road safety concerns relating to the provision of the crossings. For these reasons, the Secretary of State agrees with the Applicant and has deleted the ExA's suggested requirement 18 and given the issue neutral weight in the planning balance.

Hazlegrove junction

109. The Secretary of State notes the discussion at examination regarding the design of the Hazlegrove junction [ER 10.5.115 to 10.5.119]. Whilst the ExA accepted that there is potential for congestion at the beginning and end of the school day at the Hazlegrove junction, they found that there is insufficient evidence to conclude that the solution put forward by the parish councils would not give rise to issues elsewhere on the network [ER 10.5.118] and concluded that based on the information submitted to the examination the layout of the junction was acceptable [ER 10.5.119]. The ExA suggested the Secretary of State may wish to satisfy himself that the Development would not give rise to unacceptable levels of congestion, at the start and end of the school day.

110. The Secretary of State consulted on this issue in November 2019. The Applicant in their response of 26 November 2019 stated that the traffic modelling showed that the Eastbound on-slip is well within capacity and that it is not considered that there will be congestion at the school entrance.

111. The Secretary of State notes that in their response to the "minded to refuse" letter, the parish councils of Queen Camel, West Camel and Sparkford and some individuals have reiterated their concerns regarding the design of the junction. Whilst the Secretary of State

has had regard to these concerns, he agrees with the ExA that the layout of the junction is acceptable.

Other matters relating to traffic and transport

112. The ExA noted that there were two matters that needed to be resolved by an agreement pursuant to section 278 of the Highways Act 1980. These were the installation of No Through Road signs at the southern limits of both Traits Lane and Gason lane, and a Traffic Regulation Order legalising the required speed limit along the existing B3151 carriageway [ER 16.6.125]. The ExA concluded that both matters were necessary to ensure the proper function of the Development [ER 16.6.129]. At the close of the examination no section 278 agreement had been submitted [ER 16.6.127] and the ExA recommended two additional requirements to ensure the delivery of these matters [ER 16.6.140].

113. The Secretary of State notes that the Applicant's response of 17 August 2020 to the "minded to refuse" letter states that they have no objection in principle to providing no through road signage in the Traits Lane and Gason Lane areas but that they have some concerns with the drafting of requirement 20 (now requirement 18). The Applicant considers that they have, in good time, legally committed to funding the provision of signage by the local highway authority in its highway, and therefore the scheme programme should not be held up if there is a delay in delivery by a third party. The Secretary of State notes the Applicant's request that the requirement should only impose on it a need to have provided a scheme which secures its funding of the signage, as delivery is not within its ultimate control.

114. The Secretary of State also notes the Applicant's view that requirement 21 (now requirement 19) in relation to speed limit on the B3151 is not appropriate; however, the Applicant has proposed amendments that commit the Applicant to funding the promotion of the necessary TRO if such a requirement is deemed by the Secretary of State to be necessary.

115. The Secretary of State notes that the requirements were proposed by the ExA in the absence of a section 278 agreement. The Applicant provided a draft section 278 agreement in relation to these two issues as part of their response of 17 August 2020 to the "minded to refuse" letter. The Secretary of State has agreed to amend the ExA's proposed requirement 20 and 21 as requested by the Applicant for the reasons given by the Applicant, and has given the issue neutral weight in the planning balance.

Water Environment

116. The Secretary of State notes that paragraphs 5.90 to 5.115 of the NNNPS deal with flood risk considerations and paragraphs 5.219 to 5.231 deal with water quality and resources [ER 12.2.1 to 12.2.10]. He notes the Framework sets out the various planning policies to meet the challenge of climate change and flooding in paragraphs 148 to 165 [ER 12.2.11] and SCC's Local Flood Risk Management Strategy guides the flood risk management in the county [ER 12.2.12 to 12.2.16]. The Secretary of State notes the Applicant's case set out in ER 12.3 and the position of other interested parties set out in ER 12.5.

117. The Secretary of State notes the ExA's consideration that the ES had demonstrated that the Development would be resilient to flood risk due to it not being in an area of high flood risk and would, in fact, provide a betterment to the local water environment. This is because it would remove currently unattenuated flows from approximately 60% of the current highway network to 100% attenuation over a greater area at greenfield runoff rates in line with NNNPS paragraph 5.113 which will reduce the risk of flooding for the surrounding area in line with the NNNPS paragraph 5.103 [ER 12.7.9].

118. The Secretary of State notes the disagreement at examination between the Applicant and the Somerset Internal Drainage Boards Consortium ("the Consortium") regarding the width of the access tracks to allow for adequate and effective maintenance of the ponds and ditches [ER 12.5.9]. The Consortium proposes a 6m track; the Applicant considers that 4m track plus verges is sufficient [ER 12.5.9 and 12.7.5]. The ExA considered that in order to ensure resilience in the long term a possible maintenance track as wide as possible is necessary [ER 12.7.6] and therefore recommended a change to the ExA's suggested requirement 12 to accommodate wider maintenance tracks [ER 12.7.7].

119. The Applicant's response of 17 August 2020 to the "minded to refuse" letter indicated that a 4m track is sufficient and providing a 6m track would have adverse effects on the delivery of biodiversity provision. HBMCE also expressed concern that introducing a wider track at pond 5 would have a negative impact on the character and setting of the RPG. Given the Applicant's responsibility for maintaining the ponds and their reassurances that the ponds can be maintained with the existing 4m track, the Secretary of State considers that the amendment proposed by the ExA to requirement 12 is unnecessary.

120. The Secretary of State notes that the Development would be compliant with the Water Framework Directive and agrees with the ExA that the Development would result in betterment to the local water environment and reduce the risk of flooding off-site, to which moderate weight should be given [ER 12.8.1].

Habitats Regulations Assessment ("HRA")

121. Under regulation 63 of the Conservation of Habitats and Species Regulations 2017 ("the Habitats Regulations"), the Secretary of State is required to consider whether the Development would be likely, either alone or in-combination with other plans and projects, to have a significant effect on a European Site. The Secretary of State notes that the Development is not connected with, or necessary to the management for nature conservation of any of the European sites considered within the Applicant's HRA [ER 13.2.1]. He notes that the Development Order limits do not overlap with any European site with the nearest European site approximately 7.3km to the west of the Development [ER 13.2.2]. The Secretary of State notes that the Applicant provided a HRA report with the Order application, which identified five European sites for inclusion within the assessment:

- Mells Valley Special Area of Conservation ("SAC"),
- North Somerset and Mendip Bats SAC,
- Brackets Coppice SAC,
- Somerset level and Moors SPA
- Somerset Levels and Moors Ramsar [ER 13.2.4].

122. The Secretary of State notes that a draft SoCG was submitted with the Application which highlighted a concern from NE that impacts from the Development may act in-combination with other projects (A303 Amesbury to Berwick Down (also known as the “A303 Stonehenge”)) and A358 Taunton Dualling) [ER 13.2.6]. The Secretary of State notes that the ExA was satisfied that the Applicant has correctly identified all the relevant European sites and relevant qualifying features for consideration within the HRA [ER 13.2.8].

123. The Secretary of State notes the ExA’s assessment of likely significant effects [ER 13.3.1 to ER 3.3.9]. The Secretary of State notes that the Applicant’s screening assessment concluded that the Development would have no likely significant effect, either alone or in-combination with other plans or projects, on the qualifying features of the five European sites identified [ER 13.3.10].

124. The Secretary of State notes that the ExA is satisfied that he can, as Competent Authority, conclude with sufficient certainty at the initial screening stage pursuant to regulation 63(1) of the Habitats Regulations that the Development, either on its own or in combination with other plans and projects, is unlikely to have a significant effect on a European Site. The Secretary of State agrees with the ExA that there is no need to undertake an Appropriate Assessment of the implications of the Development in view of any European site’s conservation objectives [ER 13.5.1].

Conclusion on the case for Development Consent

125. The Secretary of State has considered the ExA’s report and the additional submissions he has received through consultation, late representations, and the responses to the “minded to refuse” letter. The Secretary of State agrees with the ExA’s assessment of the economic benefits and improvements to journey reliability and time. These, together with the moderate positive benefits to the water environment and biodiversity as a result of the Development, weigh in favour of the Development.

126. The Secretary of State has also considered carefully the adverse impacts of the Development identified by the ExA, who found that the Development would not accord with a number of provisions of the NNNPS, including on socio-economic impacts, sustainable transport, safety, military and defence interests, and noise [ER 14.4.4]. The Secretary of State considers that a number of matters identified as adverse impacts by the ExA have been resolved through further consultation and are considered to be of neutral weight in the planning balance. These matters are birdstrike, socio-economic matters, the provision of turning heads, local traffic impacts, and other matters relating to traffic and transport. With regard to the provision for NMUs, the Secretary of State considers that the issue should be given moderate negative weight in the overall planning balance.

127. The Secretary of State agrees with the ExA that the impacts on air quality should be given neutral weight in the planning balance. He also agrees with the ExA that, with regard to landscape and visual effects, the Development would be in accordance with the NNNPS but should be given moderate negative weight given the harm to the landscape.

128. The Secretary of State considers that the impacts of noise have been mitigated in line with the requirements in the NNNPS, and has given it neutral weight. In light of his

conclusions on noise and NMU routes, the Secretary of State considers that the impact on health should be given neutral weight in the planning balance.

129. With regard to heritage assets, the Secretary of State agrees with the ExA's assessment that the Development would cause less than substantial harm to a number of designated heritage assets. The ExA concluded that the benefits ensuing from the development would not overcome this harm and the harm to other heritage assets [ER 14.4.14]. The Secretary of State considers that the benefits of the scheme outweigh the disbenefits and he finds that notwithstanding the great weight given to the harm caused, the less than substantial harm to designated heritage assets (as well as the harm to non-designated heritage assets that would arise) is outweighed by the public benefits of the Development.

130. In conclusion, when considering the impact of the Development as a whole and the mitigation measures to be put in place, the Secretary of State is satisfied that on balance the benefits of the Development outweigh any adverse impacts and so the presumption in favour of granting consent to this application as a transport Nationally Significant Infrastructure Project is justified.

Compulsory Acquisition

131. The Secretary of State notes the ExA's consideration of the powers sought by the Applicant for the CA of land and rights over land and for the TP of land both for construction and maintenance purposes in Chapter 15 of its Report.

132. The Secretary of State notes there were four remaining individual objections at the end of the examination [ER 15.8.2]. The Secretary of State notes that a SoCG was signed with the Church Commissioners for England and matters relating to land acquisition between the parties was now agreed [ER 15.8.5]. The ExA was therefore satisfied that this objection had been adequately addressed [ER 15.8.6].

133. The ExA noted the concerns raised by A W Hewlett (Wales Dairy) and D W Hewlett (Blackwell Farm) [ER 15.8.7 – 15.8.13]. Having regard to the material and non-material changes made to the application, the ExA was satisfied that their concerns had been addressed. The ExA also indicated that there was no substantive evidence to support Mr Aird's objection concern regarding inaccuracies within the Book of Reference [ER 15.8.14]. The Secretary of State has no reason to disagree with the ExA that there are no outstanding matters in relation to these objections [ER 15.13.1].

134. In respect of consideration of other land plots and CA the Secretary of State notes the ExA's conclusion that were development consent to be granted, the ExA would be satisfied that there would be a need to acquire the rights and interests in the CA land, and the requirements of section 122(1) and (2) of the 2008 Act have been met [ER 15.10.6]. The ExA was satisfied that the Applicant has demonstrated that the extent of land over which powers are sought would be no more than is reasonably required. The ExA is satisfied that the Applicant has shown that all reasonable alternatives to CA have been explored and there are no alternatives which ought to be preferred [ER 17.3.5]. The ExA was satisfied that the Applicant had sought to acquire land by negotiation, and has modified the Development by way of material and non-material changes to reduce the extent of the land for which it seeks CA or TP [ER 15.10.7]. The ExA also concluded that there is

adequate funding in place to ensure delivery of the Development [ER 15.10.12] and that there are adequate funds for CA and TP compensation [ER 15.10.13]. The Secretary of State agrees with these conclusions.

135. The Secretary of State has concluded that the benefits of the scheme outweigh the disbenefits and is granting development consent. For this reason, he considers that there is a compelling case in the public interest under section 122(3) of the 2008 Act.

136. In respect of Crown land, the Secretary of State notes that the Applicant has obtained consent under section 135 of the 2008 Act from the necessary Crown Authority in respect of the CA powers sought in relation to Crown land [ER 15.7.29].

137. The Secretary of State notes that with regard to section 127 of the 2008 Act, Southern Electric Power Distribution plc formally withdrew all of its representations in respect of the application in a letter dated 7 June 2019 [ER 15.5.16]. The Secretary of State notes that in terms of statutory undertakers there would be no conflict with section 127 or section 138 of the 2008 Act and there are no outstanding objections [ER 15.13.1].

Protective provisions for the highway authority

138. The Secretary of State notes the ExA's consideration of protective provisions relating to SCC [ER 16.6.23 to 16.6.59]. The Applicant's response of 17 August 2020 to the "minded to refuse" letter disputed that SCC should be given an approval role as local highways authority over the Other Detailed Information, and have requested that paragraph 33(2) of Schedule 9 to the draft Order be deleted. SCC in their response considers "in the event that a defect in the 'Other Detailed Information' provided by the Applicant creates an unacceptable danger or risk to users of that network then it is entirely reasonable that HE should address that defect before commencing works". The Secretary of State notes that this issue was discussed at the examination and sees no reason to disagree with the ExA's amendments though the Secretary of State has made some modifications to make provision about what happens if approval is not been given by a certain time and to ensure sufficient clarity.

139. The Applicant has also requested the deletion of what was paragraph 37(6) and (7) (now paragraph 36) as they consider that these paragraphs are misconstrued in law. SCC's view is that these provisions should remain, as they consider that the deletion of these provisions would suggest that the Applicant is not required to comply with the recommendations of the road safety audit in the circumstances outlined. The Secretary of State agrees with the Applicant for the reasons given in their response of 17 August 2020 (see paragraphs 6.2.1 to 6.2.6 of their submission in response to selected points arising from the revised Order) and has therefore deleted the paragraphs.

Conclusion

140. The Secretary of State notes the ExA's consideration on the case for CA and TP of land and rights required to implement the Development. The Secretary of State notes the ExA's view regarding the Applicant's approach to the acquisition of rights in relation to the provision of turning heads. In light of further submissions and the absence of objections from affected landowners, he considers that the approach, whilst considered to be unprecedented and contrary to best practice, is acceptable in this particular instance

(subject to the modifications made to the Order) and that the interference with their human rights is proportionate. The Secretary of State has had regard to the benefits of the Development and is satisfied that with regard to the request for all CA and TP powers there is a compelling case in the public interest and the request is consistent with section 122(2) and (3) of the 2008 Act.

Late representations

141. The Secretary of State received a number of representations outside the formal consultations, including representations from the DIO, SSDC and the Applicant. However, it is the Secretary of State's view that they do not raise any new issues that were not considered by the ExA in its report and also do not give rise to an alternative conclusion or decision on the Development. As such, he is satisfied that there is not any new evidence or matter of fact that needs to be referred again to Interested Parties under rule 19(3) of the Infrastructure Planning (Examination Procedure) Rules 2010 before proceeding to a decision on the Application.

General considerations

Equality Act 2010

142. The Secretary of State has had regard to the public sector equality duty set out in section 149(1) of the Equality Act 2010 and the need to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not share it [ER 15.12.1].

143. The Secretary of State notes the ExA agreed with the Applicant that there would be no positive or negative effects for those with protected characteristics of gender reassignment or sexual orientation, and also agreed with the Applicant regarding the negative effects set out in the Applicant's Equalities Impact Assessment ("EqIA") [ER 15.12.8]; the Secretary of State has no reason to disagree with this conclusion.

144. The ExA disagreed with the Applicant's assessment of positive effects in relation to age, disability, gender and religion and belief, principally because of the separation of communities and the increase in distance that NMUs would be required to travel, and the ExA did not accept that the scheme would improve pedestrian facilities. The ExA commented that these factors would affect a number of those with protected characteristics [ER 15.12.9]. The Secretary of State considers that some of the impacts identified by the ExA regarding NMUs have now been addressed, and in other cases, taking account of the further information provided during the consultation, the Secretary of State considers that the mitigation proposed by the ExA is unnecessary. The Secretary of State has considered the analysis in the EqIA in light of his conclusions on NMUs and on balance considers that the issue of pedestrian facilities in relation to the interests of NMUs is likely to be of neutral impact on the protected characteristics identified.

145. The Secretary of State notes the ExA's consideration of the existing A303 to the west of Hazlegrove services to the Camel Hill services as a possible location for anti-social behaviour, including, according to SCC [REP-032] "*illegal gypsy and traveller encampments*" [ER 15.12.10]. The Secretary of State has amended the Order as recommended by the ExA in order to ensure that the Applicant retains responsibility for the

de-trunked section of road which the ExA considers could be subject to anti-social behaviour and potentially illegal gypsy and traveller encampments, and that the Applicant would therefore be able to exercise its existing general powers to deal with such encampments.

146. The Secretary of State does not consider that a decision to grant development consent would have significant differential impacts on any of the protected characteristics.

Natural Environment and Rural Communities Act 2006

147. The Secretary of State, in accordance with the duty in section 40(1) of the Natural Environment and Rural Communities Act 2006, must have regard to the purpose of conserving biodiversity and, in particular to the United Nations Environmental Programme Convention on Biological Diversity of 1992, when granting development consent.

148. The Secretary of State is of the view that the ExA's report, together with the environmental impact analysis, considers biodiversity sufficiently to inform him in this respect. In reaching the decision to give consent to the Development, the Secretary of State has had due regard to conserving biodiversity.

Modifications

149. The Secretary of State has made the following modifications to the Order:

- in article 2 (interpretation), the definition of "complete" has been removed;
- in article 13 (construction and maintenance of new, altered or diverted streets and other structures), paragraph (5) has been reworked so as to disapply the application of section 265(7) of the 1980 Act in respect of the de-trunking described in Part 2B of Schedule 3 and that the Applicant will remain the highway authority for that part of the highway;
- in article 14 (classification of roads, etc), a new paragraph (10) has been inserted to make clear that the classification and declassification of roads or parts of roads referred to in paragraphs (1) to (4) is to have effect from the date or dates notified in accordance with the notification requirements specified in Part 12 of Schedule 3;
- in article 33 (temporary use of land for carrying out the authorised development), sub-paragraph (8)(a) has been deleted. There is no crossover of land between Schedule 5 and Schedule 7 and the Secretary of State is not satisfied that affected land owners have appreciated that their land may be subject to permanent acquisition and that the lack of transparency will adversely affect their human rights;
- article 46 (appeals relating of the Control of Pollution Act 1974) has been deleted as there is an appropriate appeal mechanism in the 1974 Act and there is the available arbitration provision in article 45.
- In Schedule 2 (requirements), requirement 12 (detailed design), sub-paragraph (1) has been amended to refer to the Defence Infrastructure Organisation and sub-paragraph (2)(b) has been amended to ensure that the information boards are accessible by the public;
- requirement 14 (noise mitigation) has been amended in the way requested by the Applicant;

- requirement 17 (provision of non-motorised user route at western end) has been amended in the way requested by the Applicant so that the Applicant is required to submit details of a scheme to the Secretary of State, following consultation with SCC, and the scheme must include an explanation of the mechanisms for delivery of the measures and works set out in it;
- requirement 18 (no through road signs for Traits Land and Gason Lane) has been amended in the way requested by the Applicant;
- requirement 19 (speed limit on B3151) has been amended in the way requested by the Applicant;
- requirement 20 (traffic monitoring and mitigation in Sparkford) has been amended so as to require the Applicant to provide details of traffic impact monitoring and mitigation scheme for Sparkford High Street to be approved by the Secretary of State and to include an explanation of the mechanisms for delivery of any necessary mitigation measures
- in Schedule 5 (land in which only new rights etc. may be permanently acquired), the entries for the plots of land relating to the turning heads have been modified so as (a) to make clear that the land would be designated as highway from the date of completion and (b) the removal of the references to the transfer of responsibility for maintenance to SCC;
- in Schedule 5, in relation to plots of land 3/2a, 4/1f, 4/2a, 4/4g, 4/7a, 5/1b, 7/6a, 7/8b and 8/3a have been modified to include a reference “on its completion”;
- in Part 4 (for the protection of the local highway authority regarding vehicular highways) of Schedule 8 (protective provisions), paragraph 33(2) has been amended and a new sub-paragraph (4) has been inserted to make provision for the circumstances if approval has not been given within a certain period of time.

The Secretary of State’s overall conclusions and decision

150. For all the reasons set out in this letter, the Secretary of State has decided to grant development consent, subject to the changes in the Order mentioned above. The Secretary of State is satisfied that none of these changes constitutes a material change and is therefore satisfied that it is within the powers of section 114 of the 2008 Act for the Secretary of State to make the Order as now proposed.

Challenges to decision

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

Publicity for decision

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

Yours faithfully

Natasha Kopala

LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS

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

The decision documents are being published on the Planning Inspectorate website at the following address:

<https://infrastructure.planninginspectorate.gov.uk/projects/south-west/a303-sparkford-to-ilchester-dualling/>

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