



The Planning Inspectorate  
Yr Arolygiaeth Gynllunio

The Planning Act 2008

**A47/A11 Thickthorn Junction**

Examining Authority's Report  
of Findings and Conclusions

and

Recommendation to the Secretary of State for  
Transport

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Examining Authority

**Matthew Shrigley** BSc MPlan MRTPI

**20 June 2022**

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# OVERVIEW

## File Ref: TR010037

The application, dated 31 March 2021, was made under section 37 of the Planning Act 2008 and was received in full by The Planning Inspectorate also on 31 March 2021.

The applicant is National Highways (formerly Highways England).

The application was accepted for examination on 28 April 2021.

The Examination of the application began on 23 September 2021 and was completed on 23 March 2022.

The development proposed comprises of:

- a single-lane free-flowing link road connecting the A11 northbound to the A47 eastbound via two underpasses (under the A11 and A47 respectively);
- improvements to the Thickthorn junction:
  - widening the existing slip road on the A47 westbound and building a dedicated left-hand free flow lane to the A11 southbound;
  - widening the southern section of the roundabout from three lanes to four;
  - new traffic lights on the approach to / from the junction with the B1172 Norwich Road;
  - new road surface on the circulatory, plus new road signs and road markings throughout the junction;
- removal of the Cantley Lane South direct connections between the A11 and A47 exit slip roads;
- a new link road connecting Cantley Lane South with the B1172 Norwich Road to the north and construction of two new bridges;
- a new junction connecting the B1172 Norwich Road to Cantley Lane Link;
- a new junction connecting Cantley Lane South to Cantley Lane Link;
- existing Cantley Lane stream and access track realignment and one new stream culvert constructed;
- a new footbridge over the A47 for walkers, cyclists, and horse riders (WCH) approximately 45m east of the existing footbridge, which will be demolished; the footbridge will have higher railings to improve safety for horse riders;
- paths for walking and cycling proposed along the new Cantley Lane Link giving access to local amenities and links to other recreational routes.

### Summary of Recommendation:

The Examining Authority recommends that the Secretary of State should make the Order in the form attached.

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The Planning  
Inspectorate

**ERRATA SHEET – A47/A11 – Thickthorn Junction**

**Examining Authority’s Report of Findings and Conclusions and  
Recommendation to the Secretary of State for Transport, dated 20  
June 2022**

**Corrections agreed by the Examining Authority prior to a decision  
being made**

<b>Page No.</b>	<b>Paragraph</b>	<b>Error</b>	<b>Correction</b>
9	1.4.40	Seventh bullet point	"Historic" should be replaced with "Natural"
69	5.3.62	First sentence	Insert "development" after proposed and first letters should be in capitals ie "Proposed Development"
76	5.3.105	Second sentence	insert "on" between NNC such  Signing should be replaced by "Signage"
109	5.5.32	Last sentence	Replace movement with "monument"
135	5.6.71	Third sentence	Delete "the" between housing and development
137	5.6.81	Final sentence	Add "in" between take and the
160	5.8.40	Second sentence	Would replace "They" at the start with "The Applicant"
161	5.8.45	First sentence	"Receptor's" should be replaced with "Receptors"
165	5.8.71	Top pf page	Add "an" between as embedded
211	5.11.47	First sentence	Delete "above the various initial relevant representations received " and add "The"
214	5.11.62	Heading	Add "and" before our and our should start with a capital "O"
216	5.11.74	First sentence	Delete first sentence and replace with "The Applicant has identified that the operational and construction emissions arising as a result of the Proposed Development represent no greater than 0.0015% of the total emissions in any five-year UK carbon budget (including the sixth budget 2033-37).
218	5.11.87	First sentence	Insert "the" after of
233	5.12.97	Third sentence	delete "with" before compared
238	5.12 126	Last sentence	Paragraph's should read "paragraphs"



286	8.10.17	First sentence	"third" should be replaced by "fourth"
289	8.10.36	First sentence	Delete "Gas"

# 1. INTRODUCTION

## 1.1. BACKGROUND TO THE EXAMINATION

- 1.1.1. The Application for the A47/A11 Thickthorn (the Proposed Development) TR010037 was submitted by National Highways (the Applicant, previously known as Highways England) to the Planning Inspectorate on 31 March 2021 under section 31 of the Planning Act 2008 (PA2008) and accepted for Examination under section (s) 55 of the PA2008 on 28 April 2021 [[PD-001](#)]<sup>1</sup>.
- 1.1.2. The location of the Proposed Development is situated around an existing central interchange (the Thickthorn junction) and is shown in the Location Plan [[APP-004](#)] received with the application.
- 1.1.3. During the course of the Examination the Location Plan was subject to an accepted non-material amendment request to be altered to [[AS-018](#)] for a slightly smaller overall area of affected land and is explained more thoroughly later in this report.
- 1.1.4. The latter version of the Location Plan [[AS-018](#)] referred to has subsequently remained unchanged throughout the course of the Examination. The site is located wholly within the East of England, within the administrative boundaries of Norfolk County Council (NCC) and South Norfolk District Council (SNC).
- 1.1.5. A summary scheme description for the Proposed Development is set out in the Applicant's Introduction to the Application and Scheme Description [[APP-003](#)] which is stated as follows:
- a single-lane free-flowing link road connecting the A11 northbound to the A47 eastbound via two underpasses (under the A11 and A47 respectively);
  - improvements to the Thickthorn junction:
    - widening the existing slip road on the A47 westbound and building a dedicated left-hand free flow lane to the A11 southbound;
    - widening the southern section of the roundabout from three lanes to four;
    - new traffic lights on the approach to / from the junction with the B1172 Norwich Road
    - new road surface on the circulatory, plus new road signs and road markings throughout the junction
  - removal of the Cantley Lane South direct connections between the A11 and A47 exit slip roads;

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<sup>1</sup> References to documents in the Examination Library are enclosed in square brackets []. The full index of the Examination Library can be found in Appendix B of this Report.

- a new link road connecting Cantley Lane South with the B1172 Norwich Road to the north and construction of two new bridges
- a new junction connecting the B1172 Norwich Road to Cantley Lane Link;
- a new junction connecting Cantley Lane South to Cantley Lane Link
- existing Cantley Lane stream and access track realigned and one new stream culvert constructed;
- a new footbridge over the A47 for walkers, cyclists, and horse riders (WCH) approximately 45m east of the existing footbridge, which will be demolished; the footbridge will have higher railings to improve safety for horse riders;
- paths for walking and cycling proposed along the new Cantley Lane Link giving access to local amenities and links to other recreational routes.

- 1.1.6. The legislative tests for whether the Proposed Development is a Nationally Significant Infrastructure Project (NSIP) were considered by (or on behalf of) the Secretary of State (SoS) for the Ministry of Housing, Communities and Local Government (MHCLG) (now the Department for Levelling Up, Housing and Communities) in the decision taken to accept the Application for Examination in accordance with section 55 of the PA2008 [[PD-001](#) and [PD-002](#)].
- 1.1.7. The Proposed Development comprises of the alteration of a highway which is located wholly within England, National Highways (NH) (a strategic highways company) would be the highway authority, it exceeds 12.5 hectares (ha) and the speed limit would be in excess of 50 miles per hour (mph). On this basis, the Planning Inspectorate agreed with the Applicant's view stated in the application form [[APP-001](#)] that the proposed development is an NSIP also acknowledging Schedule 1 of the draft Development Consent Order (dDCO) which includes development falling within the categories in s14 of the PA2008.
- 1.1.8. The development satisfies section 22 of the PA2008, including subsections 22(1)(b) and (3), and so requires development consent in accordance with s31 of PA2008. The Proposed Development therefore meets the definition of an NSIP set out in s14(1)(h) and 22(1)(b) of PA2008.
- 1.1.9. Legislative tests concerning the adequacy of public consultation were considered during the acceptance stage of the application as set out in s55 of the PA2008. This took into account statutory responses from Breckland Council; Broadland District Council; Broads Authority; Mid Suffolk District Council; NCC and SNC [[AoC-001](#) to [AoC-006](#)]. On behalf of the SoS for the MHCLG it was concluded that compliance with public

consultation requirements met an acceptable standard for formal Examination [[PD-001](#)].

## **1.2. APPOINTMENT OF THE EXAMINING AUTHORITY**

1.2.1. On 23 June 2021, Matthew Shrigley was appointed as the Examining Authority (ExA) for the application under s61 and s79 of PA2008 [[PD-003](#)].

## **1.3. THE PERSONS INVOLVED IN THE EXAMINATION**

1.3.1. The persons involved in the Examination were:

- Persons who were entitled to be Interested Parties (IPs) because they had made a relevant representation (RR) or were a statutory party (SP) who requested to become an IP.
- Affected Persons (APs) who were affected by a compulsory acquisition (CA) and / or temporary possession (TP) proposal made as part of the Application and objected to it at any stage in the Examination.
- Other Persons (OPs), who were invited to participate in the Examination by the ExA because they were either affected by it in some other relevant way or because they had particular expertise or evidence that the ExA considered to be necessary to inform the Examination.

## **1.4. THE EXAMINATION AND PROCEDURAL DECISIONS**

1.4.1. The Examination began on 23 September 2021 and concluded on 23 March 2022.

1.4.2. The principal components of and events around the Examination are summarised below. A fuller description, timescales and dates can be found in Appendix A.

### **The Preliminary Meeting**

1.4.3. On 20 August 2021, The ExA wrote to all IPs, SPs and OPs under Rule 6 of the Infrastructure Planning (Examination Procedure) Rules 2010 (EPR) (The Rule 6 Letter) inviting them to the Preliminary Meeting (PM) [[PD-004](#)], outlining:

- the arrangements and agenda for the PM;
- notification of hearings to be held in the early stage of the Examination;
- an Initial Assessment of the Principal Issues (IAPI);
- the draft Examination Timetable;
- availability of RRs and application documents; and
- the ExA's procedural decisions.

1.4.4. The PM took place on 13 September 2021, using Microsoft Teams. A video recording [[EV-002](#)], a transcript [[EV-003](#)] and a note of the

meeting [[EV-004](#)] were published on the Planning Inspectorate National Infrastructure website. Provision was made by the ExA for the PM to be held in two parts. Following full consideration of attendee views and procedural deadline arising post Part 1 of the PM the ExA subsequently determined that Part 2 of the PM was not necessary, and notification was given that the PM was closed through a message on the National Infrastructure Planning website.

- 1.4.5. The ExA's procedural decisions and the Examination Timetable took full account of matters raised at the PM. They were provided in the Rule 8 Letter [[PD-005](#)], dated 23 September 2021.

### **Key Procedural Decisions**

- 1.4.6. The procedural decisions set out in the Rule 8 Letter related to matters that were confined to the procedure of the Examination and did not bear on the ExA's consideration of the planning merits of the Proposed Development. Further, they were generally complied with by the Applicant and relevant IPs. Procedural decisions can be obtained from the Rule 8 Letter [[PD-005](#)], and prior to that the Rule 6 letter [[PD-004](#)], so there is no need to reiterate them here. All the procedural decisions were also undertaken in the context of COVID-19 health restrictions, then in force.

- 1.4.7. The ExA's Rule 9 letter [[PD-009](#)] was issued on 14 December 2021 in response to the requested changes of the Applicant covering: -

1. A reduction of order limits at Intwood Road;
2. Changes to the field access locations on Cantley Lane Link Road; and
3. A change to the alignment of the A11/A47 Connector Road.

- 1.4.8. The reasons to accept those changes as non-material alterations is set out in the letter.

### **Site Inspections**

- 1.4.9. Site Inspections are held in PA2008 Examinations to ensure that the ExA has an adequate understanding of the Proposed Development within its site and surroundings and its physical and spatial effects.

- 1.4.10. Where the matters for inspection can be viewed from the public domain and there are no other considerations such as personal safety or the need for the identification of relevant features or processes, and Unaccompanied Site Inspection (USI) is held.

- 1.4.11. Where an inspection must be made on land requiring consent to access, there are safety or other technical considerations and / or there are requests made to accompany an inspection and Accompanied Site Inspection (ASI) is usually held. Nonetheless, a USI onto private land

may also be a suitable approach subject to the consent of relevant landowners.

1.4.12. The ExA held the following USIs:

- USI1, 19 and 20 August 2021 [[EV-001](#)]. The purpose of the site inspection was to view the areas of proposed improvement works primarily from public vantage points where possible, the existing road network, nearby properties, and the local environment.
- USI2 [[EV-019](#)] was undertaken on the 22 and 23 November 2021. The purpose of the second site inspection was to view the existing local landscape including natural and built features contained within it, largely from relevant private land areas. This was facilitated in agreement with relevant landowner(s) considering the submissions made following the PM. In tandem, USI2 was also undertaken to view: the areas of proposed scheme improvement works; public roads; to observe the general function of the existing road network; to view the location of nearby properties in the vicinity of the area of proposed improvement works.

1.4.13. A site note providing a procedural record of each USI can be found in the Examination Library under the above references.

1.4.14. The Examination Timetable allowed for ASIs to be undertaken if required by the ExA. However, following consideration of all relevant information two separate USIs (including one with agreed access onto private land) were deemed to be sufficient in order to view the site and to assess the surroundings. As such ASIs were not needed.

1.4.15. Moreover, no further procedural implications arose from the site inspections which were undertaken. The ExA has had regard to the information and impressions obtained during its site inspections in all relevant sections of this report.

## **Hearing Processes**

1.4.16. Hearings are held in PA2008 Examinations in two main circumstances:

- To respond to specific requests from persons who have a right to be heard - in summary terms:
  - where persons affected by Compulsory Acquisition (CA) and/or Temporary Possession (TP) proposals (Affected Persons (APs)) object and request to be heard at a Compulsory Acquisition Hearing (CAH); and / or
  - where IPs request to be heard at an Open Floor Hearing (OFH).
- To address matters where the ExA considers that a hearing is necessary to inquire orally into matters under examination, typically because they are complex, there is an element of contention or disagreement, or the application of relevant law or policy is not clear.

- 1.4.17. The ExA held a number of hearings to ensure the thorough Examination of the issues raised by the Application. Notification of the Hearings was given under Sections 91 and 93 and The Infrastructure Planning (Examination Procedure) Rules 2010 – Rule 13 [[PD-007](#), [PD-011](#) and [PD-013](#)].
- 1.4.18. Issue Specific Hearings (ISHs) under s91 of PA2008 were all held virtually using Microsoft Teams. The decision to hold the hearings virtually considered submissions made at, and post, the PM as well as during the examination process owing to wider public health considerations arising from the ongoing COVID-19 pandemic throughout the examination period.
- 1.4.19. An ISH was held on the subject matter of the draft DCO (DCO1) on 18 November 2021 [[EV-013](#) consecutively to [EV-018](#)].
- 1.4.20. An ISH on Environmental Matters (ISH1) was held on 17 November 2021 [[EV-008](#) consecutively to [EV-012](#)].
- 1.4.21. Hearings (OFH, ISH and CAH) referred to in the Examination Timetable during w/c 31 January 2022 (if required) were subject to cancellation by the ExA. Replacement hearings were then undertaken in early March 2022 as detailed below.
- 1.4.22. A further ISH was held covering Environmental Matters and content of the dDCO (ISH2) on 3 March 2022 [[EV-029](#) consecutively to [EV-034](#)].
- 1.4.23. In summary the ISHs combined addressed the following subject matters:
- To clarify issues around how the dDCO is intended to work – what would be consented, the extent of the powers and what requirements, provisions and agreements are proposed;
  - Identification of any possible issues of prevention, mitigation or compensation which are not covered by the dDCO as currently drafted;
  - Establish or confirm the views of other IPs as to the appropriateness, proportionality, or efficacy of the dDCO;
  - Transport and Traffic;
  - Design/Landscape/Visual Impact;
  - Tree impacts;
  - Biodiversity;
  - Climate Change;
  - Noise;
  - Regard to heritage impacts;
  - Relevant policy and legislative provision applicable.
- 1.4.24. A CAH has taken place as per the Examination Timetable (following amendment) and held under s92 of PA2008. The CAH took place on 2 March 2022 [[EV-023](#) consecutively to [EV-027](#)].
- 1.4.25. All persons affected by CA and/or TP proposals (APs) were provided with an opportunity to be heard, if they wished to. However, there was no formal request for those from APs in accordance with the procedural

decisions contained with the Rule 8 letter or following subsequent ExA correspondence and associated procedural decisions during the Examination period. The hearings undertaken in March were also as a result of it becoming apparent to the ExA during the Examination that some of the identified parties in the Applicant's Book of Reference were not consulted during the initial stages. That issue is explained further in paragraph 1.4.45 below.

- 1.4.26. OFH1 was held under s93 of PA2008 virtually using Microsoft Teams on the 16 November 2021 starting at 10am [[EV-005](#), [EV-006](#) and [EV-007](#)]. All IPs were provided with an opportunity to be heard on any important and relevant subject matter that they wished to raise. OFH2 was then held on 1 March 2022 [[EV-020](#); [EV-021](#), and [EV-022](#)].
- 1.4.27. All parties who expressed a wish to be heard at virtual hearings were given the opportunity to do so.

### **Written Processes**

- 1.4.28. Examination under PA2008 is primarily a written process, in which the ExA has regard to written material forming the Application and arising from the Examination. All of this material is recorded in the Examination Library (Appendix B) and published online.
- 1.4.29. Individual document references to the Examination Library in this report are enclosed in square brackets [] and hyperlinked to the original document held online. For that reason, this report does not contain extensive summaries of all documents and representations, although full regard has been had to them in the ExA's conclusions. The ExA has considered all important and relevant matters arising from them.
- 1.4.30. Key written sources are set out further below.

### **Relevant Representations**

- 1.4.31. A total of 40 RRs were received by the Planning Inspectorate [[RR-001](#) consecutively to [RR-040](#)]. All parties who made RRs received the Rule 6 Letter and were provided with an opportunity to become involved in the Examination as IPs. All RRs have been fully considered by the ExA. The issues that they raise are considered in Chapter 4 of this report.

### **Written Representations and Other Examination Documents**

- 1.4.32. The Applicant, IPs and OPs were provided with opportunities to:
- make written representations (WRs) (Deadline (D)1);
  - comment on WRs made the Applicant and other IPs (D2 and D3);
  - summarise their oral submissions at hearings in writing (D3 and D7);



- make other WRs requested or accepted by the ExA; and comment on documents issued for consultation by the ExA including a commentary on the dDCO [[PD-014](#)] published on 21 February 2022 by D8.

1.4.33. All WRs and other Examination documents have been fully considered by the ExA. The issues that they raise are considered in Chapters 4, 5, and 6 of this report.

### **Local Impact Reports**

1.4.34. A Local Impact Report (LIR) is a report made by a relevant local authority giving details of the likely impact of the Proposed Development on the authority's area (or any part of that area) that has been invited and submitted to the ExA under s60 PA2008. Two LIRs have been received by the ExA from the following relevant local authorities:

- NCC [[REP1-008](#)];
- SNC [[REP1-010](#)].

1.4.35. The LIRs have been taken fully into account by the ExA in all relevant Chapters of this report.

### **Statements of Common Ground**

1.4.36. A Statement of Common Ground (SoCG) is a statement agreed between the applicant and one or more IPs, recording matters that are agreed between them.

1.4.37. The ExA in the Rule 6 [[PD-004](#)] issued 20 August 2021 requested SoCG's be agreed between the applicant and the following parties:

- Natural England
- National Grid
- Network Rail
- Cadent Gas
- Anglian Water Limited
- Environment Agency (EA)
- NCC
- SNC
- Historic England

1.4.38. The Applicant has sought to agree SoCGs in accordance with the Rule 6 request along with the additional inclusion of Big Sky Developments Ltd (Big Sky). SoCGs with Cadent Gas and National Grid were not deemed to be necessary by the Applicant.

1.4.39. It was also requested by the ExA during the Examination that where a particular SoCG cannot be agreed between the parties, or in so far as any local authority position represents an officer level view only, draft versions of that SoCG are instead requested to be submitted by the Applicant. The position of the relevant IPs should then be confirmed during the course of the Examination, up to no later than D7.

- 1.4.40. By the end of the Examination, the following bodies had concluded SoCGs with the Applicant:
- NCC [[REP10-005](#)].
  - SNC [[REP9-013](#)];
  - Anglian Water Services Limited [[REP9-014](#)];
  - Big Sky Developments Ltd [[REP9-015](#)];
  - EA [[REP9-012](#)];
  - Historic England [[REP10-004](#)] but the SoCG copy received is unsigned as the Applicant has indicated they did not receive any comments back from that SP in response;
  - Natural England [[REP10-003](#)]. The SoCG copy received is unsigned. The Applicant has indicated [REP10-001](#) the SoCG for Historic England has been submitted unsigned as the Applicant was awaiting receipt of a signed version. However, no such document was submitted ahead of the end of examination.
  - Network Rail [[REP10-006](#)]
  - Hornsea Project Three Offshore Wind Farm has submitted a draft SoCG/ Statement of Commonality [REP5-031](#) with NH concerning the A47-A11 Thickthorn Junction scheme at D5. Hornsea Three indicated that they had hoped to be able to submit a signed and further updated version of the SoCG by D6. However, no further documentation was received.

1.4.41. Whist the unsigned or incomplete SoCGs referred to above are only attributed limited weight by the ExA they do provide some useful context. Furthermore, the signed and completed SoCGs carry substantial weight in the recommendation process have been taken fully into account by the ExA in all relevant Chapters of this report.

### **Written Questions**

- 1.4.42. The ExA asked two rounds of formal written questions:
- First Written Questions (FWQ) [[PD-006](#)] and procedural decisions were set out in the Rule 8 letter [[PD-005](#)], dated 23 September 2021.
  - Second Written Questions (SWQ) [[PD-008](#)] were issued on 30 November 2021.
- 1.4.43. In addition, the following requests for further information and comments under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 were also issued on:

- 14 December 2021 [[PD-010](#)]. This procedural decision was undertaken due to it coming to light that specific identified parties were omitted in error as a named recipient for initial notifications of the Examination from the Planning Inspectorate. The correspondence was issued to highlight to omitted parties the powers available to the ExA to allow such persons to become IPs. It also invited them to make whatever requests or comments they deemed appropriate. The correspondence allowed further measures for the parties who were not notified the option of requesting a further OFH and/or CAH and/or to attend a further ISH as well as drawing their attention to all examination material in play at that time giving until D6 of 18 January 2022 for responses in accordance with the Examination Timetable;
- 17 December 2021 [[PD-012](#)]. This letter was sent out to relevant persons as it came to the ExA's attention that certain parties were not issued with notice of the accepted application in accordance with s56 of the PA2008 provided by the Applicant and is related to the correspondence in the first bullet point [[PD-010](#)]. The Applicant was requested to fully explain any omission inclusive of setting out any further provisions needed, and all relevant parties were notified of the steps being undertaken as well as the powers available (for IP status) giving until D6, 18 January 2022 for responses within the Examination Timetable; and
- 26 January 2022 [[PD-013](#)]. Further information was requested from the Applicant and specific parties concerning a request for a Climate Change Position Statement; confirmation of Crown Land consent for affected plots; and information pertaining to the new emerging Local Plan for the Greater Norwich area which is subject to Examination at the time of compiling this report. The correspondence also adjusted the original timetable to facilitate additional Hearings held on 1, 2 and 3 March 2022.

1.4.44. All responses to the ExA's FWQ and SWQs have been fully considered in writing the relevant Chapters of this report.

#### **Requests to Join and Leave the Examination**

1.4.45. A single written request was received to join the Examination by a person (Ian James) who was not already an IP at or after the PM. The request made involved formally becoming an IP. No other requests were received.

1.4.46. Following consideration and determination by the ExA a letter from the Inspectorate's Case Manager was subsequently issued setting out the administrative decision to decline the request [[PD-015](#)]. The reason it was not successful was because the provisions held under s102A of the PA2008 were not met.

- 1.4.47. Further to that, the request itself and the procedural decision taken was also acknowledged at OFH2 by the ExA. The requesting party as well as all remaining parties attending, or viewing were able to hear the outcome of the decision.
- 1.4.48. That said, at OFH2 the requesting party was permitted and invited by the ExA to communicate their views on the application material orally under the hearing procedure also applicable. Such views were subsequently heard in full and largely related to access considerations from Station Lane onto the A11.
- 1.4.49. During the Examination, as a consequence of discussion at hearings and/or discussions between relevant IPs/APs/OPs and the Applicant, the following parties wrote to the ExA to inform it that their issues were settled, and their representations were withdrawn:
- Cadent Gas Limited [[AS-037](#)] confirmed withdrawal of its objections to the Order. They gave a written declaration of agreement of protective provisions (PPs) for Cadent's benefit and which are referred to as being secured in the Order (save from any grammatical, formatting, or cross-referencing change which may be required).
  - National Grid Electricity Transmission (NGET) under [[AS-042](#)]. The correspondence received confirms agreement with the Applicant on the range of applied PPs for NGET's benefit. Those protective provisions are included in the Order and on that basis NGET confirmed withdrawal of all initial objections made to the Order.
- 1.4.50. No other persons wrote to the ExA to formally record the settlement of their issues and the withdrawal of their objections or other representations.

## **1.5. ENVIRONMENTAL IMPACT ASSESSMENT**

- 1.5.1. The Proposed Development is development for which Environmental Impact Assessment (EIA) is required (EIA development).
- 1.5.2. On 5 February 2018, the Applicant submitted a Scoping Report to the Secretary of State (SoS) under Regulation 10 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (SI 2017 No.572) (as amended) (the EIA Regulations) in order to request an opinion about the scope of the Environmental Statement (ES) to be prepared (a Scoping Opinion). The Planning Inspectorate provided a Scoping Opinion on 21 March 2018.
- 1.5.3. The Applicant notified the SoS under Regulation 8 (1)(b) of the EIA Regulations that they proposed to provide an ES in respect of the Proposed Development. Therefore, in accordance with Regulation 6(2)(a) of the EIA Regulations, the Proposed Development was determined to be EIA development and the application was accompanied by an ES.

1.5.4. On 9 July 2021 the Applicant provided the Planning Inspectorate with certificates confirming that s56 and s59 of PA2008 and Regulation 13 of the EIA Regulations had been complied with [[OD-001](#)] to [[OD-005](#)].

1.5.5. Consideration is given to the adequacy of the ES and matters arising from it in Chapter 5 of this report.

## **1.6. HABITATS REGULATIONS ASSESSMENT (HRA)**

1.6.1. If an NSIP, when taken alone or with existing and known future projects, is likely to affect a European Site, the Applicant must provide a report with the application showing the sites that may be affected together with sufficient information to enable the competent authority (the decision maker) to make an appropriate assessment, if required.

1.6.2. Screening information has been submitted in the form of 'A Report to Inform Habitats Regulation Assessment' [[REP8-006](#)] (or No Significant Effects Report) in accordance with The Conservation of Habitats and Species Regulations 2017. The report findings are that there are no significant effects arising.

1.6.3. The information provided indicates that an appropriate assessment is not required because significant effects on European sites are sufficiently unlikely that they can be excluded. This information can be used to inform the decision of the Secretary of State for Transport (SoST) on HRA matters. The ExA agrees with the position of the Applicant as outlined. The reasoned conclusions are found in Chapter 6 of this report.

## **1.7. UNDERTAKINGS, OBLIGATIONS AND AGREEMENTS**

1.7.1. By the end of the Examination, there were no matters subject to any separate undertakings, obligations and / or agreements. All relevant considerations are addressed in this report as bearing on the DCO.

## **1.8. OTHER CONSENTS**

1.8.1. The Application documentation, (in particular the submitted Consents and Agreements Position Statement [[REP9-007](#)] which has been subject to ongoing updates) and questions during this Examination have identified the following consents that the Proposed Development has obtained or must obtain, in addition to Development Consent under PA2008.

1.8.2. The latest position reported by the Applicant during the Examination period is recorded below:

- Protected Species Licences – under s16 of the Wildlife and Countryside Act 1981/ Conservation of Habitat and Species Regulations 2017 submitted to Natural England. Licences for bats and water voles will be required. Draft licences have been prepared by the Applicant and submitted to Natural England in order to obtain a Letter of No Impediment (LoNI) from them. Subsequently, a copy of the LoNI issued by Natural England for a

Water Vole License was submitted Examination D5 [[REP5-024](#)]. A LoNI for a Bat License was submitted at Examination D8 [[REP8-015](#)].

- Land Drainage Consent – application for temporary and permanent works affecting the flow of ordinary water courses under the Land Drainage Act 1991 s23 / Flood Water Management Act 2010 submitted to the Lead Local Flood Authority (NCC). Consents will be required for construction works within, over or adjacent to ordinary water courses. However, the detail required for the consents cannot be provided until a detailed design for the Scheme has been developed. The issue is covered in a SoCG prepared with NCC.
- Water Discharge Permits – required from the EA under the Environmental Permitting (England and Wales) Regulations 2016 for any temporary water discharge (this does not apply to operational discharges from the highway). The detail required for the consents cannot be provided until a detailed design has been finalised.
- Water Abstraction Licence – from the Environment Agency under Water Resources (Abstraction and Impounding) Regulations 2008 & Water Abstraction and Impounding (Exemptions) Regulations 2017/ Discharge of water from dewatering operations (Environmental Permitting England and Wales Regulations 2010). Works within the saturated aquifer may require dewatering. Dewatering volumes above 100m<sup>3</sup>/day require a transfer or abstraction licence. In addition, a licensing exemption may be reduced to 50m<sup>3</sup>/day depending on whether there are conservation sites within 500m, or springs, wells or boreholes used to supply water to any lawful use within 250m of the proposed abstraction. A SoCG has been produced with the EA covering both Water Discharge Permits and Water Abstraction Licensing.
- The discharge of dewatered volumes may also require a bespoke discharge permit under water resources legislation from the Environment Agency. Treatment measures may be required depending on the quality of water abstracted and the receiving waterbody. The permit would be applied for prior to the works starting. The issue is covered in a SoCG with the EA.
- Construction activities planned for the diversions of watercourses and dewatering of ponds prior to works starting under the Water Resources Act 1991 requiring separate consent. This is covered SoCG's produced with Norfolk County Council and the EA.
- Separate Waste and Minerals Consent – from the EA under the Pollution Prevention and Control Act 1999 (Environmental Permitting) England and Wales Regulations 2016 for the importation and treatment of limited quantities and types of

material may be required during construction. This would be for exemptions for operations in relation to the import of waste used in construction and crushing of aerosols to minimise hazardous waste (if exemption limits can be met).

- Consent may be needed from the EA for mobile plant permits for crushing activities on the site should the authorised contractor not have its own plant permit.
- The Environmental Management Plan will secure waste materials management following consultation with the EA in accordance with Requirement 4 of the DCO.
- A trade effluent consent – under the Water Industry Act 1991 is required from the Sewerage Undertaker for the area which is Anglican Water. This is to be undertaken prior to commencement of construction works.
- If it cannot be demonstrated by the Applicant that the use of materials can be used within the requirements of CL:aire(2011) Definition of Waste: Development Industry Code of Practice (V.2) an Environmental permit for waste operations would be required. The Applicant intends to address this matter with the EA directly prior to construction.
- With respect to noise and vibration during the construction stage discussions with SNC regarding Section 61 Control of Pollution Act 1974 or under s80 of the Environmental Protection Act 1990 would be required.
- With respect to separate consent(s) needed for the felling of trees. A Felling Licence under the Forestry Act 1967 issued by the Forestry Commission may be needed. A prior notification can be made 2-3 months prior to the works being carried out. There is currently insufficient detail in the design of the scheme to enable an application. There are powers for the removal of trees for construction of the scheme including trees protected by Tree Preservation Orders sought within the DCO. Nonetheless, it is the trees that are felled for other purposes other than construction (for instance ecological enhancement) which may require approval from the Forestry Commission or the local authority under a Felling Licence. This would need to be undertaken in advance of any tree felling works.

1.8.3. In relation to the outstanding consents recorded above, the ExA has considered the available information and, without prejudice to the exercise of discretion by future decision-makers, has concluded that there are no apparent impediments to the implementation of the Proposed Development, should the SoS grant the application.

## **1.9. STRUCTURE OF THIS REPORT**

1.9.1. The structure of this report is as follows:

- **Chapter 1** introduces the reader to the application, the processes used to carry out the Examination and make this report.
- **Chapter 2** describes the site and its surrounds, the Proposed Development, its planning history, and that of related projects.
- **Chapter 3** records the legal and policy context for the SoS' decision.
- **Chapter 4** sets out the planning issues that arose from the application and during the Examination.
- **Chapter 5** sets out the findings and conclusions in relation to the main planning issues.
- **Chapter 6** considers effects on European Sites and HRA.
- **Chapter 7** sets out the balance of planning considerations arising from Chapters 4 and 5, in the light of the factual, legal and policy information in Chapters 1 to 3.
- **Chapter 8** sets out the ExA's Examination of CA and TP proposals.
- **Chapter 9** considers the implications of the matters arising from the preceding chapters for the Development Consent Order (DCO).
- **Chapter 10** summarises all relevant considerations and sets out the ExA's recommendation to the SoS.

1.9.2. This report is supported by the following Appendices:

- **Appendix A** – the Examination Events.
- **Appendix B** – the Examination Library.
- **Appendix C** – List of Abbreviations.
- **Appendix D** – the Recommended DCO



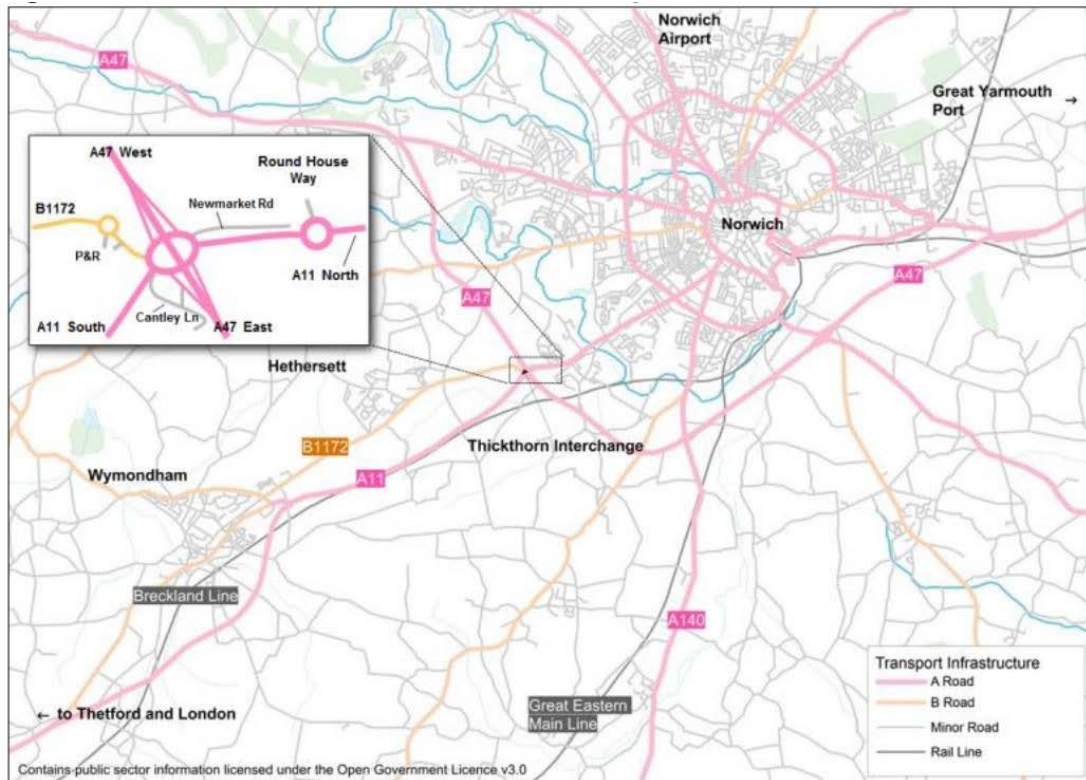
## 2. THE PROPOSAL AND THE SITE

### 2.1. THE PROPOSED DEVELOPMENT SITE AND SETTING

- 2.1.1. The Proposed Development primarily involves land within the administrative areas of Norfolk County Council (NCC) and South Norfolk District Council (SNC). NCC is the Local Highway Authority for SNC's administrative area.
- 2.1.2. The geographical location of the proposed development is shown on Location Plan [APP-004] which was subsequently updated to [AS-018]. The degree of land take proposed by the Applicant is shown in the submitted Land Plans initially shown by [APP-006] which was updated to [AS-020] during the Examination.



**Figure 2.1.2a** extract from [APP-125] the Applicant's Case for the Scheme, page 20.



**Figure 2.1.2b** extract from [APP-125] the Applicant's Case for the Scheme, page 21.

- 2.1.3. The A47 and A11 is part of the Strategic Road Network (SRN). The A47 provides connection between Great Yarmouth, Norwich, King's Lynn, Peterborough and beyond. The A11 provides connections between Norwich and Wymondham, Attleborough and Thetford. Thetford is located approximately 50 kilometres (km) from Norwich. Further afield the A11 links to the A14 and M11 running through Cambridgeshire.
- 2.1.4. The application site is located around 6km to the southwest of Norwich. The land surrounding the A47 A11 Thickthorn Junction is predominantly agricultural land. There are also sections of land to the northeast and southeast of the Junction which have permissions for housing development. There are additional low density sporadic residential uses further afield in the vicinity of the Junction heading in the direction of Wymondham and Cantley Lane South.
- 2.1.5. The A47 A11 Thickthorn Junction is largely characterised by the position of the A47 Norwich Southern bypass which is elevated and extends over a central interchange and underpasses. At the Thickthorn Junction intervening gaps between the trunk road network, the associated connector roads stemming from it and other local roads are filled with trees and other vegetation.
- 2.1.6. To the northwest of the Junction lies Thickthorn Park and Ride and Thickthorn Services (comprising of a petrol filling station, hotel, restaurant, and electricity substation). The residential area of Cringleford

is located approximately 500 metres (m) to the northeast of the Junction.

- 2.1.7. Thickthorn Hall is located to the west of the application site and is situated within locally recognised historic parkland setting (designated as such at County level only, and not registered) which extends towards the Thickthorn Park and Ride site.
- 2.1.8. Intwood Hall which features registered grade II historic park and garden lies approximately 1.5km southeast of the existing Thickthorn interchange. It is in the order of 500m to the south eastern extent of the site where the proposed new slip road would join the A47 north of the railway bridge.
- 2.1.9. Two Tumuli at Big Wood is the name of a Scheduled Monument (containing Bronze Age burial barrows) which lies close to, but outside of, the proposed draft Development Consent Order (dDCO) scheme improvement area and is located on a segment of land between the A11 and Cantley Lane South.
- 2.1.10. Noticeable and physical features in the immediate vicinity of the site which contribute to the landscape character of the wider area include:
- areas of woodland and prominent individual trees along field boundaries and within remnant parkland settings;
  - Two Tumuli at Big Wood;
  - Sporadic properties in the vicinity;
  - a local watercourse (Cantley Stream);
  - a railway line;
  - the SNR already established;
  - the local road network of country lanes including the predominantly rural character of Cantley Lane South and Norwich Road (B1172).
- 2.1.11. Moreover, the position of mature hedgerows and trees gives rise to a visual parcellation effect for land areas both within and surrounding the application site.

## **2.2. THE APPLICATION AS MADE**

- 2.2.1. The Applicant submitted the application under section 37 of the Planning Act 2008 (PA2008) for an Order granting development consent for what is described on the submitted application form [[APP-001](#)] as 'altering the single lane free flowing link road connecting the A11 northbound to the A47 eastbound via two underpasses (under the A11 and A47 respectively).

- 2.2.2. The Applicant is appointed and licensed by the Secretary of State for Transport (SoST) as the strategic highways company for England. National Highways is responsible for operating, maintaining, and improving the SRN in England on behalf of the SoST.
- 2.2.3. A summary of the application description quoted above has been provided in Chapter 1 of this report. Full details of the Proposed Development are provided in Schedule 1 of the dDCO [[REP9-003](#)] and are shown in the submitted plans including: the General Arrangement Layout Plans [[AS-019](#)]; the Engineering Drawings and Sections [[APP-010](#)] updated to [[REP9-002](#)]; and Works Plans (previously [[APP-007](#)] and) updated to [[AS-021](#)].
- 2.2.4. The dDCO applied for includes the Temporary Possession (TP) of land. This is land which is required by the Applicant during construction of the scheme, but which is not required permanently and therefore assists in minimising the interference with landowners' rights.
- 2.2.5. The Applicant sets out that TP is needed to facilitate the provision of temporary storage, welfare facilities, laydown areas, access, and sufficient working space to allow the construction of the Proposed Development.
- 2.2.6. TP also includes the right to pass and repass with or without plant and vehicles to access land parcels permanently acquired by the undertaker; as well as to enable the construction of new carriageway footways embankments, service diversions, drainage works on adjacent land parcels.

### **Overview of the Proposed Development**

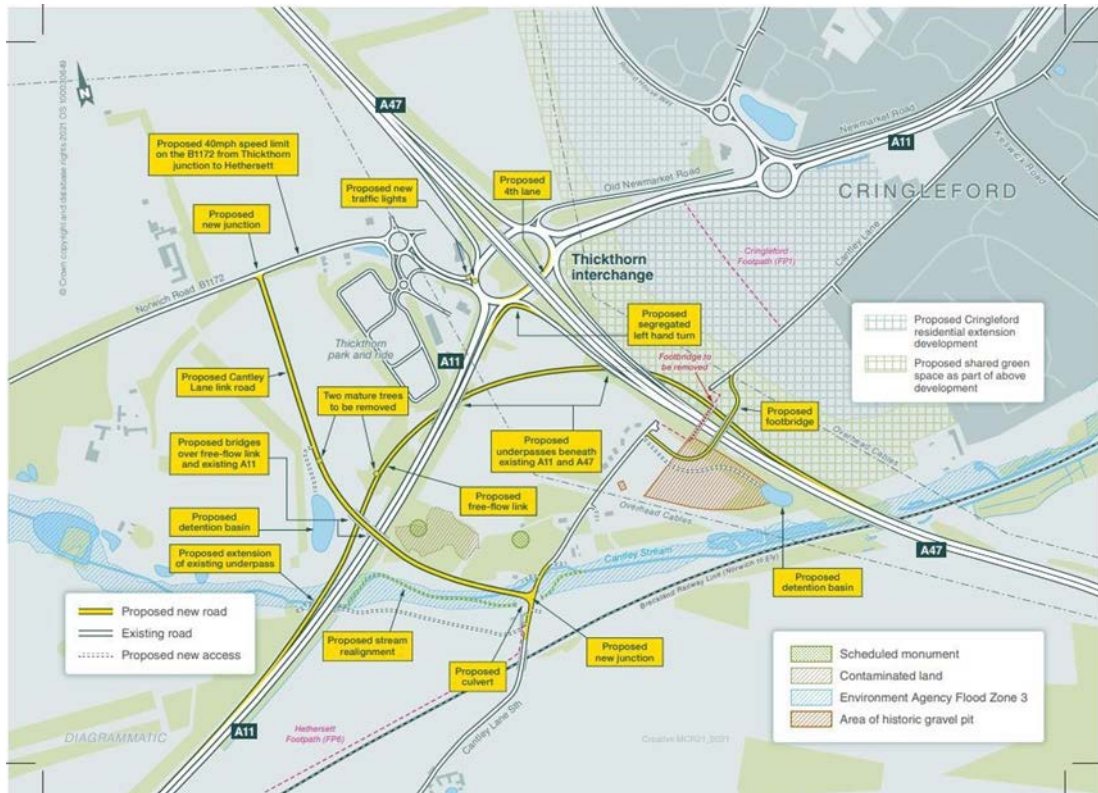
- 2.2.7. The Applicant's stated high-level objectives for the proposed development include the following:
1. Supporting economic growth (the Proposed Development aims to reduce congestion related delay, improve journey time reliability, and increase the overall capacity of the A47. This is expected to help contribute to sustainable economic growth supporting regional housing and economic growth in Norwich and the surrounding areas);
  2. Providing a safer and reliable road network (safer for motorists and for those living near the junction by improving operational safety issues at the Thickthorn Junction);
  3. The provision of a more free-flowing road network (by increasing the resilience of the Thickthorn junction to cope with incidents such as collisions, breakdowns, maintenance, and extreme weather. In addition, the Proposed Development aims to reduce vehicular delay and improve journey time reliability, making journey times more predictable and to allow movement at the junction so it has greater capacity to be free flowing);

4. Improved environment (aims to protect the environment by minimising adverse impacts and where possible, deliver benefits);
5. An accessible integrated network (considers local communities and their access to roads. Provision of safer routes between communities for cyclists, walkers, horse riders and other vulnerable uses of the network);
6. Delivering scheme value for money.

2.2.8. The SRN is made up of the motorway and the major A roads network. Accordingly, the A47 and A11 are part of the SRN. For the users of the A47/A11 the proposal seeks to increase the capacity of the SRN, reduce travel times, providing greater journey reliability and increased highway safety. To do this at the Thickthorn Junction the Proposed Development involves the construction and alteration of the following:

- changes to the roundabout at the existing A47/A11 Thickthorn Junction which include providing additional lanes for traffic, and improvements will be made to traffic signals and pedestrian crossings within the vicinity;
- a new 1.65km long free-flowing slip road that will connect the A11 with the A47. The new connector road will re-route traffic away from the existing Thickthorn Junction through new underpasses;
- a new 0.95km link road between Cantley Lane South and the B1172 Norwich Road to allow continued access to the Thickthorn Junction;
- a new footbridge (Cantley Lane footbridge (Cringleford)) crossing the A47 between Cantley Lane South and Cantley Lane to accommodate walkers, cyclists and horse riders and replace an existing footbridge.

2.2.9. An overview plan and the main elements of the scheme are depicted below.



**Figure 2.2.9** extract from [APP-125] the Applicant’s Case for the Scheme, page 18.

*A47/A11 Thickthorn Junction*

- 2.2.10. The southern half of the roundabout at Thickthorn Junction is proposed to be widened to provide four lanes and the road markings across the whole junction would be repainted to suit the revised layout. This is included in Work No.’s 27 and 28 within the dDCO [REP9-003].
- 2.2.11. The existing A47 westbound exit slip road towards Thickthorn Junction and the existing left turn into Cantley Lane South are proposed to be realigned and the left turn onto Cantley Lane South removed. There would be a segregated left turn lane from the A47 westbound slip road to the A11 westbound. The latter is included in Work No.26 of the dDCO.
- 2.2.12. Following the completion of the Proposed Development it is expected by the Applicant that the Thickthorn junction would operate within capacity, with minor delays and limited queuing across all arms of the junction.
- 2.2.13. All the A11 and A47 entry arms onto the existing Thickthorn Junction would have traffic signal control with two pedestrian crossings to the north of the roundabout.
- 2.2.14. Improvements are proposed to be made to the traffic signals around the roundabout circulatory at the: A47 westbound exit slip road entry; roundabout exit to the A47 eastbound entry slip road; approach from the B1172 would be signalised.

- 2.2.15. Old Newmarket Road is currently not traffic signal controlled and would remain as it currently exists. The Applicant also states that the current signal arrangement at Thickthorn Junction would be improved to suit the proposed works.

*A47/A11 Connector Road*

- 2.2.16. One 1.65km connector road would be constructed between the A11 eastbound to A47 southbound directing traffic away from Thickthorn Junction. Once travellers have left the main A11 eastbound carriageway, the proposed connector road will allow travellers to merge to the A47 southbound without the need to stop. The connector road provision is included within Work No.24 of the dDCO.

The proposed A11 to A47 connector road includes the provision of a maintenance layby and would require the construction of two new underpasses under the strategic road network and two new overbridges to carry the new Cantley Lane South to B1172 Norwich Road link road and the new Cantley Lane footbridge (Cringleford).

*Cantley Lane Link Road*

- 2.2.17. The Proposed Development severs the existing access between Cantley Lane South and the Thickthorn Junction. A new 0.95km link road between Cantley Lane South and the B1172 Norwich Road to the north would be constructed. This is included in Work No.1 and Work No.2 of the dDCO. The new Cantley Lane South link road proposed has a curved shaped alignment before first crossing the A11 main carriageway and then the A47 to A11 link road, via two new overbridges.

- 2.2.18. The link road curves north before joining the B1172 to the west of Thickthorn Junction via a T-junction. The existing access to Cantley Lane South (from the existing A47 westbound exit slip road) would be removed and all Cantley Lane South traffic to and from Thickthorn Junction will use the new link road to reach the B1172 Norwich Road, A11 and A47.

*Realignment of Cantley Stream*

- 2.2.19. The proposed construction of the Cantley Lane link road would require the existing Cantley Stream to be realigned by approximately 390m. This is included in Work No.13 of the dDCO. The adjacent access track to the stream would also be required to be diverted.

*Local Road Network and private accesses*

- 2.2.20. The Station Lane junction shared with the A11 is identified as an existing at grade priority junction which has a left turn only on to the A11 eastbound. The Applicant's proposal includes improvements made to the existing junction by adding a merge facility that tapers onto the A11 eastbound.

- 2.2.21. Separately, a new turning head would also be provided at the northern terminus of Cantley Lane South with improvements proposed to the private access of identified residential properties along Cantley Lane South.

*New footbridge provision*

- 2.2.22. The existing Cantley Lane footbridge that crosses the A47 between Cantley Lane South and Cantley Lane would be demolished and replaced with a new footbridge approximately 50m southeast of the existing footbridge location. The new Cantley Lane Footbridge is specified as Work No.35 within the dDCO.

- 2.2.23. The replacement Cantley Lane footbridge (Cringleford) would be designed to be suitable for walkers, cyclists, and horse riders (WCH). This would be achieved through the provision of approach ramps constructed on earthwork embankments either side of the access points of the new overbridge. This aspect of the scheme is anticipated by the Applicant to provide benefits to the local road network by making non car modes of transport more desirable to a greater range of overbridge users.

*New underpasses/Overbridges/Construction phase proposals*

- 2.2.24. In relation to the two new underpasses proposed on the A11 to A47 link road. The Ward's Wood underpass (S02) (9.5m width x 61m length, 5.7m high) at the west central part of the scheme will carry the new A11 to A47 link road beneath the existing A11 dual carriageway. The Cantley Lane underpass (S04) (11.5m width, 123m length, 5.7m high) will carry the A11 to A47 link road beneath the existing A47 southeast of Thickthorn Junction. The underpasses are detailed in Work No.'s 10 and 19.

- 2.2.25. The two new overbridges would be constructed to the southwest of the Proposed Scheme. A single span reinforced concrete bridge is proposed to carry the new Cantley Lane South link road over the existing A11 (Cantley Wood overbridge (S41)). Immediately north of this bridge a second overbridge will carry the Cantley Lane South link road over the proposed A11 to A47 link road (Cantley Wood Link Road overbridge (S42)). The overbridges are detailed in Work No.'s 20 and 44 of the dDCO.

- 2.2.26. An existing underpass carrying the A11 over Cantley Stream will need to be extended to accommodate a widened carriageway where the A11 to A47 link road diverges from the A11 eastbound carriageway. That element is specified in Work No. 31 of the dDCO. The A11 slip road underpass is proposed with a headroom of 2.85m over the private farm access track to match headroom at the adjacent S01A Cantley Stream Underpass.

- 2.2.27. A new turning head would be provided at the northern terminus of Cantley Lane South with improvements proposed to the private access of identified residential properties along Cantley Lane South.



- 2.2.28. The initial construction phase of the scheme would include utility diversions, excavation for construction of the components of the scheme including drainage basis and Cantley Stream culverts.
- 2.2.29. *Construction compounds and site accesses*
- 2.2.30. The Applicant proposes several construction compound and welfare facilities. However, the main construction compound would be located to the northwest of the Thickthorn interchange, in fields south of the B1172 Norwich Road and west of the existing Thickthorn Park & Ride. Access would be from the B1172 Norwich Road.
- 2.2.31. A satellite compound is proposed in an open field to the east of the A11 and south of the existing Thickthorn Junction with access from Cantley Lane South. The main and satellite compounds would include temporary site offices, parking, and welfare facilities.
- 2.2.32. More specifically, the Applicant has detailed the range of construction compound/ storage, parking, and welfare provision within the dDCO [[REP9-003](#)] (and involving TP) as:

1. Work No. 3 – a temporary construction compound and material storage and processing area south-west of the new B1172 Norwich Road and Cantley Lane Link Road junction (Work No. 1) shown on sheet 5 of the Works Plans;

2. Work No. 5 – a temporary construction compound and material storage and processing area south-east of the new B1172 Norwich Road and Cantley Lane Link Road junction (Work No. 1) shown on sheet number 5 of the Works Plans;

3. Work No. 30 – central construction compound and material storage and processing area east of A11 and north of Big Wood and Cantley Stream, as shown on sheets 3 and 6 of the works plans;

4. Work No. 32 – a construction compound and material storage and processing area east of the A47 and south of Cantley Lane shown on sheet 7 of the Works Plans;

5. Work No. 43 – a temporary construction compound and material storage processing area north of A11 and east of Station Lane, as shown on sheet 1 of the Works Plans;

#### *Lighting*

- 2.2.33. The Proposed Development requires British Standard compliant lighting for the safety of motorists on the approach to and using the A47/A11 Thickthorn Junction, as well as the approach to and using the new connector road to be constructed from the A11 northbound connecting with the eastbound A47, including the two underpasses under the A11 and A47.

- 2.2.34. To ensure consistency in the lighting design approach undertaken and compliance with British Standards for lighting levels associated with the Proposed Development, in conjunction with lighting industry guidance for minimising obtrusive light and effects on ecology, external artificial lighting would be implemented in accordance with the layout shown in the Works Plans prepared.
- 2.2.35. The Applicant proposes the lighting of joining and exit areas from the main carriageway, entry and exit slip roads, and the main Thickthorn Interchange gyratory. Where lighting is currently provided to the Thickthorn Interchange, the existing 12m steel columns are to be retained. New 10m passive columns with 1m outreach brackets have been proposed for the remainder of the scheme.
- 2.2.36. Lighting is also expected to be provided to two short tunnels on the proposed link road to be constructed from the A11 Northbound towards Norwich, connecting with the eastbound A47 towards Lowestoft.

#### *Drainage*

- 2.2.37. Drainage provision is proposed within the scheme layout and includes associated works to the existing culvert at Cantley Lane South and the realignment of Cantley Stream already referred to above.

#### *Public Transport*

- 2.2.38. No changes to existing public transport provision in the locality are proposed by the Applicant.

## **2.3. THE APPLICATION AS EXAMINED AND AT THE CLOSE OF THE EXAMINATION**

- 2.3.1. There were some changes to the Proposed Development requested by the Applicant from what was originally defined in the application at submission, during the Examination period (these are set out fully in [\[AS-017\]](#)) concerning the following matters:

#### *1. A reduction of Order limits at Intwood Road;*

A property on Intwood Road adjacent to the Cantley Stream was included in the Order Limits as initial flood modelling indicated a potential increased detriment in flood levels at the property, which would require local mitigation measures. This is shown as Plot 7/12a on the Land Plans [\[AS-001\]](#), sheet number 7 within the inset on the plan. The additional survey information obtained around the property was used to update the flood model during the Examination, which the Applicant confirmed shows no increased detriment to flood levels at the property. The updated Flood Risk Assessment was submitted to the Examination at Deadline 3 (D3) [\[REP3-008\]](#). The Applicant also sort consultation with the Environment Agency (EA) and agreement no mitigation is required at the property.

#### *2. Changes to the field access locations on Cantley Lane Link Road;*

Land Plots 5/2b and 5/2c as shown in the Land Plans [[AS-001](#)] have been identified for temporary use. They would be returned to the landowner on completion of the proposal. As part of the Proposed Development, field accesses would be constructed to serve the plots to the east and west of the Cantley Lane Link Road and these would be used during construction. The landowner, and specifically the tenant farmer who will require access to the two plots once the construction works are complete, have suggested to the Applicant that although they wish to retain the access points, they would prefer alternative locations for them. On that basis, the Applicant has sought during the Examination to move the location of the new field access to better serve these land parcels. The field access to the west of the Cantley Lane Link Road was proposed to be moved approximately 85m north of the position currently shown on the Rights of Way and Access Plans [[APP-008](#)], and the field access to the east of the Cantley Lane Link Road was proposed to be moved approximately 50m south of the position shown within the Rights of Way and Access Plans [[APP-008](#)]. Minor adjustments were required to the fencing design along the proposed Cantley Lane Link road to accommodate this change. In detailing the request made, the ExA noted the change does not affect any of the conclusions made in the Environmental Statement (ES) ([APP-038](#) to [APP-124](#)).

### *3. A change to the alignment of the A11/A47 Connector Road.*

The alignment of the A11/A47 Connector Road was proposed to be amended to reduce the cross section of the Cantley Lane Underpass. The Examining Authority (ExA) notes the change would reduce the requirements for construction materials and excavation of in situ material. The horizontal curvature of the road is proposed to be amended so that at the apex of the curve the centreline of the road is approximately 7m to the north of the centreline originally submitted. The difference reduces to zero at the entrance to the Cantley Wood Underpass to the east, and at the exit from the Wards Wood underpass to the west as the proposed alignment ties back in with the current alignment. The revised apex of the curve referred to runs in the opposite direction to (or away from) the nearby scheduled monument Two Tumuli in Big wood.

2.3.2. The reasons to accept the above three changes during the Examination as non-material alterations is set out in the ExA's Rule 9 letter [[PD-009](#)] issued on 14 December, namely:

- i. All of the land required in respect of the three changes outlined falls within the existing Order limits. The changes taken individually and in combination overall are also minor in nature relative to the description of the scheme.
- ii. The procedure under the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 is not engaged as the proposed changes do not provide for the acquisition of additional land.

- iii. The wording of the dDCO [[REP3-002](#)] and [[REP3-003](#)] (submitted at Deadline 3), requires minimal alterations to accommodate the proposed changes.
- iv. The effect of the proposed changes on the evaluation contained in the Environmental Impact Assessment (EIA) has been considered. The Applicant has assessed all of the proposed changes and concluded there are no new or different likely significant environmental effects as a result of the changes and subsequently no deviation from the initial assessment provided with the Application. This is further indication that the proposed amendments are not material.

2.3.3. For completeness the three non-material changes requested and outlined above in paragraph 2.3.1 were made in the context of the following submitted application documents subject to substitution/revision:

- dDCO [[REP9-003](#)] (version 7);
- Statement of Reasons (previously [[APP-020](#)] changed to [[AS-030](#)], track changes are shown in [[AS-031](#)]);
- Location Plan (previously [[APP-004](#)], and updated to [[AS-018](#)]);
- General Arrangement Plans (previously [[APP-005](#)] changed to [[AS-019](#)]);
- Land Plans (initially [[APP-006](#)] and [[AS-001](#)], but then changed to [[AS-020](#)]);
- Rights of Way and Access Plans (previously [[APP-008](#)], changed to [[AS-022](#)]);
- Traffic Regulations Plans (previously [APP-009](#), changed to [AS-023](#));
- Works Plans (previously [[APP-007](#)] and updated to [[AS-021](#)]). The updated document changes the alignment of the A11-A47 Connector road between the Wards Wood Underpass and the Cantley Lane Underpass and the resultant earthworks have been amended (Work No. 24), the shape of bunding north (Work No. 25) and south of the connector road (Work No. 23) has also been amended.
- Drainage and Surface Water Plans (previously [[APP-011](#)], changed to [AS-024](#)]);
- Crown Land Plans (previously [[AS-002](#)], changed to [[AS-025](#)]);
- Special Category Land Plans (previously [[APP-013](#)], changed to [AS-026](#)]);
- Classification of Roads Plans (previously [[APP-014](#)], changed to [AS-027](#)]);

- ES (addendum) [[AS-035](#)];
- Environmental Masterplan [[APP-123](#)], changed to [[AS-032](#)] following a request for a non-material change. It is noted by the ExA that the Applicant's 'Guide to the Application Revision 10 [[REP10-007](#)] submitted at Deadline 10 also refers to [[REP6-007](#)] but that document referenced in the Examination library is the Environmental Management Plan and not the Environmental Masterplan);
- Hedgerow Plans (previously [[APP-015](#)] but changed to [[REP4-002](#)] with the track changes shown in [REP4-003](#)).

2.3.4. The ExA has had regard to those amendments in Chapter 5 and 6 as well as Schedule 10 of the recommended Development Consent Order (rDCO) (Appendix D), which specifies the documents to be certified and reflects those changes as well as other updates to documents during the course of the Examination.

#### **Further details and consultation**

2.3.5. The ExA published recommended changes to the dDCO [[PD-014](#)]. The recommended changes were made available on the project page of the National Infrastructure website and was undertaken in accordance with the provisions of the Examination Timetable.

2.3.6. Further details requested by the ExA during the Examination fell within the range of Deadlines listed within the Examination Timetable which also gives provision for Interested Parties (IPs) to comment on submissions at the next applicable Deadline triggered where they deemed it appropriate.

2.3.7. There were no application details submitted subject to bespoke consultation provision during the Examination.

## **2.4. RELEVANT PLANNING HISTORY**

2.4.1. During 2014 a A47/A12 Corridor Feasibility Study (Feasibility Study) is evidenced as being undertaken by the Applicant (previously known as the Highways Agency at that time) and the Department for Transport (DfT), to identify issues on the SRN on the A47/A12 Corridor between the A1 west of Peterborough and Lowestoft (south of the A47 junction with the A12). Twenty-two locations were identified which were considered to have current or imminent problems.

2.4.2. The identified locations were then considered further at a high-level using criteria from the DfT's Early Assessment and Sifting Tool. An Options Assessment Report (OAR) was developed for each scheme and from this recommended a solution for which Strategic Outline Business Cases (SOBC) were produced.

2.4.3. A strategic level appraisal of benefits for the identified scheme was consequently produced. The appraisal informed the Government's Road

Investment Strategy (RIS) and an initial case was made to carry out the following improvements, which includes the Proposed Development:

- A47 Wansford to Sutton Dualling
- A47 Guyhirn Junction Improvements
- A47 North Tuddenham to Easton Dualling
- A47 Thickthorn Junction Improvements
- A47 Blofield to North Burlingham Dualling
- A47 Great Yarmouth Junction

2.4.4. In December 2014 the DfT published the RIS for 2015 to 2020. The RIS included a package of the above six schemes to be developed and constructed by the Applicant during Roads Period 1 (2015 to 2020) and Roads Period 2 (2020 to 2025). The six schemes were anticipated to improve journeys on the 115-mile section of the A47 between Peterborough and Great Yarmouth and have been collectively termed as the 'A47 Improvement Programme'.

2.4.5. High level strategic appraisal work making a case for the scheme is summarised in the A47 and A12 Corridor Feasibility Study (dated February 2015) published on the DfT website in March 2015. Stage one of the Feasibility Study reviewed the existing evidence to identify any problems along the corridor. The report's summary states the following:

2.4.6. *"Current Situation: The standards and level of service on the A47 vary considerably over its length with part of the network which are single and dual carriageways. It is understood that the widely held opinion by local authorities and the business community, is that the corridor in its current form is a significant constraint to growth. Future Situation: The area is expected to continue to grow with over 50,000 new jobs and 100,000 new homes planned for the area over the next 15 years. There are growth hotspots at several locations along the corridor, including Peterborough, Kings Lynn, Norwich and Great Yarmouth and Lowestoft. There are several major proposed housing developments close to the A47, including a Rackheath and Wisbech, Norwich and on the fringes of Great Yarmouth and Lowestoft. Growth is forecast to result in increased traffic levels on sections of the route and therefore add to congestion and other problems. At the same time, proposed developments could be constrained by the capacity limitations on the highway network to accommodate additional trip. Need for intervention: There are a wide range of traffic issues along this route due to the varying nature of the corridor in terms of local environment, travel patterns and requirements. The main issues for the route relate to capacity; some of the links and junctions are currently over capacity and/or will be over capacity. The limited capacity impacts on the route reliability and creates journey time delays. It also can cause traffic to divert onto the highway network and generate further issues. There are safety issues in certain locations where there are currently high collision and incident rates that could be*

*addressed. A summary of the challenges was considered within the study which identified 32 challenges along the route with the majority being capacity issues along the full extent. Other challenges raised relate to asset condition, network operation, safety and social and environmental issues and also lack of realistic alternatives to support planned growth, hence the need for interventions to address such problems."*

- 2.4.7. A Scheme Assessment Report (SAR) produced in January 2018 is referred to by the Applicant which confirmed the unsuitability and poor safety record of the current Thickthorn Junction layout to accommodate both the dominant movement between the A11 south and A47 east (in both directions), and the strong tidal movement through the junction on the A11, during both peak hours. This is predicted to worsen in future years due to the future growth in strategic traffic, and growth from the large local residential developments across the Greater Norwich Area, including Hethersett, Cringleford and Wymondham.
- 2.4.8. In addition, it is evidenced by the Applicant that the Thickthorn Junction forms a critical part of the Cambridge Norwich Tech Corridor which aims to build a top tier tech destination for the talented people, high growth companies and long-term investment that create jobs, transform lives, and drive economic growth.
- 2.4.9. The A47 Thickthorn junction improvement scheme features within the DfT's RIS2 2020-2025 published 11 March 2020 which is pursuant to Section 3 of the Infrastructure Act 2015. RIS2 identifies a package of infrastructure schemes part of the strategic road network nationwide. In doing so it sets out relevant schemes for the East of England, which are subject to investment commitments and expected to enter construction by 1 April 2025.
- 2.4.10. Information concerning the evolution of the design for the Proposed Development, including the range of options that have been considered can also be found in Chapter 2 Section's 3 to 7 of [\[APP-039\]](#) updated during the Examination to [\[REP4-006\]](#) and Chapter 3 Assessment of Alternatives [\[APP-040\]](#) of the ES.
- 2.4.11. In developing the Proposed Development subject to Examination, the Applicant's stated aims are to address known transport issues by improving the traffic flow, reducing journey times on the route, increasing the route safety and resilience, provide capacity for growth and provide mitigation against environmental impacts of the A47. The scheme is also intended to support economic growth by supporting employment and residential development opportunities in Norwich, South Norfolk and Cambridge which form part of the Cambridge Norwich Tech Corridor along the A11 between Cambridge and Norwich.
- 2.4.12. Testing of a long list of alternative options has been undertaken by the Applicant against the objectives of the Proposed Development. In seeking to resolve the transport problem at the existing Thickthorn Junction, 26 potential options for improvement of the junction were considered during 2016. Initial assessments were undertaken which looked at strategic and

economic impacts, deliverability, and financial and funding considerations.

- 2.4.13. On completion of the initial assessments, the Applicant narrowed down the initial options to 7 'reasonable' options in Chapter 3 of the ES Assessment of Alternatives [[APP-040](#)]. The 7 options were:
- Option's 1 and 2 – the connection of Cantley Lane South to Round House Roundabout via an overbridge across the A47.
  - Option 3 – connection of Cantley Lane South to Round House Roundabout via an underbridge.
  - Option 4 – connection of Cantley Lane South to B1172 Norwich Road.
  - Option 5 – A11 and Station Lane Compact Grade Separated Junction.
  - Option 6 – A11 and Station Lane Roundabout.
  - Option 7 – A11 Underpass.
- 2.4.14. Options 1 and 2 were discounted owing to a range of visual appearance, noise, and traffic management issues as well as the location of power lines. Options 5, 6 and 7 were discounted owing to substantial detours of 4.7km and 5.3 km to allow residential access to Cantley Lane; restricted agricultural access because of a low railway bridge; adverse response times for emergency vehicles to Cantley Lane South.
- 2.4.15. A hyperlink to the SAR has been made available by the Applicant and is stated as being completed in line with the Design Manual for Roads and Bridges (DMRB), as well as a hyperlink to a Side Road Options Strategy Report further informing the discounted scheme options referred to [[APP-040](#)].
- 2.4.16. Overall, Option 4 was identified by the Applicant as having greater environmental impacts than Option 3. However, taken in the round Option 4 is evidenced to be the Applicant's preferred option because it:
- Minimises disruption to road users as the majority is offline reducing traffic management to existing highways. The existing road can remain in use for local traffic during construction.
  - Reduces the risk of the route being used as a 'rat run'.
  - Removes impacts upon Cringleford Residential Extension Development.
  - Avoids lengthy diversions for residents along Cantley Road.
  - Provides an attractive and continuous route for non-motorised users between Cantley Lane and Cantley Lane South via the new non-motorised user bridge across the A47.
  - Generates less excavated materials and reduces the export of surplus excavated material.



- Reduces the effects from noise, air pollution and vibration as the option is further from Cringleford properties and impacts fewer properties.
- Reduces the amount of works directly adjacent to overhead cables.
- Considers the potential to expand the Thickthorn Park and Ride site in the future.

2.4.17. Option 4 (the single option) was considered for further review which comprised free flow link roads connecting the A11 and A47 and bypassing the Thickthorn Junction. That option was considered by the Applicant to perform well against overall scheme objectives and was considered by them to be the only feasible solution available. On that basis the single option outlined was taken for more detailed assessment to identify its performance against safety, environmental, engineering, transportation, and economic criteria.

2.4.18. Outside of the planning history identified above for the Proposed Development an historic planning obligation has been referred to by IPs for the construction of an unbuilt slip road which forms part of the planning permission to the Thickthorn Park and Ride facility now built (and subject to a further approved expansion). That aspect is explained and dealt with in more detail in Chapter 5 of this report.

## 3. LEGAL AND POLICY CONTEXT

### 3.1. INTRODUCTION

- 3.1.1. This Chapter sets out the relevant legal and policy context for the application. It outlines the legislation and policy taken into account and applied by the ExA in carrying out the Examination and in making its findings and recommendations to the SoS.

### 3.2. NATIONAL INFRASTRUCTURE

- 3.2.1. Whether a scheme constitutes National Infrastructure is prescribed in sections 14 and 15 of the Planning Act 2008 (PA2008). The Application Form [APP-001] and the Applicant's Explanatory Memorandum [REP9-005] to the dDCO set out that the Application is a Nationally Significant Infrastructure Project (NSIP) because it falls to be designated under s14(1)(h), s22(1)(b) and 22(3). This is because:
- The Proposed Development is for a highway related development.
  - It is wholly within England.
  - The Applicant is a strategic highways company, and will be the highway authority for the highway.
  - The area of the land on which the part of the highway to be altered is situated and any adjoining land expected to be used in connection with its alteration is greater than the relevant limit set out in subsection (4), which in this case is 12.5 metres.
  - The area of land within the DCO boundary is approximately 66.40 hectares.
  - The speed limits of the scheme will be 50mph or greater.
- 3.2.2. Having regard to the above, the ExA is satisfied that the Proposed Development falls under the designation of National Infrastructure for the purposes of the PA2008.
- 3.2.3. That view acknowledges that, the SoS may, under the provisions of s115 of the PA2008, grant consent for development that is associated with an NSIP. The Guidance on Associated Development Applications for Major Infrastructure Projects, issued by MHCLG (via its predecessor the DCLG) in 2013 describes associated development as being *"typical of development brought forward alongside the relevant type of principal development or of a kind that is usually necessary to support a particular type of project"* and *"requires a direct relationship between associated development and the principal development. Associated development should therefore either support the construction or operation of the principal development, or help address its impacts. Associated development should not be an aim in itself but should be subordinate to the principal development"*

3.2.4. Annex B of the above-mentioned guidance lists the following as examples of associated development for highway NSIP schemes:

- a. replacement roadside facilities where this becomes necessary due to the elimination of an existing facility by highway improvement;
- b. infrastructure associated with cycle/pedestrian access;
- c. offsite landscaping, habitat creation and other environmental works;
- d. offsite drainage works;
- e. alteration/diversion/stopping up of local roads, accesses and other rights of way; and
- f. offsite diversion of Statutory Undertaker equipment.

### **3.3. DETERMINING THE APPLICATION**

3.3.1. The PA2008 is the principal legislation governing the examination of an NSIP application. The ExA considers that s104 of PA2008 has effect as the National Policy Statement on National Networks (NPSNN) applies. Therefore, the matters that the Secretary of State for Transport (SoST) must consider are:

- any National Policy Statement (NPS) which has effect in relation to development of the description to which the application relates (a 'relevant National Policy Statement');
- the appropriate marine policy documents (if any), determined in accordance with s59 of the Marine and Coastal Access Act 2009;
- any Local Impact Report (LIR) (within the meaning given by s60(3) of the PA2008) submitted to the Secretary of State (SoS) before the specified deadline for submission;
- any matters prescribed in relation to development of the description to which the application relates; and
- any other matters which the SoST thinks are both important and relevant to the decision.

3.3.2. Section 104(3) of the PA2008 requires the SoST to decide the application in accordance with any relevant NPS. This creates a presumption in favour of NPS compliant development, unless one or more of the exceptions in subsections (4) to (8) applies. The exceptions are that the SoST is satisfied that:

- deciding the application in accordance with any relevant NPS would lead to the United Kingdom (UK) being in breach of any of its international obligations;
- deciding the application in accordance with any relevant NPS would lead to the SoST being in breach of any duty imposed on her/him by or under any enactment;

- deciding the application in accordance with any relevant NPS would be unlawful by virtue of any enactment;
- the adverse impact of the proposed development would outweigh its benefits; and/or
- any condition prescribed for deciding an application otherwise than in accordance with a NPS is met.

3.3.3. All of these matters are addressed in detailed terms, with references to individual paragraphs in the NPSNN, in Chapter 4. The NPSNN sets out the need for, and Government's policies to deliver, development of NSIPs on the national road and rail networks in England. It provides planning guidance for promoters of NSIPs and the basis for the examination by the ExA and decisions by the SoST.

### **3.4. EUROPEAN LAW AND RELATED UK REGULATIONS**

3.4.1. The UK left the European Union (EU) on 31 January 2020. The European Union (Withdrawal Agreement) Act of January 2020 gave effect to the transition arrangements until 31 December 2020. This provides for EU law to be retained as UK law unless excepted and also to bring into effect obligations which may come into force during the transition period.

3.4.2. This report has been prepared based on the retained law and references in it to European terms such as 'Habitats' have also been retained for consistency with the Examination documents. It will be a matter for the SoST, or those acting on their behalf, to satisfy themselves as to the position on retained law, obligations and equivalent terms at the point of their decision.

#### **The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017**

3.4.3. The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 give effect to Council Directive 2011/92/EU which defines the procedure by which information about the environmental effects of a project is collected and taken into account by the relevant decision-making body before consent is granted for a development. It sets thresholds for projects that require an EIA and outlines the impacts on the environment that need to be assessed. Further consideration is given to EIA and the contents of the ES in Chapter 5 of this report.

#### **The Habitats Directive**

3.4.4. Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora (the Habitats Directive) is built around the twin pillars of the Natura 2000 network of protected sites and the system of species protection.

3.4.5. In respect of the terrestrial environment and territorial waters out to twelve nautical miles the Habitats Directive is transposed into UK law through The Conservation of Habitats and Species Regulations 2017.

3.4.6. The relevance of the Habitats Directive to this application is set out in Chapter's 5 and 6 of this report, and elsewhere as required.

### **The Birds Directive**

3.4.7. Council Directive 2009/147/EC on the Conservation of Wild Birds (the Birds Directive) is a comprehensive scheme of protection for all wild bird species naturally occurring in the EU. Amongst other matters, it requires the classification of areas as Special Protection Areas (SPAs) comprising the most suitable territories for these species.

### **The Habitats Regulations**

3.4.8. The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) transpose the Habitats Directive into UK law.

### **The Water Framework Directive (WFD)**

3.4.9. The WFD is transposed into UK law in England and Wales by The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017. It establishes a framework for water policy, managing the quality of receiving waters. Amongst other objectives, it requires EU Member States to prevent the deterioration of surface water bodies, groundwater bodies and their ecosystems and improve the quality of surface water and groundwater bodies by progressively reducing pollution and by restoration.

### **The Air Quality Directive (AQD)**

3.4.10. Directive 2008/50/EC of the European Parliament on ambient air quality and cleaner air for Europe (the Air Quality Directive) entered into force in June 2008. It sets limit values for compliance and establishes control actions where the limit values (LV) are exceeded for ambient air quality with respect to sulphur dioxide (SO<sub>2</sub>), nitrogen dioxide (NO<sub>2</sub>), mono-nitrogen oxides (NO<sub>x</sub>), particulate matter of 10 or 2.5 micrometres or less in diameter (PM<sub>10</sub> and PM<sub>2.5</sub>), lead, benzene and carbon monoxide. The Air Quality Standards Regulations 2010 give direct statutory effect to the AQD.

### **The UK Air Quality Strategy**

3.4.11. The UK National Air Quality Strategy was published in 1997, the Air Quality Strategy for England, Scotland, Wales, and Northern Ireland was published in 2000 and updated in 2007 and 2011, and the Clean Air Strategy was published in 2019. These establish the UK framework for air quality improvements, set out a long-term vision for improving air quality

in the UK and offer options to reduce the risk to health and the environment from air pollution.

## **3.5. OTHER UK LEGAL PROVISIONS**

### **The Environment Act 2021**

- 3.5.1. The Environment Act (which became law in November 2021 during the Examination period) includes provisions for seeking new legally binding environmental targets which involve species abundance for 2030. Therefore, the relevant provisions of the Act have been considered by the Examining Authority (ExA) in writing this report.

### **The Paris Agreement 2015**

- 3.5.2. The Paris Agreement concluded in December 2015 with an agreement from all parties to the United Nations Framework Convention on Climate Change (UNFCCC) to the central aim: *“to keep the global temperature rise this century well below 2 degrees Celsius above pre-industrial levels, while pursuing efforts to limit the increase even further to 1.5 degrees Celsius”*. The Paris Agreement requires all Parties to make ambitious efforts to combat climate change and to accelerate and intensify the actions and investments needed for a sustainable low carbon future. For this purpose, the parties agree to making finance flows consistent with a low Greenhouse Gas (GHG) emissions and climate-resilient pathway.
- 3.5.3. The Paris Agreement requires all parties to put forward their best efforts through nationally determined contributions and report regularly on their emissions and implementation efforts. Some of the key aspects of the Agreement include a long-term temperature goal, global peaking of GHG and climate neutrality and mitigation. There will be a global stocktake every five years to assess the collective progress towards achieving the purpose of the Agreement and to inform further individual actions by Parties. The UK ratified the Agreement in 2016.

### **The Climate Change Act 2008**

- 3.5.4. The Climate Change Act 2008 (CCA2008) (as amended by the Climate Change Act 2008 (2050 Target Amendment) Order 2019) established the world’s first long-term legally binding framework to tackle the dangers of climate change. A key provision is the setting of legally binding targets for GHG emission reductions in the UK of at least 100% by 2050 (increased from 80% by the June 2019 amendment order) and at least 26% by 2020, against a 1990 baseline. The Act also created the Committee on Climate Change, with responsibility for setting five-year Carbon Budgets covering successive periods of emissions reduction to 2050, advising and scrutinising the UK Government’s associated climate change adaptation programmes and producing a National Adaptation Plan for the UK Government to implement.
- 3.5.5. In December 2020, the Climate Change Committee put forward its recommendations for the UKs Sixth Carbon Budget, running from 2033

to 2037. Describing itself as “the pathway to net zero”, the recommendations require a 78% reduction in UK territorial emissions between 1990 and 2035, bringing forward the UKs previous 80% target by nearly 15 years. The Carbon Budget Order 2021 came into force on 24 June 2021.

### **The Wildlife and Countryside Act 1981**

- 3.5.6. The Wildlife and Countryside Act 1981 is the primary legislation which protects animals, plants, and certain habitats in the UK. It provides for the notification and confirmation of Sites of Special Scientific Interest (SSSIs) and contains measures for their protection and management.

### **Natural Environment and Rural Communities Act 2006**

- 3.5.7. The Natural Environment and Rural Communities Act 2006 (NERCA 2006) makes provisions for bodies concerned with the natural environment and rural communities. It includes a duty that every public body must, in exercising its functions, have regard so far as is consistent with the proper exercising of those functions, to the conservation of biodiversity. The ExA has had regard to NERCA2006 and biodiversity in all the relevant Chapters of this report.

### **The Equalities Act 2010**

- 3.5.8. The Equalities Act 2010 established a duty (the public sector equality duty (PSED)) to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not. The PSED is applicable to the ExA in the conduct of this Examination and reporting and to the SoS in decision-making.
- 3.5.9. The ExA has had regard to PSED throughout the examination inclusive of hearings provision and the guidance informing the running of hearings for all participants.

### **The UK Biodiversity Action Plan**

- 3.5.10. The UK Biodiversity Action Plan lists priority habitats and species.

### **Historic Environment related legislation**

- 3.5.11. When deciding an application which is likely to affect a listed building, a conservation area, a scheduled monument, or their settings, the SoST must comply with the duties set out in Regulation 3 of The Infrastructure Planning (Decisions) Regulations 2010.
- 3.5.12. Part of the development is close to a scheduled monument and there are listed structures in the wider vicinity. The scheduled monument and the listed structures recorded by the Applicant are outside of the

Development Consent Order (DCO) boundary. Regard to such matters is given in Chapter 5.

3.5.13. Other overarching legislation relating to the historic environment in England relevant to the Proposed Development is the following:

- The Ancient Monuments and Archaeological Areas Act 1979;
- The Planning (Listed Buildings and Conservation Areas) Act 1990;
- The Burial Act 1857; and
- The Treasure Act 1996.

### **3.6. OTHER RELEVANT BIODIVERSITY AND ENVIRONMENTAL LEGISLATION**

3.6.1. The following legislation contains relevant provisions that must be met, and which are considered in this report:

- The Air Quality (Standards) Regulations 2010
- the Highways Act 1980;
- the Town and Country Planning Act 1990;
- Countryside and Rights of Way Act 2000 (CRoW Act);
- The Hedgerow Regulations 1997;
- Protection of Badgers Act 1992;
- the Neighbourhood Planning Act 2017;
- Wild Mammals (Protection) Act 1996; and
- The Land Drainage Act 1991.

### **3.7. MADE DEVELOPMENT CONSENT ORDERS**

3.7.1. Hornsea Three is a consented nationally significant infrastructure project and is subject to the consideration of further DCO consents. It is highlighted by parties involved in the Examination that the A47 Thickthorn DCO should not prohibit or delay the construction and/or operation of Hornsea Three or result in Hornsea Three being in breach of the Hornsea Three Order.

3.7.2. The applicant to the Hornsea Three DCO has indicated that they do not have any in principle objections to the Thickthorn Junction DCO proposed, but is instead seeking to ensure there are no subsequent traffic management and/or access issues which have implications to any proved cabling routes [\[RR-020\]](#) through collaboration with the Applicant.



- 3.7.3. Additionally, the NSIPs for Norfolk Vanguard and Norfolk Boreas offshore windfarm projects are also relevant to mention. Each project has been subject to a separate DCO examination, and both were awaiting the outcome of separate determination processes during the Thickthorn examination period.
- 3.7.4. Those projects rely on the A47 corridor for the transport of materials and personnel to the landfall, onshore cable routing, onshore substations and National Grid extension works.
- 3.7.5. Construction is anticipated to commence in 2022 for Norfolk Vanguard. The most intense construction activity is forecast to occur between 2022 and the end of 2023, during this period, the project's A47 traffic demand would peak at 693 daily movements of which 312 would be heavy goods vehicles (HGVs).
- 3.7.6. The concerns of Vattenfall Wind Power Limited (VWPL) the applicant of those schemes is primarily linked to the coordination and communication of construction traffic management and traffic management plans with National Highways (NH) to ensure smooth delivery processes.
- 3.7.7. VWPL have sought formal engagement with NH to gain a better understanding of the A47/A11 Thickthorn Junction Improvement Scheme roadworks proposals and to jointly formulate traffic management plans to minimise disruption to the travelling public, local communities, and the respective project's construction programmes. VWPL would seek to capture an agreed position on these items through a Statement of Common Ground.
- 3.7.8. That said, the Proposed Development has been submitted in the context of several other A47 schemes, namely:
- A47 Blofield to north Burlingham;
  - A47 North Tuddenham to Easton;
  - and A47 Wansford to Sutton.

Those other A47 schemes are subject to live individual examination and recommendation processes which the SoST will be aware of post the completion of this Examination Report. Therefore, any made DCO related to those schemes should also be acknowledged.

- 3.7.9. There is nothing else in the application documents or other submissions made by Interested Parties to imply or conclude that the Proposed Development would substantially affect or be affected by, other made DCOs.

## **3.8. TRANSBOUNDARY EFFECTS**

- 3.8.1. The assessment of impacts in European Economic Area (EEA) States is required in accordance with Regulation 32 of the 2017 Environmental Impact Assessment (EIA) Regulations and advice contained within the

Planning Inspectorate's Advice Note Twelve: Transboundary Impacts and Process.

- 3.8.2. Under Regulation 32 of the EIA Regulations the Planning Inspectorate on behalf of the SoS has concluded that the Proposed Development is unlikely to have a significant effect either alone or cumulatively on the environment in any EEA State(s) [[OD-007](#)].

## **3.9. NATIONAL POLICY AND STRATEGY**

### **National Policy Statement**

- 3.9.1. As mentioned in section 3.2, the relevant NPS for this application is the NPSNN which was designated on 14 January 2015. The NPSNN sets out national policy for roads and other transport infrastructure. Relevant sections of the NPSNN are considered later in Chapter 5 of this report.

### **National Planning Policy Framework**

- 3.9.2. The National Planning Policy Framework (NPPF) does not contain specific policies for nationally significant infrastructure projects. These are determined in accordance with the decision-making framework in the Planning Act 2008 and relevant national policy statements for major infrastructure, as well as any other matters that are relevant (which may include the NPPF). National policy statements form part of the overall framework of national planning policy and may be a material consideration in preparing plans and making decisions on planning applications.
- 3.9.3. That said, the NPPF has been taken into account in this report as being both important and relevant where it is appropriate to do so.
- 3.9.4. Paragraphs 1.17 to 1.20 of the NPSNN further describe the relationship between the NPPF and the NPSNN. In summary, those paragraphs provide that:
- the NPPF may be an important and relevant consideration in decisions on NSIPs, but only to the extent relevant to a project;
  - the NPPF is not intended to contain specific policies for individual NSIPs, where particular considerations can apply. The NPSNN performs that function; and
  - the NPPF provides a framework within which responses to individual project effects can be considered, but that in relation to tests or standards to be met, these are normally derived from the NPSNN.

### **Road Investment Strategy**

- 3.9.5. The Road Investment Strategy (RIS) sets out a long-term programme for motorways and major roads with the stable funding needed to plan effectively. RIS1 originally announced 127 major schemes nationwide to

be delivered over the course of the first Road Period -2015/16 to 2019/20.

- 3.9.6. In April 2020, the Department of Transport (DfT) published the Road Investment Strategy 2 (RIS2) for 2020-2025. RIS2 sets out the list of schemes that are to be developed by NH over the period covered by the RIS. NH, as the strategic highways company and appointed by the SoS must, in exercising his functions and complying with its legal duties and other obligations, act in a manner which it considers best calculated to, among others:
- Minimise the environmental impact of operating, maintaining, and improving its network and seek to protect and enhance the quality of the surrounding environment.
  - Conform to the principles of sustainable development.
- 3.9.7. RIS2 sets a long-term strategic vision for the network. With that vision in mind, it: specifies the performance standards Highways England must meet; lists planned enhancement schemes Government expects to be built; and states the funding that will make available during the second Road Period (RP2), covering the financial years 2020/21 to 2024/25.
- 3.9.8. In total, RIS2 commits the Government to spend £27.4 billion during RP2. Some of this spending is proposed to be used to build new road capacity. But also, to improve the quality and reduce the negative impacts of the existing Strategic Road Network (SNR).
- 3.9.9. Other relevant strategy/policy statements include:
- Clean Air Strategy (2019);
  - National Infrastructure Delivery Plan (2016);
  - Noise Policy Statement for England (NPSE) (2010).
  - UK Plan for Tackling Roadside Nitrogen Dioxide Concentrations (2017);
  - Highways England Air Quality Strategy (2017);
  - Transitioning to zero emission cars and vans: 2035 delivery plan (2021);
  - Decarbonising transport: a better, greener Britain (2021);
  - Net Zero Strategy: Build Back Greener (2021);
  - National Highways, Net Zero Highways Our 2030/2040/2050 Plan (2021); and
  - Taking Charge: the electric vehicle infrastructure strategy (2022)

### 3.10. THE DEVELOPMENT PLAN

3.10.1. The NPSNN states that applicable policies from relevant development plans can be important and relevant matters. Such policies are identified below and addressed further in Chapter 4, 5 and 6.

3.10.2. The Applicant has set out the Development Plan in force for the area where the Proposed Development is situated as recorded in their Planning Policy Context Statement [[APP-080](#)]. Alongside the submitted LIRs [[REP1-008](#) and [REP1-010](#)], the documents combined provide an assessment of the relevant planning policies applied locally.

3.10.3. The following is a summary:

#### **Joint Core Strategy for Broadland, Norwich, and South Norfolk (JCS) adopted in March 2011, amendments adopted January 2014**

- Policy 1 sets out the strategic approach to addressing climate change and protecting environmental assets;
- Policy 2 promotes good design principles for all new development. Its states that all development will be designed to the highest possible standards, creating a strong sense of place;
- Policy 5 states that the local economy will be developed in a sustainable way to support jobs and economic growth in both urban and rural locations. The approach undertaken includes provision for a rising populations and to develop its role as an engine of the wider economy;
- Policy 6 states that the transportation system of the area will be enhanced to develop the role of Norwich as a Regional Transport Node, particularly through the implementations of the Norwich Area Transportation Strategy (NATS) and will improve access to rural areas. This is to be achieved by: implementation of the NATS including the construction of the Northern Distributor Road; significant improvement to the bus, cycling and walking network on key routes; enhancing the Norwich Park and Ride system; promoting the enhancement of rail services; provision of an A140 Long Stretton Bypass; promoting improvements to the A11 and A47; supporting the growth and regional significance of Norwich International Airport; concentration of development close to essential services; promotion of homeworking; protection of the function of strategic routes; support for rail freight opportunities; improving public transport accessibility; promoting local service delivery; continuing to recognise that in most rural areas the private car will remain an important means of travel;
- Policy 8 addresses culture, leisure and entertainment, and states *“Cultural heritage will be enriched through use of innovative design and in the public realm”*;
- Policy 10 sets out locations for new and expanded communities.

## **South Norfolk Local Plan (SNLP) Development Management Policies, adopted October 2015**

3.10.4. Policies within the SNLP have been raised as being important considerations including:

- Policy DM1.4 seeks to promote high quality and positive environmental improvement from all development;
- Policy DM3.8 sets out good design principles to guide development as a key aspect of sustainable development. It advocates that all development should contribute positively to making places better for people;
- Policy DM3.11 concerns road safety and the free flow of traffic. It encourages the protection of key transport routes including those which are critical to, and identified within, the Norwich Area Transportation Strategy;
- Policy DM3.13 refers to amenity, noise, and quality of life. It specifies that development should ensure a reasonable standard of amenity reflecting the character of the local area;
- Policy DM3.14 states that all development should minimise the impact of all forms of pollution and emissions and to ensure there is no deterioration of water courses. In its aims the policy includes regard to i) Air quality ii) Surface and ground water quality iii) Land quality and condition, and iv) the Health and safety of the public;
- Policy DM4.2 requires that sustainable drainage measures must be integrated into development proposals in order to minimise flood risks;
- Policy DM4.5 seeks that development respects landscape character of its immediate and wider environment;
- Policy DM4.6 requires that all development proposals do not result in harm to, and where possible should enhance, the landscape setting of Norwich;
- Policy DM4.7 is concerned with protecting the openness of the strategic gap between Cringleford and Hethersett in line with local landscape character;
- Policy DM4.8 promotes the retention of significant trees, woodlands and orchards and refers to serving Tree Preservation Orders where necessary;
- Policy DM4.9 states that where appropriate, detailed development proposals must demonstrate a high quality of landscape design, implementation, and an integral part of new development;

- Policy DM.10 specifies that all development proposals have regard to the historic environment and take into account the contribution heritage assets make to the significance of the area and its sense of place. Proposals which adversely affect the significance of a heritage asset will only exceptionally be permitted where clear and convincing justification is provided.

### **Cringleford Neighbourhood Plan**

3.10.5. The Cringleford Neighbourhood Plan (CNP) was formally adopted 2014. It forms part of the existing development plan for the area. The CNP area includes parts of the Site and study area to the east of the A47. It contains a number of relevant policies:-

- ENV1 which refers to a continuous green landscaped corridor of 145m depth from the edge of the carriageway of the A47 to be provided to: maintain the landscape setting of the village; maintain existing wildlife corridors; mitigate traffic noise (Landscape Protection Zone) and retain a key strategic gap at the edge of new development.
- ENV3 seeks the protection of hedgerows and to mitigate loss.

### **The Norfolk Transport Plan for 2026**

3.10.6. The document sets out strategic transport aims for the conurbation. Policy 4 includes that transport decisions should consider the character of the historic environment, landscape, and local biodiversity. In particular: negative impacts should be mitigated; reasonable opportunities for creating habitats taken; due regard to ecological networks and European designated sites; impact assessments should be undertaken where necessary.

### **The Emerging Greater Norwich Local Plan**

3.10.7. The emerging Greater Norwich Local Plan (GNLP) is relevant to the examination. The emerging Plan is to cover Broadland, Norwich City and South Norfolk Councils' administrative areas and has been submitted to the SoS for Examination. It is anticipated by the Councils involved in the examination that the GNLP could be adopted by Autumn 2022 following its formal examination by the Planning Inspectorate.

South Norfolk Council (SNC) provided a consultation draft of the emerging GNLP during the Examination via submission [[REP9-030](#)]. They also provided a response to the ExA's questions about its status under [[REP9-031](#)]. The response set out that the following policies would be applicable if it is adopted:

- Policy 4: Strategic Infrastructure. The aim of the policy is to support the delivery of infrastructure to enable the timely delivery of planned development and the wider growth needs of the areas. Improvements to Thickthorn are specifically identified as an item that would help to achieve the overall aim of the policy;

- Policy 2: Sustainable communities that sets out a range of expectations for new development including, amongst other things, respecting and enhancing landscapes; and
- Policy 3: Environmental Protection and Enhancement that sets out requirements including that development proposals conserve and enhance the historic environment and conserves and enhances the natural environment.

### **The South Norfolk Place-Making Guide (2012)**

3.10.8. This document forms part of the Greater Norwich Development Partnership (GNDP); JCS and the South Norfolk Local Plan. It provides more detailed guidance on applying the range of policies in the JCS, inclusive of promoting good design.

## **3.11. THE SECRETARY OF STATE'S POWERS TO MAKE A DEVELOPMENT CONSENT ORDER**

3.11.1. The ExA acknowledges the need to consider whether changes to the application documents meant that the application had changed to the point where it was materially different to that which was originally submitted.

3.11.2. The SoS will be aware of the March 2015 updated "Planning Act 2008: guidance for the examination of applications for development consent" issued by the (then) Department of Communities and Local Government. Paragraphs 109 and 115 provide guidance in relation to changing an application post-acceptance. The view expressed by the Government during the passage of the Localism Act was that s114(1) places the responsibility for making a DCO on the decision-maker and does not limit the terms in which it can be made.

3.11.3. The application was amended during the Examination; such changes are set out in Chapter 2 of this Report. In exercising this power, the ExA advises the SoS that the proposed changes were not deemed material so as to constitute a new application.

3.11.4. Therefore, the ExA advises the SoS that it would have the power under s114 of the PA2008, if minded to do so, to make the Recommended DCO incorporating the changes proposed during the Examination having regard to the development consent applied for.

## 4. THE PLANNING ISSUES

### 4.1. MAIN ISSUES IN THE EXAMINATION

- 4.1.1. This chapter considers the main planning issues in the Examination, starting with the identification of the Initial Assessment of Principle Issues (IAPI) considered.
- 4.1.2. As required by section (s) 88 of the Planning Act 2008 (PA2008) and Rule 5 of the Infrastructure Planning (Examination Procedure) Rules 2010, the Examining Authority (ExA) made an IAPI arising from the application within 21 days following receipt of the s58 certificate of compliance (s56 notice) under the PA2008.
- 4.1.3. The IAPI comprised of the following topics:
- Air Quality and Emissions;
  - Biodiversity and Ecological Conservation;
  - Climate Change;
  - Compulsory Acquisition;
  - Development Consent Order matters;
  - Geology and Soils;
  - The Historic Environment;
  - Landscape and Visual Effects;
  - Materials and Waste;
  - Noise and Vibration;
  - People and Communities;
  - Scope of the Environmental Impact Assessment;
  - Transportation and Traffic;
  - Water, drainage, and flood risk.
- 4.1.4. The detailed IAPI was provided at Annex C of the Rule 6 letter [[PD-004](#)] and was discussed at the Preliminary Meeting (PM) [[EV-002](#), [EV-003](#) and [EV-004](#)]. No matters were raised at the PM that required any amendments to the IAPI. It was made clear to the Applicant in correspondence that the list was not comprehensive or exhaustive and that regard would be had to all relevant matters in reaching a recommendation after the conclusion of the Examination.



4.1.5. That said, in accordance with paragraphs 4.18 to 4.20 of the NPSNN, the ExA also considered how to handle matters where details of the Proposed Development were still to be finalised. This was relevant in this case, given the Applicant's approach to the preparation of the Proposed Development, where many of the detailed design elements were not fully established.

4.1.6. The NPSNN requires that appropriate development consent requirements are secured in the development consent order (DCO) in the event of deciding to grant development consent for an application where details are still to be finalised.

## **4.2. ISSUES ARISING IN WRITTEN SUBMISSIONS**

4.2.1. At the outset of the Examination several environmental groups and members of the public have highlighted a range of climate and environmental related issues of specific concern. Those concerns were also received in the context of some support for the suggested benefits of the Proposed Development.

4.2.2. The main matters raised are summarised below.

### **Relevant Representations (RR)**

4.2.3. Concerns at RR stage can be summarised as including, but not limited to, the following matters:

- The need for the development. The impact of COVID 19 on travel patterns and road capacity need.
- The adequacy of baseline information informing the scheme.
- The in-combination, and cumulative impacts, for biodiversity, ecology, and air quality should be assessed with at least six other road infrastructure schemes near to Norwich and East Norfolk.
- In-combination and cumulative impacts for carbon emissions need to be cumulatively assessed locally within the Norwich area (in combination effects with the six other possible schemes identified above), and nationally, including under Road Investment Strategy 2 (RIS2).
- Carbon emissions impacts against the United Kingdom (UK) obligations under the Climate Change Act 2008 to meet net-zero carbon emissions by 2050, having regard to the UK Sixth Carbon Budget.
- Overall wider climate change and environmental impacts and the exploration of non-road building alternatives to the scheme (Climate Emergency Planning and Policy (CEPP) [\[RR-010\]](#); Norwich Green Party Group of City and County Councillors [\[RR-018\]](#); Norfolk and Norwich Friends of the Earth [\[RR-019\]](#); Stop Wensum

Link [[RR-024](#)]; Transport Action Network [[RR-025](#)]; as well as other members of the public.

- Ecological impacts including to protected species.
- Impacts on veteran or ancient trees, other trees, woodland, and hedgerows. Including from The Woodland Trust [[RR-027](#)].
- The impact to water environment, drainage, and flood risk.
- Historic environment impacts covering a scheduled ancient monument 'Two tumuli in Big Wood' and historic parkland. As well as the extent and adequacy of archaeological surveys.
- Impact to existing planning obligations to mitigate the impact of traffic upon the Thickthorn junction. Inclusive of expanding the existing Park and Ride site and the provision of a new slip road from the A11 giving access agreed under an extant housing development scheme.
- The loss of recreation and playing field space and the provisions for satisfactory replacement.
- Sections of the public highway do not need to be acquired permanently by the Applicant for issues pertaining to subsoil interests. Raised by the Trustees of The CM Watt Residual Trust [[RR-011](#)] and Trustees of The Mackintosh Trust [[RR-012](#)].
- The impact arising from the loss of a farm track, existing access and future private access considerations. [[RR-012](#) and [RR-034](#)]
- Road safety. Subsequent road speeds for the Cantley Lane link road should be 30mph instead of 40mph. The impacts to non-motorised road users and encouraging modal shift.
- Capacity for existing and additional traffic using B1172 to join the Cantley Lane link road via a 'T' junction [[RR-013](#)].
- Detailed design of the pedestrian overbridge over the A47 and provision for cyclists. [[RR-016](#) and [RR-017](#)].
- The impact to property owners and residents inclusive of existing homes and those planned for construction by way of noise, pollution (including light pollution) overlooking from the pedestrian overbridge and general scheme related disruption [[RR-021](#)].
- Adequacy of protective provisions to allow statutory undertakers to fulfil their individual duties. With further regard to diversions, land rights and Requirements being considered and to be applied. (Anglian Water [[RR-002](#)]; Royal Mail Group [[RR-022](#)]; Cadent Gas Limited [[RR-003](#)]; National Grid [[RR-007](#)]; Network Rail [[RR-008](#)]).

- Hornsea Three is a consented nationally significant infrastructure project. It is crucial that the A47 Thickthorn DCO does not prohibit or delay the construction and/or operation of Hornsea Three or result in Hornsea Three being in breach of the Hornsea Three Order [[RR-020](#)].
- Impacts to Norfolk Vanguard and Norfolk Boreas offshore windfarm projects in terms of strategic traffic management and access [[RR-026](#)].

4.2.4. Support for the principle of the application, the schemes wider benefits and alignment with other relevant investment, growth and traffic strategies was also given by Norfolk County Council (NCC), the New Anglia Local Enterprise Partnership (LEP), and Norfolk Constabulary [[RR-001](#)], [[RR-014](#)], [[RR-015](#)].

#### **Written and oral submissions**

4.2.5. The Examination process offered the opportunity for Interested Parties (IPs) to supplement their RRs and to respond to submissions by other IPs. The ExA also exercised discretion to accept additional written submissions (listed as Additional Submissions in the Examination Library) from others who were not registered as IPs.

4.2.6. The range of matters to emerging from those contributions are similar to the above but also include:

- Whether some of the trees affected or subject to removal constitute ancient woodland.
- The consideration of existing historic planning obligation commitments for extant development and for land affected by the scheme.
- The adequacy of the noise assessment informing potential impacts.
- Traffic and transport data, aims, justifications and assumptions based on the data provided and that not provided when gauging the subsequent overall impacts and the case for the scheme.
- Fuller consideration of other alternatives.
- Environmental Impact Assessment regulation compliance issues.
- Access and landownership issues post completion of the proposed scheme.
- The adequacy of requirements and protective provisions within the draft DCO (dDCO).

#### **Conclusions on issues arising from RRs, written and oral submissions combined**

4.2.7. The issues arising in written submissions are assessed in detail in Chapters 5 and 6 of this report.

### **4.3. ISSUES ARISING IN LOCAL IMPACT REPORTS (LIRs)**

4.3.1. Two separate LIRs [[REP1-008](#) and [REP1-010](#)] were submitted at D1 by Norfolk County Council and South Norfolk District Council which the ExA has taken into account in the recommendation made. The SoS as the decision maker for the application has a duty to consider the LIRs under s60(3) of the PA2008 in accordance with the legal considerations referred to in Chapter 3 of this report.

#### **Norfolk County Council LIR**

4.3.2. The key areas highlighted in the LIR as follows:

- Notable support for the principle of upgrading the Thickthorn Junction which is subject to traffic congestion. The need for the upgrade of the junction infrastructure was established in the Greater Norwich City Deal to support growth plans for the area. Identification that the A47/A11 Thickthorn Junction as operating at over capacity on a number of approaches which will worsen with traffic growth.
- Detrunking. The scheme on its completion (at submission) would not form part of the trunk road network and would become the responsibility of the NCC. The basis of the asset transfer is subject to future maintenance costs concerns. Agreement of those issues being a key concern of NCC.
- Classification of the new link from Cantley Lane South to the B1172 as a 'B Class' Road would encourage additional traffic.

4.3.3. Other key points raised on detail orientated issues in the LIR include:

- The A11 approach from Norwich would become the worst performing arm in terms of future capacity and delay should the scheme be built and scope available to improve this.
- The implication to heritage assets which include the scheduled monument outside the site boundary 'Two Tumuli in Big Wood'.
- Impacts from the loss of potential ancient woodland and the loss of ancient or veteran trees and other trees.
- The effects to retained tree health.
- Loss of trees from a landscape perspective.
- Impacts to historic park and garden land.
- The impact to the rural character of existing roads particularly Cantley Lane South.
- The impacts of the concurrent construction of residential development close to the Thickthorn Junction and associated landscape buffers.
- Effects of disruption from construction and operation to the area in particular Cantley Lane South; the footpaths Hethersett Footpath 6

(FP6) and Cringleford FP4; impact to residential areas of Round House Park and properties and businesses on Station Lane.

- Impacts to local accessibility levels.
- Impacts to the landscape, environment and biodiversity including impacts to protected species.
- The effects to ground water, drainage, and flood risk.
- Implications to climate change commitments.
- The extent of air quality monitoring.
- The adequacy of requirements within the DCO.
- Compulsory Acquisition and funding.

## **South Norfolk Council LIR**

4.3.4. The key areas the highlighted in the LIR are as follows:

- Acknowledgement of the range of benefits arising from the Proposed Development;
- Impact to heritage assets inclusive of scheduled ancient monuments;
- Impact to the visual appearance of the area and wider landscape;
- The adequacy of requirements within the DCO;
- The need for agreement of maintenance issues should asset transfer takes place.

4.3.5. The ExA has considered all matters raised in the submitted LIRs, as required by s104(2) of the PA2008. These matters are discussed in more detail in Chapters 5 and 6 of this report.

## **4.4. CONFORMITY WITH THE NATIONAL POLICY STATEMENT (NPS)**

4.4.1. The applicable NPS is the NPSNN. Conformity with the NPSNN is considered in more detail in Chapters 5 and 6 of this report.

## **4.5. CONFORMITY WITH THE DEVELOPMENT PLAN**

4.5.1. Where applicable, the conformity with relevant Development Plan policies is considered in Chapters 5 and 6 of this report. It should be noted that NCC and SNC did not raise any specific concerns towards policy compliance during the Examination period.

## **4.6. APPLICATION OF OTHER POLICIES**

4.6.1. Beyond the Development Plan policies (including regard to emerging Development Plan policies) and national policy there are not considered to be any other policies relevant to the examination.

## **4.7. ENVIRONMENTAL IMPACT ASSESSMENT**

4.7.1. The Applicant has submitted an Environmental Statement (ES) to accompany the application [[APP-038](#) to [APP-121](#)]. Some of the ES Chapters were updated at Deadline 4 within the Examination period in relation to a non-material change which was accepted by the ExA and

other matters arising from written questions. There were also updates to other components of ES information during the Examination which have been factored by the ExA. The Applicant's submitted Guide to the Application [[REP10-007](#)] provides a list of all the relevant document changes applicable.

#### **4.8. HABITATS REGULATIONS ASSESMENT (HRA)**

4.8.1. Issues pertaining to HRA are considered in Chapter 6 of this report.

#### **4.9. CORONOVIRUS (COVID-19) PANDEMIC**

4.9.1. The Examination has been conducted during the COVID-19 pandemic, which is presently ongoing. However, other than the acknowledgement of those circumstances the impact of COVID-19 itself has not been examined in detail.

4.9.2. The ExA does not consider it is not possible to ascertain what longer term effects of COVID-19, if any, will be on traffic, environmental or socio-economic matters applicable to the Proposed Development. Consequently, it is not a matter which is reported on.

## **5. FINDINGS AND CONCLUSIONS IN RELATION TO THE PLANNING ISSUES**

### **5.1. INTRODUCTION**

- 5.1.1. This chapter examines the main planning related issues raised during the Examination. Chapter 5 is structured based on the topics assessed within the Applicant's submitted Environmental Statement alongside the ExA's Initial Assessment of Principle Issues (IAP), and the Examination issues which were subsequently raised.
- 5.1.2. For each of the relevant topics assessed in Chapter 5 separate subheadings are provided where they are applicable. Sub headings in the main draw attention to: the overarching policy provision being considered; an explanation of the Applicant's position defined in its ES and related documentation; the relevant issues raised within the Examination; and the ExA's overall findings on each topic.

### **5.2. THE ENVIRONMENTAL STATEMENT**

- 5.2.1. Paragraph 4.15 of the National Policy Statement for National Networks (NPSNN) states that *"All proposals for projects that are subject to the European Union's Environmental Impact Assessment Directive and are likely to have significant effects on the environment, must be accompanied by an environmental statement, describing the aspects of the environment likely to be significantly affected by the project"*. Paragraph 4.16 deals with significant cumulative effects and advises that *"any environmental statement should provide information on how the effects of the Applicant's proposal would combine and interact with the effects of other existing or consented development."*
- 5.2.2. The application was supported by an Environmental Statement (ES), the scope of which had previously been agreed. The ES comprises 15 chapters [[APP-038](#)] to [[APP-052](#)] together with supporting Figures [[APP-053](#)] to [[APP-074](#)], Appendices [[APP-075](#) to [APP-118](#)] and a Non-Technical Summary [[APP-119](#)], some of which were updated during the Examination.
- 5.2.3. The Design Manual for Roads and Bridges (DMRB), whilst not statutory policy, was relied on by the Applicant in the preparation of many of the assessments in the ES.
- 5.2.4. The application uses the Rochdale Envelope approach to assessment of environmental effects where there are design uncertainties. In particular, the Works Plans [[AS-021](#)] and draft development consent order (dDCO) [[REP9-003](#)], (and subsequently carried into the ExA's recommended DCO rDCO (Appendix D)) Article 8 define the limits of deviation LoD for the horizontal and vertical alignment of the proposed carriageways. The ES assumes a worst-case scenario for environmental effects within these limits. This approach is supported by the Planning Inspectorates Advice Note 9: Using the Rochdale Envelope.

- 5.2.5. Clarifications were made to the ES documentation during the Examination insofar as assisting to explain how the environmental effects of the Proposed Development would be controlled, and mitigation measures secured, through the rDCO (Appendix D), the Outline Traffic Management Plan (OTMP) [REP6-009] and the Environmental Management Plan (EMP) [REP8-007]. The Applicant also makes use of an Environmental Masterplan [APP-123] to deal with some of the effects of the scheme.
- 5.2.6. Generally, revisions to those documents addressed questions and comments made during the Examination. Regard was also given by the ExA to the Rochdale Envelope approach and how it would be ensured that the Proposed Development would have not have materially new or materially worse adverse environmental effects in comparison with those reported in the ES.
- 5.2.7. It was alleged during the Examination that the ES does not comply with the Environmental Impact Assessment Regulations 2017 (EIA Regulations). This was due to arguments concerning the absence of cumulative, and short, medium, and long-term, impact assessment of carbon emissions being alleged to render the ES inadequate under the EIA Regulations (under EIA Regulation 20). The IP arguments are detailed largely in [REP1-029 to REP1-033]; [AS-012]; [REP5-030] ; [AS-038]; and [REP10-011 to REP10-015]. The IP arguments are high level, and the Applicant in response has provided convincing information to suggest EIA Regulations are adhered to. Related climate change impacts subject to IP concern associated to the Applicant's overall case are discussed later in this chapter, within section 5.11.

### **Alternatives**

- 5.2.8. Further to the planning history already provided in Section 2.4 of this report, ES Chapter 3 [APP-040] reviews the alternatives which were considered during the initial design stages for the development. These comprised of:
- Connection of Cantley Lane South to Round House Roundabout via an Overbridge across the A47.
  - Connection of Cantley Lane South to Round House Roundabout via an Overbridge across the A47.
  - Connection of Cantley Lane South to Round House Roundabout via an A47 Underbridge.
  - Connection of Cantley Lane South to B1172 Norwich Road.
  - An A11 and Station Lane Compact Grade Separated Junction.
  - An A11 and Station Lane Roundabout.
  - An A11 underpass.



- 5.2.9. Of those, the option of a connection with Cantley Lane South to B1172 Norwich Road was taken forward with design consultation changes:
- The removal of the A47 westbound to A11 southbound link road.
  - Repositioning of the proposed drainage detention basins.
  - Shortening of the realignment of Cantley Stream.
  - Repositioning of the replacement footbridge across the A47, shortening the previously proposed detour.
  - Removing the requirement to widen the Breckland railway bridge.
  - Removal of proposed works between the existing A47/A11 Thickthorn Interchange and the Round House Roundabout.
  - Addition of a segregated left hand turn from the A47 westbound onto the A11 southbound.
  - Repositioning of the Cantley Lane link road and Cantley Lane South junction.
- 5.2.10. In some respects, there was challenge to the options considered by the Applicant (as already detailed in Section 2.4) by IPs during the examination. This includes via [\[REP1-040\]](#) [\[REP3-025\]](#) [\[REP4-033\]](#) [\[REP6-027\]](#) [\[REP7-012\]](#) [\[REP8-019\]](#) [\[REP9-032\]](#) [\[REP10-016\]](#). Those IP submissions are also related to the suggestion of other alternatives being available primarily through traffic being routed via a new slip road off the A47W, north of the junction, taking some pressure off the roundabout but also broader lower cost and public transportation considerations (acknowledging there are other environmental and safety matters mentioned in the context consideration of alternatives referred to throughout in those submissions).
- 5.2.11. However, in view of all points made during the Examination the Applicant has provided sufficient information on a broad range of alternatives to deal with traffic issues. That process involved a range of substantial environmental and land take considerations in initially planning the scheme.
- 5.2.12. There is no convincing basis that any other alternatives not detailed by the Applicant would be viable options taking on board all relevant factors (which are considerable) and the overarching delivery aims needed to formulate a viable initial option list. Overall, having regard to the options presented and assessed by the Applicant the NPSNN is fully complied with.
- 5.2.13. Cumulative effects with other projects in the locality were considered by the Applicant in ES Chapter 15 [\[APP-052\]](#). The information includes ES Figure 15.1: Cumulative effects study area and other developments [\[APP-074\]](#) ; Appendix 15.1 Cumulative effects assessment stage 2

screening [\[APP-117\]](#); and Appendix 15.2 Cumulative effects development type (short list) [\[APP-118\]](#).

- 5.2.14. The Applicant, South Norfolk Council (SNC) and Norfolk County Council (NCC) have had opportunity to review the potential for interaction with other schemes and the Applicant has included those in its assessment. There was an adjustment to the information following local authority input. The long list detailed in [\[APP-117\]](#) features 23 schemes whereas the short list [\[APP-118\]](#) having had regard to local input features 24 schemes (one more) in total. There was broad consensus (in the absence of objections) with those parties the Applicant's assessment is adequate.
- 5.2.15. There were submissions by IPs suggesting that the other A47 schemes submitted by the Applicant should also feature in the cumulative assessment (A47 Wansford to Sutton Dualling; A47 Guyhirn Junction Improvements; A47 North Tuddenham to Easton Dualling; A47 Thickthorn Junction Improvements; A47 Blofield to North Burlingham Dualling; A47 Great Yarmouth Junction).
- 5.2.16. The ES assessment factors local developments and major highway schemes in the modelling applied. Major highway developments include regard to the Norwich Western Link scheme as well two Road Investment Strategy (RIS) schemes: A47 North Tuddenham to Easton and the A47 Blofield to North Burlingham.
- 5.2.17. Cumulative effects are considered further in the following sections of this chapter, as necessary including Section 5.11 on climate change. Section 5.12 provides the ExA's overall findings on cumulative effects.

### **Transboundary impacts**

- 5.2.18. On behalf of the Secretary of State (SoS), the Planning Inspectorate carried out a screening exercise to determine whether the Proposed Development would result in any likely significant effects on the environment in another European Economic Area State. The screening followed the Applicant's request for a scoping opinion.
- 5.2.19. Under Regulation 32 of the EIA Regulations and based on the information provided by the Applicant, the Planning Inspectorate considered that the Proposed Development would be unlikely to have a significant effect either alone or cumulatively on the environment in another European Economic Area State.
- 5.2.20. In reaching that conclusion the Planning Inspectorate identified and considered the Proposed Development's likely impacts including consideration of potential pathways and the extent, magnitude, probability, duration, frequency and reversibility of the impacts. Planning Inspectorate considered that the likelihood of transboundary effects resulting from the Proposed Development is so low that it does not warrant completion of a formal transboundary screening matrix.
- 5.2.21. The ExA acknowledges the duty of the SoS under Regulation 32 to have regard to transboundary matters throughout the Examination. The ExA's

finding is that no new information came to light during the Examination which gives rise to the need to reconsider the SoS's transboundary screening decision.

### **ExA's overall conclusions on the EIA and ES**

- 5.2.22. The ES, together with the other information submitted by the Applicant during the Examination, is adequate and meets the requirements of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017. Full account has been taken of all environmental information in the assessment of the application and in the recommendation to the Secretary of State for Transport (SoST).
- 5.2.23. Considering the EIA process, the submitted and updated ES, the Works Plans and related information, the ExA finds that:
- the Proposed Development is EIA development;
  - the submitted documents, as supplemented by subsequent submissions, provide an adequate assessment of the environmental effects of the Proposed Development;
  - the Rochdale Envelope approach has been properly defined and considered in the ES;
  - the ES gives enough consideration to alternatives to the Proposed Development; and
  - alternatives have been properly addressed by the Applicant in accordance with the NPSNN.

## **5.3. THE NEED FOR THE DEVELOPMENT/ TRAFFIC AND TRANSPORTATION MATTERS**

- 5.3.1. This Section examines the need for the Proposed Development as well as traffic and transportation implications for motorised users (MUs) of the strategic road network (SRN) and local road network (LRN), as relevant.
- 5.3.2. Whilst need could be assessed as a standalone topic, the need for the Proposed Development in this particular case was opposed by direct and indirect reference by some parties involved in the Examination having regard to other closely related traffic and transport issues, therefore those aspects are assessed in conjunction with each other here. It also should be borne in mind other issues involved in a broader assessment of need having regard to other Sections in this Chapter 5 is summarised by the ExA in Chapter 7.
- 5.3.3. Road safety impacts (acknowledging at this point that alleged improvements to road safety is an important element of the Applicant's overall case for the scheme) are dealt with in Section's 5.6 and 5.12 of this report.

5.3.4. Moreover, detailed discussion on the significance of the impacts to non-motorised users (NMUs) having regard to walking and cycling as sustainable methods of transportation is also dealt with in Section 5.6.

### **Policy Considerations**

5.3.5. The NPSNN sets out the Government's vision to deliver national networks that meet the country's long-term needs, supporting a prosperous and competitive economy and improving overall quality of life, as part of a wider transport system. The four strategic objectives which flow from the vision aim to deliver:

- networks with the capacity and connectivity and resilience to support national and local economic activity and facilitate growth and create jobs;
- networks which support and improve journey quality, reliability and safety;
- networks which support the delivery of environmental goals and the move to a low carbon economy; and
- networks which join up communities and link effectively to each other. (Summary of need page 9 of the NPSNN)

5.3.6. Paragraph 2.2 of the NPSNN states that there is a *"critical need to improve national networks to address road congestion ... to provide safe, expeditious and resilient networks that better support social and economic activity and to provide a transport network that is capable of stimulating and supporting economic growth"*.

5.3.7. At paragraph 2.10 of the NPSNN it is stated that *"The Government has concluded that at a strategic level there is a compelling need for development of the national networks – both as individual networks and as an integrated system. The Examining Authority and the Secretary of State should therefore start their assessment of applications for infrastructure covered by this NPS on that basis"*.

5.3.8. At paragraph 2.13 of the NPSNN it is stated that the SRN *"... provides a vital role in people's journeys, and drives prosperity by supporting new and existing development ... A well-functioning Strategic Road Network is critical in enabling safe and reliable journeys and the movement of goods in support of the national and regional economies"*. It is further stated that *"Increased traffic without sufficient capacity will result in more congestion, greater delays and more unpredictable journeys"* (paragraph 2.20 of the NPSNN).

5.3.9. With respect to sustainable transport provision the Government expects applicants to *"use reasonable endeavours to address the needs of cyclists and pedestrians in the design of new schemes"* (paragraph 3.17 of the NPSNN).

- 5.3.10. Paragraph 5.211 of the NPSNN requires Examining Authorities and the SoST to "... *give due consideration on impacts on local transport networks ...*", while schemes should be developed, and options considered in the light of relevant local policies and local plans (paragraph 5.212 of the NPSNN). In this regard Policy DM3.11 concerns road safety and the free flow of traffic. It encourages the protection of key transport routes including those which are critical to, and identified within, the Norwich Area Transportation Strategy.
- 5.3.11. With respect to mitigating the effects of schemes on transport networks, the mitigation to be provided should be proportionate and reasonable and "... *Where development would worsen accessibility such impacts should mitigated so far as reasonably possible. There is a very strong expectation that impacts on accessibility for non-motorised users should be mitigated*". (Paragraphs 5.215 and 5.216 of the NPSNN).
- 5.3.12. In terms of local policy application, the LIR's submitted [[REP1-008](#)] and [[REP1-010](#)] summarise the position. With respect to traffic and transportation considerations the submitted LIR's have not identified any in principle conflicts with existing local policy. Or emerging local policies being developed through a new advancing Local Plan currently with the Planning Inspectorate for formal examination.
- 5.3.13. The LIR's, taken as combined, refer to the Proposed Development being in line with local planned growth aspirations and tackling existing delay and congestion issues in the area. The need for the junction upgrade being initially established in the Greater Norwich City Deal that identified a programme of infrastructure to support growth aspirations.
- 5.3.14. The Thickthorn junction is referred to as a locally well-known congestion point and improving traffic flow will reduce journey times and increase road user safety.
- 5.3.15. On the basis of the above, NCC as the Highway Authority for the local area stated during the Examination that it fully accepts and supports the principle of upgrading the Thickthorn Junction.
- 5.3.16. Local policies have already been set out in Chapter 4.

### **The application**

- 5.3.17. The main sections of the application relevant to traffic and transportation matters include:
- Consultation Report [[APP-023](#)];
  - ES Chapter 2 – The Proposed Scheme [[APP-039](#)] updated to [[REP4-006](#)] during the Examination
  - ES Chapter 12 – Population and Human Health [[APP-049](#)];
  - ES Chapter 15 – Assessment of Cumulative Effects [[APP-052](#)];

- Case for the Scheme [[APP-125](#)]
- National Policy Statement for National Networks Accordance Tables [[APP-126](#)]
- EMP [[APP-128](#) updated to [REP8-007](#) during the Examination];
- OTMP [[APP-129](#) updated to [REP6-009](#) during the Examination].

***The need for the Proposed Development***

- 5.3.18. In tandem with acknowledgement of the context to informing the RIS2 strategy the Applicant has provided a more detailed explanation of the local need and objectives for the Proposed Development.
- 5.3.19. Chapter 2 of the ES [[REP4-006](#)] highlights that the A47 experiences high levels of congestion especially at peak times and has a poor safety record.
- 5.3.20. For the purposes of assessing the transportation effects and performance of the Proposed Development, the Applicant has used 2015 as the base year (i.e., the measure of existing conditions), while 2025 is the assumed year of opening.
- 5.3.21. Based on observations identified by the Applicant, currently the existing Thickthorn Junction experiences high levels of congestion during peak hours, predominantly between the A11 eastbound to A47 eastbound and A47 westbound to A11 westbound. This is in addition to congestion on the A11 in both directions during peak hours (08:00 – 09:00 and 17:00 – 18:00).
- 5.3.22. The existing baseline scenario in [[APP-039](#)] refers to the conditions that exist as surveyed in 2019 and 2020, in the area within which the Proposed Development would be implemented. Based on that information the A47 Corridor is ranked second nationally for fatalities on A roads and the accident severity ratio is above average.
- 5.3.23. The existing road is a junction allowing access to the A11 and A47. The existing A11 west slip road to the A47 Thickthorn Junction currently has an average speed of 2 kilometres per hour (kph) during the morning peak. This is significantly lower than the daily average speed of 23 kph during the morning peak. This is an indicator of congestion and affects journey times and journey time reliability on the road meaning that the A47 Thickthorn Junction is already over capacity.
- 5.3.24. Traffic studies referred to in the ES as undertaken by the Applicant indicate that congestion is predicted to get worse due to the following:
- Proposed growth in residential development in the Cringleford and Hethersett areas, which can lead to more vehicles on the road;
  - Increasing traffic is outgrowing the capacity of the road, causing tailbacks and delays.

- 5.3.25. Future baseline scenarios have also been considered by the Applicant. This is because Norwich, Cambridge and Peterborough are cited as being amongst the fastest growing cities in the country. Without improvement, the current congestion and journey time reliability problems experienced on local roads and in particular the existing A47 corridor are likely to increase.
- 5.3.26. The future baseline scenarios considered in the ES are defined in Chapter 4, Environmental Assessment Methodology [[APP-041](#)] and a list of developments included as part of the future baseline is provided in ES Appendix 15.1 [[APP-074](#) & [APP-117](#) updated to [REP4-016](#)].

### ***Objectives of the Proposed Development***

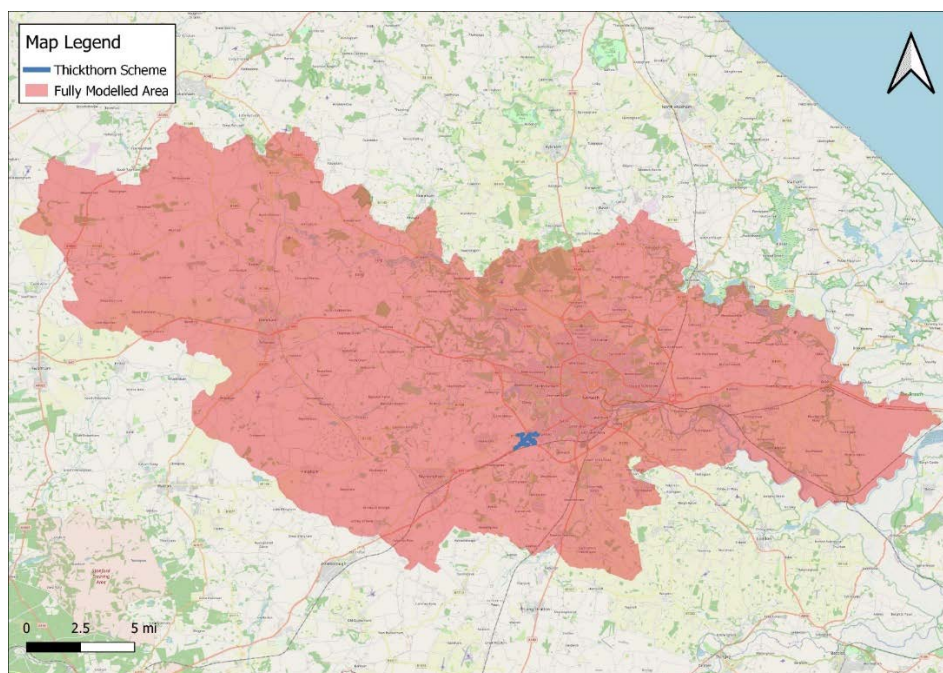
- 5.3.27. The key objectives of the scheme set out by the Applicant taken alongside their own national license obligations are:
- Supporting economic growth: the scheme aims to reduce congestion related delay, improve journey time reliability, and to increase the overall capacity of the A47. This will help contribute to sustainable economic growth by supporting regional housing and economic growth in Norwich and the surrounding areas.
  - A safer and reliable network: make the network safer for motorists and for those living near the junction by improving operational safety issues at the junction.
  - A more free-flowing network: increase the resilience of the junction to cope with incidents such as collisions, breakdowns, maintenance, and extreme weather.
  - Reduce vehicular delay and improve journey time reliability, making journey times more predictable and movement at the junction freer flowing.
  - Improved environment: protect the environment by minimizing adverse impacts and, where possible, deliver benefits.
  - An accessible and integrated network: consider local communities and their access to the roads. Provide a safer route between communities for cyclists, walkers, horse riders and other vulnerable users of the network.
  - Value for money: to ensure that the scheme is affordable and delivers good value for money
- 5.3.28. The case in the main made by the Applicant is that if nothing is done to improve capacity at the A47/A11 Thickthorn Junction, demand from road users is expected to exceed capacity in the vicinity of Cringleford and Hethersett due to committed developments at both locations.

- 5.3.29. Increased congestion in future years is anticipated as being likely to reduce user satisfaction and constrain economic growth in Norwich, South Norfolk, Peterborough, and Cambridge.

### ***Transport Assessment***

#### Baseline and methodology

- 5.3.30. The Applicant's Case for the Scheme document [[APP-125](#)] sets out that a baseline model was utilised for the assessment of the Proposed Development called the Norwich Area Transport Strategy Model (referred to as the NATS Model here on in). The NATS model, utilised for the preliminary design work is stated as being developed in line with the Department for Transport (DfT's) Transport Appraisal Guidance (TAG). The geographical area covered is depicted below.



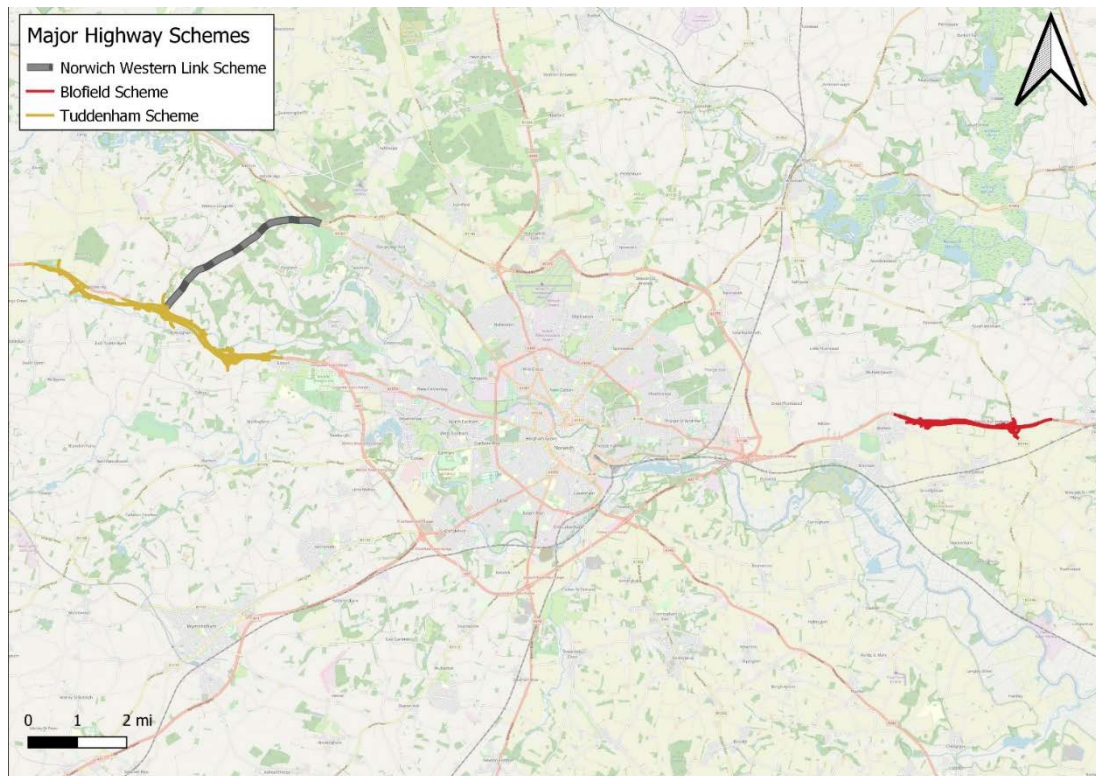
**Fig.5.3.15:** Extent of the 2015 NATS model extract from [[APP-125](#)], page 41

- 5.3.31. A range of traffic surveys were then undertaken in the vicinity of the scheme and across the surrounding network in 2015, 2016 and 2019. On top of that Manual Classified Turning Counts (MCTC's) were undertaken to observe traffic movements on the local network around Thickthorn junction.
- 5.3.32. Automated Traffic Counts (ATCs) were undertaken on the A11, B1172 and Round House Way in 2015. The ATC surveys were undertaken over a 14-day period, for 12 hours a day collecting traffic flow data in 15 minutes intervals. To supplement the 2015 data additional MCTC and ATCs were undertaken during the months of May, June and July 2016. The 2015 data collection study was focused primarily in the local vicinity of the Thickthorn Junction, whereas the 2016 data collection covered the wider surrounding area. In October 2019, further traffic surveys were



undertaken to inform the local microsimulation modelling and updates to it. Queuing data was collected as part of the 2015 traffic surveys.

- 5.3.33. The Applicant states they developed a series of regional traffic models to support the delivery of the schemes identified in the RIS. The entire SRN and major associated links in England are represented in five strategic models representing the north, the trans-Pennine south or "Northern Powerhouse" area, the Midlands, the south-west and the south-east, known as South East Regional Transport Model (SERTM). Other national data sources were also relied upon including traffic signal data sourced from NCC.
- 5.3.34. The Applicant extended that model using a Simulation and Assignment of Traffic in Urban Road Network (SATURN) to include data on traffic signals, traffic counts and anonymised data from survey vehicles and mobile phone records across the wider NATS study model area in accordance with DfT guidance.
- 5.3.35. Base year information is taken from 2015 and future year traffic forecasts with and without the Proposed Development were prepared for an opening year (2025), and design year (2040). The forecasts took account of planned changes to the highways network and changes in trip demand, which included consideration of specific development sites. Do Minimum (DM) and Do Something (DS) network scenarios were subsequently modelled.
- 5.3.36. The forecasts with the Proposed Development were used for the development of the design options. The differences between the forecasts with and without the Proposed Development were used for the economic justification and to identify the impacts arising from the Proposed Development.
- 5.3.37. The traffic forecasts are dependent on household and employment growth, which were derived from both local and national growth forecasts. The local growth forecasts consider the local authority growth projections and the national growth forecasts take wider anticipated growth into account. Figure 4.6 of [\[APP-125\]](#) (page 46) shows the main existing journey time routes utilised in the assessment within the ES.
- 5.3.38. Aside from the 'near certain' or 'more than likely' planned local residential developments taken into account. The assessment area factors major highway schemes in the modelling. These include the Norwich Western Link (NWL) as well two RIS schemes: A47 North Tuddenham to Easton and the A47 Blofield to North Burlingham. The NWL is classified as 'near certain' and therefore was included in the DM scenario. The location of those developments is depicted below.



**Figure 5.3.24:** NATS DM network alterations (wider area) extract from [APP-125], page 56.

Thickthorn Park and Ride Extension

5.3.39. The modelling produced by the Applicant referred to in [APP-125] included sensitivity testing for the planned Thickthorn Park and Ride Expansion which NCC have indicated is intended to still go ahead. The existing capacity equates to some 725 spaces and the planned expansion equates to some 1625 spaces. This highlighted queueing effects on the B1172 approach in the 2040 design year. Design refinements were subsequently made to improve the operation of Thickthorn Junction to increase vehicle throughput and reduce predicted queueing, particularly on the B1172.

Public transport

5.3.40. No changes to existing public transport options are proposed by the Applicant in the case for the scheme [APP-125]. However, the existing layout of the Thickthorn Junction includes a bus lane along the B1172. Sensitivity testing was undertaken in relation to removing the bus lane in the future year 2025 and 2040 scenarios, when the B1172 approach to the Thickthorn Junction is signalised.

5.3.41. Journey time benefits are predicted for both general traffic and buses if the bus lane is removed in [APP-125]. Journey time benefits are limited in 2025 year of opening but increase in 2040 to savings of up to 20% for general traffic. Buses also benefit with journey time savings of up to 14% in 2040. Removing the bus lane improves the capacity of the signalised B1172 approach, providing additional stacking capacity to general traffic.

This helps to prevent queues extending beyond the B1172/McDonald's roundabout which can impact buses.

#### Applicant's transport assessment conclusions

5.3.42. The Applicant concluded in the case made for the scheme [[APP-125](#)] that:

- The existing situation large traffic flows are accessing the Thickthorn Junction on the A47 eastbound, A11 westbound and A11 eastbound approach arms. Delays are present on the A11 eastbound and B1172 approach arms, particularly in the AM peak, due to the traffic demand exceeding the available junction capacity.
- DM scenario traffic growth between 2015 and 2025 will put additional pressure on the A7/A11 Thickthorn Junction. This will result in vehicles experiencing increased delay on key approach arms, particularly in the PM peak. Further traffic growth is forecasted between 2025 and 2040. This additional growth will exacerbate the existing congestion issues at the A47/A11 Thickthorn Junction.
- In the DS scenario the scheme is forecast to cause a decrease in traffic flows approaching Thickthorn Junction. The A11 eastbound approach flow decreases by around 14% to 27% in 2025 and 12% to 17% in 2040. On the A47 northbound approach arm, traffic flows decrease by around 58% to 60% in 2025 and 62% to 69% 2040. This is due to traffic diverting to the proposed A11 to A47 eastbound connector road and the westbound dedicated left turn, which reduce the level of traffic approaching the roundabout. The total traffic through the junction, based on the sum of all the approach arm flows including the eastbound connector road and the westbound dedicated left turn, is forecast to increase by 7% to 11% in 2025 and 14% to 16% in 2040.
- The DS scenario significantly reduces delays in year 2025 and 2040.
- The Proposed Development would operate satisfactorily and result in an improvement in journey times in year 2025 and 2040.
- The DS scenario would reduce accidents and improve safety.
- The scheme improves accessibility for local communities by reducing congestion along the B1172 and A11 corridors.

#### Applicant's construction strategy

5.3.43. The Applicant has outlined its overall construction strategy in its OTMP [[REP6-009](#)], which was developed from a wider overall strategic approach to roadworks. The programme of works for scheme is

evidenced as currently being developed with two methods of construction and traffic management under consideration. These are as follows:

- Option 1 – A ‘half and half’ construction method of the required structures. This would involve a 2x2 contraflow scenario on both the A11 and A47 and involve sacrificial temporary widening in order to gain the required construction overlap.
- Option 2 – Full closure of both carriageways alternatively. Whilst full closures are in place, the structures would be completed using a ‘bridge push’ method. i.e., the pre- build bridge decks would be ‘pushed’ into place whilst the carriageway is closed.

5.3.44. Based on a 23-month construction phase these options were used as the basis for the ES assessment impact during the construction phase. The detailed proposals would be subject to later development by the Principal Contractor.

5.3.45. If the push method of construction is chosen as the preferred method, disruption would take place for a shorter period (approximately two periods of five days each) however, this method would require full carriageway closure.

5.3.46. If the top down method is chosen as the preferred method, there would be less disruption to the network, however construction would take longer. The traffic management measures will aim to keep traffic moving, and the construction phasing and offline working would minimise impacts on people accessing community assets and other communities.

5.3.47. In summary of Examination documents as a whole, the Applicant concluded that:

- the construction of the Proposed Development would lead to some unavoidable short-term disruption; and that
- the disruption would be minimised by traffic management and the development and implementation of the traffic management plan (TMP) as far as possible based on the OTMP.

5.3.48. With respect to the Applicant’s driver stress assessment. During the construction of the Proposed Development there is the potential for temporary increases in stress and anxiety due to temporary traffic management measures which may lead to delay and journey disruptions.

5.3.49. It is recognised in ES Chapter 12 – Population and Human Health [[APP-049](#)] in Table 12-14: Health outcomes, highlights that construction would lead to increase driver stress having a negative health impact.

5.3.50. However, it is not quantified further owing to the reliance and application of judgement involved rather than by further quantitative or qualitative measures. As mitigation the OTMP also gives a full overview of how traffic during construction is planned to be managed as an indication of expected mitigation to manage the problems associated to driver stress.

5.3.51. Therefore, subject to the impacts being temporary and subject to mitigation measures it is not considered by the Applicant that driver stress is a significant factor weighing against the DCO being made. Other related human health issues aspects are discussed further in Section 5.6 of this report.

### **Issues considered during the Examination**

5.3.52. Issues considered during the Examination included:

- The overall need for the Proposed Development and public transport considerations;
- The adequacy of the baseline and modelling information;
- The impact of the scheme at specific road network nodes;
- B road classification of the Cantley Lane Link and overall asset transfer to NCC.

#### The overall need for the Proposed Development and public transport considerations

5.3.53. Hethersett Parish Council [[AS-014](#)] as well as some of the other IP responses (including from Mr Hawker [[RR-040](#)], [[REP1-040](#)], [[REP3-025](#)], [[REP4-033](#)], [[REP6-027](#)], [[REP7-012](#)], [[REP8-019](#)], [[REP9-032](#)]) implied whether there was a need for the scheme altogether taking into account other options and public value interest. This takes into account a range of issues applicable to the NPSNN. The Applicant largely referred to the details within the Case for the Scheme [[APP-125](#)] as providing a complete justification of need, in response.

5.3.54. At ISH2 Mr Hawker concerns were acknowledged regarding the status of the public transport impacts having regard to Government's Bus Back Better scheme which states schemes must show a significant increase in bus priority. Those particular impacts being stated neutral by the Applicant [[REP9-018](#)].

5.3.55. In response the Applicant highlighted that Bus Back Better (March 2021) is a national bus strategy for England and sets out the government's plan to improve bus services. The document does not appear to introduce any policies relevant to a nationally significant infrastructure project. Therefore, the policy tests to be considered by the SoS are those set out in the NPSNN. The Applicant has sought to demonstrate compliance with each policy as evidenced in the National Policy Statement for National Networks Accordance Tables [[APP-126](#)].

#### ExA's conclusions on need considerations and public transport matters

5.3.56. With respect to the submissions of Hethersett Parish Council [[AS-014](#)] as well as some of the other IP responses on the need for the Proposed Development. It is accepted by the ExA that the need case for the Proposed Development is fully justified in the Applicant's Case for the

Scheme [[APP-125](#)] insofar as without improving the road network, including its performance, it will be difficult to support further economic development, employment, and housing and this would impede economic growth and reduce people's quality of life. The Government has concluded at a strategic level there is a compelling need for development of the national road network.

- 5.3.57. Indeed, the NPSNN confirms Government's policy on development of SRN is not that of predicting traffic growth and then providing for that growth regardless. Individual schemes will be brought forward to tackle specific issues, including those of safety, rather than to meet unconstrained traffic growth. On the road network different approaches and measures will be appropriate for different places. This reflects differences in local preferences and choices and differing scope for alternatives to road travel. The network must also offer a coherent mode of transport for national journeys and must combine to form a single, usable network. In general, the nature of some journeys on the SNR means that there tends to be less scope for the use of alternative transport modes.
- 5.3.58. It is also noted by the ExA that the NPSNN does not identify locations at which development of the road should be brought forward. However, the road networks provide access for people, business, and goods between places and so the location of development will usually be determined by economic activity and population and the location of existing transport networks as advised by the NPSNN.
- 5.3.59. In tandem with that policy position, and acknowledgement of the RIS2 strategy the Applicant has also provided a more detailed explanation of the local need and objectives for the Proposed Development. Chapter 2 of the ES [[REP4-006](#)] clearly highlights that the A47 experiences high levels of congestion especially at peak times and has a poor safety record.
- 5.3.60. It is accepted by NCC during the Examination through their LIR [[REP1-008](#)] that taking into account the NATS model forecasts during 2025 there will be an approximate increase in peak hour traffic of 14% and that increases to 25% in 2040. That is recognised locally as a substantial increase which is primarily attributable to growth in the NATS policy area and specifically around Wymondham, Hethersett and Cringleford. Without the proposed scheme the existing capacity issues will be significantly exacerbated. Overall, the NCC supports the strategic basis of the need for the scheme as the highway authority for the area.
- 5.3.61. Accordingly, it is accepted by the ExA the Proposed Development has (bearing in mind relevant need arguments posed) been the subject of a full options appraisal which is proportionate to the size of the scheme. In accordance with the NPSNN it is therefore not necessary for the ExA or the SoST as decision maker to reconsider that process.
- 5.3.62. The ExA is satisfied the Applicant's need case for the proposed is aligned with Governments national road investment strategy and the policies within the NPSNN.

- 5.3.63. In summary, the need case made by the Applicant is deemed to be compelling by the ExA having regard to all elements of maintenance and asset management, demand management and modal shift.
- 5.3.64. Additionally, the ExA is content that the Applicant has provided a satisfactory assessment of potential impacts on bus services due to the Proposed Development. Although no changes are proposed to existing public transportation provision in the area the evidence provided by the Applicant suggests that the scheme would improve bus journey times by reducing traffic delays. There is also the potential removal of a bus priority lane on the B1172 to further that anticipated beneficial effect. Moreover, future expansion of the Thickthorn Park and Ride facility has been fully addressed through the use of sensitivity testing and analysis.
- 5.3.65. According to the information in the ES the scheme would improve passenger journey times in the longer-term scenarios identified. Future changes to the bus priority lane if that is indeed proved to be essential would also be subject to local agreement.
- 5.3.66. Therefore overall, the ExA is satisfied that public transport considerations do not weigh against the Applicant's proposal. It is also appropriate for the delay reduction benefits to public transport to be considered together with general traffic delay savings when gauging the overall level of improvement on offer.

#### The adequacy of the baseline and modelling information

- 5.3.67. During Issue Specific Hearing 1 (ISH1) the baseline modelling position outlined by the Applicant was questioned by the ExA having regard to NCC's LIR which appears to query what local growth factors had been applied to background traffic.
- 5.3.68. The Applicant clarified it has a base year strategic model which is the NATS Model representing 2015. The schemes proposed opening year is 2025 with a design year of 2040 and after that, in terms of growth of traffic, there is a process where the Applicant creates a core scenario with an uncertainty log backing up assumptions in the core scenario. From NCC (and SNC) the Applicant derived all developments in the area, both housing development as well as transport, and creates an uncertainty log, which informs the core scenario. That derived the 'do minimum'/'do something' scenarios. The Applicant has taken development assumptions and growth derived from the DfT. The modelling covers local area traffic from local area development assumptions as well as expected growth covering the wider area.
- 5.3.69. It was clarified that local planned residential developments which have been factored by the Applicant use 'near certain' or 'more than likely' criteria. Those developments are set out in the Applicant's Case for the Scheme [[APP-125](#)] in Table 4.2 and Figure 4.10, on pages 54 and 55 respectively. Major highway schemes and transport scenarios have also been modelled as referred to in Figure 4.11 (page 56) of that document. That includes the Norwich Western Link as well two other RIS schemes:

A47 North Tuddenham to Easton and the A47 Blofield to North Burlingham.

- 5.3.70. During the Examination Mr Richard Hawker (IP) through written and oral representations [[RR-040](#)], [[REP1-040](#)], [[REP3-025](#)], [[REP4-033](#)], [[REP6-027](#)], [[REP7-012](#)], [[REP8-019](#)], [[REP9-032](#)] was concerned with the lack of detail on the nature of traffic movements being referred to by the Applicant as well as the lack of availability of core data backing up the Applicant's surveys. The suggestion being that the mere reference of what data was sourced in the modelling work evidenced as undertaken was inadequate.
- 5.3.71. In response, the Applicant confirmed that Section 4.2 in the Case for the Scheme [[APP-125](#)] details the Baseline data collection for the traffic modelling assessment. The baseline dataset includes the collection of volumetric traffic count, network, and vehicle journey time data sources. That information is used in the model development process to calibrate and validate the baseline model. The fully calibrated and validated base year model then provides a stable basis to undertake the future year assessment. As such the Applicant did not deem it necessary to release the collected traffic data. Figure 4.13 presents the Average Annual Daily Traffic (AADT) flows for the scheme at the Baseline Year and in the Do Minimum and Do Something modelling scenarios.
- 5.3.72. Through ExA questions it was established following submissions made by SNC via [[REP9-031](#)] that the Joint Core Strategy for Broadland, Norwich and South Norfolk sets out a current Housing Requirement in the order of at least 36,820 homes between 2008 and 2026, of which a minimum of 33,000 homes were planned for Norwich Urban Area.
- 5.3.73. The emerging Greater Norwich Local Plan (GNLP) was referenced [[REP9-031](#)] as in the Examination as seeking to achieve a minimum of 40,541 homes between 2018 and 2038. In order to ensure this minimum level of growth is achieved the plan makes provision for a potential housing growth of 49,492. Of this 32,691 is planned for the Norwich Urban Area, with a further 2,465 homes planned for Wymondham and 1,375 homes planned for Hethersett. Hethersett and Wymondham previously formed part of the Norwich Policy Area and are part of the extended conurbation in the vicinity of Thickthorn.
- 5.3.74. Future growth plans were illustrated by SNC using references to the key diagram on page 53 of the emerging GNLP in submission [[REP9-030](#)]. Improvements at Thickthorn were acknowledged as being specifically identified as a key element of transport infrastructure in Policy 4 of the emerging plan in the submission of SNC. Both the Applicant and SNC were invited to comment on the weight which should be applied to the emerging GNLP. Both were in agreement that it should carry little weight in any overall decision. No other party commented to the contrary. It was made clear that emerging GNLP and subsequent housing allocations attached to it do not form a significant part of the Applicant's modelling exercise.



- 5.3.75. Thus, it was broadly accepted that the Applicant's approach to factoring local housing growth levels bearing in mind the allocations in the existing (and emerging local plan) was conservative in the ES assessment as it does not include any development other than that meeting 'certain' and or 'more than likely' criteria. It was also referred that the Applicant's approach to excluding housing allocations was also endorsed following input by NCC.
- 5.3.76. In terms of accident safety beneficial impacts purported. It was raised at the Open Floor Hearing (OFH) on 1 March 2022 by Mr Hawker that the accident analysis for the scheme may be excessive in the context of no detailed source data being available.
- 5.3.77. The ExA subsequently queried with the Applicant whether they could provide verifications on whether or not the analysis detailed in table 4.16 of the Case for the Scheme [[APP-125](#)] can be relied upon for a 60 year period.
- 5.3.78. The data was evidenced as being concerned over a long period for a large study area. The Applicant confirmed that traffic increases have been factored into the model and that Costs and Benefits to Accidents Light Touch (COBA-LT) standard DfT software has been used. The Applicant confirmed that the Tables 4.16 and 4.17 [[APP-125](#)] present the accident savings and economic benefits of the scheme. These are derived from the COBA-LT assessment across the study area over a 60-year timeframe using NATS 2025 and 2040 forecast traffic flows.
- 5.3.79. In terms of traffic count survey information featuring in the Applicant's transport assessment, the ExA questioned why further traffic count data had not been provided in response to IP points, in addition to what has already been produced. The Applicant in response highlighted that the traffic modelling assessment had been internally reviewed and approved by National Highways Transport Planning Guidance (TPG). Furthermore, the results had also been reviewed by NCC who did not raise specific objections to that aspect of the application documentation during the Examination.

#### Conclusion

- 5.3.80. Although releasing data underpinning the Applicant's survey and modelling work may provide more context the ExA did not find that this suggestion would be a useful action to inform the SoST decision, having regard to the content of the NPSNN.
- 5.3.81. That is largely because there is no strong reason not to take the Applicant's summary statements on data collection and modelling on face value given the overall process it has documented in the ES. The Applicant's findings were informed by nationally approved models and processes. Moreover, in any event the source data in most (if not all) situations would still need to be subject to modelling in order to draw useful or meaningful conclusions in future year scenarios.

5.3.82. There is also strong evidence of an audit process of factoring local housing developments which inform the growth factors applied. Wider strategic growth areas are also referenced in the ES would also no doubt influence traffic movement patterns. The Applicant has taken a sensible and conservative approach in identifying new development that is either certain or near certain in its own investigations within the ES. The Applicant has also given a reliable indication of cumulative future traffic growth levels based on what is known.

5.3.83. Overall, there is nothing convincing which persuades the ExA to discount the findings of the modelling work undertaken based on the core data sources alluded to. The baseline and survey work undertaken is evidenced to be comprehensive. The ES and associated information accompanying it provides a good overall indication of the nature of existing and future traffic movements.

The impact of the scheme on specific road network nodes including planned mitigation

*T-junction design proposed for the link between B1172 and Cantley Lane South*

5.3.84. At the start of the Examination Relevant Representations received [[RR-009](#), [RR-012](#), [RR-013](#)] referred to the traffic currently using the B1172 increasing due to development occurring at Wymondham. Clarification and further justification of the basis for a T-junction design proposed for the link between B1172 and Cantley Lane South (Work No.1 and Work No.2) was sought by the ExA.

5.3.85. Hethersett Parish Council [[AS-014](#)] questioned various overall aspects by way of written submission including: the need for the scheme altogether; the T-junction design of the new Cantley Lane link road (with no signal control or roundabout); given that Station Lane which is already bisected by the A11 a simple bridge could be instead constructed negating the need for the scheme which would otherwise have the potential to attract traffic from as far away as Hethel, Bunwell, Tacolneston and Wreningham, travelling via several unsuitable country roads and finally via that through Ketteringham village; with further potential attraction to vehicle drivers emanating from Mulbarton and East Carleton again using similarly unsuitable rural roads.

5.3.86. The Applicant in the main responded that as part of the operational assessment of the scheme, a local area micro-simulation model was developed. The principal purpose of the micro-simulation model was to undertake a detailed operational assessment of the scheme designs considered as alternatives.

5.3.87. This assessment was then used to inform and refine the proposed scheme layout to generate a design which could be settled on. The traffic demand used in the simulation model was derived from the wider area NATS model via an interface which considers the local observed 2019 traffic count data. Thus, the model provided a suitable basis for the

operational assessment of the Cantley Lane/B1172 junction in the 2040 design year.

- 5.3.88. Demand forecasts derived from the NATS model, were referred to by the Applicant, which took into account the planned developments included along the B1172 referred to in Relevant Representations. Section 4.9 of the Case for the Scheme [[APP-125](#)], was also highlighted of the maximum queue results and vehicle delays were extracted from the simulation model at the Cantley Lane approach to the junction.
- 5.3.89. Traffic queuing results predicted that maximum queues would not exceed 25m through the AM peak hour, indicating queues would not six vehicles. Predicted average delay per vehicle for right-turners on the Cantley Lane approach is 12 seconds. Therefore, those results in the Applicant's view indicated that the proposed T-junction junction design would operate satisfactorily without significant queues or delay in the 2040 design scenario.
- 5.3.90. As a further consideration the Applicant cited keeping land take to a minimum and reducing ongoing maintenance liabilities that would be associated with a signal-controlled junction. As such, the Applicant evidenced it has not included additional land within the DCO boundary to accommodate an alternative layout involving a roundabout system or considered other junction design alternatives in detail for the reason of it being unnecessary based on the findings of the modelling work undertaken.
- 5.3.91. In summing up the Applicant's responses, no compelling evidence was produced by IPs to suggest that the findings of the Applicant should not or cannot be taken as being reliable. Moreover, no specific objections to the junction design were raised by NCC as the Highway Authority for the area.
- 5.3.92. The modelling process work referred to by the Applicant, in the view of the ExA, provides a reliable indication that the T-junction design proposed would be able to function satisfactorily without causing a significant queuing point for vehicles exiting the junction to the B1172 (Norwich Road). The issue to some extent also relates to the initial consideration of alternatives posed by the Applicant alongside the substantial environmental factors and land take matters which the Applicant has evidenced as further considerations in order to find the most suitable road design options available. Whilst the Parish Council's concerns have not been withdrawn the ExA's view is that the Applicant has addressed the issues in full.

#### A11 approach from Norwich

- 5.3.93. During ISH1 the A11 approach from Norwich was identified as the worst performing arm of scheme as referred to in NCC's LIR [[REP1-008](#)]. Comments were invited regarding the potential capacity for further improvement of that aspect.

- 5.3.94. The Applicant clarified that the performance of the A11 Westbound approach link would be improved by the implementation of the scheme based on the NATs modelling shown in the Case for the Scheme [[APP-125](#)] Table 4.9. In summary, traffic delay and volume over capacity ratios are improved on the A11 Westbound approach to the Thickthorn Junction when comparing the 'Do Minimum' and 'Do Something' scenarios for both opening year 2025 and design year 2040. It was also mentioned that Section 4.8.12 outlines the journey time savings forecasted along the A11 Westbound route between the A11/Poplar Ave and the A11/B1135. The modelling assessment shows an overall decrease in journey time across this route. It should also be noted that the A11 Westbound approach is a NCC asset.
- 5.3.95. A key point arising from discussion on the LIR [[REP1-008](#)] was that NCC is not recommending an objection to the scheme and it follows on that, based on the assessment the A11 is the worst performing arm, not that it performs badly or that it isn't an improvement because of the scheme. Whilst it was concluded during the Examination that the Applicant can consider what can be done in respect of improving that aspect there was nothing substantive raised as a feasible solution by any of the examination parties and no further improvement was subsequently proposed by the Applicant.
- 5.3.96. The ExA accepts that although the A11 approach from Norwich would be the worst performing arm post completion of the scheme there is no compelling evidence pointing to it resulting in unacceptable levels of delay or posing a significant safety risk. Therefore the issue raised by NCC is considered to have been resolved. Moreover, it was not subject to further dispute during the Examination period.

#### Other planned development and mitigation

- 5.3.97. Responding to Vattenfall's representation (concerning the Norfolk Boreas DCO now consented as of 10 December 2021) and Norfolk Vanguard DCO proposals for new offshore wind farms off the north Norfolk coast, with onshore cabling crossing the A47 west of Dereham and a new substation connecting into the A478 west of Dereham (now granted as of 11 February 2022); it was noted that those construction programmes were expected to overlap during 2022 to 2024. The Applicant submitted during the Examination that it would cooperate with Vattenfall to manage the implications of construction programmes on the SNR as they develop.
- 5.3.98. In that regard, the OTMP [[APP-129](#) updated to [REP6-009](#)] was submitted as part of DCO application documents. Requirement 10 of the submitted dDCO secures the preparation of a detailed traffic management plan prior to the commencement of Work No. 24 (the new A11/A47 Connector Road). The Traffic Management Plan would be prepared and updated as the detailed design is taken forward and subject to a range of local input channels.
- 5.3.99. There was also ongoing collaboration with local traffic experts within NCC detailed by the Applicant in order to identify the most appropriate

diversion routes and those with the least impact on the local populous using those routes.

Conclusions on the impact of the scheme on specific road network nodes including mitigation

- 5.3.100. The ExA is satisfied that the baseline and survey information provided is thorough, reliable, and fit for purpose in order to facilitate a decision. The impact on particular road network nodes raised during the Examination has been well thought out by the Applicant and follows informed judgments on the modelling simulation work it has undertaken. It also follows initial alternative options assessments which were considered. The T-junction design opted for is demonstrated to be an appropriate design choice.
- 5.3.101. The ExA also finds that there is also clear evidence of carefully considered mitigation measures to be applied to the final TMP (informed by the OTMP as a useful starting point) following active collaboration with other statutory parties with professional expertise as well as other important parties.
- 5.3.102. Bearing in mind the content of the OTMP already available there is strong evidence of delay minimisation planning in all steps anticipated by the Applicant during construction. There is nothing to suggest that the planned mitigation would not be successful.

B road classification of the Cantley Lane Link and overall asset transfer to NCC

*Road classification*

- 5.3.103. At the start of the Examination B Road Classification for the new Cantley Lane link road was strongly opposed. B road classification concerns were raised by NCC as problematic on the basis it is likely to encourage undesirable vehicle routing from the SRN to rural lanes. Moreover, traffic re-routing was a notable local concern of Hethersett Parish Council [[AS-014](#)]. This is because many of the side roads in the local area are narrow which would be undesirable routes for excessive levels of traffic.
- 5.3.104. It was broadly accepted in the Examination that the road classification settled on would influence vehicle satellite navigation instruction. Subsequently, locally led judgment based on experience of NCC was generally accepted as the best approach to dealing with road classification matters ensuring excessive traffic route diversions could be adequately minimised during both construction and operation.
- 5.3.105. In response to NCC 's initial concerns the Applicant actively collaborated with NCC to resolve road classification issues. The Applicant was content to be guided by NCC such matters including appropriate signing for their network. The outcome being that a C road classification would be apparent for the new link road.

- 5.3.106. There were direct references made that the Applicant has already been working with NCC through the preliminary design of signage and development of a signage strategy report and would continue to work with NCC throughout detailed design development of the road signage strategy and details of road signs. However, the Applicant did not consider signage agreement would form part of examination process.
- 5.3.107. The ExA accepts there is nothing to prevent future signage agreement and its effective implementation at a later date having regard to both the advertisement consent regime and the range powers available to public bodies outside of other DCO considerations subject to any dispute. Accordingly, no additional requirements in the DCO are deemed necessary by the ExA.

#### *Asset transfer*

- 5.3.108. The issue of projected future maintenance costs and subsequent agreement to facilitate asset transfer to NCC was problematic during the Examination. Updates on asset transfer considerations were invited during the Examination by the ExA. At ISH1 the ExA posed questions to NCC relating to asset transfer agreement updates. It was also queried by the ExA that in the event of an impasse what effect this would have on the DCO and whether the Applicant would retain assets as an outcome.
- 5.3.109. Discussions have been ongoing throughout the Examination between the Applicant and NCC. Asset transfer was broadly indicated in the Examination as a whole to be a matter which was possible for parties to agree upon subject to maintenance settlement matters being fully ironed out. The Applicant subsequently referred to the response provided to the ExA's question/issue raised at ISH2 on Article 12 (Ref 1.5) and submitted at Deadline 3 [[REP3-020](#)] in the event of an impasse.
- 5.3.110. The Applicant advised that Article 12 in the dDCO governs how roads that are not trunk roads pass to the local highway authority (NCC), rather than the classification itself. As currently drafted, parts (1) and (2) of the Article specifically require that any works are completed to the reasonable satisfaction of NCC and that, unless otherwise agreed in writing with NCC, must be maintained by NCC from the point of completion.

The Article contains an automatic transfer mechanism, but the "reasonable satisfaction" wording does ensure the roads are of an appropriate standard. The Applicant confirmed during the Examination that there are options for arbitration and that the flexibility in the wording as drafted allows for side agreements to be made if needed. No side agreements were presented during the Examination period.

#### Conclusions on road classification and asset transfer to NCC

- 5.3.111. The Applicant revised its road classification as guided by NCC. There would be adequate scope available outside of the DCO provision to enable appropriate road network signage to be developed and tailored to local requirements. The revised classification commitment gives

indication that subsequent vehicle satellite navigation routing would be properly accounted for in the management of the local road network. Therefore, those issues are considered to be resolved in accordance with the provisions of the Applicant's dDCO.

- 5.3.112. However, formal asset transfer was not agreed upon by the NCC during the Examination [[REP3-020](#)]. Nonetheless, the ExA is satisfied that the Applicant has been fully committed to collaborative engagement on the points of contention raised by NCC, albeit without a securing a mutually agreed position between those two parties. The asset transfer mechanism in Article 12 of the DCO is considered to be appropriate by the ExA, and that the asset transfer should take place. No side agreements were deemed necessary by the ExA.

### **ExA's overall conclusions on need, traffic and transport, policy and factual issues**

- 5.3.113. The Applicant has demonstrated a compelling case for the need for the development which is aligned to national strategy, the development plan for the area and the content of the NSPNN. As part of that compelling case for need, the ExA accepts that capacity at the A47/A11 Thickthorn Junction, demand from road users is expected to exceed capacity in the vicinity of Cringleford and Hethersett due to committed developments at both locations.
- 5.3.114. The ExA also accepts that increased congestion in future years is likely to reduce user satisfaction and constrain economic growth in Norwich, South Norfolk, Peterborough, and Cambridge.
- 5.3.115. The ExA has had regard to the policies set out in the NPSNN in the consideration of the transport networks and traffic impacts of the Proposed Development. As required by paragraph 5.211 of the NPSNN, consideration has been given to local transport policies and local plans, as set out in earlier sections of this report.
- 5.3.116. With respect to any potential conflict between the Proposed Development and the Local Transport Plan. There is no evidence of any substantial conflict. Improvements to the A47 corridor are highlighted as planned strategic improvements to the area (which are also recognised in emerging local plan development provision). There is no evidence that traffic and transportation impacts would lead to conflict with related development plan policy aims.
- 5.3.117. There is substantial evidence that the Applicant has taken account of local models, consistent with paragraph 5.212 of the NPSNN. Although there was query about the growth factors involved there is convincing evidence of the Applicant's models suitability for the purposes of the assessment. The ExA has no substantive reason to disagree with the use or findings of the local and regional models employed.
- 5.3.118. There is no strong reason to doubt the appropriateness of baseline conditions, surveys and modelling work undertaken by the Applicant for the purposes of the ES assessment. Moreover, the ExA is content that

cumulative effects are included by default as other development projects, the scope of which had been consulted upon with local councils, and subsequently included in the traffic forecasts used in the assessments the Applicant has submitted.

- 5.3.119. The ExA is content that the traffic modelling, consideration of traffic flows, delays, congestion and associated mitigation for the construction and operational phases are appropriate for the consideration of environmental effects, including reference to driver stress assessment, noise and vibration, air quality, climate change, safety, and social and economic factors (considered later in this report).
- 5.3.120. There is evidence that concerns raised by IPs have been addressed appropriately by the Applicant where it was possible to do so in the Examination deadline responses, acknowledging that release of background data informing survey and modelling findings remained a point of disagreement during the Examination for an IP.
- 5.3.121. In the ExA's view, appropriate mitigation has been secured in the rDCO (Appendix D) during construction; taking into account the first iteration of the EMP [[REP8-007](#)] and the OTMP [[REP6-009](#)] with the remit of paragraph 5.215 of the NPSNN.
- 5.3.122. The ExA accepts that the existing Thickthorn junction is operating above capacity and that this will significantly worsen in the long term. There is a convincing case made that the Proposed Development during operation is likely to reduce journey times and release capacity in the overall road network for residents and businesses.
- 5.3.123. The ExA is content with the Applicant's assessment of a temporary minor negative effect during the construction phase for driver stress that was not considered significant.
- 5.3.124. The need case for the Proposed Development made by the Applicant is compelling and supported by the NPSNN as well as NCC as the local Highway Authority.
- 5.3.125. The ExA is content that the results of the Applicant's modelling assessment show that the Proposed Development improves the overall operation of the network as well as improving A47 and A11 peak hour journey times in the order of up to 35% depending on direction and time period. The ExA is also content that in terms of overall AADT, with the new A11/A47 connector road and dedicated left turn in place, forecasts on the A11 slip roads are likely to be reduced by some 20-37% as an approximate figure.
- 5.3.126. The ExA is satisfied that the Proposed Development seeks to address a specific traffic congestion issue at the Thickthorn junction as required by paragraph 2.24 of the NPSNN. During the operational phase it would support the reduction of journey times and release capacity in the network.



- 5.3.127. There would be beneficial effects for users of the A47 during the operational phase which would be significant. The Proposed Development would tackle existing traffic delay problems evidenced as experienced at the Thickthorn junction. The ExA accepts that the operational traffic modelling evidenced implies that the proposed scheme would reduce traffic congestion and journey times even with the increased growth of traffic by 2040.
- 5.3.128. Based on the above, the ExA is also satisfied that the Proposed Development complies with relevant policy and that, subject to the provisions of the rDCO (Appendix D), it would be unlikely to result in any unacceptable adverse effects in terms of transport networks and traffic.
- 5.3.129. Bringing all points together, the ExA considers that overall journey time improvements during the operational phase detailed by the Applicant leading to a greater free flowing road network weighs significantly in favour of the DCO being made.

## 5.4. LANDSCAPE AND VISUAL IMPACTS

### Policy context

#### National policies

- 5.4.1. In relation to the Applicant's content of assessment the NPSNN Paragraphs 5.144 to 5.146 amongst other things advise on the use of landscape assessment guidelines and local character studies and require relevant development plan policies to be considered. Landscape and visual effects are advised to be considered at the construction and operational phases along with light pollution and local amenity effects.
- 5.4.2. Paragraph 5.149 guides that both the nature of the existing landscape likely to be affected, and the nature of the effect likely to occur, need to be considered in judging the landscape impact. It goes on to state that *"Having regard to siting, operational and other relevant constraints, the aim should be to avoid or minimise harm to the landscape, providing reasonable mitigation where possible and appropriate."*
- 5.4.3. Paragraph 5.156 advises that landscapes may be highly valued locally and protected by local designations. Local landscape designations, based on landscape character assessment, should be given particular consideration, but should not be used in themselves as reasons to refuse consent.
- 5.4.4. The SoS should consider whether *"the project has been designed carefully, taking account of environmental effects on the landscape and siting, operational and other relevant constraints, to avoid adverse effects on the landscape or to minimise harm to the landscape, including by reasonable mitigation"* (paragraph 5.157).
- 5.4.5. The SoS will also need to consider *"whether the visual effects on sensitive receptors, such as local residents and other receptors, outweigh the benefits of the development"* (paragraph 5.158).

- 5.4.6. In terms of mitigation considerations, paragraph 5.159 of the NPSNN advises that changing the operation, or reducing the scale, of a proposal can help to avoid or mitigate visual and landscape effects, but that such changes may result in a significant operational constraint and reduction in function. However, there may be exceptional circumstances where significant benefits from mitigation warrant a small reduction in scale or function.
- 5.4.7. Paragraph 5.160 recognises that adverse landscape and visual effects can be minimised through the careful consideration of the siting, design, choice of materials and landscaping scheme for the proposal. It identifies that off-site landscaping such as filling in gaps in existing tree and hedge lines to mitigate impacts on more distant vistas may be appropriate.
- 5.4.8. With respect to National Planning Policy Framework (NPPF) implications (which was revised post the Applicant's accepted application) it is important to recognise that the defined social objective to achieving sustainable development has been amended to provide for "*well-designed, beautiful and safe places*". (Paragraph 8 (b)).

#### Development Plan Policies

- 5.4.9. Policies DM 4.5 Landscape Character, DM 4.6 Landscape Setting of Norwich and Policy DM 4.7 Strategic Gaps of the Development Management Policies Document all refer to the South Norfolk Landscape Assessment (SNLA) (originally undertaken in 2001 and updated in 2012) are all relevant as important considerations.
- 5.4.10. The 2012 update further supports the importance of maintaining a 'strategic gap/important break' in the vicinity of the Proposed Development between Hethersett and Cringleford.

#### **The application**

- 5.4.11. The parts of the application most relevant to the consideration of landscape and visual effects are:
- ES Chapter 6: Cultural Heritage [[APP-043](#)]
  - ES Chapter 7: Landscape and Visual Effects [[APP-044](#)]
  - ES Chapter 15: Cumulative Effects Assessment [[APP-052](#)]
  - ES Figures 7.1 to 7.5 [[APP-058](#)]
  - ES Figures 7.6.1a to 7.6.1d [[APP-059](#)]
  - ES Figures 7.6.2a to 7.6.2d [[APP-060](#)]
  - ES Figures 7.6.3a to 7.6.3d [[APP-061](#)]
  - ES Figures 7.6.4a to 7.6.4d [[APP-062](#)]

- ES Figures 7.6.5a to 7.6.5d [[APP-063](#)]
- ES Figures 7.6.6a to 7.6.6d [[APP-064](#)]
- ES Figures 7.6.7a to 7.6.7d [[APP-065](#)]
- ES 7.6.8a to 7.6.10b [[APP-066](#)]
- ES 7.6.11a to 7.6.12b [[APP-067](#)]
- ES Appendix 7.2: ZTV and Verified Photomontage Methodology [[APP-081](#)]
- ES Appendix 7.3: Landscape Character Areas [[APP-082](#)]
- ES Appendix 7.4: Visual Receptors [[APP-083](#)]
- ES Appendix 7.5: Representative Viewpoints [[APP-084](#)]
- ES Appendix 7.7: Lighting Assessment [[APP-086](#)]
- Scheme Design Report [[APP-127](#)]
- Environmental Masterplan [[APP-123](#)] (although the Applicant's Guide to the Application refers to this document as being superseded by [REP6-007] however that latter document when opened is the EMP Revision 2. Therefore, the earlier version of the Environmental Masterplan has been deliberately listed here)
- First iteration of the EMP [[REP8-007](#)]
- Engineering Drawings and Sections [[REP9-002](#)]

### **Landscape and visual impact assessment**

- 5.4.12. The Applicant's assessment is based on initial scoping reports and scoping opinion undertaken in combination with the most up to date standards for assessment in the DMRB, LA107. It was produced by Chartered Members of the Landscape Institute (CMLI) with experience in assessing the landscape and visual effects of large-scale infrastructure developments.
- 5.4.13. The assessment considers the effect of the Proposed Development on the surrounding landscape character, including its effect on existing vegetation (including both woodland and distinct individual trees) and other key or prominent landscape features (for example watercourses and rural lanes) that contribute to that character and are located within the DCO boundary. The term 'landscape' is used throughout the assessment to refer to both 'landscape' and 'townscape' effects. The rural context means that no effects on the townscape character of urban areas would occur.

- 5.4.14. The SNLA identified in Development Plan policy provides a description and landscape strategy for each landscape character area identified in South Norfolk. The Proposed Development is located within landscape character area C1: The Yare Tributary Farmland with Parkland.
- 5.4.15. The strategic objectives of the Development Plan policies have guided the landscape and visual impact assessment undertaken and the development of the mitigation proposals set out in the Environmental Masterplan and detailed in the Record of Environmental Actions and Commitments (REAC), contained within the EMP.

#### Study area

- 5.4.16. The study areas for both the landscape and visual assessments generally extend to 1km from the DCO boundary. That distance was considered adequate by the Applicant given the limited vertical height of the components of the scheme (the vertical elevation of the highway and earthworks is no greater than the A47 carriageway at the existing split-level Thickthorn Interchange) and the generally low lying, only gently rolling and well wooded landscape context (and not overlooked from higher ground).
- 5.4.17. The study area evidenced by the Applicant also included land to the west of Station Lane including parts of the settlement of Hethersett and some public rights of way (PRoW) such as at Suckling Lane. Those areas lie more than 1km from the main components of the scheme. The inclusion of those areas within the western fringes of the 1km study area was driven by the inclusion within the DCO boundary of a length of Norwich Road (between Hethersett and Thickthorn Farm) and the A11 (west of Station Lane). Works along Norwich Road are limited to minor areas of vegetation clearance and changes to signage within the existing tree lined road corridor. Therefore, except for Station Farm, visual receptors such as residential properties and footpaths to the west of Station Lane were excluded from the study area for the detailed assessment of individual visual effects.
- 5.4.18. There are no general protective landscape designations associated with the Applicant's study area. However, the area is identified in the adopted South Norfolk Local Plan as:
- Falling within the Norwich Southern Bypass Landscape Protection Zone (Policy DM4.6) which seeks to protect the openness of the Zone and, where possible, enhance the landscape setting of the southern bypass and the approach to Norwich.
  - Providing a strategic gap between the settlements of Cringleford to the east (although falling outside of the City boundary effectively part of Norwich) and Hethersett to the west (Policy DM4.7) where retention of openness and rural character distinct from nearby built-up areas is sought.
- 5.4.19. The parkland at Intwood Hall on the southern fringes of the study area is a nationally registered grade II historic park and garden. It lies

approximately 1.5 kilometres (km) southeast of the existing Thickthorn roundabout and Interchange but within approximately 500 metres (m) of the south eastern extent of the Site where the proposed new slip road joins the A47 just north of the railway bridge.

- 5.4.20. The parkland at Thickthorn Hall is designated as an historic park and garden at County level. Its boundary extends eastwards as far as the A11 corridor and the existing park and ride site (a proposed extension to the park and ride site falls within the designated area). Because of the northern section of the proposed new Cantley Lane Link road to the B1172 Norwich Road, and the proposed location of temporary construction compounds (one main, one satellite and two materials stockpile areas), that County level historic landscape will be directly impacted by the Proposed Development resulting in the removal of some trees (though retaining important individual parkland style and all but two of the veteran trees present), temporary use for construction activity, and the introduction of permanent new infrastructure.
- 5.4.21. The significance of impacts was determined in the Applicant's assessment by reference to the sensitivity of the landscape and visual receptors and the magnitude of the impacts. Moderate, large, or very large effects were considered significant for the purposes of the assessment. The effects were assessed at construction, Year 1 (in winter to represent the changes that would be apparent on a winter's day in the year that the Proposed Development would open) and Year 15 (in summer to represent the changes that would be apparent after 15 years when the landscape planting should have reached a level of maturity and would be fulfilling its intended screening and integration functions).

#### Potential impacts

- 5.4.22. The identified sensitivities and vulnerabilities of this landscape character area that are relevant to the Applicant's assessment are:
- Proximity to Norwich and loss of rural farmland character through expansion of the urban edge of the city beyond the Yare Valley and development associated with the Southern Bypass/A11 or to the west of Cringleford.
  - Vulnerability to loss of clarity of the rural/urban divide created by the Yare Valley.
  - A gently shelving topography from the plateau and long views making this area especially sensitive to the location of any new development/ infrastructure – and potential impact on views to the city.
  - Loss of mature tree boundaries (without replacement) resulting in further 'opening up' of views plus loss of woodland.
  - Protecting the quality, character and setting of the key landscape assets, notably the tributary corridors and the historic parklands which characterise the Yare Tributary Farmland and Parkland.

- Impacts on the intricate rural lane network – seeking to avoid widening and kerb lighting which will quickly impart a more urban character.

5.4.23. The above sensitivities and vulnerabilities have informed the focus of the Applicant's assessment of landscape character effects.

5.4.24. The landscape receptors with potential to experience change are within the surrounding landscape character areas. The visual receptors with potential to experience change because of the Proposed Development comprise representative viewpoints and individual receptor locations. The assessment of landscape and visual effects includes consideration of the effects of change to or removal of existing landscape features; the effect of temporary construction works (including temporary compounds and haul routes); the effect of the introduction of new highway infrastructure; the effect of vehicles travelling along new highway; and the effect of the requirements identified in the submitted EMP and indicative Environmental Masterplan.

#### Design of the proposals and mitigation

5.4.25. The Applicant describes environmental mitigation measures being embedded into the Proposed Development design in the form of avoiding direct impacts on the Scheduled Monument (Two Tumuli in Big Wood). Leaving that particular embedded design approach aside, the Applicant seeks to integrate the scheme with the existing landscape through the following measures:

- Retaining the sense of openness where this is consistent with a balanced preference for visual screening;
- Integrating the schemes infrastructure (notably elevated overbridges) through appropriate use of planting to contribute to visual screening;
- Reinforcing existing plantation character with woodland planting where this is consistent with the surroundings;
- Reinforcing existing field boundaries with individual trees and hedgerows where the field pattern is a notable component of the landscape;
- Retaining or replacing and reinforcing existing vegetation where this contributes to the distinctive qualities of the landscape;
- Selecting plant and grass species appropriate to the locality to maintain consistency with the appearance of the area;

5.4.26. The Applicant set out in the Scheme Design Report [[APP-127](#)] that it seeks to provide a final landscape design that:

- Provides appropriate visual, landscape, ecological and environmental mitigation whilst minimising land take and impact upon adjoining agricultural land;
- establishes new planting to screen and integrate the Scheme into the landscape, whilst retaining visual cohesion with existing landscape features; and
- uses new planting to integrate the scale, layout, form and massing of the scheme, to reduce the scale of earthworks and structures and filter views, as well as reinforce existing planting.

5.4.27. The proposed planting strategy envisaged in the submitted Scheme Design Report [[APP-127](#)] is to take reference from the native plant species found in the surrounding area. Species include pedunculate oak (the prevalent species along field boundaries at Cantley Lane South and within remnant parkland areas near Thickthorn Hall), goat willow, hazel, cherry, hawthorn, blackthorn and field maple. The inclusion of diversity within planting mixes aims to embed an aspect of resilience and adaptation for vegetation faced with increasing pest, disease, and climate change threats. The proposed planting strategy also recognises the character of existing vegetation, which typically consists of informal field boundaries with individual trees and woodland areas.

5.4.28. Those planting strategy concept matters aside, the Applicant's EMP [[REP8-007](#)] identifies the following commitments to mitigation:

- The successful implementation of the Environmental Masterplan [[APP-123](#)] and compliance with the Landscape and Ecology Management Plan (LEMP) to be agreed. The maintenance of mitigation such as planting and seeding after construction being the responsibility of National Highways, ensuring all mitigation reaches full maturity.
- To limit the impact of construction on existing trees and vegetation to be retained again through the Environmental Masterplan [[APP-123](#)] and the completion of an Arboricultural Method Statement (AMS) which will include tree protection measures, maintenance and monitoring requirements, and a schedule of trees to be removed and retained in compliance with the AMS. All proposed landscape and visual mitigation measures are to be implemented by the opening year and fully established by Year 15.
- Retaining or replacing and reinforcing vegetation where this contributes to distinctive qualities of the landscape based on the Environmental Masterplan which will also provide detailed planting proposals including appropriate plant species selection criteria.

#### Summary of effects on landscape and visual receptors

5.4.29. The Applicant's assessment found that the Proposed Development would have the following effects during the construction phase:

## *Landscape*

- During the temporary construction period areas of existing vegetation, areas of woodland and some individual trees would be removed from within the immediate highway corridor in the vicinity of the A47 and A11 and at Cantley Lane South. Construction activity would focus on the cuttings and embankments of the main interchange, the new Cantley Lane Link road and overbridges; and the realignment of a short section of Cantley Stream. Notwithstanding the large scale of some of the works they would largely occur on the alignment of or close to the existing highway infrastructure (including large scale construction works below that existing infrastructure), limiting the wider effect on surrounding landscape character.
- Away from the existing trunk road corridors impacts would be limited to localised areas at Cantley Lane South and within the enclosed field to the south of B1172 Norwich Road. The relatively low-lying position of the DCO scheme improvement area and the relatively high levels of surrounding tree cover would limit visibility of the works from surrounding parts of the landscape character area. During construction the Proposed Development would result in a minor adverse magnitude of landscape character change.
- That assessment reflects that the construction period is temporary (duration being factored into the assessment of the landscape character change) and that the effect on landscape character of the loss of trees and woodlands is primarily captured in the assessment of landscape character change at Year 1 of operation. Given the presence of, and proximity to the existing Thickthorn Junction, the reasonably enclosed location limiting the geographical extent of influence, and the temporary nature of the construction period, the effect on the Yare Tributary Farmland and Parkland landscape character area during construction would be limited to a slight adverse significance of effect.

## *Visual* (ES Appendix 7.5: Representative Viewpoints [[APP-084](#)])

- Railside footpath moderate adverse visual effect in both winter and summer.
- Cantley Lane (crossing of Cantley Stream) –a large adverse visual effect in both winter and summer.
- Cantley Road (adjacent to the A47) –a large adverse visual effect in both winter and summer.
- South Cringleford housing –a slight adverse effect in both winter and summer.
- Cringleford footpath –a slight adverse visual effect in both winter and summer.



- Norwich Road –a slight adverse visual effect in both winter and summer (winter and summer views would be the same due to the openness and proximity of the viewpoint to the proposed junction works).
- Cringleford a slight adverse visual effect in both winter and summer.
- Norwich Road Near Services a neutral visual effect in both winter and summer
- North Cringleford a slight adverse visual effect in both winter and summer.
- Thickthorn Park a slight adverse visual effect in winter but no discernible change in summer.
- Opposite Station Farm a neutral effect in both winter and summer.

5.4.30. Effects during the operational phase were assessed as follows:

*Landscape effects*

- 5.4.31. The opening year of the Proposed Development would result in a moderate adverse magnitude of landscape character change. Overall at the year of opening, there would be a moderate adverse (significant) effect on the Yare Tributary Farmland with Parkland character area because of: the relative prominence of the new road infrastructure away from the trunk road network (including the Cantley Lane Link road overbridges and junction); the residual year loss of mature trees and woodlands relative to the existing baseline; and the newly created junction at Cantley Lane South (which would need to reflect modern highway standards in contrast to the current, sometimes very narrow, character of Cantley Lane South).
- 5.4.32. By Year 15 of operation, the Proposed Development would result in a minor adverse magnitude of landscape character change. The establishment of landscape mitigation would contribute to a reduction in the magnitude of landscape change. However, localised residual landscape character effects would remain beyond Year 15 as an outcome of the enlarged junction and overbridges at the new Cantley Lane Link Road and because replacement tree planting along Cantley Lane South will not replicate the stature of some of the existing trees to be removed within a fifteen-year timeframe. Several mature oak trees of considerable age and stature would have been replaced by oak trees (or similar species) which would still be maturing, and relatively small (it has been assumed that the replacement trees along Cantley Lane South would have attained a height of approximately 6m within 15 years compared to existing trees of between 10m and 15m).
- 5.4.33. Despite some degree of landscape integration, the Applicant's assessment finds that a degree of erosion of the distinct underlying rural character would persist away from the existing trunk road infrastructure.

Even with the integration of new planting a localised slight adverse (not deemed significant) effect on the Yare Tributary Farmland with Parkland character area would persist at Cantley Lane South due to localised changes to the character of this rural lane and the still relatively small size of replacement trees.

5.4.34. *Visual effects*

- Railside footpath a moderate adverse visual effect in both winter and summer in Year 1. By Year 15 a slight adverse effect in winter but a neutral effect in summer due to the additional screening effect of maturing tree cover on the new embankments.
- Cantley Lane (crossing of Cantley Stream) a large adverse effect in both winter and summer in Year 1. A slight adverse significance of visual effect in both winter and summer.
- Cantley Road (adjacent to the A47) a slight adverse visual effect in both winter and summer in Year 1. A neutral effect in both winter and summer in Year 15.
- South Cringleford housing a slight adverse significance of visual effect in both winter and summer in Year 1. A neutral effect in both winter and summer in Year 15.
- Cringleford footpath a slight adverse visual effect in both winter and summer at Year 1. A neutral effect in both winter and summer at Year 15.
- Norwich Road a slight adverse visual effect in both winter and summer in year 1. A neutral effect in both winter and summer in Year 15.
- Cringleford a slight adverse visual effect in both winter and summer in Year 1 and a neutral significance of visual effect in both winter and summer in Year 15.
- Norwich Road Near Services a neutral effect in both winter and summer in year 1 and Year 15.
- North Cringleford a neutral effect in both winter and summer in Year 1 and Year 15.
- Thickthorn Park a slight adverse visual effect in winter but no discernible change in summer in Year 1. A slight adverse visual effect in winter (and during night-time) but no discernible change in summer in Year 15.
- Opposite Station Farm a neutral effect in both winter and summer in Year 1 and Year 15.

5.4.35. The findings of the Applicant's assessment are that during construction there would be a moderate adverse (significant) effect on landscape

character. This would principally be associated with the removal of areas of woodland and individual trees.

- 5.4.36. During construction some receptors would be subject to very large to moderate adverse (significant) visual effects, associated with views of surrounding construction activities and haul routes. This would particularly be the case in the vicinity of the proposed junction of the new Cantley Lane Link Road and the realigned section of Cantley Lane South near Cantley Stream. Receptors that would be subject to a significant construction phase effect on their visual amenity here would include 12 properties at the north western end of Cantley Lane South, the rail side footpath (Hethersett FP6), the footpath and existing pedestrian footbridge over the A47 (Cringleford FP4), and vehicular users of Cantley Lane South (due to the higher sensitivity of this quiet country lane within a rural context).
- 5.4.37. At the opening year of operation there would be moderate adverse (significant) effect on landscape character arising from the residual loss of vegetation, the relative prominence of the new infrastructure and changes in character at the junction with Cantley Lane South.
- 5.4.38. At the year of opening there would be moderate to large adverse (significant) effects on some visual receptors. Particularly in the vicinity of the proposed junction of the new Cantley Lane Link road and the realigned section of Cantley Lane South near Cantley Stream. Receptors that would be subject to a significant year of opening effect on their visual amenity here would include six properties (assumed to be residential) located at the north eastern end of Cantley Lane South.
- 5.4.39. By Year 15 of operation, with the establishment of proposed landscape mitigation, effects on landscape character would be slight adverse (not significant) owing to screening and landscape integration. Significant visual effects at Year 15 would be limited to residential properties close to the proposed new junction at Cantley Lane South.
- 5.4.40. The DMRB (at LA107) requires that the effect of the Proposed Development on landscape and visual amenity is assessed independently, and the outcome combined into a single conclusion on the overall likely significance of effect.
- 5.4.41. Some significant effects were identified by the assessment on individual receptors. These are generally associated with the temporary construction phase or are identified at Year 1 before new planting has matured. Significant long term residual effects in Year 15 are limited to the localised visual effect on a small number of residential properties at Cantley Lane South (three properties in two receptor locations).
- 5.4.42. Consequently, the Applicant's assessment concludes that, overall, combining both landscape and visual effects on all receptors and focusing on the longer-term outcome, the Proposed Development would not result in a significant long term residual effect on landscape and visual amenity – when gauged as a single combined consideration.

## Issues considered during the Examination

5.4.43. The landscape and visual effect issues considered during the Examination included:

- Good design/implications of policy approach introduced by the NPPF with respect to beauty having regard to the new footbridge and other structures design appropriateness, as well as the overall landscaping provision envisaged;
- The removal and planned replacement of trees, new boundary treatment provision, lighting, and other design matters; and
- The incorporation of a Design Review mechanism in the DCO.

Good design/implications of policy approach introduced by the NPPF with respect to beauty having regard to the new footbridge design, and other structures appropriateness, as well as the overall landscaping provision envisaged

### *Pedestrian footbridge over A47*

5.4.44. With respect to demonstrating good design principles, the Applicant was asked during written questions to provide clarification on the design rationale of the scheme including regard to any indicative visualisations of the new pedestrian bridge and overbridges as well as the new underpasses to illustrate how they would integrate with or complement their surroundings.

5.4.45. The Applicant was also asked for a more detailed explanation of the design, function and locational criteria for the proposed pedestrian footbridge having regard to its visual prominence over the strategic highway network.

5.4.46. The Applicant responded referring to the indicative visuals shown on Engineering Drawings [APP-010] and updated to [REP9-002]. In the main, the Applicant detailed the functional future user requirements of the new footbridge proposed. This involved the need to replace a public right of way which would be stopped up following the removal of the existing footbridge.

5.4.47. The DMRB criteria for footbridges was referred to alongside the Applicant's internal safety and standards teams' input to the indicative design shown in the submitted drawings. It was also confirmed that no local Design Reviews were planned to be undertaken following the initial input of NCC and SNC.

5.4.48. With respect to new footbridge design and subsequent visual impact considerations. It was referred to by the Applicant that a number of consultation responses to its initial footbridge bridge design proposals prior to submitting the application raised concerns about the length of the approach and the design had since evolved and improved that aspect. The submitted application drawings do reduce the length of the

ramps by moving the footbridge closer to its existing location whilst still maintaining reasonable gradients for pedestrians and other footpath users to utilise.

- 5.4.49. In terms of the landscape context the new pedestrian footbridge would be seen within, the Applicant referred to the Environmental Masterplan [[APP-123](#)] in that provision for 2m high bunding is proposed on the east side of the bridge, with hedgerows planted on top of the bunding. This would provide screening to the bridge from the housing development under construction (referred to as St Giles Gate). To the west of the A47, the embankments needed for the approach ramps to the bridge would be planted with new woodland giving screening in the direction of Cantley Lane South. The Applicant specifically highlighted the need for balance between screening and visual openness in the overall design approach undertaken.
- 5.4.50. Those matters aside the visual effect implications of the final design of the pedestrian bridge from the perspective of the users of the A47 but also the users of the new footbridge itself was not elaborated upon by the Applicant other than broad reference to the material choices stemming from the submitted Engineering Drawings [[REP9-002](#)] featuring Drawing number HE551492-GTY-LSI-000-DR-CH-36018.

#### *Underpasses*

- 5.4.51. With respect to the proposed underpasses (Work No.10 and No.19). The Applicant referred to the well wooded topographical nature of the site surroundings as important factors. The new bridges south of the Thickthorn junction would comprise of a concrete box type structure, reinforced with soil or concrete panel faced walling, in the wooded and topographical context described by the Applicant.
- 5.4.52. The entrance to the new underpasses would therefore be experienced in a landscape deep cutting with very little wider landscape context visible. Woodland planting is also proposed on the northern side of the link road and the approach to the underpasses to soften their appearance. That said, the extent of the proposed woodland planting has been evidenced as being moderated to allow a light open character preserving sight lines on the inner curve. In addition, because the link road would be situated in a deep cutting it would not require visual screening. The amount of planting on steep embankments and isolated islands has therefore been moderated in the interests of future safe management.

#### *New overbridges*

- 5.4.53. With respect to the Cantley Wood Cantley Lane Link Road overbridges which would convey traffic over the A11 carriageway. Clarification of the measures proposed to reduce and improve the visual appearance of the structures was sought by the ExA.
- 5.4.54. In response to written questions, the Applicant confirmed that the structures would be designed to have the minimum allowable headroom to reduce the height of the approach embankments as far as practicable,

with no visually prominent features which protrude above the main structure. As indicated on the Environmental Masterplan [APP-123], woodland planting and individual trees would be planted on the approach embankments to filter the views and soften the appearance of the new infrastructure. Representative Viewpoints 1 and 4 in the ES [APP-059], [APP-060] were also evidenced by the Applicant which provide photomontage visualisations of the proposed structures and approach embankments 1 year after construction and 15 years after construction, as well as the existing viewpoints.

- 5.4.55. It was evidenced having regard to representative viewpoints that the Cantley Wood and Cantley Wood Link Road overbridges are designed located in a low position within its landscape context some distance away from surrounding visual receptors (there are no residential properties or footpaths nearby).
- 5.4.56. Views of the detailed appearance of the bridge structures would therefore largely be limited to vehicular users of the A11 and along a section of the A11 which is enclosed by woodland on both sides.

The removal and planned replacement of trees, new boundary treatment provision, lighting and other associated design matters

- 5.4.57. The Statement of Common Ground (SoCG) received from SNC [REP9-013] highlights the landscape and visual impacts not agreed upon. Those include veteran tree loss issues as well as landscaping protection requirements (for ten years rather than five).
- 5.4.58. Tree loss concerns were expressed by other IPs including objections from the Woodland Trust [RR-027] [REP1-041].
- 5.4.59. In addition, the ExA had concerns during the Examination that it was not clear how many trees would be removed in total because of the proposed scheme. The Applicant was also asked to clarify tree removal and the tree planting proposed via the Environmental Masterplan [APP-123] and any scope to increase capacity for that.
- 5.4.60. The Applicant submits it has shown those trees and tree groups that are proposed to be removed in Appendix 2 of the Arboricultural Impact Assessment Plans [APP-085]. There are two veteran trees which are proposed for removal (T13 and T14).
- 5.4.61. The Applicant's response to tree loss in the main was that the proposed design has been through an iterative process and the delivery of modern-day highway improvements has necessitated the unavoidable removal of all the trees within group G24 and the majority of those within group G25. Most of the trees within group G17 would be retained. A detailed Tree Retention and Removal Plan is not yet available as it would be produced as part of an AMS prior to construction phases. The total number of trees to be removed would be determined during detailed design, secured as Requirement 3 of the dDCO.

5.4.62. The Applicant also confirmed that all of the tree planting proposed as part of is set out in the Environmental Masterplan [APP-123]. The amount or extent of new tree planting shown by the Environmental Masterplan [APP-123] is considered to represent the optimum quantum of new tree planting within the DCO boundary taking account of a full range of considerations including the landscape character context; gradients associated with the earthworks; health and safety in regard to future management; and other ecological objectives. For example, the value in some locations of retaining some areas of habitat mosaic and open grassland.

5.4.63. The Applicant pointed out that all relevant spaces in the vicinity of the junction have been considered for their suitability for tree and/or woodland planting. Areas within the DCO boundary which were considered but rejected for woodland or tree planting included the following:

- areas deemed too close to the highway infrastructure or providing sightlines
- land temporarily used for construction purposes that will be returned to agricultural use
- areas where woodland or tree planting is constrained by the presence of boundary fencing (requiring access for maintenance) or underground services
- areas required to be maintained open for flood attenuation purposes
- minimisation of the amount of tree planting on steep embankments or smaller 'islands' between carriageways where maintenance access would be problematic and potentially unsafe (tree planting has only been proposed in such areas where a specific requirement for visual screening has been identified)
- maintenance of open views towards heritage features (for example, towards the northern barrow at Cantley Wood)
- a response to the specific landscape character context (for example, the more open setting with only occasional trees of the northern section of the Cantley Lane Link Road as it approaches Norwich Road through a former parkland with retained specimen trees)
- the reptile habitat enhancement area which required a predominantly open character with only dispersed trees and scrub
- personal safety considerations (for example, retaining some openness on the inner curve of the ramp approaching the all user 'footbridge')

- general integration with the surrounding landscape character and pattern.
- 5.4.64. All landscaping is shown on the Environmental Masterplan [[APP-123](#)] and G8 of the REAC Table included in the EMP requires construction to take place in accordance with the Environmental Masterplan. This is secured by Requirement 4 of the dDCO and rDCO.
- 5.4.65. SNC raised the issue [[REP2-019](#)] that the Applicant's plans show bunding either side of the realigned footbridge and this generally has a new hedgerow along the top with grassed banks as well as a post and rail fence demarking the highway boundary at the foot of the slope. SNC suggested that it would be better to try to disguise the bunding from the residential side by the use of more tree and shrub planting.
- 5.4.66. With regards to Requirement 5 (landscaping) of the Applicant's dDCO, SNC also requested a ten-year replacement clause for failed planting (as used for the Hornsea Project Three DCO nearby). The argument being that this should have no real consequence provided that the plants that are specified are implemented successfully and looked-after. It would provide certainty that should there be latent defects such as poor ground preparation that there is a satisfactory mechanism for these to be addressed without detriment to the landscape and visual appearance of the area.
- 5.4.67. The Applicant's broad response (as detailed in [[REP3-018](#)]) to the above additional mitigation was that a five-year maintenance period would be appropriate having regard to landscape and visual impacts. Nonetheless, the maintenance period for landscape planting would also need to be addressed in the LEMP, an outline of which is set out in Appendix B.5 of the EMP.
- 5.4.68. Some local concern was expressed to changes in lighting and the subsequent impacts to amenity in the earlier parts of the Examination. The content of the Applicant's Lighting Assessment [[APP-086](#)] was questioned relating to those concerns given the potential for changes in lighting to alter local amenity conditions for existing nearby properties.
- 5.4.69. The Applicant clarified that the extent of the proposed lighting is shown in Annex A of [[APP-086](#)]. Lighting proposals are limited to replacing or reusing the existing lighting on the Thickthorn gyratory, new lighting on the approach to the gyratory on the westbound A47 diverge slip road and A47 eastbound entry slip road, and on the section of the new A11-A47 Connector Road. In clause G2 of the EMP REAC lighting design is to be managed in a way to minimise spillage at sensitive receptor points. For example, in locations where lighting columns back onto residential properties or sensitive receptors, backlight shields or similar mitigation would be undertaken. LED (light emitting diode) bulbs would also be made use of.
- 5.4.70. The Applicant also referenced the input of NCC as the expected maintaining authority having regard to lighting. The Applicant confirmed



that it did not propose to light the new pedestrian footbridge or overbridges. It was also confirmed that none of the lighting features would be reliant on solar energy, which could have offered some functional design enhancement opportunities. Overall, IP lighting concerns were considered to be resolved.

#### The incorporation of a Design Review mechanism in the DCO

- 5.4.71. Following request, the Applicant advised during the Examination that the Proposed Development did not necessitate reference to its own internal strategic design panel in its own view. The Applicant also considered firmly that it has satisfied all relevant design and assessment criteria linked to landscape and visual appearance impacts.
- 5.4.72. Irrespective of the Applicant's own strategic design panel options available the use of an independent Design Review was explored during the Examination. Primarily through initial written questions and then subsequently through the ExA's proposed changes to the DCO, but also following dialogue at hearings having regard to design policy. The impact to project delivery timings was broadly referred to as well during the Examination taking into account the Applicant's views.
- 5.4.73. Summing up all of those points there was nothing substantive mentioned in the form of convincing reasoning to prevent Design Review provision from being obtained in the rDCO whilst still allowing the Applicant's delivery timings and project commitments to be fulfilled.
- 5.4.74. Local authority input did not reveal any specific objections to the design rationale of the Applicant in the main. However, similarly there were no IP objections to seeking a Design Review as a mechanism to enable the consideration of further enhancements to the scheme prior to formal consultation stages taking place.
- 5.4.75. In the view of the ExA, such provision would allow a useful critical review of the appearance of indicative structures and landscaping details not yet at a final design stage with the aim of incorporating possible meaningful enhancements before final versions are settled upon for consultation in the DCO in tandem with the Applicant's own delivery aims and timings.

#### **ExA's overall conclusions on landscape and visual**

- 5.4.76. The ExA is satisfied that the methodology of the assessment provided by the Applicant is robust and allows the effects of the Proposed Development to be properly considered in accordance with paragraphs 5.144 to 5.146 of the NPSNN. Comprehensive information has been given about the study area involved and its unique features. The consideration of other consented developments has also been appropriately factored.
- 5.4.77. The visual effect of the new footbridge and the appropriateness of its future design over the A47 was the subject of some debate during the Examination. Although engineering and section drawings have been produced, they were described during Examination as not being final

design versions and therefore subject to change. On that basis, the enhancement of the existing designs they entail requires exploration.

- 5.4.78. The thrust of national policy supports seeking design outcomes that are sustainable which includes the encouragement of beauty. The ExA accepts that notions of beauty are subjective and has had regard to competing functional design issues. Nonetheless, feasible opportunities to improve the overall aesthetics of the scheme (landscaping and structures) should be fully exhausted in accordance with the adopted Development Plan for the area.
- 5.4.79. The ExA is of the view that the most practical way to facilitate the consideration of further meaningful enhancement, especially with respect to the new footbridge and landscaping proposed but also the other engineering structures is through the incorporation of a local formal Design Review captured within the rDCO.
- 5.4.80. The content and likely effectiveness of the landscaping design indicated in the submitted Environmental Masterplan was investigated during the Examination. The Applicant has detailed screening advantages of the landscaping envisaged as well as having regard to striking the balance between openness and wooded areas linked to the specific character designation of the area.
- 5.4.81. However, there is little in the way of scope for aesthetic enhancement or beautification considered in the landscaping design responses and choices evidenced during the Examination. For example, at key entrance points and edges to the new link on Norwich Road or Cantley Lane, on embankments, or along new public vantages being created or existing public vantages elsewhere. Although new embankments both roadside and elsewhere have been discounted for substantial tree planting there is nothing substantive to conclude aesthetic improvements from other types of creative shrub, wildflower or other suitable planting specifications could not be undertaken in those areas leading to an overall enhancement.
- 5.4.82. It therefore remains the case that meaningful aesthetic enhancements could and should still be pursued, considered, and taken up through further refinements and design choices available to the Applicant. A local formal Design Review captured within Requirements 3 and 5 of the rDCO is therefore recommended (as per Appendix D). This would also allow the engineering structure details to be considered together with landscaping at the same Design Review.
- 5.4.83. Such provision would enable a useful critical independent review whilst elements of the design are still not final to allow the applicant to properly consider meaningful enhancements and to formulate an appropriate designer's response before consulting on details procured elsewhere in the rDCO, mindful of the time pressures which would be triggered. That approach would be in accordance with the provisions of the NPPF which was revised post the Applicant developing its scheme. Moreover, it would also still allow the applicant due flexibility of discounting suggested

changes if it resulted in conflict with other findings elsewhere in the ES taken in the round, or any other feasibility issues which arise.

- 5.4.84. The rDCO (Appendix D) together with the First Iteration of the EMP [REP8-007] and Environmental Masterplan [APP-123] (noting the Environmental Masterplan is indicative in the rDCO, owing to design stages) include clear anticipated provisions to ensure the implementation and long-term maintenance of planting following design work for new and replacement landscaping to be formally agreed upon.
- 5.4.85. Considerable concern was raised during the Examination in relation to expected tree loss by IPs. However, the ExA has considered all relevant documentation informing the design approach undertaken and agrees the Applicant has sought to limit potential tree loss as far as possible and would be committed to take further arboricultural steps to safeguard trees as far as possible. Further tree loss and replacement schedules are secured by Requirements 4 and 5 of the rDCO (Appendix D) and EMP [REP8-007].
- 5.4.86. The ExA is satisfied that adequate consideration has been given to light pollution in formulating the design. Requirement 4 of the rDCO (Appendix D) and the EMP [REP8-007] would control detailed lighting proposals. As such, the ExA is content the proposals would be able to be sensitively designed and secured at a future stage.
- 5.4.87. Subject to the inclusion of a Design Review mechanism prior to detailed designs being established, the ExA is satisfied that appropriate consideration has been given to relevant local and national policy for the Proposed Development –as detailed in the provisions of the rDCO (Appendix D). With such provision the ExA is content that, the Proposed Development complies with paragraphs 5.156 to 5.160 of the NPSNN.
- 5.4.88. The likely reasonable worst-case impacts have been identified in respect landscape and visual considerations. Having regard to the Landscape Character Area and visual effects as a whole the Applicant did not find any significant overall long term resultant residual harm to the Yare Tributary Farmland with Parkland landscape. That conclusion followed a process of combining of all resultant impacts together as detailed and recommended by the DMRB.
- 5.4.89. The Applicant's assessment concludes that, overall, combining both landscape character and visual effects and on all receptors and focusing on the longer-term outcome, the Proposed Development would not result in a significant long term residual effect on landscape and visual amenity as a single combined consideration.
- 5.4.90. However, the overall nature of the Proposed Development is focused within a relatively tight quadrant rather than being purely linear in extent. The quadrant nature of the DCO scheme improvement area as well as the specific existing attractive qualities of the local environment being assessed leads the ExA to find there are elements of resultant harm which when considered individually (rather than combined as a

whole) do weigh significantly against the DCO. Despite the advice of the DMRB, neither the NPSNN nor the NPPF prevent an individual assessment.

- 5.4.91. Filtering identified harms out as a combined summary would not be appropriate for this particular former parkland location which has many attractive natural qualities including veteran trees. That said, there is no other wider disagreement with the Applicant's findings which are well evidenced.
- 5.4.92. Thus, without combining all effects together in the manner proposed by the Applicant using the justification within the DMRB, the ExA is otherwise satisfied with the level of impacts identified and the clear rationale followed as detailed within the ES.
- 5.4.93. Overall, the ExA finds that the following weigh significantly against the DCO being made:
- The moderate adverse permanent effect on landscape character during construction. Principally associated with the removal of areas of woodland and individual veteran trees.
  - The very large to moderate adverse visual effects to receptors during construction. In the vicinity of the proposed junction of the new Cantley Lane Link Road and the realigned section of Cantley Lane South near Cantley Stream. Receptors include 12 properties at the north western end of Cantley Lane South, the rail side footpath (Hethersett FP6), the footpath and existing pedestrian footbridge over the A47 (Cringleford FP4), and vehicular users of Cantley Lane South.
  - The moderate adverse effects on landscape character in the opening year reducing to slight adverse impacts by Year 15.
  - The moderate to large adverse effects during operation on some visual receptors. Particularly in the vicinity of the proposed junction of the new Cantley Lane Link road and the realigned section of Cantley Lane South near Cantley Stream. Receptors subject to a significant adverse effect on visual amenity in the year of opening would include six properties located at the north eastern end of Cantley Lane South. At year 15 significant adverse visual effects would reduce and be limited to residential properties close to the proposed new junction at Cantley Lane South.

## **5.5. HISTORIC ENVIRONMENT**

- 5.5.1. There are no Registered Parks and Gardens, Registered Battlefields or Conservation Areas within the DCO boundary of the Proposed Development. There are however a total of 37 heritage assets identified within the DCO boundary which include a scheduled monument known as Two Tumuli in Big Wood and six listed buildings (all Grade II). The impact to the Cringleford Conservation Area is a considerable distance away

from the DCO boundary and the Applicant does not find any significant impacts to that.

## **Policy context**

### National Policies

- 5.5.2. Paragraph 5.122 of the NPSNN advises that heritage assets may be buildings, monuments, sites, places, areas or landscapes. The sum of the heritage interests held by a heritage asset is referred to as its significance. Significance derives not only from a heritage asset's physical presence, but also from its setting. The footnote to this paragraph explains that the setting of a heritage asset is *"the surroundings in which it is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral."*
- 5.5.3. Paragraph 5.128 advises the SoS to identify and assess the particular significance of any heritage asset or its setting affected by the Proposed Development, taking account of the available evidence and any necessary expertise. Paragraph 5.129 goes on to advise that the SoS should consider the particular nature of the significance of the heritage asset and the value that it holds. This understanding should be used to avoid or minimise conflict between the conservation of the asset and any aspect of the proposal.
- 5.5.4. The SoS should take into account the desirability of sustaining and, where appropriate, enhancing the significance of heritage assets, including the contribution of their settings (paragraph 5.130). When considering the impact of a development on significance, great weight should be given to the conservation of the asset. The more important the asset, the greater the weight should be. Significance can be harmed or lost through development within the setting of an asset. Substantial harm to or loss of designated assets of the highest significance, including WHSs, should be wholly exceptional (paragraph 5.131).
- 5.5.5. Paragraph 5.132 of the NPSNN states that any harmful impact on the significance of a designated heritage asset should be weighed against the public benefit of the development, recognising that the greater the harm to the significance of the heritage asset, the greater the justification that will be needed for any loss. Paragraph 5.134 explains that, where development would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
- 5.5.6. The NPPF sets out a policy approach to conserving and enhancing the historic environment heritage protection very similar to the NPSNN in Section 16. At paragraph 199 of the NPPF the advice given is that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's

conservation (and the more important the asset, the greater the weight should be).

- 5.5.7. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of: a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional; b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II\* listed buildings, grade I and II\* registered parks and gardens, and World Heritage Sites, should be wholly exceptional. Non-designated heritage assets of archaeological interest, which are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets.
- 5.5.8. Paragraph 202 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. The NPPF at Paragraph 203 also guides that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

#### Local Policies

- 5.5.9. Joint Core Strategy for Broadland, Norwich, and South Norfolk (Greater Norwich Development Partnership 2014) contains several policies relevant to cultural heritage including:
- Policy 1 which aims to protect environmental assets. It states that the built environment, heritage assets, and the wider historic environment will be conserved and enhanced through the protection of buildings and structures which contribute to their surroundings, the protection of their settings, the encouragement of high-quality maintenance and repair and enhancement of public spaces.
  - Policy 2 which promotes good design principles with development proposals that will respect local distinctiveness including landscape character and historic environment, taking account of conservation area appraisals and including the wider countryside and the Broads area
  - Policy 8 which aims to enrich culture through use of innovative design and in the public realm.

#### **The application**

- 5.5.10. The most relevant elements of the application to the consideration of the historic environment are:
- ES Chapter 6: Cultural Heritage [[APP-043](#)]
  - ES Chapter 15: Cumulative Effects Assessment [[APP-052](#)]
  - Appendix 6.1 – Cultural heritage information [[APP-077](#)]
  - Appendix 6.2 – Geophysical Survey Reports [[APP-078](#)]
  - Appendix 6.3 – Archaeological Trial Trenching Evaluation Report [[APP-079](#)]

### ***Applicant's historic environment assessment***

#### Introduction and baseline

- 5.5.11. The assessment included a review of the existing baseline conditions, consideration of the potential impacts, identification of proportionate measures for mitigation and enhancement and summarises predicted significant residual effects. It was conducted in accordance with the most up to date guidance in the DMRB: LA 104 Environmental assessment and monitoring, and LA 106 Cultural heritage assessment, and included the input of competent expert advice.
- 5.5.12. Temporary and permanent construction as well as operational impacts on heritage assets were considered in the assessment. Temporary impacts relate to those upon the setting of heritage assets arising from construction-related activities. Permanent impacts can be either direct, physical effects on heritage assets or impacts on their setting.
- 5.5.13. An assessment of magnitude of impact and significance of effect without application of proposed mitigation measures upon all baseline heritage assets that may be affected is presented in ES Appendix 6.1 Tables 8 (construction phase impacts) and 9 (operation impacts). An assessment of residual effects following the application of proposed site-specific mitigation measures is also presented for heritage assets identified where an effect significance of slight or higher is predicted in Tables 8 and 9.
- 5.5.14. The baseline for the assessment was informed by a range of published national and local information sources, a programme of non-intrusive and intrusive archaeological field investigations and a historic map regression exercise.
- 5.5.15. The methodology categorised heritage assets as archaeological remains, historic buildings or historic landscapes. The significance of an effect was derived by combining the value of the asset with the magnitude of any impact. Whereas the NPSNN refers to the 'significance' of a heritage asset the Applicant's assessment used the terms 'value/sensitivity'.

- 5.5.16. ES Appendix 6.1 Cultural heritage information [[APP-077](#)] Table 5 sets out the Applicant's full assessment of Value/Sensitivity for each asset.

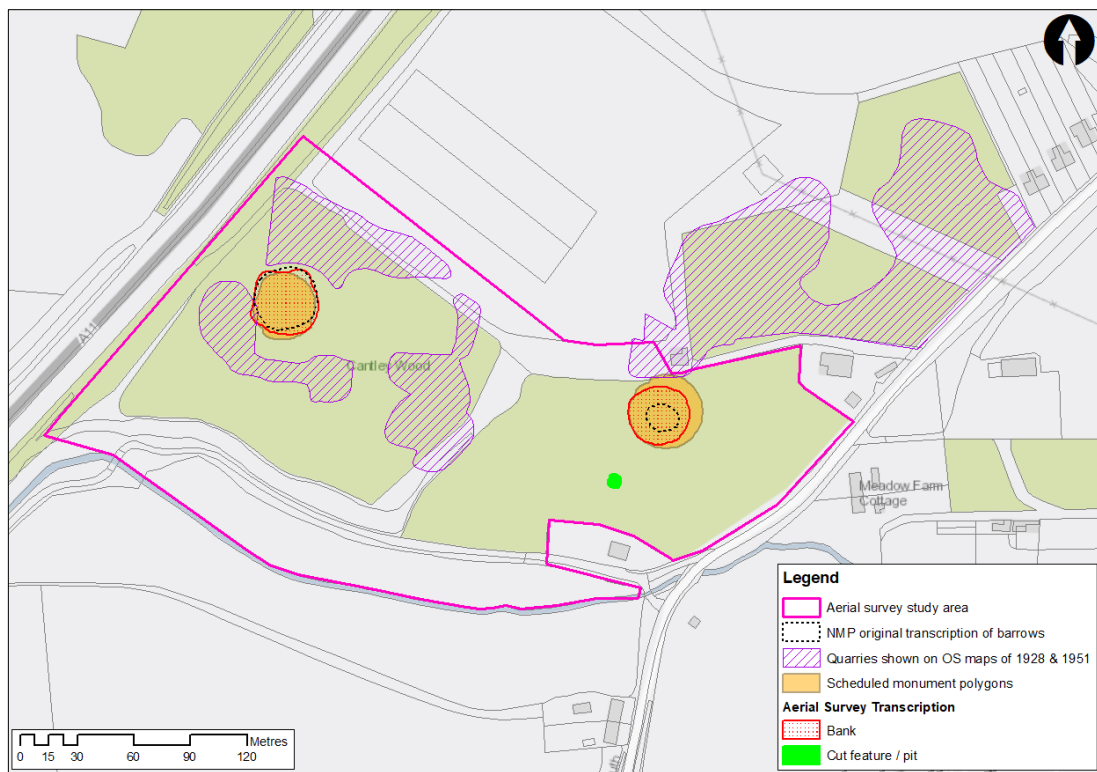
Study area

- 5.5.17. The impact assessment on the setting of heritage assets does not rely on a traditional study area. Instead, it is made up of assets within or outside the DCO boundary of the Proposed Development, that may experience physical effects, and assets (designated and non-designated) within the Zone of Visual Influence (ZVI) which may have effects on their settings and assets potentially affected by noise. The ZVI has therefore has not been mapped, as it is based on professional judgement. The ZVI is therefore defined by the procedurally generated Zone of Theoretical Visibility (ZTV) which is modified based on site observations to account for vegetation or other factors not procedurally accounted for such as weather conditions.
- 5.5.18. As is standard methodology, to establish the archaeological potential and provide historic context to the land within the Proposed Development DCO boundary baseline information has been gathered for a wider baseline area of search involving a 1km area of search from the Proposed Development scoping boundary following the input of statutory consultees.
- 5.5.19. There are no Registered Parks and Gardens, Registered Battlefields or Conservation Areas within the study area (defined as the DCO boundary, within the ZTV or potentially affected by noise). A total of 37 heritage assets as recorded and have been identified within the study area. The assets recorded were made up of: 1 Scheduled Monument (comprising two barrows as depicted below in Figure 5.5.20a and 5.5.20b); 6 Listed Buildings (all Grade II); 13 undesignated assets; and 17 'findspots' (which are considered by the assessment of archaeological potential, but excluded from direct impact assessment). In addition, 16 historic landscape character types were considered in the impact assessment. A findspot is one single find or artefact that has been removed from its location of discovery.





**Figure 5.5.20a** Aerial survey assessment area showing the location of Two Tumuli in Big Wood between Cantley Lane South and the A11, extract from [APP-077] ES Appendix 6.1, page 13.



**Figure 5.5.20b** GIS and aerial survey analysis of the Scheduled Monument (Two Tumuli in Big wood -two Bronze Age barrows) Aerial survey assessment area showing the location of Two Tumuli in Big Wood between Cantley Lane South and the A11, extract from [APP-077] ES Appendix 6.1, page 17.

5.5.20. The dominant historic landscape character within the overall DCO boundary is one of 20<sup>th</sup> century agriculture.

### Potential impacts

- 5.5.21. The potential impacts identified included those which were short term temporary impacts extending to:
- noise generated by construction work which could impact the quiet, rural setting of heritage assets.
  - movement of construction plant in the setting of heritage assets.
  - siting of construction compounds, including the introduction of noise and lighting and potential impact on the setting of heritage assets.
  - siting of haul routes and traffic diversions introducing traffic and plant movement deeper into the rural setting of heritage assets.

- 5.5.22. The permanent impacts identified included:
- Excavation required for the construction of the Proposed Development, site compounds, utility diversions and haul routes, which have the potential to permanently remove archaeological remains.
  - Earthworks required for construction of the scheme which have the potential to permanently impact the setting of heritage assets.
  - Structural damage to historic buildings due to proximity of works (vibration or other ground movement).

- 5.5.23. Operational impacts identified included:
- The appearance of the Proposed Development, including landscaping works and presence of structures and signage with the potential to permanently alter the setting of heritage assets.
  - Changes to traffic movements with the potential to alter the setting of heritage assets because of noise, pollution, light and movement.
  - New road lighting with the potential to alter the setting of heritage assets.

### Design, mitigation and enhancement measures

- 5.5.24. The assessment considered that proportionate measures to avoid or minimise direct impacts on heritage assets were embedded within the design of the Proposed Development. The assessment listed the embedded measures intended to minimise physical impacts and conserve or enhance the setting of heritage assets:
- Drainage and road infrastructure has been placed as far as possible (19.75m) from the scheduled monument 'Two Tumuli in

Big Wood' which is located alongside the Proposed Development DCO boundary to minimise direct impacts on any associated remains that may be preserved.

- Low noise surfacing on the Cantley Lane link road and the A11 to A47 connector road.
- Impacts upon historic landscape character have been minimised by restricting the DCO boundary, with no loss for temporary purposes such as haul routes and compounds.
- Interference with buried archaeological features across the Proposed DCO boundary have been minimised by avoiding ground disturbance in areas of temporary use, such as haul routes and compounds.
- Veteran trees within the areas of the proposed compounds either side of the Cantley Lane Link would be retained. Avoiding permanent impacts to the historic Thickthorn Park from temporary uses.
- Lighting levels would be reduced as far as possible from the baseline case, or else remain the same, in order to avoid any impact on the nearby designated assets and the historic landscape as a result of the proposed scheme.
- Screening planting to be established on the embanked Cantley Lane link road as part of the Environmental Masterplan. Reducing the predicted impact of the scheme on the setting of nearby heritage assets including 'Two Tumuli in Big Wood' (scheduled monument), Thickthorn Hall (grade II listed building) and the associated group of assets in its setting (Grade II listed building kitchen garden walls and attached octagonal building) and undesignated heritage assets Thickthorn Park, Lodge House, Thickthorn Lodge, Hollow way, Medieval moat).
- Enhancement or public benefit through the provision of a public heritage information board on the proposed all user pathway on the Cantley Lane link road, with viewing point towards the barrows (Two Tumuli in Big Wood). The barrows are not currently publicly accessible.
- EMP will ensure implementation of standard construction-phase environmental mitigation to reduce noise and dust which will ensure that any temporary construction phase effects are minimised. No other site-specific mitigation is recommended for temporary historic environment effects.

5.5.25. Measures to avoid or minimise potential physical impacts arising from construction activities were identified as:

- Best practice application achieved through the EMP to minimise potential adverse effects from noise and vibration as well as dust and accidental damage.
- Milestone No.4 (Grade II listed building), located within the DCO boundary on the B1172 Norwich Road would be protected by temporary fencing throughout construction works to ensure its safety from damage.
- Construction phase archaeological mitigation excavations, should it be desirable and achievable to preserve any archaeological remains in situ in areas of temporary use (compounds or haul roads), would be achieved through protective methods such as geotextile, track matting or bog mats.
- Archaeological excavation in advance of construction.
- Archaeological recording during construction. Construction integrated recording is recommended for all remaining areas of known archaeological potential within the DCO boundary.
- Protocol for unexpected archaeological discoveries would be developed as part of the EMP. This protocol would be discussed with Historic England and NCC prior to its implementation.
- Paleoenvironmental evaluation works may be necessary and would be dependent on other ongoing survey work. It is necessary it would be specified in a written in a Written Scheme of Investigation (WSI) which would be discussed with Historic England and NCC.

#### Summary of historic environment assessment

5.5.26. The key findings of the Applicant's assessment can be summarised as:

- Significant residual construction phase effects have been identified for the scheduled monument Two Tumuli in Big Wood. The magnitude of this impact would be major, giving a large adverse significance of effect.
- Slight adverse residual construction phase effects have been identified in respect of a further six grade II listed buildings. These are: Thickthorn Hall and its Kitchen Garden Walls, The Round House, North House and The Farmhouse, Cantley House, and Milestone No. 4. For which minor magnitude effects are predicted.
- Slight residual effects on historic environment receptors were not deemed to be significant by the Applicant's assessment.
- No significant effects have been identified because of permanent construction phase impacts. All identified effects can effectively be mitigated through preservation by archaeological recording.

- A significant residual adverse effect in respect of the scheduled monument 'Two Tumuli in Big Wood' as a result of the operation of the Proposed Development. The magnitude of this impact would be moderate, giving a moderate adverse significance of effect. This would arise because of permanent alteration of its setting from construction of the Cantley Lane link road, including potential noise and visual intrusion. The permanent effect relates to the severance of a significant aspect of the asset's setting, in which the barrows historically could be viewed prominently from downslope to the south.
- Slight adverse residual effects on setting have been identified as a result of operation of the Proposed Development upon which minor or moderate magnitude impacts are predicted for two grade II listed buildings (Thickthorn Hall and Kitchen Garden Walls with octagonal building); as well as a series of undesignated heritage assets within the setting of Thickthorn Hall, two undesignated heritage assets at the site of limekilns and tramway, and Lodge House); and Historic Landscape Character within and adjacent to the DCO boundary. Slight residual effects on historic environment receptors are not deemed significant.

5.5.27. With respect to noise effects. The following cultural heritage noise sensitive receptors were identified within the noise and vibration study areas: Two Tumuli in Big Wood; Thickthorn Hall; The Round House; North House/Farmhouse; Cantley House. The noise and vibration impact assessment identified that significant adverse noise or vibration effects are not predicted at any of those receptors because of construction or operation of the Proposed Development.

5.5.28. At the scheduled monument Two Tumuli in Big Wood effects of the scheme are predicted to be a minor to moderate reduction in noise change (although that would not lead a significant beneficial noise effect). At the rest of the receptors, there is only predicted to be a negligible reduction in noise levels during operation of the scheme.

### **Issues considered during the Examination**

- 5.5.29. The historic environment issues considered during the Examination included:
- The level of harm attributed to scheduled monument Two Tumuli in Big Wood in the ES;
  - Effectiveness of the Environmental Masterplan as mitigation having regard to the scheduled monument Two Tumuli in Big Wood;
  - Archaeological trenching and human burial related matters.

The level of harm attributed to scheduled monument Two Tumuli in Big Wood in the ES

- 5.5.30. The Applicant was asked during the Examination to clarify the level of harm set out in the ES that would be evident to the monuments setting or integrity during the construction phases and post completion of the scheme having regard to artificial lighting considerations.
- 5.5.31. Aside from the information already accounted for in the ES, which does not need to be further repeated, the Applicant confirmed that lighting levels during the night-time would remain the same as the current levels experienced and therefore there would be no adverse implications arising from lighting.
- 5.5.32. It was submitted by the Applicant during the written question phases of the Examination that there are no mitigation measures available to fully ameliorate the permanent operational impact of the Proposed Development upon the scheduled ancient monument.
- 5.5.33. Nevertheless, focused efforts had been incorporated into the design of the scheme to enhance every day public awareness of the scheduled monument which has a secluded and largely inaccessible position to members of the public in its present setting.
- 5.5.34. Moreover, it was accepted by the Applicant that the final assessment of harm and the weighting of public benefits against that harm is the prerogative of the decision maker.

Effectiveness of the Environmental Masterplan as mitigation having regard to the scheduled monument Two Tumuli in Big Wood

- 5.5.35. Historic England by way of representation required further clarification about the position and type of mitigation planting proposed along the Cantley Lane Link Road in the vicinity of the 'Two tumuli in Big Wood' scheduled monument. This was advised by them to include revised versions of the plans included in the submitted Environmental Masterplan (Section 6.8 of the ES) and be clear about the extent to which traffic on the Link Road would be visible from the westernmost barrow and, in terms of the proposed information panel, whether the barrow would be visible from the Link Road.
- 5.5.36. The information was deemed necessary by Historic England to ensure that the level of mitigation planting along the Cantley Lane Link Road will be sufficient to effectively reduce the harm to the setting of the scheduled monument.
- 5.5.37. In response the Applicant referred to their response to the Examining Authority's First Written Questions BIO 3.2 contained in [[REP2-006](#)] and the Environmental Masterplan [[APP-123](#)] which shows the proposed planting and also vegetation to be retained. It was also pointed out that ES Chapter 6 [[APP-043](#)] Sections 6.9.9 and 6.9.10 set out the proposed detail to be included on the information board.
- 5.5.38. The Applicant in the response at [[REP2-006](#)] confirmed all relevant spaces in the vicinity of the junction have been considered for their suitability for tree and/or woodland planting. Areas within the DCO

boundary which were considered but rejected for woodland or tree planting included: (i) areas deemed too close to the highway infrastructure or providing sightlines (ii) land temporarily used for construction purposes that will be returned to agricultural use (iii) areas where woodland or tree planting is constrained by the presence of boundary fencing (requiring access for maintenance) or underground services (iv) areas required to be maintained open for flood attenuation purposes (v) minimisation of the amount of tree planting on steep embankments or smaller 'islands' between carriageways where maintenance access would be problematic and potentially unsafe (tree planting has only been proposed in such areas where a specific requirement for visual screening has been identified) (vi) maintenance of open views towards heritage features (for example, towards the northern barrow at Cantley Wood) (vii) a response to the specific landscape character context (for example, the more open setting with only occasional trees of the northern section of the Cantley Lane Link Road as it approaches Norwich Road through a former parkland with retained specimen trees) (viii) the reptile habitat enhancement area which required a predominantly open character with only dispersed trees and scrub (ix) personal safety considerations (for example, retaining some openness on the inner curve of the ramp approaching the all user 'footbridge') (x) general integration with the surrounding landscape character and pattern.

- 5.5.39. In addition, Items CH1, CH7 in Table 3-1 (REAC) of the EMP [[APP-128](#)] subsequently updated during the Examination to [[REP8-007](#)] were also highlighted for mitigation provision. Further submissions on the mitigation planting proposed along Cantley Lane and the information board were made at Issue Specific Hearing 1 which were included in the Applicant's summary of submissions made at ISH1 [[REP3-019](#)].
- 5.5.40. At ISH1 ExA asked the Applicant for clarification on an overview of the Environmental Masterplan's planning including clarifying the relationship between that plan and the scheduled monument and a snapshot of any potential harm being described in the ES.
- 5.5.41. In response the Applicant noted there is no planting on the northeast side of the DCO area closest to the scheduled monument and highlighted on the southwest embankment there is planting. Retained planting outside the Order limits was also referred to. In gauging the amount of retained planting it was deemed by the Applicant that visibility was not as important as stability of the monument itself.
- 5.5.42. It was noted during ISH1 that the Environmental Masterplan [[APP-123](#)] production was coordinated by a professional landscape architects' team. It is relevant to point out that it is the same team undertaking the Landscape and Visual Impact Assessment (LVIA). The LVIA [[APP-044](#)] provides robust evidence that the entire scheme are falls within the Yare Tributary Farmland with Parkland character area and has been reflected in the planning of the Environmental Masterplan in tandem with heritage considerations.

- 5.5.43. The Applicant's impact assessment is based on shortening of the notional southwest down slope of the setting of the scheduled monument. It was argued that planting new trees would impact the setting of the monument more so. Heavy good vehicle impacts would only be temporal but new trees would be almost permanent albeit natural additions. The Applicant is seeking to retain as much of setting as possible in the Environmental Masterplan. There is a slight discrepancy of what is shown on the Environmental Masterplan and the cross section shown on Figure 6.4 [APP-057] – cross section 2 shows retained existing trees right up to the base of the embankment. The discrepancy was confirmed as being due to an earlier version of the landscape design. It was confirmed by the Applicant that there is to be grassland between base of the slope and the Order Limits.
- 5.5.44. It was confirmed by the Applicant through its advisor that overall, the Environmental Masterplan sets out design possibilities rather than definite outcomes. The document is not at a final design stage. There may be seasonal variation involved, thus views cannot be guaranteed. That said, further content is to be confirmed at 'Stage 5 Detailed Design' (using the Applicant's programme terminology) and reflected in the Environmental Masterplan to be settled upon in consultation measures indicated in the dDCO. The ExA also supports the potential for natural aesthetic enhancements discussed in the earlier Visual and Landscape section of this Report subject to Design Review would assist the Applicant's aims.
- 5.5.45. There is record within the Applicant's the impacts to heritage assets can effectively be demonstrated through use of View Points 1 and 2, rather than additional heritage-specific viewpoints. It is documented that a wooded context for the barrows is likely to be the preferred option following scoping opinions with Historic England. Visualisations of the Proposed Development have been submitted as part of the DCO submission [APP-059] – [APP-067] along with cross sections of the scheme with the scheduled monument shown on Figure 6.4 [APP-058].

#### Archaeological trenching and human burial matters

- 5.5.46. Following first written questions, it was clarified by the Applicant that archaeological trial trenching was targeted to areas of potential had largely already been identified through desk-based assessment working featuring as part of the ES.
- 5.5.47. Nonetheless, the supplementary archaeological trenching detailing in the Written Scheme of Investigation (WSI) is secured via Requirement 9 of the dDCO along with its inclusion in CH5 of Table 3-1 (REAC) included in the EMP [REP8-007] secured via Requirement 4 of the dDCO.
- 5.5.48. Furthermore, it was confirmed by the Applicant following some input from NCC's archaeologist that only trial trenching is proposed at the compound/material storage area shown to the southeast of the existing A11 initially shown in [APP-054], and subsequently updated in the Examination to [REP4-011] as sufficient heritage safeguard.



- 5.5.49. With respect to non-designated heritage assets. Historic England noted that although advice on non-designated heritage assets is being provided primarily by NCC, Historic England retain an active interest in the non-designated archaeological heritage assets within the scheme area in their capacity as a provider of specialist archaeological science advice. In view of this, Historic England requested to be included as a consultee on the approval of the Archaeological Written Scheme of Investigation in conjunction with NCC. The Applicant subsequently updated the dDCO to include Historic England as a consultee in Requirement 9.
- 5.5.50. Issues relating to the risk of encountering unexpected human burial finds within the DCO area was also raised during the Examination. The Applicant's initial view was that following initial assessments and professional judgement that they considered the likely associated risks to be low. Nevertheless, following written questions and the input of the NCC archaeological advisor also giving comment on those factors the Applicant has subsequently incorporated a model provision into its dDCO specifically dealing with human burial find circumstances should those arise.

#### **ExA's conclusions on the historic environment**

- 5.5.51. The ExA is satisfied that the Applicant's historic environment assessment has appropriately identified the significance of the heritage assets and their settings which would be potentially affected by the Proposed Development.
- 5.5.52. In that regard it is noted by the ExA there are two scheduled monuments located within the wider baseline area of search, each of which comprise a pair of Bronze Age round barrows. Only one of those monuments, known as Two Tumuli in Big Wood being within the ZTV for the Proposed Development (but outside of the DCO improvement area, albeit adjacent to).
- 5.5.53. As evidenced by the Applicant's ES those Bronze Age features date to around 2000–600 BC. The age of the monument dates back to periods of early technological change with increasingly settled communities and the construction of communal monuments. River valleys, such as that of the River Yare to the east of the scheme, would have been favoured in providing a dependable source of food and water, as well as means of transport and communication. This could even involve times when Britain first saw its initial continuous human occupation. Therefore, the presence of Two Tumuli in Big Wood outside the DCO area, although not uncommon in the East Anglia region has a unique cultural importance nationally.
- 5.5.54. In addition to Two Tumuli in Big Wood discussed above, it is noted that a number of prehistoric finds have been recorded within the wider baseline area of search to further suggest prehistoric occupation and activity. Of these, several are recorded within the DCO boundary; including a number of Mesolithic and Neolithic flint flakes and blades found along the alignment of the A11, prior to its construction.

- 5.5.55. Outside the Proposed Development DCO boundary evidence of prehistoric, roman, and medieval historic activity has been recorded by way of intrusive methods, such as trial trenching, and non-intrusive methods, such as field-walking, metal detecting, geophysical survey, and aerial photography. Fieldwalking and metal detecting on the line of the Norwich Southern Bypass to the south-east of the Proposed Development recovered numerous artefacts dating to those historic periods.
- 5.5.56. There is strong background evidence of measures undertaken by the Applicant for assessing visual impacts using the ZTV and additional sensitive heritage assets beyond it. There is nothing to suggest the Applicant's approach is not appropriate and it involves expert opinion.
- 5.5.57. Gauging the impact of towards heritage assets is assisted making use of Viewpoint's 1 and 2 within the application material, rather than additional heritage-specific viewpoints. The ExA agrees there is no convincing requirement for a viewpoint at the barrows themselves.
- 5.5.58. There is reference in the Examination documentation that up to date HER data has been utilised to reflect the redline boundary along the B1172 in the preparation of baseline information for the impact assessment. The visualisations provided by the Applicant include both existing and mitigation planting.
- 5.5.59. The Applicant's assessment includes sufficient information to allow the nature and value of the significance of the assets to be properly understood. The ExA agrees that the assessment submitted appropriately identifies and evaluates the significance value of relevant historic cultural assets. As such, the ExA finds that the assessment accords with paragraphs 5.128 and 5.129 of the NPSNN.
- 5.5.60. Taking into account the ZTV process highlighted by the Applicant Cringleford Conservation Area (CA), located in the southern half of Cringleford, in the region of 600m northeast of the DCO boundary. It is not located within the ZTV of the ES. The ExA is content that there would be no significant impacts to the Cringleford CA owing to the distances involved, surrounding topography and existing physical features.
- 5.5.61. Moreover, Intwood Hall (a Grade II\* Registered Park and Garden is located in the order of over 600m south of the DCO boundary and is thickly screened by woodlands. Accordingly, based on the evidence provided the ExA agrees that there are no Registered Parks and Gardens likely to be affected by the scheme having regard to the ZTV described in the ES.
- 5.5.62. With respect to the other subsequent potential impacts the scheme would have. The submitted SoCG between Highways England and Historic England [[REP10-004](#)] is unsigned. Therefore, the ExA attributes little weight to it. Nonetheless, the SoCG does provide a useful overview of the initial discussion points and concerns regarding the likely harm to significance of the prehistoric barrows through a development within their setting.

- 5.5.63. There was general agreement during the Examination that the prehistoric barrows survive with a high degree of integrity. Most concerns raised at scoping stage have been responded to in the ES. In particular, the significance and the effects of the junction improvements on the barrows has been well articulated by the Applicant.
- 5.5.64. A clearly expressed programme of mitigation for the designated heritage assets, not just embedded mitigation is also referenced by the Applicant. Offsite mitigation has been considered alongside how the mitigation will add public value to offset this harm. The offsite mitigation, in which a heritage interpretation board is planned to be situated on the Cantley Lane Link overbridge, and the provision a line of sight to the barrows from a publicly accessible place is a positive design response from the Applicant. The information board is able to include an historic interpretation of the wider landscape setting in order to deliver public benefit. To that end the Proposed Development would accord with paragraph 5.137 of the NPSNN.
- 5.5.65. For the most part, necessary mitigation measures have been embedded into the design of the proposal in the form of deliberate separation from the scheduled monument which is outside of the DCO area. Where further mitigation is necessary, such as the detailed landscape and lighting designs, the rDCO (Appendix D) and EMP [[REP8-007](#)] contain provisions to ensure that appropriate consultation would take place prior to approval. The consideration of any further improvements to mitigation can also be facilitated. The ExA finds that further planting would minimise operational noise expected at the barrows as part of the overall mitigation package.
- 5.5.66. The submitted unsigned SoCG with Historic England affords limited weight but does give some further context in that it specifies in discussions with Historic England that the setting of the barrows have already been eroded somewhat through quarrying in the immediate vicinity and the presence of the existing road network on all sides in the wider area.
- 5.5.67. The ExA agrees that the Examination material does provide a convincing case that the Proposed Development has been designed to be located as far as possible from the scheduled monument, accepting the existing position of the Thickthorn junction is fixed. Very useful visualisations depicting the impacts 1 and 15 year impacts (including for the scheduled monument) have been produced by the Applicant to aid the assessment [[APP-059](#)] to [[APP-067](#)].
- 5.5.68. The Applicant's assessment found that the Proposed Development would have:
- Large major adverse temporary effects to during construction and one significant moderate residual adverse permanent effect in respect of the scheduled monument 'Two Tumuli in Big Wood' stemming from the operation of the Proposed Development. The moderate residual effects would arise from the permanent

alteration of its setting from the construction of the Cantley Lane link road. Construction of the proposed embanked Cantley Lane link road immediately adjacent to the western barrow would cause severance from the monument's associated landscape to the south, from where the barrows are currently viewed prominently. The effect would be to remove the last remaining preserved part of the setting permanently. The same effects will occur but be of reduced magnitude for the eastern barrow due to the thicker vegetation present providing improved screening. Without mitigation the effect on the western barrow is assessed as 'large'. Following application of mitigation proposals including focused planting and screening of new infrastructure, an improved understanding of the context of the barrows through excavation, and introduction of a heritage information board, the residual effect on the scheduled monument is assessed as 'moderate'.

- Slight (but not significant) residual operational effects have been identified upon two Grade II listed buildings (Thickthorn Hall, Kitchen Garden walls and attached octagonal building around 60m north-east of Thickthorn Hall) and six undesignated heritage assets (Thickthorn Park; Lodge House; Thickthorn Lodge; Hollow way; Medieval moat; site of lime kilns and tramway).
- Slight (not significant) effects were predicted upon historic landscape character within the DCO boundary

5.5.69. Historic England and the relevant LPAs have not objected to impacts on designated heritage assets or on the basis that potential impacts have not been properly assessed. Although there are some concerns from Historic England having regard to the scope, content, and basis of the EM that document is not yet final and therefore can be modified (if need be) to ensure satisfactory mitigation takes place alongside a range of other environmental matters it also needs to address. On that basis, the ExA sees no strong reason to disagree with the Applicant's assessment of the effect of the Proposed Development on individual designated heritage assets post mitigation taking place.

5.5.70. The ExA is satisfied that it would, therefore, accord with paragraph 5.130 of the NPSNN. The Proposed Development would also align with the aims Policies 1, 2 and 8 of the Joint Core Strategy for Broadland, Norwich, and South Norfolk relevant to cultural heritage.

5.5.71. In accordance with the Applicant's findings the ExA also finds that the Proposed Development would lead to moderate adverse effects on a scheduled monument, slight adverse effects on two designated and six non-designated heritage assets. Whilst the latter slight adverse effects are not significant for the purposes of the ES, as required by paragraph 199 of the NPPF, the ExA considers them in the planning balance exercise undertaken in Chapter 6 of this report.

5.5.72. Considered collectively, the ExA considers that the moderate and slight adverse residual effects identified in the Applicant's ES would amount to

less than substantial harm to the designated heritage assets for the purposes of applying paragraphs 5.134 and 5.135 of the NPSNN. In reaching that view the ExA has had regard to the very high significance of the scheduled monument Tumuli in Big Wood as required by paragraph 5.131 of the NPSNN. That harm needs to be balanced against the public benefits of the proposal (paragraphs 5.132 and 5.134) as alluded above.

5.5.73. An assessment of the potential impact of the Proposed Development on unknown archaeological remains was undertaken by the Applicant based on the evaluation of potential within areas of the final DCO boundary not subject to previous geophysical survey or intrusive evaluation through trial trenching (programmed post ES submission). Extensive archaeological evaluation works in the vicinity of the Proposed Development suggests any archaeological remains that may be preserved in areas not subject to investigation are unlikely to result in significant effects.

5.5.74. In terms of archaeological impacts. The Applicant's assessment found that the Proposed Development would not affect any designated archaeological assets. NCC was broadly satisfied that archaeological matters had been properly considered in the Applicant's assessment and the matter was not raised as an objection during the Examination. The rDCO (Appendix D) and the EMP [[REP8-007](#)] secure a thorough programme of archaeological investigation and evaluation and recording. Therefore, the ExA has no basis to disagree with the Applicant's assessment on the effect of the Proposed Development on the archaeological interests. All identified effects can effectively be mitigated through preservation by archaeological recording. A Design Review mechanism is also advised in the rDCO by the ExA to facilitate the consideration of further sensitively applied aesthetic improvements, particularly having regard to new any planting scheme envisaged which would complement the historic setting interests.

5.5.75. Overall bringing all relevant points together the ExA concludes that the following factors weigh against the DCO being made:

- less than substantial harm to a scheduled monument noting that it carries very high levels of national significance;
- less than substantial harm to the settings of two listed buildings;
- slight adverse effects on the setting of several non-designated heritage assets; and
- slight adverse impacts on the non-designated historic landscape character within the DCO boundary.

## **5.6. LAND USE, SOCIAL AND ECONOMIC**

5.6.1. This section deals with the land use, social and economic effects of the Proposed Development. It deals with any issues relating to: the of public open space; effects on public rights of way; severance; pedestrians;

equestrians and cyclists (often referred to in national policy as non-motorised users (NMUs); effects on human health; direct and indirect effects on businesses in the area and effects on agricultural land and holdings. The consideration of effects on human health should be read in conjunction with the separate sections specifically air quality and on noise and vibration. The overall safety and economic considerations of the Applicant's case are also assessed here.

### **National Policy Context**

- 5.6.2. Paragraph 5.162 of the NPSNN advises that access to high quality open spaces and the countryside can be a means of providing necessary mitigation and that green infrastructure can enable developments to provide positive environmental and economic benefits.
- 5.6.3. Paragraph 5.165 requires the Applicant to *"identify existing and proposed land uses near the project, any effects of replacing an existing development or use of the site with the proposed project or preventing a development or use on a neighbouring site from continuing."*
- 5.6.4. At paragraph 5.166 the NPSNN states that *"Existing open space, sports and recreational buildings and land should not be developed unless the land is surplus to requirements or the loss would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location. Applicants considering proposals which would involve developing such land should have regard to any local authority's assessment of need for such types of land and buildings."*
- 5.6.5. Paragraph 5.174 advises that the SoS *"should not grant consent for development on existing open space, sports and recreational buildings and land, including playing fields, unless an assessment has been undertaken either by the local authority or independently, which has shown the open space or the buildings and land to be surplus to requirements, or the Secretary of State determines that the benefits of the project (including need) outweigh the potential loss of such facilities, taking into account any positive proposals made by the Applicant to provide new, improved or compensatory land or facilities."*
- 5.6.6. At paragraph 5.175 the NPSNN goes on to state that green infrastructure identified in development plans should normally be protected from development, and, where possible, strengthened by, or integrated within it. The value of linear infrastructure in supporting biodiversity should also be taken into account when assessing the impact on green infrastructure.
- 5.6.7. Paragraph 5.181 advises that, where s131 and s132 of the Planning Act (PA2008) apply (in relation to the loss of open space), *"any replacement land provided under those sections will need to conform to the requirements of those sections."*

### Public access and NMUs

- 5.6.8. Paragraph 3.16 of the NPSNN advises that the Government is committed to sustainable travel and is investing in developing a high-quality cycling

and walking environment to bring about a step change in cycling and walking. The national road network has a direct role in helping pedestrians and cyclists and *"the Government expects applicants to use reasonable endeavours to address the needs of cyclists and pedestrians in the design of new schemes."*

- 5.6.9. Applicants should also *"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, retrofitting the latest solutions and ensuring that it is easy and safe for cyclists to use junctions"* (paragraph 3.17).
- 5.6.10. Furthermore, all reasonable opportunities to deliver improvements in accessibility on, and to, the existing national road network should be taken wherever appropriate (paragraph 3.20). Paragraph 3.21 reminds applicants of their duty to promote equality and to consider the needs of disabled people as part of their normal practice.

#### Socio-economics

- 5.6.11. Paragraph 2.13 of the NPSNN guides that the SRN provides critical links between cities, joins up communities and connects other transport infrastructure. It provides a vital role in people's journeys, and drives prosperity by supporting new and existing development, encouraging trade and attracting investment. A well-functioning SRN is critical for safe and reliable journeys and the movement of goods in support of the national and regional economies.
- 5.6.12. Paragraph 2.16 advises that traffic congestion constrains the economy and impacts negatively on quality of life. It constrains existing economic activity, as well as economic growth, by increasing costs to businesses and damaging their competitiveness. Congestion can also lead to a marked deterioration in the experience of road users.
- 5.6.13. Nevertheless, the Government recognises that for development of the national road network to be sustainable it should be designed to minimise social, as well as environmental, impacts and improve quality of life (paragraph 3.2). Applicants are expected to avoid and mitigate social impacts in line with the principles set out in the NPPF. They should also provide evidence that they have considered reasonable opportunities to deliver social benefits as part of schemes (paragraph 3.3).

#### Agricultural land and holdings

- 5.6.14. Paragraph 5.168 of the NPSNN states that applicants should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, applicants should seek to use areas of poorer quality land in preference to that of a higher quality.

#### **Development plan policies**

- 5.6.15. The Joint Core Strategy (JCS) for Broadland, Norwich, and South Norfolk 2011- 2026 (Greater Norwich Development Partnership) The JCS sets out the overarching strategy for growth across South Norfolk. It identifies key locations for housing and employment growth and sets out policies to ensure that future development is sustainable.
- 5.6.16. South Norfolk Local Plan Development Management Policies Document 2015 includes:
- Policy DM 2.8 Equestrian and other changes of use of agricultural land seeks to ensure that development of agricultural land is appropriate and necessary.
  - Policy DM 3.14 Pollution and, health and safety objectives include guidance on contaminated land. Land should be suitable for the new use, ensuring that both human health and the environment are safeguarded from unacceptable risk. Sites which are known or suspected to be contaminated should be identified at an early stage.
- 5.6.17. Outside of development plan policy provision NCC's Public Health Strategy 2016-2020 is also relevant to mention. That strategy aims to prioritise public health actions which would promote healthy living and healthy places; protect communities and individuals from harm; provide services that meet community needs and work in partnerships to deliver better services. The guiding principles set out in the document include: increasing active travel, making streets safer and improving air quality.

### **The Application**

- 5.6.18. The elements of the application most relevant to the consideration of land use, social and economic matters are:
- ES Chapter 12: Population and Human Health [[APP-049](#)]
  - Case for the Scheme [[APP-125](#)]
  - ES Chapter 9 – Geology and Soils [[APP-046](#)]
  - National Policy Statement for National Networks Accordance Tables [[APP-126](#)]
  - Environmental Masterplan (Although the Applicant's Guide to the Application refers to [REP6-007] that document when opened is the EMP therefore [[APP-128](#)] remains applicable)
  - First Iteration of the Environmental Management Plan (EMP) [[REP8-007](#)]
  - Outline Traffic management Plan (OTMP) [[REP6-009](#)]
  - Figure 12.1: Population and human health constraints plan [[APP-072](#)]



- Figure 12.2: Design, mitigation and enhancement measures [[APP-072](#)]
- Figure 12.3: Agricultural land holdings [[APP-072](#)]
- Figure 12.4 WCH routes [[APP-072](#)]
- Equality Impact Assessment [[APP-130](#)]

### ***The Applicant's population and human health assessment***

#### Introduction

- 5.6.19. As part of the EIA process, the reports on the potential significant effects for population and human health as a result of the Proposed Development.
- 5.6.20. The assessment undertaken in the ES is based on the Scoping Report (undertaken February 2018) and subsequent agreed Scoping Opinion (March 2018) to ensure accordance with the most up to date guidance in the Design Manual for DMRB (LA 112) relating to population and human health is taken into account.
- 5.6.21. Potential impacts of the Proposed Development on population and human health may arise from changes to traffic flows, temporary and permanent land take of agricultural land, changes to air quality and noise emissions, and changes to the landscape and townscape. The Applicant's population and human health assessment focuses on the effects on private property, land important to the community, future development, local businesses, agricultural land, walkers, cyclists, and horse riders. An assessment of the impact of the Proposed Development on the health of local populations was also undertaken, using information from other chapters in the ES where it was relevant. Professional judgement was used in identifying the likely significant impacts.
- 5.6.22. Human health effects were characterised as positive, negative, neutral, or uncertain. The assessment of community severance considered both new severances caused by increases in traffic levels and relief due to reductions in traffic levels.
- 5.6.23. The study area for the assessment of impacts on land use and accessibility extended 500m from the DCO boundary (including the construction footprint), in line with DMRB LA 112. That was selected as significant effects are unlikely to occur outside of the 500m study area as a result of the scheme.
- 5.6.24. Notable findings from the Applicant's review of baseline conditions included:
- Land to the north east and south-east of Thickthorn Junction has planning permission for housing developments. Round House Park would provide 1,000 dwellings and is currently on course for construction as part of the Greater Norwich Development

Partnership's Joint Core Strategy (Cringleford Neighbourhood Development Plan, 2014). This is in addition to a minimum of 1,200 dwellings allocated in Cringleford. This includes planning permission 2014/00025 (which was allowed on appeal and subsequently varied by planning permission 2017/2120). The residential development is subject to planning obligations requiring the provision of onsite public open space, both informal recreational space and formal space in the form of several football pitches. The Section 106 Agreement outlines areas required for both formal and informal public open space.

- The existing A47 and A11 experience congestion during peak hours, creating a degree of severance and accessibility issues for local communities
- Intwood Carr Country Wildlife Site (SWS) is located within the study area, to the east of the DCO boundary. There are no other areas of community land within the study area. The proposed public open space provision as part of the Cringleford Residential Development is assessed as a part of the private property and housing assessment.
- There are community assets present to the north west of Thickthorn Junction. There are no community assets which take direct access off the A47 or A11 within the study area. The sensitivity of community assets located to the north west of the Proposed Development within the study area are considered medium.
- The closest hub of community assets to the Proposed Development are located in Cringleford, to the east of the Thickthorn Junction. The sensitivity of community assets in Cringleford are assessed as medium, as the level of use would be reasonably frequent and used by majority of the community. Such facilities observed included the following:
  - Cringleford Church of England Voluntary Aided Primary School – 0.7km to the north east of the DCO boundary
  - Cringleford Primary School - 0.7km to the north east of the DCO boundary
  - Crackerjacks Pre School Playgroup - 0.7km to the north east of the DCO boundary
  - Cringleford GP Surgery- 0.4km to the east of the DCO boundary
  - Cringleford Post Office - 0.9km to the east of the DCO boundary
  - Clever Cloggs Children's Nursery – 1km to the east of the DCO boundary

- Nellie's Nursery – 0.08km to the north west of the DCO boundary
- First Class Learning - 0.7km to the north east of the DCO boundary
- Cringleford Tennis Club – 1km to the east of the DCO boundary
- Cringleford Hall- 0.45km to the east of the DCO boundary

5.6.25. There are businesses located to the north west of the Proposed Development which include: a hotel (within the DCO boundary); a restaurant (0.02km from the DCO boundary); Thickthorn Services including the Petrol Station (adjacent to the northern boundary of the A11, 0.02km from the DCO boundary); two driving schools, located to the north east and south-west of the Proposed Development on Cantley Lane South (0.02km to the north of Cantley Lane) which were factored.

5.6.26. Four agricultural holdings were identified by the Applicant that could potentially be affected by the Proposed Development appeared to be a mixture of arable and livestock grazing units. Based on the criteria derived from the DMRB, two of the four agricultural holdings were identified as being of high sensitivity due to the predominantly arable land use. This requires at least monthly access for normal agricultural operations.

5.6.27. However, access would be required more frequently during peak times including harvest and sowing. Those two holdings did not appear to have infrastructure associated with arable farming affected by the Proposed Development. One holding was a mix of arable and grassland enterprises and what appeared to be a disused pig unit. That would not require daily use, so sensitivity was assessed as high for the whole holding. The final agricultural area was identified as having a very high sensitivity. Land use appears to be pasture which would be used for grazing livestock and as such access is required daily.

5.6.28. The key WCH routes in the study area are as shown in ES Figure 12.1 [[APP-072](#)]. These are:

- Cringleford footpath FP4a runs from Cantley Lane to a footbridge over the A47, providing a link to Cantley Lane South.
- Cringleford bridleway BR5 which runs from Cantley Lane to Norwich A47 Southern Bypass.
- Cringleford footpath FP1 runs from Cantley Lane to Newmarket Road.
- Cringleford footpath FP2 runs south from Cantley Lane to Langley Close.

- Cringleford footpath FP3 runs south west from Brettingham Avenue to Kedleston Drive.
- Keswick bridleway BR 5 runs to the east of the A47 at Intwood.
- Hethersett footpath FP6 which runs parallel to Cantley Lane South before heading west adjacent to the railway line and parallel to the Hethersett Bypass.
- Permissive footpath and cycleway between Cantley Lane and Toucan crossing on A11 Newmarket Road.
- Wymondham Circular cycle route, which follows Intwood Road.
- Wymondham to Sprowston Pedalway.
- Kett's Country Local walking route from Cringleford to Wymondham which follows Intwood Road.
- Ketteringham FP1 runs southwest across fields between Station Lane at Hethersett and High Street.
- Hethersett bridleway open to all traffic (BOAT)2 runs eastwards from Station Lane at Hethersett.
- Hethersett FP5 runs in a south westerly direction across fields from Station Lane at Hethersett before turning north west to connect to Hethersett FP4.

5.6.29. Public transport in the area comprises of stops on the B1172; Thickthorn Park and Ride Site; Cringleford Interchange (80m north of A11/Round House Way roundabout); Cantley Lane; Newmarket Road and Colney Lane. No changes are proposed to those.

5.6.30. Across the South Norfolk district, the population was estimated to be in the region of 124,012 (accordingly to the Census, 2011). The ward with the highest population in the study area was Hethersett and the lowest Cringleford. The data showed Cringleford, Hethersett and Mulbarton and Stoke Holy Cross to have better general health than the national average and the percentage of their populations with general health of bad or very bad is lower than the national average. The percentage of the population with limiting long term illnesses or disability for Hethersett is higher than the national average, and lower than the national average in Cringleford and Mulbarton and Stoke Holy Cross. Income deprived households are higher than the national average in all three wards.

#### Potential impacts

5.6.31. Potential temporary and permanent construction phase impacts prior to any mitigation were anticipated to include:

- Temporary land-take from private properties, community land, development land, agricultural land and community assets required to undertake construction activities.
- Temporary changes to severance and accessibility to private properties, community land, community assets and businesses during construction of the Proposed Development. Two methods of construction for proposed structures have been assessed, of which one would be chosen: the push method, which will include two periods of five day disruption to the network; and the top down method, which would result in less disruption for a longer period, where traffic management would ensure impacts are minimised. Impacts on receptors caused by both methods were considered for the purposes of the Applicant's assessment.
- Temporary diversions or stopping up of WCH routes.
- Increased construction traffic on the existing A47, A11 and local roads leading to a temporary disruption to access private properties, community assets and businesses as a result of road closures and traffic management.
- Permanent land-take from private properties, community land, development land, agricultural land and community assets.
- Permanent severance of land and buildings which form part of an agricultural holding.
- Permanent change to access from the Proposed Development to private properties and businesses on Cantley Lane South.
- Permanent loss of land from the proposed public open space area linked to the new residential development south of Cringleford.
- Permanent changes to severance from the Proposed Development to private properties on Cantley Lane.
- Permanent stopping up of PRow bridleway Cringleford BR5 and removal of the existing Pegasus crossing facilities at Thickthorn Junction.
- Permanent diversion of PRow footpath Cringleford FP4a and the upgrade of the same to bridleway status.
- Visual impacts of new infrastructure on sensitive visual receptors.
- Impacts of noise and vibration from construction plant and vehicles on communities and residential receptors.
- Impacts of changes in local air quality (including dust dispersal and deposition and odour) from construction vehicles and activities.

- Stress, anxiety and related wellbeing impacts from exposure to (or concern about) sustained construction activity (or construction sites) in proximity to, for example living areas, open spaces, schools and amenities.
- Stress, anxiety and related wellbeing impacts from exposure to (or concern about) construction traffic on local roads close to communities, including for users of roads affected by increased levels of traffic for construction.

5.6.32. Potential impacts during operation (prior to any mitigation) included:

- Permanent changes to severance for private properties, community assets, businesses.
- Permanent land take from agricultural land holdings.
- Permanent changes to severance for WCH.
- Improvements to safety for vehicle travellers and pedestrians when accessing community assets and businesses at Thickthorn Services due to the proposed implementation of a 40mph speed limit Effects on changes in traffic noise and vibration on communities and residential receptors.
- Changes in access (by foot, cycle or car) to public transport.
- Changes in access (by foot, cycle or car) to other community assets.
- Changes in community severance.
- Perception of the proposed development, including psychosocial effects from concerns about changes in the environment.
- Secondary impacts from consequential developments.
- Reduced accident rates and severity.
- Increased accessibility (reduced car journey times using new road) to key employment locations, with potential for improved employment opportunities.
- Increased accessibility (reduced walking and cycling journey times between communities using the shared use path) on the B1172 Norwich Road and installation of traffic lights.

#### Design and mitigation measures

5.6.33. The EMP [[REP8-007](#)] includes a range of measures to reduce impacts on human health and community assets during the construction phase. The OTMP [[REP6-009](#)] includes measures to reduce the effects of construction

activities on NMUs and the living conditions of nearby occupiers. These include:

- Sufficient notification of closures.
- Not having closures on alternative routes that are not subject to diversions.
- Diversion routes which avoid narrow roads and low bridges.
- Road Haulage Association to be notified via communications.
- Traffic Management designed, installed, and maintained in accordance with the DMRB.
- Notification to HGV users of closures.
- Advanced warnings via nationwide communications (involving mobile phone technology) to allow long distance drivers and tourists to make better transport decisions.
- Real time National Traffic Information Centre (NTIC) data updates for display on strategic variable message signs on the road network.
- Sufficient notification (21 days beforehand) of road closures using variable message signs where possible.
- Accurate information about delays for driver alternative route planning.
- Emergency services access enablement through haul road and advanced notification of any closures.
- Sensitivity to local market days/holidays etc for traffic management.
- Ensuring minimal disruption from noise, dust, lighting and diversion routes.
- Notification and liaison with individuals and local group representatives.
- Activity curfews for example no piling between 22:00 and 06:00.
- Diversion route signage and information for driver requirements.
- Information given to National Highways Customer Contact Centre and contract details.
- Use of wheelchair accessible recovery vehicles.
- Welfare facilities to take into account disabilities.

- Walkers, Cyclists and Horse Riders (WCH) provided with temporary route provision with shared routes, with complaint signage and disabled access (routes to be lit, guarded and step free).
- Crossing points with tactile paving or alternative suitable measures (such as audible warnings).
- Sharing the Traffic Management Plan once finalised with Hornsea 3, Norfolk County Council, other local Highway Authorities and Parish/Town Councils, Royal Mail, Norwich Airport, Norfolk & Norwich University Hospital, Norwich City Football Club, Warehouse Distribution Centres, Ambulance Services, Thickthorn Park and Ride, Norwich International Airport, adjacent business owners and communities. Subsequent liaisons, regular communications, and updates to those groups with advanced notification of programmed diversions. This would include providing major road users with not less than 7 working days' notice of any road closures, diversions or alternative access arrangements that may affect travel on those routes and (if available) the agreed hours of working. This would form part of a wider communications plan associated with the scheme. The method of communication would be agreed as part of the final TMP. Highways England would consult with Royal Mail on the content of the final TMP.
- No access to local business would be altered during works.
- Peak travel time sensitivity.

5.6.34. The Applicant submits that the scheme would be constructed in a way which would reduce the need to close and divert footways, PRow and cycle facilities. Where a closure of a WCH route would be required, safe and appropriate alternative routes would be provided to ensure access is maintained during construction. The principal contractor would agree all temporary diversion routes with the local authority.

5.6.35. The proposal would include the following measures intended to avoid or minimise effects during the operational phase:

- The new Cantley Lane Footbridge (Cringleford) would be suitable for all WCH users and would replace the existing footbridge which is to be demolished. The PRow footpath Cringleford FP 4a would be diverted to the new Cantley Lane Footbridge (Cringleford) and would be upgraded to bridleway status.
- A shared footway and cycleway would be provided on the eastern frontage of the Cantley Lane Link Road as part of the Proposed Development. A refuge island would also be incorporated into its junction with B1172 Norwich Road to facilitate the safe crossing between the shared footway and cycleway and the existing facility provided on the northern frontage of Norwich Road, which comprises part of the Wymondham to Sprowston Pedalways cycle route



- Discussions were ongoing during the Examination process between the applicant and the developer to determine the mitigation for the loss of committed formal public open space provision (of some 0.83Ha).

5.6.36. Noise, dust and visual effects mitigation measures are set out in the EMP [[REP8-007](#)] and are discussed in more detail the relevant parts of this report.

Summary of likely effects

5.6.37. The Applicant identified the following likely effects. NMU, land use and access impacts during construction phase:

- During construction, some journeys may be slightly longer due to traffic management, however these effects are anticipated to be minimal and for short time periods. Two methods of construction have been considered when constructing the underpass structures required on the A11 to A47 link road as part of the Proposed Development consisting of the push method and top down construction.
- If the push method of construction is chosen as the preferred method, disruption would take place for a shorter period (approximately two periods of five days each) however, this method would require full carriageway closure.
- If the top down method option is chosen as the preferred method, there would be less disruption to the network, however construction would take longer. The traffic management measures will aim to keep traffic moving, and the construction phasing and offline working would minimise impacts on people accessing community assets and other communities.

5.6.38. Private property and housing impacts during construction:

- All private properties would have an access maintained, however there may be a change in journey length for vehicle users to access some properties. The scheme would include altered and newly formed accesses to private properties where required. No significant effects to accessibility are anticipated.
- However, mitigation to either compensate this loss or relocate the football pitch is possible during DCO examination. Therefore, the effect would be assessed as the worst-case scenario that the football pitch would not be relocated resulting in a large adverse effect.
- Residents of Cantley Lane South (north of Cantley Stream) would need to undertake a permanent 1.2km journey length increase for journeys to and from the westbound carriageway of the A47 and 1.3km increase to the eastbound carriageway. Residents would be required to travel south on Cantley Lane South and take the

proposed Cantley Lane Link Road onto the B1172 Norwich Road. The magnitude is considered minor as the impact will result in a minor addition of severance where there is already adequate accessibility provision. Effects are therefore assessed as slight adverse.

- Due to the severance of Cantley Lane South onto the A47 exit slip road, the journey length to Thickthorn Junction from private properties on Cantley Lane South, south of the Cantley Stream and north of the railway line, would increase permanently by 0.8km. The effect is classed as slight adverse as reasonable accessibility levels would be maintained.
- Due to the severance of Cantley Lane South onto the A47, the journey length to Thickthorn Junction from private property 'High View' on Cantley Lane, south of the Cantley Stream and south of the railway line, would increase permanently by 0.6km. The effect is classed as slight adverse as reasonable accessibility would be maintained.
- A small disused metal outbuilding identified to the east of Cantley Lane South (south of Cantley Stream) would be demolished as a result of the Proposed Development Discussions with the landowner during the DCO process would identify a location for a relocation of the outbuilding thereby giving a neutral effect.
- An area of Cringleford Residential Development planned to be public open space would be partly taken as a part of the Proposed Development. The area of open space required for the Proposed Development was designated as formal open space (0.82 hectares (ha)) and informal open space (0.98ha). The informal open space was considered to be a surplus requirement of the planning obligations secured for an extant housing scheme. However, as the loss of formal open space land would result in half of a proposed football pitch being lost the facility as a whole would be undeliverable. The sensitivity of this area of planned public open space would be medium as there would be alternative facilities available at a local level with other football pitches proposed as part of the development. However, the magnitude of impact was considered major as there would be a clear loss of a planned resource.

#### 5.6.39. Private property and housing impacts during operation phase:

- There would be no anticipated changes to journey length or access when accessing Thickthorn Junction from residential properties in Cringleford, north and south of the A11 Newmarket Road. However, journey times are predicted to improve as a result of the Proposed Development. When approaching from the A11 south, journey time savings of approximately three minutes are predicted. The effect is slight beneficial.

- There would be no impacts to journey length or access when making journeys to or from residential properties on Station Lane both north and south of the A11 Hethersett Bypass, via Thickthorn Junction. Journey time savings are predicted for westbound traffic from the A47 south to the A11 Hethersett Bypass of approximately four minutes during 2040, which may provide a reduction in severance when accessing residential properties on Station Lane. Effects would be slight beneficial.
- There would be no impacts to journey length or access for residents of private properties on the B1172 Norwich Road and in Hethersett when accessing Thickthorn Junction.
- In terms of community land and assets there would be no anticipated changes to journey length or access when accessing Thickthorn Junction from the community assets in Cringleford, consisting of Cringleford Doctors Surgery and Eaton Veterinary Practice. The journey time savings that are anticipated to be experienced when accessing residential properties in Cringleford from Thickthorn Junction would be experienced when accessing Cringleford Primary School and Cringleford Doctors Surgery. The effects would be slight beneficial.

5.6.40. Development land and business impacts during construction:

- Owing to the severance of Cantley Lane South onto the A47 exit slip road, the journey length to Thickthorn Junction from Leavers Driving Tuition, north of the Cantley Stream, would increase permanently by 1.3km. The effects are assessed as slight adverse as reasonable accessibility levels would be maintained. No mitigation is proposed.

5.6.41. Development land and business impacts during operation:

- Journey time savings are anticipated as a result of the Proposed Development when accessing businesses in Cringleford from the A11 south. Savings of approximately three minutes are anticipated by 2040. Effects are therefore classified as slight beneficial.
- Journey time savings when accessing businesses on Station Lane to the south of the A11. When accessing from the A47 westbound carriageway, journey time savings of approximately four minutes are predicted. When accessing the A47 from the A11 eastbound, journey time savings of approximately two minutes are predicted in the AM peak and one minute in the PM peak. Savings of approximately three seconds are predicted when approaching from the A47 north of Thickthorn Junction. Effects are therefore classified as slight beneficial.

5.6.42. For WCH impacts during construction they would range from:

- The diversion or temporary closure of the following routes during construction, which would become permanent diversions or

closures during operation: Cringleford FP4a (permanent diversion) and Cringleford BR5 (permanent closure). Permanent diversion of Cringleford FP4a to the new Cantley Lane Footbridge (Cringleford) spanning the south facing slip roads at Thickthorn Junction, to link Cantley Lane and Cantley Lane South. This would increase journey length for users by around 70 metres resulting in a minor impact. As the sensitivity of the footpath is classed as high, due to the usage of the footpath which would result in a moderate adverse effect.

- Permanent removal of the section of bridleway Cringleford BR5 and the Pegasus crossing facilities at the Thickthorn Junction. Although the bridleway is a PRoW, its sensitivity has been classified as low as it is overgrown and there is no evidence of its use or use of the Pegasus facilities. The impact is major as the section of the bridleway concerned would be lost during construction of the Proposed Development. Without mitigation this would result in a moderate adverse outcome. With mitigation the potential impact is major beneficial. This is because the provision of the new Cantley Lane Footbridge (Cringleford) would result in a large reduction in journey length for cyclists and horse-riders and also provide a grade separated crossing of the A47 when travelling between Cantley Lane and Cantley Lane South. Effects are therefore assessed as moderate beneficial with mitigation.
- There would be no impact on Cringleford footpath FP1, Cringleford footpath FP2, Cringleford footpath FP3, Keswick bridleway BR5, Hethersett footpath FP6, the permissive footpath and cycleway between Cantley Lane and A11 Newmarket Road, the Wymondham Circular cycle route, the Wymondham to Sprowston Pedalway or the Kett's Country local walking route. Therefore, a neutral effect would be apparent.

5.6.43. WCH impacts during operation phase would range as the following:

- A new replacement shared footway and cycleway would be provided on the eastern frontage of the Cantley Lane Link Road as part of the Proposed Development. A refuge island would also be incorporated into its junction with B1172 Norwich Road to facilitate the safe crossing between the shared footway and cycleway and the existing facility provided on the northern frontage of Norwich Road, which comprises part of the Wymondham to Sprowston Pedalways cycle route. The provision of this infrastructure would provide a safer and pleasant route for users travelling between Wymondham and Cringleford, avoiding the need to pass through Thickthorn Junction. Effects are classified as slight beneficial.

5.6.44. Agricultural land holdings impact during construction:

- 4 agricultural holdings were identified which involve land take ranging for slight adverse effects for 3 holdings. A moderate adverse effect to one of the holdings is identified where there

would be multiple arable and grassland fields impacted upon alongside access amendments required to a southern arable block. There would also be construction impacts on fixed assets within a Higher Level Stewardship agreement.

5.6.45. Agricultural land holdings impact during operation:

- There would be a permanent land take of approximately 8.59ha for holding 1. The estimated size of the tenanted holding is 69ha. The scale of the permanent land take would equate to 12% of the farm so it is unlikely that this would impact on the long term viability. A minor impact would be involved, the residual effect is considered to be slight adverse.
- There would be a permanent land take estimated as 16ha, which equates to 13% of the farm for Holding 2. It is a mixed arable and grazing livestock farm with medium sensitivity impacts to its practices. A moderate magnitude of permanent impact its anticipated, the residual effect is considered to be moderate adverse.
- There would be a permanent land take of approximately 1.75ha for holding 3. The residual effect is considered to be slight adverse.
- For holding 4. A 0.17ha land take is involved believed to be used for grazing livestock, which may include the keeping of horses. The residual effect is considered to be slight adverse.

5.6.46. Human health, construction phase:

- There is the potential for residents and members of the communities to be temporarily affected by increases of noise or dust disturbance during the construction period. In the main noise and vibration: Negative impact; Air quality: Neutral; Stress and anxiety: Negative impact; Landscape amenity: Negative impact; Sources of pollution: neutral; and Safety: neutral.
- Existing and predicted levels of air and noise pollution, visual impacts are assessed elsewhere in this report.

5.6.47. Human health, construction phase

- Accessibility level impacts to healthcare facilities, community, recreation, and education facilities are identified as positive.
- Existing and predicted levels of air and noise pollution impacts, Stress and anxiety impacts, landscape amenity impacts, sources of pollution and safety impacts are all deemed to be neutral.

***Applicant's safety benefit case***

5.6.48. The overall safety implications for the scheme are largely detailed and summarised in the Applicant's Case for the Scheme [[APP-125](#)].

- 5.6.49. It advises that the DfT's COBA-LT modelling tool has been used to the forecasted impact of the scheme on accidents. STATS-19 (a national database collection of all road traffic accidents that resulted in a personal injury and were reported to the police within 30 days of the accident) accident data used in the development of the model as well as the results of the assessment.
- 5.6.50. The NATS model study area (previously referred to in the Traffic and Transport section of this report) plus an impact area of approximately 1km either side of the Thickthorn Junction between Round House Way roundabout and the A11/Station Lane junction was applied in the Applicant's assessment.
- 5.6.51. The COBA-LT analysis undertaken by the Applicant makes the case that the scheme improves road safety by reducing the numbers of accidents and consequently the number of casualties. In total, over a 60-year timeframe the scheme is anticipated to save a total of 242 accidents and 26 killed or seriously injured. The total accident benefits generated by the Proposed Development over the same period is forecasted to be in the order of £7.16m in monetarised economic benefits.

***Applicant's overall case for Walking, Cycling and Horse-riding (WCH) facilities as a proposed improvement***

- 5.6.52. The Proposed Development would result in the permanent diversion of one WCH route and the permanent closure of others. The scheme proposes the stopping up and diversion of Cringleford FP4a to a new WCH overbridge spanning the A47 to link Cantley Lane and Cantley Lane South.
- 5.6.53. The new overbridge proposed would be suitable for all WCH users and will replace the existing footbridge which is to be demolished. The footpath to be diverted will be upgraded to bridleway status as part of the proposals. The location of the new overbridge would slightly increase journey length for users. However, the overall impact of providing this new infrastructure would be beneficial as it would result in a large reduction in journey length for cyclists and horse-riders and provide a grade separated crossing of the A47 for all users when travelling between Cantley Lane and Cantley Lane South.
- 5.6.54. The scheme would permanently remove the section of bridleway Cringleford BR5 and the tracks leading to the Pegasus crossing facilities at Thickthorn Junction. However, post construction phases equestrians would be able to make use of the new overbridge to travel between Cantley Lane and Cantley Lane South.
- 5.6.55. The Proposed Development would not impact on any of the other WCH routes in the vicinity of Thickthorn Junction.
- 5.6.56. The provision of a new cycle track on the eastern frontage of the Cantley Lane Link Road is proposed with NMU in mind. In conjunction with the new overbridge, that new infrastructure would provide an alternative route between Cantley Lane and the Blue Pedalways cycle route.

5.6.57. An uncontrolled crossing facility, incorporating a refuge island and dropped kerbs, would be provided on B1172 Norwich Road to the east of its junction with the Cantley Lane Link Road. This would facilitate the safe crossing between the new shared footway and cycleway and the existing provision on the northern frontage of Norwich Road. In addition to the WCH facilities outlined above, the speed limit on the section of Cantley Lane South that is proposed to become a cul-de-sac and reduced to 20 miles per hour (mph) to promote road safety and improve conditions for WCH users.

5.6.58. Overall, the Applicant's ES finds there would be a positive impact on local WCH provision.

### ***Applicant's economic case***

5.6.59. The Applicant's Case for the Scheme [[APP-125](#)] makes economic arguments in favour of allowing the proposed development. The total scheme costs are evidenced as being £49.8 million with an assumption that none of the costs will be funded from developer contributions.

5.6.60. The scheme is anticipated to generate an initial present value of benefits worth £84.1 million. It is also forecast to generate wider economic impacts and journey time reliability benefits. Inclusion of journey time reliability benefits and wider economic impacts. Additional, non-monetised benefits such as social and distributional impacts thus maximising public value are also referred to by the Applicant.

5.6.61. Overall, the Proposed Development is forecast to produce benefits of £119.8 million over the 60-year appraisal period. That figure is summarised in Table 5.2: Summary of economic assessment results, page 91 of the Applicant's Case for the Scheme [[APP-125](#)].

5.6.62. The monetised economic benefits include travel time savings of £100.9 million and vehicle operating cost disbenefits of -£13.6 million. As the scheme generates reductions in congestion, greater time benefits are experienced but at the expense of higher fuel consumption due to increased vehicle speeds.

5.6.63. Construction phases would generate disbenefits from journey delays. The estimated impact amounts to approximately -£12.8 million, but temporary traffic management solutions presented are expected to keep disruption to a minimum.

5.6.64. In terms of the environmental costs. Greenhouse gases over the 60-year appraisal period have been calculated to generate a total disbenefit of -£5.8 million. Air quality has also been calculated over the 60-year appraisal period and amount to a total disbenefit of -£1.0 million. The impact on noise is anticipated to provide a positive benefit of £0.1 million monetarised over a 60-year period.

5.6.65. The monetised value for the total wider economic impacts is estimated as £33.1 million. Business users are suggested to be the main beneficiaries

from the enhanced connectivity and congestion reductions brought about by the Proposed Development as a long-term positive impact.

### **Issues considered during the Examination**

- 5.6.66. The land use, social and economic matters considered during the Examination included:
- Adequacy of the arrangements for securing the proposed replacement planned public open space loss;
  - Impacts from site compound/welfare facilities;
  - Potential for further socio-economic benefits arising from inclusive growth and social mobility;
  - Local access/ amenity concerns and other related matters.

#### Replacement planned public open space provision

- 5.6.67. Specific private property and housing delivery impacts during construction and operation phases as detailed in ES Chapter 12: Population and Human Health [[APP-049](#)] were subject to written correspondence and oral submissions at hearings during the Examination process.
- 5.6.68. The matters relating to planned public open space uptake considered involved several representations made by Brown and Co on behalf of Big Sky Developments Ltd (Big Sky) during the Examination. Big Sky is responsible for the planning, development, and construction of the Cringleford residential development, also known locally as 'St Gile's Gate'. It was also recognised that Big Sky was a company owned by South Norfolk Council.
- 5.6.69. The applicant clarified in the response to ExA GC.1.3 [[REP-006](#)] its position on the private loss of future planned public open space as part of an approved residential development in Cringleford.
- 5.6.70. Part of the land take proposed by the Applicant involves land for a planned sports pitch serving an approved housing development at Cringleford. As set out in the Applicant's Statement of Reasons [[APP-020](#)] which was updated to [[AS-030](#)] an area of land measuring 13,656 square metres at Plots 6/9a, 6/10a, 7/7c and 7/7/e is stated as needed primarily for a construction laydown area.
- 5.6.71. A further area measuring 20,542 square metres comprising of Plots 6/9b, 7/7b and 7/7d is needed for the diversion of utility services. The area comprised in plots 6/9c and 7/7/a (measuring 18,617 square metres) is needed permanently for the delivery of the A11-A47 connector road and earthworks, drainage and bunding. As the sports pitches and recreational areas are yet to be marked out and delivered for approved housing the development, those planned areas cannot in a formal legislative sense be



classed as public open space. For the purposes of making the Order they should be treated as being to 'ordinary' land.

- 5.6.72. In responding to initial representations and written questions for the replacement of open space provision the Applicant set out in [\[REP2-007\]](#) that it agreed in principle to mitigate the loss of a planned football pitch which would not be possible should the DCO for the Proposed Development be made. The Applicant set out that a commuted sum could be considered as part of Big Sky's compensation claim and could be delivered via a deed of variation to the existing section 106 agreement or via a fresh s106 agreement if needed by Big Sky.
- 5.6.73. The ExA also at the Compulsory Acquisition Hearing (CAH1) held virtually via Microsoft Teams on 2 March 2022 also raised this issue.
- 5.6.74. It was confirmed by Big Sky that an application was already in hand to vary the delivery of the public open space with SNC and anticipated to be subject to Planning Committee approval. The outcome of that decision was not available during the Examination period owing to timings. No issues were subsequently raised by relevant parties as being problematic for the planned variation of the agreement.
- 5.6.75. Towards the end of the Examination agreement on public space matters is recorded in the SoCG between the Applicant and Big Sky [\[REP9-015\]](#).
- 5.6.76. It is noted by the ExA that subject to that the specific details of the variation allowing for sufficient replacement the loss of future planned open space the issue would not count against the DCO being made.
- 5.6.77. There was no compelling evidence submitted during the Examination which suggested that a commuted sum providing an alternative to the local populous was not a feasible solution to allow sufficient planned replacement elsewhere. However, in the absence of any formal variation agreement confirmation a worst-case scenario should be taken as the default position. Furthermore, there was nothing evidenced by parties that the land in its present state should not be deemed as being 'ordinary' space.
- 5.6.78. When the Examination closed no formal agreement to vary the existing s106 committing land to playing pitch space was declared as being in existence by any party.

#### Potential impacts from site compound/welfare facilities

- 5.6.79. Big Sky raised specific concerns in relation to the impact of proposed compound and welfare facilities [\[RR-009\]](#) [\[REP1-038\]](#) [\[REP3-024\]](#) [\[REP5-029\]](#) [\[REP6-026\]](#). Examination of those issues included the ExA's questions during Big Sky's attendance at CAH1 [\[EV-023\]](#) [\[EV-024\]](#). The subsequent construction management issues arising from the position of the proposed compound and welfare facilities was a considerable point of disagreement during the Examination.

- 5.6.80. This in the main related to the triangular compound proposed by the Applicant at Plot reference 7/7c which would occupy land designed for three houses and will affect the ones immediately north, as services and accesses would not be able to be completed. And the part of the housing development referred to would not be completed as the timescales of the proposed A47 Thickthorn Junction improvement works would coincide badly with the delivery of the approved housing development.
- 5.6.81. The Applicant clarified in the response to ExA GC.1.3, [\[REP2-006\]](#) as well as via [\[REP2-007\]](#) in the initial stages of the Examination that Plot 7/7c would be required for a site compound, welfare facility, parking and some storage. The Applicant made early submissions to the effect that it could only confirm the exact area required once the detailed design had been prepared. But in any event, it would try to minimise the temporary land take the area of concern.
- 5.6.82. It was clarified by the Applicant early in the Examination, the extent of land shown on the land plans is the land that is the minimum required to ensure the Proposed Development could be delivered at this stage of the design process.
- 5.6.83. The Applicant pointed to its legal obligations to provide welfare facilities, and this is the only area where these could be realistically provided, whilst complying with the Construction (Design and Management) Regulations 2015 (CDM Regulations) as the main reasons for its choices.
- 5.6.84. It was explored during the Examination if other suitable land could be considered for the site compound. In that regard the Applicant refers to a call held with Big Sky Developments on the 11 March 2022. However, no suitable alternative land was identified for the site compound. The Applicant did nevertheless wish to explore options relating to the location of the site compound with Big Sky Developments and minimising the footprint of the compound facilities during construction phases. This was recorded in the SoCG between the Applicant and Big Sky [\[REP9-015\]](#).
- 5.6.85. The ExA asked for clarity from the Applicant as to what the welfare facilities would be provided. In response the Applicant confirmed they would provide toilets, first aid provisions, relaxation areas, eating areas and spaces to conduction site inductions. The CDM regulations also require the welfare facilities to be within suitable distances of sites which contributes to the selection of suitable locations. The Applicant explained that parking facilities would be separate. Workers would arrive by a minibus system collected from the main site.
- 5.6.86. As part of Big Sky's concerns, it was queried by the ExA whether an area of around 1.7 acres for the welfare facilities and associated areas would be excessive. The Applicant reiterated that this was the minimum area given the amount of planned construction works to take place.
- 5.6.87. In relation to possible construction phasing adjustments to alleviate Big Sky concerns. It was confirmed that the methodology on the underpass to be constructed in this area and the way it is to constructed means that

no excavations or abutments can happen until later on in the construction cycle. The Applicant stated that it would be constantly monitoring the phasing options in order to try and leave 7/7c and get out of the way of Big Sky but at the moment the current phasing plan was the only workable option available.

- 5.6.88. At CAH1 the ExA sought further specific reasoning as to why the current phasing plan was considered unmovable by the Applicant. The Applicant explained that the construction of the box structure forming the underpass design was a 12-13 month end to end process. The Applicant would have to wait until this is completely constructed before closing the road network and 'pushing' the structure into place.
- 5.6.89. The construction of the box structure for the works is a substantial piece of engineering planned for completion by April 2024. Time lags also arise with giving notice for formal road closure. The road closure would be 9 days. There is only one 9-day closure planned of the SNR (A11/A47) in April 2024. This period was deemed most suitable in agreement between National Highways and NCC to enable full construction of the boxes and also the quietest period of the network.
- 5.6.90. Excavations and support structures of the excavations is one of the first phases to be completed. However, due to the construction of the box itself and the agreed dates for pushing into its final location, the works to this area would not be completed until April or May 2024. Any works remaining in the area around the Big Sky development would be completed after the push.
- 5.6.91. The ExA inquired into the steps which would be taken to remove the welfare facilities from the land and any measures that may be available to remove facilities at an earlier stage where that is feasible.
- 5.6.92. The Applicant referred to the reinstatement provisions contained within the dDCO which relate to temporary land possession. The Applicant also made reference to the ExA's Schedule of Proposed Changes to the dDCO [[PD-014](#)] and specifically point 9 – the suggested provisions in this do not marry up with the provisions already in article 34 of the dDCO.
- 5.6.93. Article 34 as drafted in the dDCO provides for conditions of restoration to be agreed with the landowners. From the perspective of value for money, it is in the Applicant's interest to be in possession for a short period of time in order to mitigate compensation. In regard to the practicalities of removing the facilities the Applicant confirmed that it would look to minimise the time that plot 7/7c is required for. It reiterated that after April 2024 there would still, however, be a large amount of works still to completed and so the intention will be to move welfare facilities to smaller sites where possible.
- 5.6.94. The questions posed relating to the above matters and answers given by the Applicant also suggested that the Principal Contractor for the scheme would manage welfare and it is within their power to move welfare

facilities where possible. The Applicant indicated this would be in dialogue with Big Sky.

- 5.6.95. Following questioning at CAH1 it is noted by the ExA that diligent and considerate construction management implementation would be an important factor which may be able to alleviate some of the concerns of Big Sky. The implementation of considerate working practices are not necessarily issues which cannot be fully appreciated in mechanisms referred to in the dDCO. However, there is evidence to suggest that the Principal Contractor would do everything in its power to ensure efficient construction practice is followed thereby minimising disruption to other parties.
- 5.6.96. Towards the end of the Examination agreement on plot 7/7c matters is recorded in the SoCG between the Applicant and Big Sky [[REP9-015](#)]. This includes acceptance of the needs of the Applicant in terms of project delivery and commitments by the Applicant in line with the above.
- Potential for further benefits arising from inclusive growth and social mobility
- 5.6.97. The Applicant has set out in their Case for the Scheme [[APP-125](#)] the full range of socio-economic benefits of allowing the improvement works. Those benefits set out broadly include journey time savings and reliability, benefitting strategic housing growth and the economy. Alongside those stated benefits during the Examination NCC by way of representation welcomed opportunities for inclusive growth and social mobility to be included in the socio-economic opportunities for Norfolk.
- 5.6.98. In that regard NCC through the LIR is stated as seeking to work proactively with National Highways to encourage apprenticeships, work experience and internships being included at an appropriate stage in the project. The Applicant was asked to provide further information about scope to formally secure apprenticeships and other employment opportunities for local people and the delivery mechanism. NCC also welcomed the productivity and other wider economic benefits will arise from the completed scheme inclusive of journey time savings and reliability improvements, benefitting businesses.
- 5.6.99. The Applicant responded to the LIR submission under [[REP2-008](#)] stating that Galliford Try as the Principal Contractor would explore opportunities to encourage direct and indirect local employment proportionate to the scale of the project.
- 5.6.100. There was broad agreement with NCC during the Examination to maximise all of the positive social economic benefits set out in Chapter 5 of the Case for the Scheme [[APP-125](#)].
- 5.6.101. Following queries, it is accepted by the ExA that those potential additional local benefits for employment opportunities referenced in the LIR which could be achieved would be better left outside of the provisions of the DCO. That is because appropriate procurement process channels can be broached and up taken in dialogue with Galliford Try. No

objections from NCC or any other IP arose which indicated that a different approach should be taken.

#### Local access/amenity considerations and related matters

- 5.6.102. Various access and amenity issues as well as other related matters were raised throughout the Examination by the Trustees of CM Watt Residual Trust and The Trustees of the Mackintosh Trust [[RR-011](#)] [[RR-012](#)] [[REP2-012](#)] [[REP2-013](#)] [[AS-013](#)] [[AS-039](#)] and [[AS-40](#)].
- 5.6.103. Alongside to the Trustees of CM Watt Residual Trust and The Trustees of the Mackintosh Trust concerns on access interests Bidwells LLP on behalf of M P Kemp Limited [[RR-013](#)] raised the concerns that existing B1172 road is a busy stretch of road which is becoming busier, particularly as further development takes place in the Wymondham area. Therefore, it was argued that it would be dangerous for traffic to join the B1172 road from the proposed Cantley Lane link road via a T junction. The representation questions that there are no proposals for a roundabout or signalised junction, but rather that a 'Ghost Island' junction form has been proposed. The principle of a T junction design has already been considered in the initial Traffic and Transportation section of this report (Section 5.2) but there are private access issues which are related to the point made by MP Kemp Limited.
- 5.6.104. Hethersett Parish Council's [[AS-014](#)] representation has already been touched upon in the Transport and Traffic Section of this report. They largely opposed the need for the scheme including reasons it would have the potential to attract traffic from Hethel, Bunwell, Tacolneston and Wreningham, travelling via several unsuitable country roads and finally via that through Ketteringham village with further potential attraction to vehicle drivers emanating from Mulbarton and East Carleton using similarly unsuitable rural roads. They also questioned the value for public money it would deliver relative to other options.
- 5.6.105. Birketts LLP on behalf of Mr and Mrs Graham Thompson [[RR-034](#)] [[REP1-035](#)] [[REP1-036](#)] [[REP2-014](#)] relating to concerns residential property access (to The Sycamores), safety and amenity issues (covering screening hedge removal and potential wildlife loss as well as lighting impacts) largely involving the adequacy of the requirements within the DCO.
- 5.6.106. Brown and Co on behalf of Janet Grint [[RR-037](#)] raised specific concerns towards potential landscape screening removal as well as light, noise and airborne pollutants issues; and Jason Graver [[RR-038](#)] [[REP1-037](#)] raised concerns regarding new farm access provision, drainage and landscaping treatments inclusive of gates and fencing.
- 5.6.107. In summary, the Applicant made a non-material change (NMC) request around Deadline 4 within Examination (as already detailed in Section 2.3 of this report) which largely deals with the accessibility and hedgerow concerns referred to the above submissions alongside other deadline submissions made by the Applicant.

- 5.6.108. The Applicant specifically clarified that Article 17(2) of the dDCO ensures that the existing private means of access cannot be stopped up unless and until the substitute access has been provided. The Applicant gave assurances to relevant landowners that they will have 24/7 access to their properties during the full construction period. Article 17(2) also ensures any private means of access is replaced before stopped up. As part of that provision the appropriate rights would be granted to the beneficiary of the private means of access. The Applicant did also refer to scope for a side agreement with landowners to deal with the provision of appropriate access rights not covered by 17(2) having regard to farm access provision interests.
- 5.6.109. It was confirmed by the Applicant that the hedgerow to the east of the new Cantley Lane Link Road is shown as being retained on Sheet 2 of the Environmental Masterplan [[APP-123](#)] in response to screening issue concerns arising from hedgerow removal. Boundary treatments in the form of new fencing and hedgerows are shown on the Environmental Masterplan.
- 5.6.110. No street lighting is proposed on Cantley Lane South or the Cantley Lane Link Road. The closest proposed new lighting would be approximately 360m from The Sycamores, in the cutting for the proposed A11-A47 Connector Road, on the other side of the existing A11.
- 5.6.111. With respect to direct agricultural access provision matters. No traffic data regarding the frequency of use for the existing field access was produced during the Examination by any party.
- 5.6.112. In terms of addressing the combined concerns Trustees of CM Watt Residual Trust and The Trustees of the Mackintosh Trust. The Applicant gave a full response in [[REP8-012](#)] which covered previous written questions by the ExA as well as relevant questions posed at hearings.
- 5.6.113. The Applicant clarified that two new agricultural accesses are to serve the Cantley Lane Link Road. These are located within parcel 5/2a and the changes to an improved revised location were agreed as part of the NMC request. It was also confirmed that although the detailed design had not taken place the accesses would be provided back to the landowners on a like for like basis.
- 5.6.114. It was noted by the ExA during the Examination that the speed limit on the road where the accesses were situated would be changed to 40mph. In light of this, the ExA questioned the suggested visibility splay provision at the new accesses agricultural to be provided.
- 5.6.115. The Applicant confirmed that the field access junctions would be designed in accordance with DMRB CD123, which mandates the required visibility splays based on design speed (40mph). The Applicant also clarified that there were no identified landscape features which would block visibility to the new agricultural accesses.
- 5.6.116. The ExA raised questions at CAH1 related to the possibility of a pinch point at the proposed T-junction of the Cantley Lane Link Road and

Norwich Road as designed which may lead to increased traffic tailbacks and potentially harm accessibility levels to the agricultural land plots impacted. The ExA also invited any information available on agricultural frequency levels to assist the SoS decision. However, no such information proved to be available to the Examination.

- 5.6.117. With respect to safety matters arising from the use of the Cantley Lane link road junction shared with the B1172 (Norwich Road). The Applicant referred to the modelling to the junction in the 2040 design year. Maximum queue results and vehicle delays were extracted from the model at the Cantley Lane approach to the junction. Queue results predict that maximum queues would not exceed 26m through the AM peak hour, indicating queues would not exceed six vehicles. The predicted average delay per vehicle for right-turners on the Cantley Lane approach is 12 seconds. The closest agricultural field access subject to representation is 125m from the junction so based on these distances the Applicant demonstrates there would be no detriment to the use of the accesses.
- 5.6.118. It was also confirmed that the presence of Article 34(4) of the dDCO would mean that land areas subject to concern would be restored to the landowners' satisfaction, subject to any agreement for any enhancements, which will be dealt as part of compensation packages. The latter could include fencing and gating to enable landowners' security provision to be respected.
- 5.6.119. It was clarified during the Examination that Plot 3/3d is required for the construction of the new Cantley Lane Link Road, the realigned Cantley Stream and the new access track to the east of the realigned Cantley Stream. Plot 3/3f is required for the construction of the new access track from Cantley Lane South. Plot 3/1a is required for the construction of the extended Canley Stream underpass. The Applicant highlighted that notwithstanding the powers applied for in the DCO, they would endeavour to minimise land take where possible and any land which the Applicant does not require would be offered back to the landowner under the Crichel Down rules.
- 5.6.120. Subsoil interests issues were also a matter of dispute for CM Watt Residual Trust and Mackintosh Trust in their submissions [[AS-039](#)] and [[AS-040](#)]. The Applicant responded to this matter at Deadline 8 [[REP8-012](#)]. That particular issue is also considered more fully in the Chapter 8 of this report.
- 5.6.121. In relation to wider traffic management implication points raised by Royal Mail and Vattenfall potentially affecting the local area. The Applicant has evidenced adequate safeguards to human health, access, local amenity and interrelated socioeconomic considerations through the submission of the OTMP and the stipulations of the dDCO. Combined those provisions would minimise disruption as far as possible, accepting that some temporary proportionate disruption would be inevitable.

## **ExA's overall conclusions on land use, social and economic considerations**

- 5.6.122. The relevant sections of the NPSNN encourage where the proposed project has likely significant environmental impacts that would have an effect on human beings, any environmental statement should identify and set out the assessment of any likely significant adverse health impacts.
- 5.6.123. The Applicant has set out a comprehensive assessment of human health effects, albeit that it did not conclude in terms of significance of effects these being framed as positive negative or neutral. Where human health matters were raised during the Examination, they were largely in the context of air quality effects. The Proposed Development would therefore comply with paragraphs 4.79 to 4.81 of the NPSNN.
- 5.6.124. The Applicant's assessment findings on human health matters in the main were not disputed by Public Health England or the Environmental Health departments of the relevant local authorities. A comprehensive mitigation package is also set out by the Applicant where it is possible to mitigate effects. Separate to that air quality is considered in detail in Section 5.6 of this report.
- 5.6.125. The ExA considers that the Proposed Development would comply with paragraphs 2.13, 2.6, 3.2 and 3.3 of the NPSNN. It would also support the overarching aims of Policies DM 2.8 and 3.14 of the South Norfolk Local Plan Development Management Policies Document 2015. Outside that provision there are elements of the scheme that align with Norfolk County Council's Public Health Strategy 2016-2020 for delivering better services by increasing active travel and making streets safer.
- 5.6.126. Overall, the impacts on population and human health are predominantly found to be non-significant by the Applicant's ES once the Proposed Development is operational. The exception to this is the users of Cringleford footpath 4A where a moderate adverse effect is anticipated due to journey increases associated with the permanent diversion of the footpath across the new Cantley Lane Footbridge (Cringleford). Bearing in mind all representations received the ExA does not find a strong basis to disagree with those conclusions.
- 5.6.127. The ExA agrees that beneficial effects would be experienced by NMU's in terms of horse-riders and cyclists travelling between Cantley Lane and Cantley Lane South via the new Cantley Lane footbridge (Cringleford) and by pedestrians and cyclists travelling along the shared footway/cycleway to be provided on the eastern frontage of the Cantley Lane Link road.
- 5.6.128. For those people travelling to access properties, businesses and community assets using the Proposed Development, the benefits experienced would generally consist of journey time savings and safety for road users as overarching delivery aims of the scheme.



- 5.6.129. During construction there would be changes to access for private properties along Cantley Lane and Cantley Lane South. However, those changes would not be significant. The loss of a proposed area of public open space at Cringleford residential development referred to in the Examination material would result in a significant large adverse effect should an alternative solution not be agreed with Big Sky and SNC as the planning authority. It was evidenced during the Examination that agreement for replacement provision was forthcoming but not yet finalised. There is nothing substantive to confirm agreement is not possible. However, without formal confirmation of suitable replacement provision there would remain a large adverse impact.
- 5.6.130. The Applicant's assessment found that there would be significant effects on agricultural land or holdings. Based on the information presented the Proposed Development is unlikely to have an impact on the long-term viability of the majority of the agricultural holdings identified by the Applicant. However, during the construction works, there is potential for disruption to all of the holdings. In particular, considerable disruption to access of adjacent agricultural blocks farmed by Holding 2.
- 5.6.131. The ExA agrees there would be a moderate adverse effect for both the construction and operation phases. That said, proposal would accord with paragraph 5.168 of the NPSNN having regard to agricultural land owing to lack of other feasible alternatives.
- 5.6.132. During construction, there are likely to be some effects on local communities and potentially their health in terms of temporary noise and dust the associated visual amenity impact of construction vehicles and compounds. The ExA agrees that the mitigation measures outlined by the Applicant including producing a final EMP and provision of a Community Liaison Officer would go a long way in dealing with those issues with the aim of keeping disruption to a minimum.
- 5.6.133. Based on the above, the ExA is satisfied that appropriate consideration has been given to relevant policies for the Proposed Development and that, subject to the provisions of the rDCO (Appendix D), the likely reasonable worst-case impacts have been identified in respect to land use, social and economic considerations.
- 5.6.134. Overall, based on the evidence presented the Proposed Development would deliver significant economic benefits for the local area. Those are likely to be in the order of £119.8 million over the 60-year appraisal period as summarised in Table 5.2: Summary of economic assessment results, page 91 of the Applicant's Case for the Scheme [[APP-125](#)].
- 5.6.135. The ExA also accepts on the basis of the evidence provided that accident benefits generated by the Proposed Development is forecasted to be in the order of £7.16m in monetarised human health and economic benefit terms.
- 5.6.136. In conclusion the ExA finds that the following factors weigh significantly in favour of making the DCO:

- The substantial overall economic betterments the Proposed Development would result in.
- The substantial improvements to human safety levels through road accident reduction including minimising accident related fatalities.
- Permanent beneficial effects for walkers, cyclists and horse riders which are partially also related to the positive weight attributed to improved long term journey times to community services and general delay reduction in the wider area.

5.6.137. However, the ExA also finds that the following issues weigh against the DCO being made:

- The temporary short-term combined effects on local communities in board health terms having regard to temporary noise and dust from construction activity as well as the associated localised visual amenity impact of construction vehicles and compounds during construction and subject to EMP provision.
- The existing users of Cringleford footpath 4A would experience a moderate adverse effect due to journey increases associated with the permanent diversion of the footpath across the new Cantley Lane Footbridge (Cringleford).
- The loss of a proposed area of public open space at the Cringleford Residential Development should an appropriate alternative solution not be agreed between Big Sky and local planning authority through variation of existing s106 commitments. Which was not demonstrated during the Examination period.
- The effects of the proposed land take from affected agricultural holdings when considered collectively. In particular, disruption to access of adjacent agricultural blocks farmed by Holding 2.

## 5.7. AIR QUALITY

5.7.1. This section addresses the effect of the Proposed Development in relation to air quality.

5.7.2. Air quality effects in relation to biodiversity are covered in Section 5.10. Climate change, carbon dioxide (CO<sub>2</sub>) and other greenhouse gas emissions are dealt with in Section 5.11. Nuisance and health implications are dealt with in Section's 5.6 and 5.12 and traffic levels in Section 5.3.

### Policy and legal context

5.7.3. Paragraph 2.16 of the NPSNN identifies that traffic congestion causes *"environmental problems, with more emissions per vehicle and greater problems of blight and intrusion for people nearby"*.

- 5.7.4. Paragraphs 3.6 to 3.8 consider the contribution of transport to the meeting of legally binding environmental targets. Paragraph 3.7 states that the government is committed to supporting the switch to ultra-low emission vehicles, which are anticipated to reach mass market volumes.
- 5.7.5. Paragraph 3.8 advises that the impact of road developments on aggregate emission levels is likely to be very small and that they need to be seen in the context of policies to meet legally binding air quality limit values (LV). It guides that:

*"Total PM<sub>10</sub> and NO<sub>x</sub> might be expected to increase slightly, but this needs to be seen in the context of projected reductions in emissions over time. PM<sub>10</sub> and NO<sub>x</sub> are expected to decrease over the next decade or so as a result of tighter vehicle emission standards, then flatten, with further falls over time due to greater levels of electric and other ultra-low emission vehicles."*

- 5.7.6. Paragraph 4.50 states that the ExA and the SoS should assess the potential impacts of processes, emissions, or discharges to inform decision making, but should work on the assumption that, in terms of the control and enforcement, the relevant pollution control regime would be properly applied and enforced. Paragraph 4.55 refers to a need to ensure that the relevant pollution control authority is satisfied that potential releases can be adequately regulated under the pollution control framework; and that the pollution effects with the project would not make that development unacceptable, particularly in relation to statutory environmental quality limits. Paragraph 4.56 details that consent should not be refused based on regulated impacts unless there is good reason to believe that relevant control permits, licenses or other consents will not subsequently be granted.

- 5.7.7. Paragraph 5.10 requires consideration of air quality effects over the wider area likely to be affected. It requires account to be taken of relevant statutory air quality thresholds set out in domestic and European legislation. Paragraph 5.11 notes that air quality considerations are likely to be particularly relevant in relation to air quality management areas (AQMAs). Paragraph 5.12 requires air quality considerations to be given substantial weight where a project would lead to a significant air quality effect or where they lead to a deterioration in air quality in a zone/agglomeration.

- 5.7.8. Paragraph 5.9 requires the SoS to be provided with a judgement on the risk as to whether the project would affect the United Kingdom's (UK's) ability to comply with the Air Quality Directive (AQD). Paragraph 5.13 advises:

- 5.7.9. *"The Secretary of State should refuse consent where, after taking into account mitigation, the air quality effects of the scheme will:*

- *result in a zone/agglomeration which is currently reported as being compliant with the Air Quality Directive becoming non-compliant;*
- or*

- *affect the ability of a non-compliant area to achieve compliance within the most recent timescales reported to the European Commission at the time of the decision.*"

5.7.10. Paragraph 5.14 of the NPSNN requires consideration of whether the mitigation measures are acceptable. Paragraph 5.15 notes that:

*"Mitigation measures may affect the project design, layout, construction, operation and/or may comprise measures to improve air quality in pollution hotspots beyond the immediate locality of the scheme. Measures could include, but are not limited to, changes to the route of the new scheme, changes to the proximity of vehicles to local receptors in the existing route, physical means including barriers to trap or better disperse emissions, and speed control. The implementation of mitigation measures may require working with partners to support their delivery."*

5.7.11. The AQD, UK Air Quality Strategy (AQS) and the Clean Air Strategy (Department for the Environment, Food and Rural Affairs, 2019) are described in Chapter 3 of this report. The AQD sets LVs for compliance and control actions in case of exceedance, including for nitrogen dioxide (NO<sub>2</sub>) and particulate matter of 10 or 2.5 micrometres or less in diameter (PM<sub>10</sub> and PM<sub>2.5</sub>). The AQS sets objectives for key pollutants and sets the framework for detailed local plans to address exceedances, including the designation of Clean Air Zones and AQMA.

5.7.12. Relevant local plans and other policies are set out in Chapter 3 of this report.

5.7.13. The main sections of the application relevant to the air quality matters considered here are:

- Chapter 5 – Air Quality [[APP-042](#)];
- Environmental Statement - Figures 5.1 - 5.4 [[APP-055](#)];
- Chapter 15 – Cumulative Effects Assessment [[APP-052](#)];
- Environmental Management Plan (First Iteration) [[APP-128](#)] updated in the Examination to [[REP8-007](#)];
- Outline Traffic Management Plan [[APP-129](#)] updated in the Examination to [[REP6-009](#)]; and
- Assessment of risk to construction workers [[APP-104](#)].

5.7.14. Chapter 5 – Air Quality [[APP-042](#)] provides the Applicant's assessment of potential air quality effects during the construction and operational phases and compliance with the AQD. It details that the methodology for the air quality assessment follows the guidance set out in DMRB LA 105 Air Quality; and The Department for Environment, Food and Rural Affairs' (DEFRA) Local Air Quality Management (LAQM) technical guidance.

- 5.7.15. It is noted that it was understood by the Applicant in the preparation of Chapter 5 [[APP-042](#)] the Environment Bill was expected to receive Royal Assent in Autumn 2021 and that a new framework for air quality would then be developed which may take a different approach to limit values.
- 5.7.16. Subsequently on 9 November 2021, the Environment Act 2021 received Royal Assent. New air quality improvement measures are dependent upon secondary legislation and/or further consultation on detailed aspects of policy development. Therefore, it was already anticipated by the Applicant until new targets are formally established all current policy requirements, such as for particulates, would continue to apply.

#### Baseline study

- 5.7.17. The dust risk potential of the Proposed Development was identified as large by the Applicant due to the nature of the improvements involving major bypass and motorway junction improvements.
- 5.7.18. The Proposed Development is not located in an AQMA and no exceedances of the AQS objectives were measured by the Applicant. However, due to the proximity of sensitive receptors the receiving environment sensitivity was also classified as high due to the large numbers of human (and ecological) receptors identified within 50m of the roads triggering the traffic screening criteria.
- 5.7.19. With respect to human health impacts. Sensitive human receptor locations and designated sites within 200m of the road links triggered by the screening criteria were selected to be included in the air quality assessment. Sensitive receptors included residential properties, schools, and hospitals closest to the road, junction and anticipated to experience highest pollutant concentrations.
- 5.7.20. The Applicant set out that the baseline conditions which were determined by reviewing air quality information in annual status reports, published by the local authorities for the administrative area. Information provided included historic monitoring data and current air quality concerns such as pollution hotspots reporting exceedance of the NO<sub>2</sub> and PM<sub>10</sub> annual mean objectives within the local authority. That information has allowed the Applicant to gauge current baseline pollutant concentrations within the study area. The data was used to verify the model against air quality monitoring data. A model verification year of 2015 was used in accordance with the traffic data provided for the Proposed Development.
- 5.7.21. Dispersion modelling was used to assess concentrations of air pollutants which can have an impact at local level for the baseline conditions. The assessment considered emissions of nitrogen oxide (NO<sub>x</sub>), NO<sub>2</sub> and PM<sub>10</sub>. The key scenarios included in the assessment were from the baseline year 2015 for model verification and in the projected scheme opening year 2025 for longer-term trends assessment purposes.
- 5.7.22. A conclusion of no likely significant effect for human health receptors can be determined if: modelled concentrations for human health are less than the air quality thresholds; or the difference in the concentrations

between the Do-Minimum and Do-Something scenarios are imperceptible i.e., less than 1% (or 0.4 micrograms ( $\mu\text{g}/\text{m}^3$ )) of the air quality threshold.

- 5.7.23. The screening criteria outlined in DMRB LA 105 was used to identify roads which are likely to be impacted by the Proposed Development. Roads which triggered the screening criteria below are required to be considered within the air quality assessment:
- an AADT flow change of 1,000 or more;
  - a heavy-duty vehicle flow change of 200 or more;
  - a change in speed band;
  - a change in carriageway alignment by greater than 5m.
- 5.7.24. Once the road links triggering the screening criteria were identified, all adjoining roads, with modelled traffic data, within 200m of the Proposed Development were required to be selected. Those factors formulate the air quality study area and is known as the affected road network (ARN). The ARN is depicted in ES Figure 5.3 [[APP-055](#)].
- 5.7.25. The locations relating to human exposure for each triggered link were identified. These were predominantly residential receptors, but also include hospitals and schools. The receptor locations are detailed in ES Figure 5.4 [[APP-055](#)].
- 5.7.26. With respect to ecological receptors. Any designated sites within 200m of the study area sensitive to nitrogen deposition were factored within the air quality assessment. Those included sites referenced at Intwood Carr; Meadow Farm Meadow(s); Earlham and Colney Marshes; and Bowthorpe Marsh – County Wildlife Site & Local Nature Reserve. The Applicant's ES Chapter 8 Biodiversity details its conclusions on those aspects more fully making use of umbrella terms such as–flood plain grazing marsh, standing water, woodland and wood pasture, etc. where appropriate, –for some of the sites referred to by full name in ES Chapter 5 as well as acknowledging distinctions between designated Local Nature Reserves and non-statutory designated County Wildlife Sites.

#### Construction phase impacts

- 5.7.27. Construction activities are stated by the Applicant as being programmed to last less than two years thus it is unlikely there would be a significant effect on air quality or affect the UK's ability to comply with the AQD. The construction traffic assessment was therefore screened out of the assessment.
- 5.7.28. Overall, with best practice construction mitigation measures in place, the impact of construction dust is considered by the Applicant to be highly unlikely to trigger a significant air quality effect. Therefore, in accordance with DMRB LA 105, no significant effects on sensitive receptors have been identified.

### Operational phase impacts

- 5.7.29. In the Applicant's assessment there are no identified receptors expected to exceed the annual mean NO<sub>2</sub> air quality objectives (AQO) in the opening year scenarios, all modelled receptors have predicted annual mean NO<sub>2</sub> concentrations well below the objective. The nitrogen deposition assessment finds the change in nitrogen deposition with and without the Proposed Development was less than 1% of the lower critical load for each designated site around the study area.
- 5.7.30. Overall, in accordance with DRMB LA 105, the Applicant found there would be no significant effects on human health and ecological receptors because of the Proposed Development being in use.

### **Issues considered during the Examination**

- 5.7.31. Air quality matters considered during the Examination included:
- The appropriateness of baseline conditions and overall assessment methodology;
  - Construction dust during the construction phase and vehicle emissions during the operational phase; and
  - AQD compliance.

### The appropriateness of baseline conditions and overall assessment methodology

- 5.7.32. ES Chapter 5 [APP-042] states that 2017 background pollutant maps were used to provide estimates background concentrations for specific pollutants. However, the DEFRA Background Maps for years 2018 – 2030 are available for NO<sub>x</sub>, NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub>. The Applicant was asked to explain why DEFRA Background Maps for years 2017-2030 were used and if the application of 2018 Background Maps would affect the conclusions reached in the Air Quality Assessment.
- 5.7.33. The Applicant set out [REP2-006] that in undertaking the Air Quality Assessment the most recent maps available were the 2017 background pollutant maps. There were no exceedances of any air quality objectives at any of the modelled receptor locations and that the use of 2018 maps would not have altered this position.
- 5.7.34. Through written questions by the ExA queried if the Applicant could provide further justification as to why 2015 baseline traffic data remains valid for the purposes of an application made in 2021 and whether any sensitivity testing has been undertaken in respect of more recent traffic data. The Applicant [REP2-006] confirmed that the 2019 NATS model had not been approved by the Department for Transport. On that basis NATS 2015 remains the approved model for the Applicant's Assessment.
- 5.7.35. Nonetheless, a comparison was referenced by the Applicant between the NATS 2015 and 2019 models factoring total annual average daily traffic

across the links of the Thickthorn Junction. The Applicant found there was an increase in traffic of 3.4% which is in line with the estimated traffic growth in the area over a four-year period (2015-2019). Accordingly, the comparison undertaken showed that there is a good degree of consistency between the two models at an aggregate level. The same rationale was also given by the Applicant in response to representations made by Public Health England [[RR-021](#)] questioning these issues.

5.7.36. In addition, the Applicant was asked to justify discrepancy in the ES [[APP-039](#)] which refers to an overall construction programme length of 23 months but also Table 2-3 as a total length of 27 months, and 27.5 months at Table 2-4. The Applicant has confirmed the overall construction programme length remains 23 months which is within the threshold advised by DMRB LA105. To achieve this some construction phasing activities are to run concurrently [[REP2-006](#)].

5.7.37. Neither NCC or SNC have sought to disagree with any of the Applicant's findings on baseline conditions and the overall assessment methodology applied for air quality matters. This includes the content of their respective LIRs as well as the SoCGs received.

#### Construction dust and vehicle emissions during the operation phase

5.7.38. The Applicant was asked to clarify how local consultation requirements regarding construction dust monitoring are to be included and dealt with. It was noted there is stockpiling of material envisaged throughout construction phases and therefore the potential for dust issues to be a significant concern.

5.7.39. The Applicant has submitted [[REP2-006](#)] that the scheme contractor shall manage the scheme in a way to ensure any impacts on sensitive receptors would be kept to a minimum taking into account best practice, health and safety, and environmental regulations applicable. Methods employed will include regular air monitoring and dust suppression techniques as listed in Table 3-1 (REAC) of the First Iteration EMP [[APP-128](#)] updated during the Examination to [[REP8-007](#)]. The EMP would be updated prior to construction to include a 'Construction Noise and Dust Management Plan'. This relies on updates to the EMP being secured through dDCO Requirement 4.

5.7.40. Both NCC and SNC have not identified any specific problems in the Applicant pursuing that general approach in their LIRs or in the SoCG's received.

5.7.41. A baseline desk study undertaken by the Applicant identified the nearest AQMA to the Proposed Development area is located over 3km to the north-east within Norwich City Centre, administered by Norwich City Council.

5.7.42. A review of the local monitoring data by the Applicant revealed there are no exceedances of the annual mean NO<sub>2</sub> AQOs. There were no monitoring sites measuring PM<sub>10</sub> data within the study area.



- 5.7.43. It is evidenced that an Applicant led six-month monitoring study was conducted to supplement current available monitoring data and identify pollutant conditions. There were no exceedances of the annual mean NO<sub>2</sub> AQO observed from the monitoring study.
- 5.7.44. The air quality assessment evidenced predicts concentrations at all human health receptors to be well below the AQO of 40 µg/m<sup>3</sup>.
- 5.7.45. A total of 50 out of the 155 receptors identified are expected to show a deterioration in air quality, with 88 showing an improvement in air quality with the Proposed Development in use.
- 5.7.46. Although 50 receptors are showing a deterioration, the predicted air quality concentrations fall well below the AQO with the majority of receptors.
- 5.7.47. The greatest increase in pollutant concentrations evidenced by the Applicant occurred at residential receptors 19, located on Kimberley Street in Wymondham and 87, near Station Lane adjacent to the A11. Both receptors have predicted an increased concentration of 0.6 µg/m<sup>3</sup> with the Proposed Development in use. Although those receptors showed the greatest worsening, the air quality concentrations are still well below the AQO of 40 µg/m<sup>3</sup>. Both receptors are also located near roads which trigger higher level of traffic flow changes.
- 5.7.48. Baseline results are referred to by the Applicant with annual mean PM<sub>10</sub> concentrations to be well below the AQO. As a result, PM<sub>10</sub> was not included in the opening year modelling scenarios.
- 5.7.49. It is also noted that the nitrogen deposition assessment which was undertaken concluded the change in nitrogen deposition with and without the Proposed Development was less than 1% of the lower critical load for each designated site assessed. In line with the criteria outlined in DRMB LA 105, no significant effects on designated sites were found.
- 5.7.50. The air quality assessment findings are that there will be no significant effects on air quality at human health and ecological receptors because of the Proposed Development.

#### Construction dust and vehicle emissions during the operation phase

- 5.7.51. An outline 'Construction Noise and Dust Management Plan' was invited to be submitted (ExA Written Question GC.49) during the Examination. However, the ExA is conscious that various construction design issues yet to be finalised and related contractor variables would make that exercise difficult. An outline plan would therefore be subject to ongoing changes. It is accepted a 'Construction Noise and Dust Management Plan' with meaningful content is therefore better placed to be finalised at a later stage once such variables are known and can be firmed up.
- 5.7.52. The First Iteration EMP [[REP8-007](#)] does make an acceptable level of provision for dust control and further controls to be agreed where necessary. There is nothing to suggest that the approach of the Applicant

would not be effective in its delivery aims nor would it be contrary to prevailing air quality related law, policy, or prevent the incorporation best practice.

- 5.7.53. In light of all considerations the ExA is content that there would be adequate controls in place to effectively manage construction dust through the provisions available in dDCO Requirement 4 considered collectively with the EMP to be updated.
- 5.7.54. On balance, the ExA accepts the Applicant's justifications for the Proposed Development not leading to significant air quality-related health impacts at the locations assessed.

#### Compliance with AQD

- 5.7.55. The Applicant's Air Quality Assessment [[APP-042](#)] has concluded there are no significant adverse effects with the Proposed Development for human health and ecological receptors. With no significant effects being reported, no mitigation measures have been proposed.
- 5.7.56. The ExA notes there are several uncertainties identified by the Applicant which need to be borne in mind when assessing its submissions, namely:
- The baseline data provided was for the year 2015. This adds some uncertainty with the data as traffic flows and background concentrations will not be representative of the current climate.
  - The time of undertaking the air quality assessment the most recently available tools were used. 2017 background maps were back casted to the year 2015, using a factor produced by Defra. This factor may add a margin of error to the background maps used in this assessment.
  - The suitability of meteorological data.
  - Simplifications made within modelling calculations or post processing of the data that represent atmospheric dispersion or chemical reactions.
  - Whilst there are no doubt some clear uncertainties in the air quality modelling it has been verified against baseline year measurement data in accordance with national technical advice Local Air Quality Management Technical Guidance (TG16). It is noted this verification factor has been applied to the baseline and Do-Minimum and Do-Something scenarios referred to by the Applicant.
- 5.7.57. Neither NCC nor SNC (or any other neighbouring local authorities) have submitted statements contrary to the Applicant's overall findings on air quality. To some extent SNC records have also been used to inform the assessment produced by the Applicant.

- 5.7.58. Furthermore, there are accepted levels of provision for collaborative and expected ongoing working between the Applicant and the relevant local councils involved as further context to the assessment.
- 5.7.59. Overall, there is sufficient evidence available accompanying the application to conclude the proposal would accord with the provisions of the AQD.

### **ExA's overall conclusions on air quality matters**

- 5.7.60. The Applicant has adequately considered vehicle emissions, air quality standards applicable to PM<sub>10</sub> and NO<sub>2</sub> emissions, air quality effects over the wider area, relevant statutory air quality thresholds and the presence of AQMA's as required by paragraphs 2.16, 3.6-8, and 5.10-12 of the NPSNN.
- 5.7.61. There is no substantive evidence to doubt that the consideration of the study area, selection of receptors, baseline conditions, changes to vehicle emission rates, PM<sub>2.5</sub>, factors considered for the assessment of finding no significant effects, or that the overall assessment methodology is not appropriate to be relied upon.
- 5.7.62. Based on all the above, the ExA is satisfied that due consideration has been given to air quality related legislation, local and national policy.
- 5.7.63. The ExA is satisfied that Applicant's baseline condition justification and methodology applied are both proportionate and reasonable. There is no substantive reason to conclude that the Applicant's consideration of the study area, receptors or baseline conditions would not be appropriate for the assessment.
- 5.7.64. Overall, the ExA finds that subject to the provisions of the rDCO (Appendix D), the Proposed Development would be unlikely to result in any significant effects in respect to air quality inclusive of dust management provision.
- 5.7.65. Accordingly, it is the ExA's finding that air quality effects do not weigh significantly for or against the DCO being made.

## **5.8. NOISE AND VIBRATION**

- 5.8.1. This section of the report addresses the effect of the Proposed Development in relation to noise and vibration impacts.
- 5.8.2. Human and building receptors are considered here. Noise and vibration effects in relation to biodiversity are covered in Section 5.10. The transport assessment and traffic levels are addressed in Section 5.3. Nuisance and health are considered in Section 5.6 and 5.12. No issues relating to compensation for blight have been raised during the Examination related to noise and vibration matters.

### **Policy Context**

- 5.8.3. The NPSNN sets out the matters to be addressed for decision making purposes.
- 5.8.4. Paragraph 5.193 advises that statutory requirements for noise must be met and that due regard must have been given to the relevant sections of the Noise Policy Statement for England (NPSE), the NPPF and National Planning Policy Guidance (NPPG) on noise.
- 5.8.5. Paragraph 5.194 requires the optimisation of layout to minimise noise emissions and, where possible, the use of landscaping, bunds or noise barriers to reduce noise transmission. It also refers to consideration of the need to mitigate impacts elsewhere on the road network.
- 5.8.6. Paragraph 5.195 states that:
- "The Secretary of State should not grant development consent unless satisfied that the proposals will meet, the following aims, within the context of Government policy on sustainable development:*
- *avoid significant adverse impacts on health and quality of life from noise as a result of the new development;*
  - *mitigate and minimise other adverse impacts on health and quality of life from noise from the new development; and*
  - *contribute to improvements to health and quality of life through the effective management and control of noise, where possible."*
- 5.8.7. Paragraph 5.196 refers to the need to *"consider whether requirements are needed which specify that the mitigation measures put forward by the Applicant are put in place to ensure that the noise levels from the project do not exceed those described in the assessment or any other estimates on which the decision was based."*
- 5.8.8. Paragraph 5.197 says that consideration should be given to requirements to ensure delivery of all mitigation measures, including any needed for operational or construction noise over and above any included in the application.
- 5.8.9. Paragraph 5.198 notes that mitigation measures should be proportionate and reasonable and may include containment of noise generated, adequate distance between source and noise-sensitive receptors, specifying acceptable noise limits or times of use, optimisation of layout, or the use of landscaping, bunds or noise barriers to reduce noise transmission.
- 5.8.10. Paragraph 5.199 refers to noise mitigation through increased dwelling insulation and ventilation measures pursuant to the Noise Insulation Regulations and says that an indication of the likely eligibility for compensation should be included in the assessment. It notes that "in extreme cases, the Applicant may consider it appropriate to provide noise mitigation through the compulsory acquisition of affected

properties in order to gain consent for what might otherwise be unacceptable development.”

- 5.8.11. Paragraph 5.200 requires consideration of opportunities to address the noise issues associated with Noise Important Areas (NIAs).
- 5.8.12. Paragraph 130 (f) of the NPPF refers to the promotion of health and well-being, with a high standard of amenity for existing and future users of new development.
- 5.8.13. Relevant local plans and policies are already set out in Chapter 3 of this report.

### **Application documents**

- 5.8.14. The main sections of the application relevant to the noise and vibration matters considered here are:
  - ES Chapter 11 Noise and Vibration [[APP-048](#)], updated to [[REP4-008](#)];
  - Outline Traffic Management Plan [[APP-129](#)], updated to [[REP6-009](#)];
  - ES Chapter 15 Cumulative Effects Assessment [[APP-052](#)];
  - ES - Appendix 11.1 - 11.5 [[APP-109](#)];
  - Environmental Masterplan [[APP-123](#)];
  - (First Iteration) EMP [[REP8-007](#)].

### Baseline and study area

- 5.8.15. The use of baseline noise survey data is evidenced as being obtained in May 2018 through collaboration and agreement with the SNC. As part of the assessment provided by the Applicant, a baseline noise survey was undertaken at positions representing noise-sensitive receptors in the vicinity of the Proposed Development. Environmental noise levels measured during the survey were then analysed to determine the UK road traffic noise index, decibels (dB)  $L_{A10,18hr}$ , at each position. The data is has been provided in ES - Appendix 11.1 - 11.5 [[APP-109](#)].
- 5.8.16. The noise monitoring positions are identified in ES Figure 11.1 [[APP-109](#)].
- 5.8.17. For the construction noise assessment, the study area was defined by the Applicant as the area that is 300m from the closest construction activity. Within the 300m construction noise study area, a total of 481 noise and vibration sensitive receptors were identified. The approach taken was based on DMRB, LA 111, which states that this is normally sufficient to encompass the receptors that will potentially be affected by construction noise.

- 5.8.18. The information referred to by the Applicant includes acknowledgement of the Cringleford residential extension development which was given planning consent both north and south of the A11 to the east of the existing A47/A11 Thickthorn Junction.
- 5.8.19. For the construction vibration assessment, DMRB LA 111 advises that a study area encompassing a 100m area from vibration-generating activity is normally sufficient. However, because of the expected methods of construction work and based on professional judgement, a smaller study area encompassing 30m area from vibration generating activity was subsequently considered appropriate for identifying potentially significant effects since beyond this distance construction vibration, including from piling and vibratory rollers would not lead to significant adverse effects.
- 5.8.20. Construction noise and vibration levels and their effects were assessed at a representative sample of 12 receptor positions and are shown in ES Figure 11.1 [[APP-071](#)].
- 5.8.21. A total of 601 existing noise sensitive receptors were identified within the operational study area. They included 11 non-residential noise sensitive receptors.
- 5.8.22. One Noise Important Area (NIA) was identified within the operational study area containing 12 dwellings. NIAs are detailed in ES Figure 11.1 [[APP-071](#)].
- 5.8.23. The location of the residential receptors were grouped as:
- Residential receptors around Cringleford, east of the Thickthorn junction, both north and south of the A11. This includes NIA 4965 north of the A11.
  - Residential dwellings along both sides of Cantley Lane South.
  - A small number of dwellings along Intwood Road east of the A47.
  - Residential dwellings along Norwich Road (B1172).
  - A small number of dwellings east of Station Lane and south of the A11.
- 5.8.24. The 11 non-residential sensitive receptors within the study area were:
- Six Public Rights of Way (PROW) south of the A11, both west and east of the A47 (Cringleford FP1, FP2, FP3, FP4a, Hethersett FP6 and Keswick BR5).
  - Scheduled monument (Two Tumuli in Big Wood) south of the A11 and immediately east of the proposed Cantley Lane Link Road.
  - Travelodge hotel west of the Thickthorn junction and north of the A11.

- Nellies Nursery north of Norwich Road.
- Cringleford surgery on Cantley Lane east of the A47.

#### Construction Noise

- 5.8.25. The construction noise assessment provided by the Applicant identifies significant effects would occur without mitigation at some of the receptors closest to construction works. Means of minimising the potential for significant adverse effects have been presented including the provision of temporary acoustic barriers, further construction noise assessment for key construction activities and construction noise monitoring in some locations.
- 5.8.26. Particular focus for the detailed construction noise assessment to be undertaken by the Applicant is required for the culvert structure works. Construction noise monitoring with real-time alerts is proposed to be considered where the risk of significant effects cannot be eliminated to alert the Principal Contractor when noise from works approaches the significant observed effect level SOAEL.
- 5.8.27. The Applicant submits that where all mitigation is implemented effectively, no significant residual construction noise effects are predicted.

#### Construction Vibration

- 5.8.28. The Applicant's assessment of potential construction vibration impacts identifies that significant effects would occur without mitigation at the closest receptors to vibration-generating activities.
- 5.8.29. Because of that finding prior warning to residents, pre-condition building surveys, restrictions on the timings of the works, and vibration monitoring are proposed as mitigation at the closest properties to these works. It would also be necessary for the Principal Contractor to carry out further detailed assessments of vibration from piling at receptors in the vicinity of the S45 Cantley Lane footbridge works and the S46 and S47 Cantley Lane culvert works.
- 5.8.30. That said, the overall case made is that vibration due to construction is not expected to result in any significant effects subject to the effective implementation of the mitigation set out above.

#### Construction traffic diversions

- 5.8.31. The construction compound areas planned are presented in ES Figure 2.1 (The Proposed Scheme) [[APP-054](#)] and comprise a primary area to the south of the B1172 as well as a satellite compound to the south of the A11.
- 5.8.32. The maximum number of site-wide lorry trips per day for any construction stage has been assumed by the Applicant to not exceed 150. That number was considered to be the reasonable worst-case

scenario by the Applicant informed by professional judgement and input from the Principal Contractor.

5.8.33. It is factored in the Applicant's assessment that some construction works would require temporary diversions of traffic on public highways due to road closures. Therefore, a diversion route study area has been defined to include a 25m width from the kerb line of the diversion routes as per the advice of DMRB LA 111.

5.8.34. A large number of properties were noted within the diversion route study area. It was not considered proportionate by the Applicant to assess the impact of diversions at individual receptors along those routes. Instead, the likelihood of significant effects was determined through assessment of the road traffic noise changes alone along specified roads, not at specific receptors.

### Operation

5.8.35. DMRB LA 111 requires that road traffic noise levels are predicted for four scenarios:

- Do-minimum in the opening year (DMOY). This is the existing road network without the Proposed Development but with changes to highways or developments that would occur independently of the Proposed Development.
- Do-minimum in the future year. This is defined as the future road network assuming the Proposed Development is operational and with changes to highways or developments that would occur independently of the Proposed Development.
- Do-something in the opening year.
- Do-something in the future year.

5.8.36. A road traffic noise model was constructed for each scenario, the assumptions for which are presented in Section 11.5 of [[APP-109](#)]. The models applied the Calculation of Road Traffic Noise methodology, accounting for the forecast traffic volumes, characteristics, and speeds.

5.8.37. The assessment of operational noise presented within ES Chapter 11 concludes that no significant effects (adverse or beneficial) are expected to occur due to any changes in operational road traffic noise.

5.8.38. Furthermore, all minor impacts (adverse or beneficial) occur at receptors where the predicted road traffic noise level with the Proposed Development is below the SOAEL. Notably, the assessment has identified that no specific operational noise mitigation (barriers or low noise surface) is required to avoid significant effects due to operational noise.

### **Issues considered during the Examination**



5.8.39. Noise and vibration factual issues considered during the Examination included:

- baseline conditions, receptors and overall assessment methodology;
- construction noise and vibration matters; and
- operational noise and vibration matters.

Baseline conditions, study area, receptors, and overall assessment methodology

5.8.40. SNC acknowledged the Applicant's rationale for a study area of 300m from the closest construction activity in order to encompass noise sensitive receptors. They commented that they did not feel SNC would sustainably object to that approach [[REP2-019](#)].

5.8.41. It was questioned at in the ExA's First Written Questions (FWQ) if the Applicant could provide reasoning as to why 2015 baseline traffic data remains valid for an application made in 2021 in terms of noise effects. Interested Parties were also invited to provide any comment if they wished to.

5.8.42. The Applicant responded with further clarification. They clarified that the assessment of operational noise includes the consideration of environmental noise conditions that would be expected to be present in the Opening Year in the Do Minimum Scenario (i.e., without the Proposed Development accounting for any traffic flow changes or committed developments occurring between the baseline year and the Opening Year). The environmental noise survey carried out in May 2018 was also pointed to, as described in [[APP-109](#)]. The results of the survey, in combination with road traffic noise level predications for the DMOY scenario, were used to determine the baseline conditions and construction noise effect levels. In the Applicant's view the DMOY noise model predictions were robust for representing the level of noise at each receptor without the Proposed Development.

5.8.43. It was queried by the ExA whether predictions for weekend noise levels were included in Tables 11-10 of ES Chapter 11 [[REP4-008](#)] which presented predictions for operational short term and long-term changes in traffic noise levels arising from the Proposed Development.

5.8.44. The Applicant's broad response was that weekends should be discounted in accordance with DMRB LA111: Noise and Vibration, Revision 2. This was because road traffic noise level predictions are carried out in accordance with the Calculation of Road Traffic Noise, 1988. Road traffic noise level predictions are carried out for the annual average weekly traffic flows (AAWT) using annual average weekly traffic parameters and over the period from 06:00 to 24:00. The guidance utilised does not allow for weekend operational noise changes to be determined. That said, it is sufficient for determining the likelihood of potential significant

effects due to changes in road traffic noise for weekdays when the traffic volumes would be greater.

- 5.8.45. The Trustees of the CM Watt Residual Trust's response to the ExA's Written Questions and requests for information [REP2-012] raised concerns in relation to noise impacts being more severe than the Applicant's assessment implies and that additional receptor's should be considered in the noise assessment. Namely 'The Old Stables' and 'Wychwood House'.
- 5.8.46. In response the Applicant confirmed that the assessment of construction noise and vibration was based on representative receptors –on the basis it is not proportionate to assess the impacts at every dwelling [REP3-018]. With 'The Old Stables' and 'Wychwood House' as additional receptors not being necessary.
- 5.8.47. Although the Trustees of the CM Watt Residual Trust noise impact concerns have not been withdrawn the ExA finds the Applicant's information is adequate in order to gauge potential noise impacts.
- ExA's conclusions on baseline conditions, receptor areas, and overall methodology
- 5.8.48. Considering the focus of the Applicant's noise assessment is on locations at which construction noise and vibration levels are expected to be the greatest there is no strong reason to support the conclusion that the Applicant's consideration of the study area, receptors, baseline information, noise sources is not appropriate for the purposes of the assessment.
- 5.8.49. The approach taken with respect to representative receptors has been sufficiently evidenced by the Applicant and the ExA agrees a sensible assessment methodology has been applied. All relevant noise sensitive receptors have also been sufficiently included in the study area utilised as a whole.
- 5.8.50. The information considered to assess resultant effects been subject to the input of SNC and there are no objections raised to the approaches the Applicant has undertaken. The Applicant's assessment is also supported and qualified by expert opinion.
- 5.8.51. The ExA's finding is that the Applicant has provided a comprehensive explanation of the differences between observed levels of noise and those predicted by the noise modelling utilised.
- 5.8.52. The ExA is content that the noise assessment base line conditions, the rationale of representative receptor locations utilised in the ES is suitably robust, that the receptors otherwise considered are appropriately extensive and that the overall methodology employed is reasonable.

Construction noise and vibration

- 5.8.53. With respect to the construction noise and vibration assessment methodology applied by the Applicant it was questioned by the ExA whether the justification for the 30m study area used in the construction vibration assessment was sufficient having regard to the DMRB.
- 5.8.54. It was clarified by the Applicant that beyond 30m distances, historical field measurements of construction vibration show that peak particle velocities from the expected construction working methods would be below 1 mm/s and consequently below the threshold for a significant effect. The Lowest Observed Adverse Effect Level (LOAEL) and Significant SOAEL values for construction were defined as per the requirements of DMRB LA111. Therefore, where significant effects due to construction vibration are avoided at receptors within 30m of the works, it follows, significant effects at more distant receptors will not occur. Accordingly, there is no conflict with the 100m stipulation specified in the DMRB.
- 5.8.55. ES Chapter 11 [[REP4-008](#)] paragraph 11.9.11 states that further detailed assessments of construction vibration are to be undertaken by the Principal Contractor demonstrating how significant effects due to vibration are avoided.
- 5.8.56. The Applicant was asked during the examination to further explain how such information and potential resulting mitigation to reduce significant residual effects can be assured in the absence of detailing mitigation in the ES and instead securing mitigation in the dDCO.
- 5.8.57. The Applicant's response was that the dDCO sets out at Requirement 4 stating that no development is to commence until an EMP (Second Iteration) substantially in accordance with the EMP (First Iteration) [[APP-128](#)] is submitted to and approved by the Secretary of State following consultation with the relevant planning authority and local highway authority. Requirement 4 of the dDCO also states that the Proposed Development must be constructed, operated and maintained in accordance with the EMP [[APP-128](#)].
- 5.8.58. Furthermore, the Applicant pointed out that the submitted first iteration of the EMP sets out commitments relating to noise and vibration in Table 3-1 (REAC). Reference N1 requires that construction noise is limited to less than the construction noise SOAEL. In addition, where there is the risk of the SOAEL being exceeded, monitoring and detailed assessments by the Contractor would be required, to be discussed and agreed with SNC. In relation to work outside of normal construction hours, the practices required to minimise construction noise impacts are to be determined in discussion with the LPA. This could, using the mechanisms referred to by the Applicant include a prior consent application under Section 61 of the Control of Pollution Act 1974. The process, as deemed necessary under Requirement 4, detailed by the Applicant would ensure that appropriate means of mitigating any significant residual construction noise effects can be identified prior to construction works commencing.
- 5.8.59. The Applicant [[REP5-020](#)] also details that during construction, a Construction Noise and Dust Management Plan would be developed as

part of the EMP (second iteration) to demonstrate how the Principal Contractor will limit and control noise and vibration during construction as summarised in Items N1 to N4 of Table 3-1 (REAC) of the EMP [[REP4-020](#)].

- 5.8.60. Moreover, it was referred to that, Item G7 of Table 3-1 (REAC) in the EMP is proposed to be secured via Requirement 4 of the Applicant's dDCO. This includes the provision of a Customer Contact Centre to deal with any queries or complaints by members of the public. As part of that provision a Community Relations Officer would be appointed to progress a community relations strategy which would disseminate information to consultees as an active feedback loop mechanism.
- 5.8.61. A construction traffic assessment has been undertaken by the Applicant. It concludes that, provided that vehicle movements and routes are restricted as described in this chapter and defined in the submitted Outline Traffic Management Plan, potential significant effects are unlikely.
- 5.8.62. In seeking further clarification on the conclusion highlighted in paragraph 5.5.60 above from the Applicant it was addressed by them that ES Chapter 11 [[REP4-008](#)] contains details regarding the assessment of construction traffic within Section 11.5.9 to 11.5.13. This includes the reasonable worst case maximum number of additional lorry movements per day expected to occur during the construction period. In addition, construction vehicle routes are to be controlled as outlined in the Outline Traffic Management Plan. A final Traffic Management Plan, substantially in accordance with the Outline Traffic Management Plan, is secured through Requirement 10 of the dDCO. ES Chapter 11 Table 11.8 [[REP4-008](#)] demonstrates that the expected change in road traffic noise due to additional construction traffic is negligible along all proposed routes (less than 1 dB LA10,18hr) and therefore no significant effects are expected due to noise generated by construction traffic.
- 5.8.63. It was accepted that due to the absence of traffic forecasts during each diversion route period, no quantitative assessment of the change in road traffic noise during the use of these diversions could be presented within ES Chapter 11. It was also accepted that the potential likelihood of significant effects was referred to qualitatively.
- 5.8.64. The Applicant also evidenced that mitigation for noise generated due to additional traffic during the use of diversions includes the use of diversions via the primary road network only, as well as the requirement that the Contractor assesses the noise impact of diverted traffic prior to the use of these routes and presents these for discussion with SNC. That provision is formally secured through EMP REAC commitment reference N4 [[APP-128](#)], which requires that the Principal Contractor routes diversions along the least noise-sensitive routes.

#### ExA's conclusions on construction noise and vibration

- 5.8.65. SNC have not argued against the credibility of the Applicant's construction noise and vibration conclusions, or the underpinning methodology that was applied.
- 5.8.66. Adequate construction traffic assessment noise and vibration implications have been taken into account by the Applicant. It is concluded by the ExA that provided vehicle movements and routes are restricted as described by the Applicant and defined in the final Traffic Management Plan to be agreed (based on the outline provided) potential significant effects arising from construction traffic would be unlikely.
- 5.8.67. The construction noise assessment identifies that significant effects would occur without mitigation at some of the receptors closest to construction works. Suitable means of minimising the potential for significant adverse effects have been presented including the provision of temporary acoustic barriers, further construction noise assessment for key construction activities and construction noise monitoring in some locations.
- 5.8.68. There is no substantive evidence that gives due cause for the ExA to doubt the Applicant's application of professional judgement applied in the assessment alongside the data obtained and the detailed rationale it has provided through formal assessment in the ES –which is logical.
- 5.8.69. The ExA agrees that where all mitigation for construction noise and vibration detailed by the Applicant is implemented effectively, no significant residual construction noise effects are likely to ensue. There is no strong reason to consider that planned mitigation would not be successful.

#### Operational noise and vibration

- 5.8.70. Early on in the Examination representations received from the Trustees of the CM Watt Residual Trust received [REP2-012] and the Trustees of the Mackintosh Trust [REP2-013] suggested that resultant noise impacts experienced by people living in the area are likely to be greater than the conclusions provided by the Applicant, with increased noise interference from the south of the A47 than is suggested. The submission made has been taken to relate to resultant operational noise impacts, but construction noise cannot be fully discounted in the wording of the submissions. But in any event the latter has already been factored in the previous section to this report.
- 5.8.71. The Applicant's response [REP5-020] to local noise concerns largely repeats the content of the evidence and points found through its assessment in [REP4-008] which demonstrates there are no significant adverse or beneficial effects expected due to changes in road traffic noise. The Applicant's finding applies to all receptors within the study area and NIAs. But in addition, it was highlighted by the Applicant that the design of the Proposed Development despite noise assessment findings the scheme includes low noise surfacing on the new A11-A47

link road as embedded noise mitigation design feature that will further minimise noise impacts on sensitive receptors.

5.8.72. It was queried by the ExA if operation phase noise monitoring and mitigation would be necessary steps.

5.8.73. In response the Applicant noted that DMRB LA111 states that:

*"Post construction noise monitoring cannot provide a reliable gauge for whether the predicted magnitude and extent of operational adverse impacts are greater or less than those predicted in the assessment, this is due to the following reasons: 1) the assessment is based on annual average conditions with and without the project to ensure a like-for-like comparison, which is not possible to replicate through monitoring within a reasonable timescales; 2) monitoring in the absence of the project would need to be completed before the start of the construction works, and would therefore be a number of years before the with-scheme monitoring and the assessment completed for the environmental statement is based on calculated road traffic noise levels, whereas ambient noise monitoring can be affected by other noise sources such as people, agricultural activities, military activities, aircraft etc."*

5.8.74. For the above reasons given by the Applicant, no requirement for post-completion operational noise monitoring was sought to be incorporated into the first iteration of the EMP.

#### ExA's conclusions on operational noise and vibration

5.8.75. The evidence presented within the Examination period leads the ExA to the conclusion that appropriate consideration has been given to Noise Important Areas.

5.8.76. There is no convincing basis for operational noise monitoring to be encapsulated in the EMP bearing in mind the underpinning approach in the DMRB and the context of wider policy and guidance triggered.

5.8.77. The assessment of operational noise presented within ES Chapter 11 concludes that no significant effects (adverse or beneficial) are expected to occur due to change in operational road traffic noise. Furthermore, all minor impacts (adverse or beneficial) occur at receptors where the predicted road traffic noise level with the Proposed Development is below the SOAEL.

5.8.78. The Applicant's assessment has identified that no specific operational noise mitigation (in terms of the use of barriers or low noise surface) is required to avoid significant effects due to operational noise.

5.8.79. However, it is noted that the scheme includes provision for low noise surfacing on the new A11-A47 link road as an embedded noise reduction design feature that will further minimise noise impacts on sensitive receptors (having regard to the scheduled monument adjacent) in a semi-rural location. Such provision is welcomed and deemed to be prudent having regard to furthering protection to residential receptors.

The ExA finds no reason to disagree with the Applicant's assessment conclusions or with the incorporation of low noise surfacing as an embedded design safeguard having regard to local representation.

- 5.8.80. The ExA agrees there is no convincing case for a requirement for post-completion operational noise monitoring having regard to the first iteration of the EMP and the provisions of the dDCO. The Applicant has provided sufficiently robust evidence of the operational noise and vibration effects which would likely to transpire should the Proposed Development proceed to be built out.

### **ExA's overall conclusions on noise and vibration policy and factual issues**

- 5.8.81. The aims of the NPSNN include regard to: the need to avoid significant adverse impacts on health and quality of life from noise as a result of the new development; to mitigate and minimise other adverse impacts on health and quality of life from noise from the new development; contribute to improvements to health and quality of life through the effective management and control of noise, where possible.
- 5.8.82. The Proposed Development does not result in the operational noise exposure increasing above the SOAEL at any receptor and no properties qualify for noise insulation. All design and mitigation measures (actions) anticipated to minimise other adverse impacts have been detailed in the Applicant's ES, first iteration EMP, OTMP and dDCO.
- 5.8.83. A moderate beneficial noise impact is predicted to occur at the western barrow in Two Tumuli in Big Wood (scheduled monument). However, the predicted reduction in road traffic noise levels is 3.3 dB and towards the lower end of the 'moderate' range. Thus overall, this beneficial effect is accepted by the applicant as not being significant.
- 5.8.84. The ExA has had due regard to the policy aims set out in the NPSNN in gauging the impacts of the Proposed Development in relation to noise and vibration. The outcomes detailed by the Applicant in its assessment are consistent with the NPSNN.
- 5.8.85. Consideration has also been given to statutory requirements for noise and the relevant sections of the NPSE, the NPPF, the NPPG on noise and the local plans, as set out in [\[APP-122\]](#), and in Section 5.12 of this report.
- 5.8.86. For each receptor or group of receptors, the mitigation measures (actions) used to reduce noise exposure in relation to SOAEL have been summarised in Table 11-12 of [\[REP4-008\]](#). Where possible, significant environmental effects have been avoided through design and mitigation measures. Table E/1.3 defines a significant adverse noise effect in NPS NN policy terms as a noise level above SOAEL. The Proposed Development does not result in the operational noise exposure increasing above the SOAEL at any receptor and no properties qualify for noise insulation.

- 5.8.87. The ExA is satisfied that noise issues in Noise Important Areas have been considered with the input of SNC and no material effects on them have been found. Thus, the requirements of paragraph 5.200 of the NPSNN and paragraph 180 of the NPPF have been met.
- 5.8.88. The ES [[REP4-008](#)] provides evidence that the minimisation of noise and vibration effects was an important design approach inclusive of mitigation matters, also having regard to the location of the existing junction layout subject to improvement proposed. Therefore, the ExA is satisfied that the layout optimisation stipulations in paragraph 5.194 of the NSPNN are met.
- 5.8.89. There is no evidence of any significant conflict between the Proposed Development and local plan policies concerning noise and vibration. Nor is there strong reason to not accept the baseline conditions, study area, identification of NIAs, baseline surveys, noise models, identification of receptors or assessment methodology are appropriate for the purposes of the assessment.
- 5.8.90. For the construction phase noise and vibration mitigation measures have been explained and the delivery mechanisms well thought out. The ExA has no reason to find that they would not be effective in preventing any significant effects from arising.
- 5.8.91. For the operational phase, road surfacing and noise barriers options have been considered appropriately. The Applicant's assessment of no significant effects is boosted by the incorporation of low noise surfacing for the proposed Canley Lane link road in any event, moreover there is ample flexibility for barriers to be included if there was a change in circumstances evident at a local level requiring such application.
- 5.8.92. There is good evidence of well thought out collaboration with SNC in the overall noise and vibration assessment activities undertaken by the Applicant and future consultation provision for further related mitigation details once they are triggered to be developed and secured by way of formal requirement. Accordingly, the ExA is satisfied that impacts and mitigation options available are properly addressed.
- 5.8.93. There is no conflict with local development plan policies related to noise impacts.
- 5.8.94. Appropriate mitigation provision is secured in the applications dDCO and subsequent rDCO (Appendix D) taking into account the first iteration of the EMP [[APP-128](#)] and OTMP [[APP-129](#)], as required by paragraphs 5.196-7 of the NPSNN.
- 5.8.95. Overall, subject to the mitigation provisions in the rDCO (Appendix D) the ExA's view is that noise and vibration considerations do not weigh considerably in favour or against the DCO being made.

## **5.9. THE WATER ENVIRONMENT, DRAINAGE AND FLOOD RISK**



5.9.1. This section of the report considers the effects of the Proposed Development on the water environment including drainage, water quality, pollution, flood risk, and the Water Framework Directive (WFD). The effect of the proposal on water-based biodiversity and nature conservation interests is covered in Section 5.10 of this report.

5.9.2. **Policy context**

5.9.3. The NPSNN recognises that the planning and pollution control systems are separate but complementary and the decisions taken under the PA2008 should not duplicate those made under the pollution control regime. The ExA and SoST should work on the assumption that the relevant pollution control regime will be properly applied and enforced. A similar approach should be taken in respect of land drainage and flood defence controls.

Water quality policy

5.9.4. Paragraph 5.222 of the NPSNN advises that, where feasible, projects such as road widening should take opportunities to improve the quality of existing discharges where these are identified and shown to contribute towards WFD commitments.

5.9.5. Paragraph 5.223 sets out the requirements for ESs in relation to water quality. These include describing the existing quality of waters affected and the impacts of the proposal on water resources. Any impacts on water bodies or protected areas under the WFD and source protection zones (SPZs) around potable groundwater abstractions and any cumulative effects should also be described. Regard should also be had to River Basin Management Plans (paragraph 5.226).

5.9.6. The ExA and the SoST should consider proposals to mitigate adverse effects on the water environment and whether appropriate requirements should be attached to any development consent and/or planning obligations (paragraph 5.227). The Proposed Development should also *“adhere to any National Standards for sustainable drainage systems (SuDs). The National SuDs Standards will introduce a hierarchical approach to drainage design that promotes the most sustainable approach but recognises feasibility, and use of conventional drainage systems as part of a sustainable solution for any given site given its constraints”* (paragraph 5.230).

Flood risk policy

5.9.7. Paragraph 5.91 of the NPSNN advises that the NPPF *“makes clear that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. But where development is necessary, it should be made safe without increasing flood risk elsewhere.”* It goes on to note that the supporting guidance explains that *“essential transport infrastructure (including mass evacuation routes), which has to cross the area at risk, is permissible in areas of high flood risk, subject to the requirements of the Exception Test.”*

- 5.9.8. Paragraph 5.92 of the NPSNN requires Flood Risk Assessments (FRA) to be submitted with applications in Flood Zones (FZs) 2 and 3 as well as in FZ1 in certain circumstances, including projects of one hectare or more.
- 5.9.9. FRAs are encouraged to identify and assess the risks of all forms of flooding to and from the project and demonstrate how these flood risks will be managed, taking climate change into account. Where flood risk is a factor, the SoST should be satisfied that the application is supported by an appropriate FRA and that the Sequential Test and, if required, the Exception Test have been applied. Paragraphs 5.105 to 5.109 explain the operation of the Sequential and Exception tests. The application of the tests is set out in greater detail in the NPPG.
- 5.9.10. Paragraph 5.100 of the NPSNN advises that, for construction work which has drainage implications, approval for the project's drainage system will form part of any development consent issued. The SoST will need to be satisfied that the proposal complies with any National Standards published by Ministers under Paragraph 5(1) of Schedule 3 to the Flood and Water Management Act 2010. Furthermore, the DCO will need to make provision for the adoption and maintenance of any sustainable drainage system (SuDs) by the most appropriate body.
- 5.9.11. Paragraph 5.102 of the NPSNN states that reasonable steps should be taken to avoid, limit and reduce the risk of flooding to the proposed infrastructure and others. However, the nature of linear infrastructure means that there will be cases where upgrades are made to existing infrastructure in an area at risk of flooding. Paragraph 5.104 goes on to guide that reasonable mitigation measures should be made to ensure that the infrastructure remains functional in the event of predicted flooding.
- 5.9.12. The management of flood risk may include the use of SuDs but could also include vegetation to help to slow runoff, hold back peak flows and make landscapes more able to absorb the impact of severe weather events (paragraph 5.110).
- 5.9.13. Paragraph 5.113 of the NPSNN advises that the proposed surface water drainage arrangements should ensure that the volumes and peak flow rates of surface water leaving the site are no greater than the rates prior to the proposed project, unless specific off-site arrangements are made and result in the same net effect.
- 5.9.14. Paragraph 169 of the NPPF (as an important and relevant consideration) advises that "*Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.*"

### **Application documents**

- 5.9.15. The parts of the application documentation most relevant to the consideration of the water environment are the following:
- Engineering Drawings and Sections [[REP9-002](#)];

- Drainage and Surface Water Plans [[AS-024](#)];
- Draft Development Consent Order [[REP9-003](#)];
- Consents and Agreements Position Statement [[RE9-007](#)];
- ES Chapter 13 – Road Drainage and the Water Environment [[REP8-004](#)];
- ES Appendix 13.1 Flood Risk Assessment [[REP3-008](#)];
- ES Appendix 13.2 Drainage Strategy Report [[APP-112](#)];
- ES Appendix 13.3 Groundwater Assessment [[APP-113](#)];
- ES Appendix 13.4 Water Quality Assessment [[APP-114](#)];
- ES Appendix 13.5 Geomorphology Assessment Report [[APP-115](#)];
- Environmental Masterplan [[REP6-007](#)];
- (First Iteration) Environmental Management Plan [[REP8-007](#)].

### **Drainage Strategy**

5.9.16. Only a preliminary drainage design has been submitted during application stage and is set out in the Applicant's Drainage Strategy Report [[APP-112](#)]. It has been prepared in accordance with the advice standards of the DRMB as well as the policies of the Development Plan for the locality. The preliminary drainage design is contained within Appendix B of [[APP-112](#)] with proposed drainage catchment plan being contained within Appendix E. The proposed road surface water collection system is detailed with Table 6-1 [[APP-112](#)]. A series of proposed network catchments are involved in the initial design response. Dealing with those each in turn:

#### Catchment A – Existing A11 eastbound towards Thickthorn Junction

5.9.17. This catchment involves road widening to accommodate the proposed diverge for the A11-A47 connector road. The existing verge drainage along the extent of widening is affected and would be removed as part of the Proposed Development. It is proposed to construct new edge of carriageway drainage through this section. New edge of carriageway drainage is proposed to maintain the existing drainage network which becomes severed. It will also collect the A11 and the proposed A11-A47 connector road diverge surface run-off.

5.9.18. Due to the proposed road widening and the impermeable road surface area is being increased an attenuation system is proposed in the form of oversized pipes prior to outfall to ensure there is no increase in discharge rates to the outfall at Cantley Stream. A basin option has been considered in place of the proposed oversized pipe. However, that option was discounted due to the land take required and significant tree

removal. An oversized pipe is considered to be an appropriate solution, but an open ditch solution is not yet discounted as a further design alternative.

#### Catchment A – Proposed A11/A47 connector road to A47 Underpass

- 5.9.19. This section of the A11/A47 connector road has no positive outfall due to the significant cutting and associated low levels. This area requires a pumping solution in order to convey the surface water to a suitable outfall location. At the current design stage, the inlets and outlets to the detention basin and the outfall arrangement to Cantley Stream are expected to be in the form of headwalls.

#### Catchment A – Cantley Lane Link, North of the A11

- 5.9.20. This section of proposed Cantley Lane link road runs from the junction with the B1172 Norwich Road to the proposed bridge over the A11-A47 connector road. This drainage network outfalls to the proposed attenuation basin provided to the west of the proposed Cantley Lane link road which outfalls to the Cantley Stream watercourse. At the current design stage, inlets and outlets to the detention basin and the outfall arrangement to Cantley Stream are expected to be in the form of headwalls.

#### Catchment A – Existing A11

- 5.9.21. A new drainage system is proposed which will route along the top of the west side of the proposed A47-A11 connector road cutting. This drainage network outfalls to the new attenuation basin provided to the west of the proposed Cantley Lane link road which outfalls to the Cantley Stream watercourse. As the existing drainage network currently outfalls directly to the water course, the proposed system is considered to provide both water quality and quantity benefits. At the current design stage the inlets and outlets to the detention basin and the outfall arrangement to Cantley Stream are expected to be in the form of headwalls.

#### Catchment E – Cantley Lane South, South of the A11, North of the proposed Cantley Lane culvert; and Catchment E2 – Cantley Lane South, South of the proposed Cantley Lane culvert

- 5.9.22. This drainage network is proposed to be attenuated by providing oversized pipes within the road verge owing to limited space. Once attenuated, it is proposed that the water will discharge to Cantley Stream via proposed ditches via headwalls. Proposed vegetated ditches are to provide some benefit in terms of water quality prior to discharging into Cantley Stream. The southern section of Cantley Lane South drainage system is subject to further drainage survey in order to determine the upstream catchment and pipe levels.

#### Catchment F – A11/A47 connector road/ A47 Norwich Southern Bypass /

- 5.9.23. The existing drainage network on the A47 becomes severed by the introduction of the proposed A11-A47 connector road underpass

structure. A new drainage system is proposed which will route the existing drainage network down to the proposed A11/A47 connector road where it utilises the A11/A47 connector road drainage system. This outfalls via gravity to the proposed detention basin located on the west side of the existing A47. It is proposed that a new piped drainage network can be provided from this attenuation basin to Cantley Stream where a headwall outfall will be provided. Given the proposed design discharges this water through a detention basin it would provide both water quality and quantity benefits.

#### Catchment F2 – A47 Norwich Southern Bypass

- 5.9.24. The existing drainage infrastructure is proposed as mostly retained. The proposed A11-A47 connector road merge involves widening the A47 carriageway surface and will require new edge of carriageway drainage to replace the existing as required in order to drain the road carriageway. New outfall drainage is required to replace the existing due to it being impacted by the A47 road and associated embankment widening. At this stage, the design proposes a new outfall headwall to be constructed, however, further surveys in this area is being undertaken to determine if any existing outfalls can be utilised for the final design.

#### Catchment H –Thickthorn Junction widening and segregated left turn

- 5.9.25. This drainage network is planned to continue to connect into the A11 drainage network contained within catchment B. Drainage design options in this area are identified as limited due to road widening and new edge of carriageway drainage is deemed appropriate.

#### 5.9.26. Catchment I Thickthorn Junction widening

- 5.9.27. The new drainage is proposed to be a direct replacement of the existing. This drainage network will continue to connect into the A11 drainage network contained within existing catchment (referred to as catchment B). Other design options are limited owing to the nature of highway widening works.

#### Catchment J Existing A11 and layby removal

- 5.9.28. Within the A11 within this catchment area, the existing drainage infrastructure would be mostly retained. However, adjustments would be needed due to the new A11 underpass. The proposed design includes the removal of an existing lay-by which is located on the A11 eastbound carriageway. New edge of carriageway drainage along the extent of the existing lay-by is envisaged subject to confirmation that the existing drainage cannot be retained. Those parameters are factors impacting on the design choice.

#### Catchment K –Existing A11 and Station Lane junction

- 5.9.29. New edge of carriageway drainage is proposed to replace the existing as required to drain the carriageway. Other design options are limited owing to the nature of highway widening works.

- 5.9.30. ES Appendix 13.2 Drainage Strategy Report [[APP-112](#)], Appendix D and E (pages 51 and 52) show drawings of the existing and proposed drainage catchment areas plans.

#### **Applicant's assessment of drainage water quality**

- 5.9.31. The Applicant uses a pollution risk screening tool to determine the routine runoff impacts of surface water discharges as advocated by the DMRB.
- 5.9.32. For the purposes of assessment, the total existing drainage catchment is assumed to discharge via three existing outfalls to Cantley Stream, namely: Catchment A; Catchment F2; and Catchment J.
- 5.9.33. The Proposed Development is planned to utilise the three existing outfalls identified above as well as five new outfalls which would discharge to Cantley Stream.
- 5.9.34. Natural catchment drainage is not assessed as it does not contain pollutants from highway drainage.
- 5.9.35. Annual average daily traffic forecasts with and without the Proposed Development were reviewed. The results considered in the drainage assessment are based on those with the Norwich Western Link Road scheme in place, which does not represent the worst-case scenario traffic forecast. However, using the worst-case scenario (without the Proposed Development) would not affect the water quality mitigation required as the average daily traffic forecasts do not vary enough to affect the outcome of the runoff and spillage assessments.
- 5.9.36. Prior to the runoff reaching the outfalls, filter drains, vegetated detention basins and swales are proposed in the drainage design. However, the filter drains and swale measures were omitted from the surface water assessment to represent a worst case scenario for surface water pollution risk. This is because further assessment of the pollution risk from discharging to ground via filter drains and swales is required following supplementary ground investigations.
- 5.9.37. The assessment considers the risk of routine runoff from the road drainage catchments that discharge to Cantley Stream.
- 5.9.38. A three-step process was followed:
- Step 1 assessment of the quality of direct highway runoff against toxicity thresholds, assuming no in-river dilution, treatment, or attenuation;
  - Step 2 assessment of the diluting capacity of the watercourse for acute impacts of soluble pollutants, and the likelihood and extent of sediment deposition for chronic impacts of sediment-bound pollutants; and

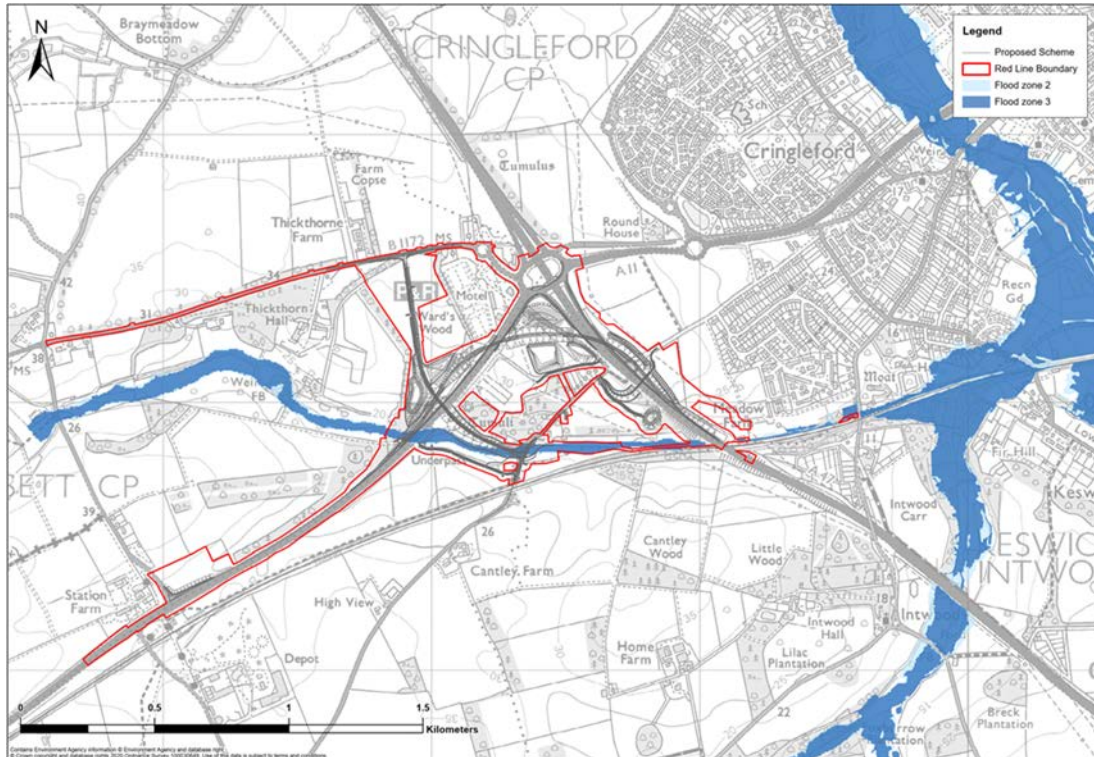
- Step 3 assessment of the effectiveness of existing and proposed treatment systems for soluble pollutants and if the site is predicted to accumulate sediments, the percentage of settlement required to ensure that the extent of sediment coverage complies with the threshold deposition index value.

#### Impacts on water quality

- 5.9.39. The Applicant's assessment of the impacts of the Proposed Development on the water environment, considering design and mitigation measures, can be summarised as follows:
- 5.9.40. The assessment indicates that there is a negligible impact following dilution in the channel for both soluble and sediment-bound pollutants. That outcome takes into account the extent of existing highway drainage provision. A vegetated detention basin is identified as being needed to treat catchments B, H and I to mitigate an acute copper pollution risk. No other water quality mitigation is deemed to be required for the remaining catchments. The assessment represents a worst-case scenario for environmental impacts to surface water features. There is also a design intention to provide filter drains and swales prior to discharging via the majority of the outfalls following completion of supplementary ground investigations.
- 5.9.41. An accidental spillage assessment does not raise any significant risks as the prospect of such an event occurring is considerably less than the annual acceptable threshold of 0.5% for discharge to a sensitive designated site.
- 5.9.42. Water quality enhancement measures are envisaged from the proposed detention basin (serving catchment F). The basin would be planted with suitable local species to provide further water quality and biodiversity enhancements. Filter drains and swales would provide additional water quality enhancements (subject to supplementary ground investigation). Vegetated detention basins would also reduce nitrate and phosphate concentrations through biological uptake. As well as providing some overall biodiversity improvements.

#### **Applicant's Flood Risk Assessment**

- 5.9.43. FRA is a requirement of the NPPF and the NPSNN.
- 5.9.44. The Environment Agency's flood map for planning and the Greater Norwich Strategic Flood Risk Assessment identifies the majority of the Proposed Development lies within FZ1. There are areas identified within FZ 2, 3a, and the indicative extent of FZ 3b. These areas are associated with Cantley Stream and its floodplain.



**Figure 5.9.44:** The Proposed Development and the Environment Agency Flood Zones, extract from [APP-112], page 6

- 5.9.45. A detailed hydraulic modelling assessment of Cantley Stream predicted flooding for the 100-year event upstream of the A11 and throughout the Cantley Stream floodplain around Cantley Lane South and the A47. The model predicts the existing Cantley Lane South culvert to surcharge during the 100-year event causing out of bank flooding and flooding to Cantley Lane South. Under the existing scenario, out of bank flow is predicted to overtop Intwood Road near the downstream extent of the model and flooding close to a residential receptor adjacent and upstream of Intwood Road was also predicted. Climate change impacts increase the predicted flood depths. The scheme is considered to be at high risk of fluvial flooding.
- 5.9.46. The Environment Agency flood risk from surface water map indicates that most of the Proposed Development is at very low risk from surface water flooding. There are areas where the risk of surface water flooding is identified as being low to high where the topography of the land has the potential to allow flood flow pathways to form. Therefore, the risk of surface water flooding is considered to be medium to high where areas of ponding or surface water flow pathways cross the Proposed Development. Hydraulic modelling was carried out to assess the impacts of surface water flood risk on a residential receptor to the north of Cantley Stream and west of Cantley Lane South. The model predicts the receptors are at risk of surface water flooding to a depth of 0.3m where levels do not pass the estimated doorstep threshold.
- 5.9.47. Based on local flooding event information the risk of flooding from highway drainage infrastructure is considered to be low.



- 5.9.48. There are no historical records of groundwater flooding within the vicinity of the Proposed Development, however findings from the ground investigation suggest that groundwater flooding is a potential risk in the vicinity of Cantley Stream.
- 5.9.49. The Proposed Development is at low risk of flooding from water, sewerage and highway infrastructure failure. It is not at risk of flooding from canals, reservoir failure or tidal sources.
- 5.9.50. The removal of the throttle at the Cantley Lane South culvert, extension of the A11 culvert and Cantley Lane stream realignment have the potential to alter existing patterns of flood risk. However, no 'more vulnerable' (as defined under the NPPF flood risk vulnerability classification) receptors were predicted to be affected by the Proposed Development. There are changes to the patterns of fluvial flood risk within the Cantley Stream floodplain, with predicted increases and decreases in flood depth depending on the location. The removal of the existing Cantley Lane south culvert removes the throttle to flood flows, reducing flood depths immediately upstream and changing the pattern of flood risk downstream (along with the stream realignment). The differences in flood depths affect agricultural (pasture) land and areas of amenity use which are classed as 'less vulnerable' and 'water-compatible' under the NPPF flood risk vulnerability classification.
- 5.9.51. The assessment finds that the proposed drainage system must discharge at greenfield runoff rates and provide sufficient attenuation for the 100-year plus 40% climate change rainfall event. The proposed drainage design will use a combination of surface water channels, kerb and gullies and combined surface water drainage systems. The proposed SuDS features included within the drainage design are to include, vegetated detention basins, filter drains and grassed ditches. Runoff from existing drainage areas will either remain as existing or reduce. Discharge from the proposed drainage system to Cantley Stream would have negligible impacts on flood risk at Cantley Stream and on freeboard at the new Cantley Lane South culvert.
- 5.9.52. It is considered by the Applicant that the Proposed Development would not result in additional fluvial or surface water flood risks.
- 5.9.53. There is potential the Proposed Development could intercept an identified Chalk aquifer during construction of the A11-A47 connector road. Therefore, a pumped design solution is deemed necessary as a gravity outfall alone cannot be achieved to resolve that issue.
- 5.9.54. Potential impacts on flood risk during construction will be mitigated by the implementation of appropriate temporary drainage measures which will be outlined in temporary works drainage strategy and implemented through the EMP.
- 5.9.55. Residual risks from the blockage of the proposed Cantley Lane South culvert, exceedance of the proposed drainage design and groundwater flooding is assessed as low.

- 5.9.56. Overall, the FRA considers with mitigation as part of the Proposed Development design it will be safe for its lifetime and will not cause any increase in surface water and groundwater flood risk elsewhere. There are changes to the patterns of flood risk resulting from the removal of the existing Cantley Lane South culvert throttle and the stream realignment to downstream farmland and amenity areas. However, the development is considered appropriate under the requirements of the NPPF and NPSNN.

### **Water Framework Directive**

- 5.9.57. The Applicant outlined the assessment of potential construction and operation related impacts on each of the water bodies' quantity and quality elements in ES Chapter 13 [[REP8-004](#)]. It assessed whether these impacts could lead to non-compliance with the WFD and the ability of the relevant WFD water bodies to meet their current objectives.
- 5.9.58. The key objectives of the WFD, provided for in the area River Basin Management Plan (RBMP) (Environment Agency, 2018b), are as follows: to prevent deterioration of the status of surface waters and groundwater; to achieve objectives and standards for protected areas; to aim to achieve good status for all water bodies or, for heavily modified water bodies and artificial water bodies, good ecological potential and good surface water chemical status; to reverse any significant and sustained upward trends in pollutant concentrations in groundwater; the cessation of discharges, emissions and losses of priority hazardous substances into surface waters; and to progressively reduce the pollution of groundwater and prevent or limit the entry of pollutants.
- 5.9.59. A screening assessment was undertaken to determine WFD water bodies that should be included in this assessment as part of the EIA Scoping Report. This involved the input of NCC (as the Lead Local Flood Authority). All surface water WFD and chemical quality elements were scoped in to the WFD compliance assessment.
- 5.9.60. The surface water WFD catchments are within the Anglian River Basin District.
- 5.9.61. The assessment of compliance with WFD was split into two sections covering the assessment of the effects and required mitigation during: 1. construction (temporary works); and 2. operation on the WFD water bodies.
- 5.9.62. It is noted there would be a significant effect on the conveyance of flow in the Cantley Stream floodplain arising from the removing of the throttle on flood flows on the Cantley Lane South culvert and stream alignment works. The effects range from moderate beneficial to moderate adverse depending on the location within the floodplain.
- 5.9.63. However, with mitigation the Proposed Development is not predicted to result in further significant residual effects (identified as moderate or major adverse) during either construction or operation phases. The

mitigation measures are set out in the EMP submitted within the Application.

### **Issues considered during the Examination**

- 5.9.64. The water environment issues considered during the Examination largely included:
- The assessment of flood risk;
  - drainage design;
  - effects on water quality.

#### Flood Risk

- 5.9.65. In respect of fluvial flood risk, it was originally submitted in paragraph 13.9.40 of the Applicant's initial version of Chapter 13 of the ES [[APP-050](#)] (which was updated to [[REP8-004](#)]) that assessments showed there was an increase in flood risk to a residential property (in the vicinity of Intwood Road) of up to 15 millimetres (mm), and that property level protection is proposed as mitigation. It was highlighted that further survey work and flood modelling was being carried out to confirm the flood risk impacts and inform the required mitigation.
- 5.9.66. Such further survey and modelling work was carried out by the Applicant during the Examination to better predict the flood risk impacts in the vicinity of Intwood Road. The revised modelling showed that there would be a negligible impact. The revised model and the updated hydraulic modelling report (Annex B of [[APP-111](#)]) was issued to the Environment Agency. The original FRA [[APP-111](#)] was subsequently updated to reflect the revised modelling at D4 [[REP3-008](#)]. ES Chapter 13 – Road Drainage and the Water Environment was subsequently revised on the back of that [[REP8-004](#)]. The involvement of NCC (as the Lead Local Flood Authority) is also referred to as being sought on the revised information pursued.
- 5.9.67. The Applicant was asked to verify if and how National Highways drainage renewal project referenced in FRA Appendix 13.1 [[REP3-008](#)] was considered in the cumulative effects assessment. The Applicant confirmed that drainage maintenance required at Thickthorn Junction does not require planning permission and therefore was elected not to be included in cumulative effects assessment findings.
- 5.9.68. A query was made in relation to supplementary ground investigation work which was referenced to commence in March 2021 and if it could be provided to the Examination. This information having potential to influence likely significant effects. The Applicant in response, provided additional information at D4 and separate to that also pointed out there was a substantial number of months' worth of preconstruction water monitoring (undertaken for a total of 12 months) in need of completion to properly inform overall findings and final design approaches.

- 5.9.69. The Applicant also raised the commitment made to produce individual Management Plans referenced in the EMP. Those were referred to as only feasible to produce at the detailed design stage and not during the Examination period. The commitment to produce the EMP documentation is detailed in its dDCO Requirement 4, in tandem with commitment to detailed design specified in dDCO Requirement 3. This resolved the ExA's concerns.

#### Drainage design

- 5.9.70. Impacts referred to in [RR-038] of the phasing of drainage works were raised during the examination by the ExA. The Applicant responded by detailing that the phasing plan of works is currently at high level draft and will become more detailed as the detailed design is developed. The principal contractor would as a result liaise with the relevant landowner to inform of works to the Cantley Stream.
- 5.9.71. During the Examination the Environment Agency expressed views that they only agree that no compensatory storage would be required provided that any further assessments highlighted in the Applicant's overall evidence continue to show that the Proposed Development would result in no significant adverse impacts on flood risk. The Applicant's revised FRA responds to this issue and maintains the finding of no significant adverse impacts.
- 5.9.72. Having regard to construction impacts on water quality risks the Environment Agency advised during the Examination that a prior assessment of strata for Horizontal Directional Drilling (HDD) would be required. In response the Applicant plans to avoid any HDD in the vicinity of Cantley Stream as a construction safeguard. It was also raised if the Applicant could confirm that there would be no discharges where there is less than 1.2m between the feature and the ground water table, with a recommended thickness of 2-5m as the recommended separation distance by the Environment Agency. The Applicant confirmed that the Environment Agency's unsaturated zone of 1.2m would be adopted and where the zone is less than 5m those areas would be discussed further with the Environment Agency at detailed design stage. That commitment is contained within Requirement 4 relating to the EMP. The ExA's queries were answered and drainage matters resolved.

#### Effects on water quality

- 5.9.73. The Environment Agency indicated through representation during the Examination that it is advised locating a drainage pond over an infilled gravel pit would not be appropriate unless the fill can be proved to be inert. A full investigation of the landfill and infilled pit, to better inform the determination of residual effects significance and the Materials Management Plan is referred to. The Applicant in the main presents a case that the issue is expected to be low risk and it was determined that no further assessment was required for that element based on historic survey information and current information available to date.

- 5.9.74. The ExA accepts the low-risk conclusions of the Applicant and Requirement's 4, 6, 8 and 12 of the rDCO combined provide adequate safeguards.

### **ExA's overall conclusions on the water environment**

- 5.9.75. The ExA has examined the proposal against the policies set out in the NPSNN in consideration of the impacts of the Proposed Development on the water environment.
- 5.9.76. At the start of the Examination there were some concerns expressed primarily by the EA but also involving some local landowners. However, there is evidence of constructive dialogue between the Applicant, affected parties and the lead local flood authority LLFA during the Examination. Proactive modification to the Examination documentation material stemming from working updates has also taken place (acknowledging flood risk information updates and associated non-material changes to the DCO area). Following those processes the majority of issues raised have been either agreed or have not attracted further objection or noted concerns.
- 5.9.77. The ExA finds that the content of the final version of the FRA meets the requirements of paragraphs 5.92 and 5.93 of the NPSNN. It makes appropriate allowance for climate change based on the location.
- 5.9.78. Parts of the Proposed Development would be in areas with a medium or high risk of flooding. However, the ExA is satisfied that the risks posed to and by the Proposed Development have been properly assessed and an appropriate package of mitigation measures has been proposed taking into account the position of Cantley Stream. These are secured through Requirements 4 and 3 rDCO (Appendix D) and the provisions of the EMP.
- 5.9.79. It is only because parts of the DCO cover Cantley Stream that higher flood risk areas are recorded in the ES.
- 5.9.80. The applicant's FRA has found that the proposed drainage system must discharge at greenfield runoff rates and provide sufficient attenuation for the 100-year plus 40% climate change rainfall event. The proposed drainage design will use a combination of surface water channels, kerb and gullies and combined surface water drainage systems. The proposed SuDS features included within the drainage design are to include, vegetated detention basins, filter drains and grassed ditches. Runoff from existing drainage areas will either remain as existing or reduce. Discharge from the proposed drainage system to Cantley Stream would have negligible impacts on flood risk at Cantley Stream and on freeboard at the new Cantley Lane South culvert. The Applicant's drainage strategy suggests all those design issues can be successfully accommodated in a final design.
- 5.9.81. Overall, it is acknowledged that the Proposed Development would not result in additional fluvial or surface water flood risks. The ExA finds that potential impacts on flood risk during construction can be mitigated by the implementation of appropriate temporary drainage measures which

are to be outlined in the temporary works drainage strategy and implemented through the EMP.

- 5.9.82. Moreover, it is acknowledged that the residual risks from the blockage of the proposed Cantley Lane South culvert, exceedance of the proposed drainage design and groundwater flooding is assessed as low. There is nothing in the way of substantive evidence to disagree with the Applicant's assessment.
- 5.9.83. The ExA is content the Proposed Development meets the preference for the use of SuDs set out in the NPSNN and the NPPF. The ExA is also content that there is nothing to suggest that the design of the SuDs features would not comply with the relevant design standards as required by the NPSNN.
- 5.9.84. The findings of the WFD compliance assessments were not disputed during the Examination. Having considered the evidence on water quality, the ExA finds that the conclusions of the assessments are reasonable. Thus, the ExA is satisfied that the Proposed Development would be unlikely to hinder the overarching aims of the WFD.
- 5.9.85. Subject to the measures by way of requirements set out in the rDCO (Appendix D) inclusive of the EMP the ExA concludes Proposed Development would be unlikely to result in any significant effects on the water environment. Thus, the effect of the Proposed Development on the water environment does not weigh significantly for or against the DCO being made.

## **5.10. BIODIVERSITY AND ECOLOGY**

- 5.10.1. This section of the report considers the effect of the Proposed Development on biodiversity and ecological interests. It includes air quality and water borne impacts on biodiversity.
- 5.10.2. Issues relating to the Habitats Regulations Assessment (HRA) are addressed separately in Chapter 6. However, it is pertinent to note that Chapter 6 finds that the Proposed Development would not have a significant effect on the objectives of any European sites, or on any site to which the same protection applies as a matter of policy.
- 5.10.3. The effect of the Proposed Development on veteran trees is included here. The veteran trees considered are not within an ancient woodland and, as the NPSNN advises, veteran trees found outside ancient woodland are particularly valuable in terms of biodiversity.
- 5.10.4. **Policy context**
- 5.10.5. National policies
- 5.10.6. Paragraph 5.22 of the NPS NN advises that, where the project is subject to EIA, the ES should set out *"any likely significant effects on internationally, nationally and locally designated sites of ecological or geological conservation importance) on protected species and on habitats*

*and other species identified as being of principal importance for the conservation of biodiversity". The ES should consider "the full range of potential impacts on ecosystems."*

- 5.10.7. Opportunities to conserve and enhance biodiversity conservation interests are encouraged (paragraph 5.23). The NPSNN goes on to state that *"As a general principle, and subject to the specific policies below, development should avoid significant harm to biodiversity and geological conservation interests, including through mitigation and consideration of reasonable alternatives."*
- 5.10.8. Paragraph 5.26 advises that the SoS should attach appropriate weight to *"designated sites of international, national and local importance, protected species, habitats and other species of principal importance for the conservation of biodiversity, and to biodiversity and geological interests within the wider environment."* Paragraph 5.29 presumes against development which is likely to have an adverse effect on Sites of Special Scientific Interest (SSSIs) either individually or in combination with other developments.
- 5.10.9. Paragraph 5.31 recognises that sites of regional and local biodiversity interest, including local wildlife sites, have a fundamental role to play in meeting overall national biodiversity targets and in contributing to the quality of life and the wellbeing of the community.
- 5.10.10. Nonetheless, whilst due consideration should be attached to such designations, given the need for new infrastructure, those designations should not be used in themselves to refuse development consent.
- 5.10.11. Paragraph 5.32 is clear that the SoS should not grant development consent for development that *"would result in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the national need for and benefits of the development, in that location, clearly outweigh the loss. Aged or veteran trees found outside ancient woodland are also particularly valuable for biodiversity and their loss should be avoided. Where such trees would be affected by development proposals, the Applicant should set out proposals for their conservation or, where their loss is unavoidable, the reasons for this."*
- 5.10.12. Paragraph 5.33 of the NPSNN says that proposals may provide opportunities for building in beneficial biodiversity features as part of good design and the SoS should consider whether the Applicant has maximized such opportunities. Requirements or planning obligations can be used to deliver such beneficial features.
- 5.10.13. The NPSNN acknowledges many wildlife species receive statutory protection under a range of legislative provisions, whilst other species and habitats have been identified as being of principal importance for the conservation of biodiversity. It encourages that proposals should take measures to protect these species and habitats from any adverse effects. Where appropriate, requirements or planning obligations may be used in

order to deliver this protection. Consent should be refused where there would be harm to these habitats or species and their habitats, unless the benefits of the development (including need) clearly outweigh that harm.

5.10.14. Paragraph 5.36 of the NPSNN states that appropriate mitigation measures should be an integral part of the proposals, and that applicants should identify where and how these will be secured. It goes on to say "*the applicant should demonstrate that:*

- *during construction, they will seek to ensure that activities will be confined to the minimum areas required for the works;*
- *during construction and operation, best practice will be followed to ensure that risk of disturbance or damage to species or habitats is minimised (including as a consequence of transport access arrangements);*
- *habitats will, where practicable, be restored after construction works have finished;*
- *developments will be designed and landscaped to provide green corridors and minimise habitat fragmentation where reasonable;*
- *opportunities will be taken to enhance existing habitats and, where practicable, to create new habitats of value within the site landscaping proposals, for example through techniques such as the 'greening' of existing network crossing points, the use of green bridges and the habitat improvement of the network verge."*

5.10.15. The NPSNN advises that the SoS will need to take account of what mitigation measures may have been agreed between the applicant and NE and whether NE has granted or refused, or intends to grant or refuse, any relevant licenses, including protected species mitigation licenses. Moreover, NE should be consulted regarding the assessment of noise on designated nature conservation sites, protected landscapes, protected species or other wildlife.

5.10.16. Section 15 of the NPPF set out national planning policy for conserving and enhancing the natural environment. Amongst other things its contents seek to minimise impacts on and provide net gains for biodiversity. Where significant harm to biodiversity cannot be avoided, mitigated, or as a last resort compensated for, permission should be refused.

#### Development Plan Policies

5.10.17. South Norfolk District Council Local Plan (2015-2026) Policy DM 4.4 provides local policy on natural environmental assets – designated and locally important open space. It places emphasis on protecting the highest status natural environmental assets. New development impacting on designated sites is required to contribute positive improvement of these natural environmental assets where opportunities arise. International, National and County-wide level sites are afforded the



highest levels of priority. It also aims to enhance locally important public open space areas and green infrastructure for ecological and biodiversity interests.

- 5.10.18. Norfolk Biodiversity Action Plan (BAP) is also relevant which was originally developed to translate national objectives, set by Government in response to commitments made at the 1992 Rio 'Earth' Summit, into local action. At a local level it contains targets and actions that specify what needs to be done, by whom, and when, to conserve Norfolk's most rare and endangered animals, plants, and habitats.

### **Application documents**

- 5.10.19. The application documents pertinent to the consideration of biodiversity and ecological impacts include:
- Chapter 8: Biodiversity [[APP-045](#)];
  - Arboricultural Impact Assessment [[APP-085](#)];
  - ES Appendix 8.1 Botanical Survey Report [[APP-087](#)];
  - ES Appendix 8.2 Terrestrial Invertebrate Survey Report [[APP-088](#)];
  - ES Appendix 8.3 Aquatic Macroinvertebrate Survey Report [[APP-089](#)];
  - ES Appendix 8.4 Great Crested Newt Survey Report [[APP-090](#)];
  - ES Appendix 8.5 Reptile Survey Report [[APP-091](#)];
  - ES Appendix 8.6 Breeding Bird, Hobby and Barn Owl Survey Report [[APP-092](#)];
  - ES Appendix 8.7 Wintering Bird Survey Report [[APP-093](#)] updated to [[REP4-012](#)];
  - ES Appendix 8.8 Bat Roost and Crossing Point Survey Report [[APP-094](#)] updated to [[REP4-014](#)];
  - ES Appendix 8.9 Otter and Water Vole Survey Report [[APP-095](#)];
  - ES Appendix 8.10 Polecat Survey Report [[APP-096](#)];
  - ES Appendix 8.11 Confidential Badger Survey Report [[APP-097](#)];
  - ES Appendix 8.12 DMRB Biodiversity Evaluation Assessment Methodology [[APP-098](#)];
  - EIA Scoping Opinion [[APP-121](#)]
  - Environmental Masterplan [[APP-123](#)]
  - (First Iteration) EMP [[APP-128](#)];

## Ecological assessment

- 5.10.20. The Applicant states that ecological assessments, reporting, survey, and design measures have been led by the DMRB. In particular, DMRB policies: LD 118 Biodiversity Design; LA 108 Biodiversity; and LA 115 for Habitats Regulations Assessment matters. The assessment has also been undertaken with regard to the Chartered Institute of Ecology and Environmental Management (CIEEM)'s underpinning Ecological Impact Assessment (EclA) guidance (2018).
- 5.10.21. The assessment seeks to consider CIEEM and DMRB guidance, as well as the EIA Regulations, in its definition of the significance of a biodiversity effect. As such, effects at international, European, UK or national level (CIEEM categories) were equated with a 'very large' effect (DMRB category). Similarly, 'regional' level is equated with a 'large' effect, 'county or unitary authority' level with a 'moderate' effect, 'local' level with a 'slight' effect and 'site' level with a 'neutral' effect. For the purposes of the assessment, significant effects are taken to be moderate or greater. Slight and neutral effects were considered not significant. The Applicant took the view that significant adverse effects trigger the need for mitigation.
- 5.10.22. Nature conservation designations
- 5.10.23. There are four statutory designated sites within 2km of the Proposed Development and three additional statutory sites further than 2km but hydrologically connected to it.
- 5.10.24. The statutory designated sites further than 2km but hydrologically linked are: The Broads Special Area of Conservation (SAC); Broadland Special Protection Area (SPA); and Broadland Ramsar site. The Broads SAC and Broadland SPA and Ramsar sites were assessed as a biodiversity resource of international importance. There were no SACs designated for bats identified within 30km of the Proposed Development.
- 5.10.25. Eaton Chalk Pit SSSI is 1.5 km east of the Proposed Development. It has been assessed as a biodiversity resource of national importance and Eaton Common, Earlham Park Wood and Marston Marshes local nature reserves (LNRs) as a biodiversity resource of local importance.
- 5.10.26. A total of 15 non-statutory designated either boarder or are within 2km of the application site boundary. These are: Meadow Farm Meadow County Wildlife Site (CWS); Intwood Carr CWS; Foxburrow Meadow CWS; Softley Drive Meadow CWS; Riding School Meadow CWS; Eaton Island CWS; Eaton Street Meadow CWS; Bluebell Marsh CWS; Eaton Common CWS; Eaton Chalk Pit CWS; UEA Marsh CWS; UEA Butterfly Meadow CWS; UEA Broad CWS; Braymeadow CWS; and Ketteringham Hall Lake CWS.

### Habitats

- 5.10.27. Habitats identified within the study area including a 100m buffer were:

- woodland (including broadleaved semi-natural; broadleaved plantation; coniferous plantation; Mixed plantation; and scattered trees/parkland);
- scrub (including dense or continuous; and scattered);
- parkland or scattered trees;
- grassland (including neutral semi-improved; poor semi-improved; and improved Marsh or marshy);
- tall ruderal planting;
- swamp;
- standing water;
- standing water (eutrophic);
- running water;
- boundaries (including species poor intact hedge; species poor defunct hedge; and native species rich hedge with trees);
- species poor hedge with trees (dry ditch; and fence);
- arable;
- amenity grassland;
- bare ground (hard standing); and
- buildings.

5.10.28. All hedgerows and hedgerows with trees, mixed and deciduous broadleaved woodland, wood pasture and parkland, arable field margin and standing water were treated as a priority habitat under Section 41 NERCA (2006) and assessed as biodiversity resources of value at a national importance level.

5.10.29. Scattered mature trees, (four within the boundary of the Proposed Development) some of which were considered to be veteran trees were assessed at national importance level. Two veteran trees would be removed because of the Proposed Development. The impacts would be permanent and direct. The full details of woodland and tree assessment, including location of veteran trees, is set out in the arboricultural survey in the ES [[APP-085](#)].

5.10.30. Four of the hedgerows were classed as important under the assessed criteria for of the Hedgerow Regulations 1997. Two additional hedgerows were classed as species rich.

Statutory protected and other notable flora and fauna species

- 5.10.31. No matters were explicitly proposed to be scoped out following the Applicant's Scoping Report and PINS scoping opinion [[APP-121](#)]. However, it was noted that no further surveys were proposed for aquatic invertebrates, hedgerows, reptiles, great crested newts, terrestrial invertebrates, and polecat. The ES was advised to either include such assessments, or the evidence that supports the conclusion that no further assessment is required, together with any evidence of agreement with the relevant consultees that significant effects are not likely to occur.
- 5.10.32. Two nationally scarce plants, hoary mullein (*Verbascum pulverulentum*) and bearded fescue (*Festuca subulate*) were identified in good numbers during the grassland survey in the field west of the Meadow Farm Meadows CWS.
- 5.10.33. Near threatened plant species that were identified in arable fields included: Common cudweed (*Filago vulgaris*); Smooth catsear (*Hypochaeris glabra*); and Corn spurrey (*Spergula arvensis*). The Applicant submits that although those species are given an elevated ecological status nationally, they are all relatively frequently encountered at a local level and are often associated with soil disturbance and brownfield land.
- 5.10.34. The following statutorily protected and other notable fauna species were also included in the Applicant's assessment:
- terrestrial invertebrates (18 species were of nationally rare species status);
  - aquatic invertebrates;
  - great crested newt;
  - reptiles;
  - hedgehogs;
  - breeding birds;
  - wintering birds;
  - bats (roosting and foraging);
  - badgers;
  - otters;
  - water vole; and
  - polecat;
- 5.10.35. Invasive plant species under Schedule 9 of the Wildlife and Countryside Act (1981) was paid regard to by the Applicant. With incidental reporting

of Himalayan Cotoneaster within the DCO boundary highlighted in some of the fauna surveys.

### **Design of the proposals, mitigation measures and residual effects**

5.10.36. Design and mitigation measures were proposed by the Applicant to avoid or reduce the ecological effects associated with the construction and operation of the Proposed Development and maximise benefits.

#### Design measures

5.10.37. Embedded ecological design mitigations measures include:

- reduction of as much permanent habitat loss as possible;
- reducing habitat fragmentation through mammal ledges and the provision of mammal habitat enhancement in suitable locations;
- SuDS design involving wetland habitat creation;
- mitigating pollution by using best practice methods for pollution prevention and water management;
- new landscaping which includes wildflower planting;
- 5m section of species rich or 'important' hedgerow to be removed will be translocated and not lost. Species poor hedgerows will be gap-filled to increase species diversity and quality across the site. New species-rich hedgerows with trees would be planted in addition to deciduous woodland and parkland trees;
- meadow grassland would be replanted;
- areas of land clearance would be replanted with native trees;
- no new drainage would be inserted into the CWS, and any road runoff should be directed away from the CWS;
- species-rich grassland and woodland habitat would be provided as part of the landscape design which would mitigate the loss of existing habitat;
- the installation of attenuation ponds and improved planting in Cantley Stream is part of the drainage design;
- the creation of tree lines, hedgerows, species-rich grassland and an attenuation pond with associated wetland planting;
- bird next boxes suitable for species such as tit, kestrel, sparrowhawk, barn owl, tawny owl and little owl would be installed in suitably retained habitat which will help mitigate the loss of existing habitat. The creation of kingfisher nesting banks at each of the proposed drainage basins and two mallard nest tubes would be installed at each drainage basin;

- the addition of a 3m high environmental barrier for bats between the existing A47 and the proposed A11- A47 slip road would help maintain the current higher bat flight path over the slip road and encourage bats to fly above traffic reducing potential for road casualties. Furthermore, the retaining of trees at the end of Cantley Lane (east of the DCO boundary) would extend the crossing point.

#### Mitigation measures and residual effects

- 5.10.38. ES Chapter 8 Table 8-12 details the Applicant's predicted significance of residual effects on biodiversity resources following implementation of committed mitigation.
- 5.10.39. All mitigation is to be detailed and implemented as part of the REAC in Table 3-1 of the EMP.
- 5.10.40. The measures to mitigate adverse effects on biodiversity during the construction and operational phases are largely contained within the EMP [[REP8-007](#)] and the Environmental Masterplan [[APP-123](#)]. Implementation of the Proposed Development in accordance with those documents (which are subject to review and updates post any consent) is secured by rDCO (Appendix D of this report) Requirements 4 and 5. In addition, Requirements 4 and 7 would secure the preparation and approval of a written scheme for the protection and mitigation measures for any protected species that were not previously identified in the ES or for nesting birds found when undertaking the Proposed Development.
- 5.10.41. The Applicant's assessment of the residual effects of the Proposed Development on biodiversity and nature conservation interests after the implementation of mitigation is summarised below.

#### Statutory designated sites

- 5.10.42. The Applicant considered that the Proposed Development would not have a significant effect on any statutory designated sites during the construction or operational phases. Primarily this is due to their distance from the land subject to the proposed DCO improvement works.
- 5.10.43. With respect to the Eaton Common, Earlham Park Woods and Marston Marshes LNR's. Temporary moderate adverse construction impacts from pollution of habitat within Eaton Common and Marston Marshes LNR through surface water runoff, water level changes and sedimentation and accidental spillages were identified. Negligible adverse effects with respect to Earlham Park Woods. But neutral residual effects are identified for all LNR's following mitigation. Mitigation includes attenuation ponds to be created and planted with suitable vegetation to trap and reduce pollution into nearby water courses from overland run off.

#### Non-statutory designated sites

- 5.10.44. The Applicant considered that the Proposed Development would not have a significant effect on any non-statutory designated sites during the

construction or operational phases. Primarily this is due to their distance from land subject to the proposed DCO improvement works.

- 5.10.45. With respect to CWS's. There would be major adverse impacts to Meadow Farm Meadows and moderate adverse effects to Eaton Common, with negligible adverse effects for all remaining CWS's during construction. During operation there would be major adverse impacts to Meadow Farm Meadows but minor adverse to all other CWS's. Only slight adverse residual impacts during construction to Meadow Farm Meadows and neutral impacts for all other CWS's would be apparent post mitigation measures. No changes are identified to the CWS's during operation phases post implementation of all mitigation.

#### Other habitats

- 5.10.46. With respect to NERCA (2006) priority habitats; lowland fens, arable field margins, traditional orchards, rivers, hedgerows, coastal and floodplain grazing marsh, standing water (ponds), lowland mixed deciduous woodland, wood pasture and parkland and lowland meadows. Moderate adverse effects during construction are identified for hedgerows, deciduous woodland; slight beneficial impacts for lowland meadows; and neutral effects for all other habitats during construction. During operation the significance of residual effects is identified as being neutral.
- 5.10.47. With respect to scattered mature and veteran trees. The two veteran trees detailed to be removed would be a permanent large adverse and direct ecological impact identified by the Applicant. Tree planting to replace mature and veteran trees would take decades to achieve the maturity of the trees to be removed. The significance of the residual impact is therefore assessed as being large adverse during construction. With neutral impacts for remaining trees during operation of the Proposed Development.
- 5.10.48. For Norfolk BAP Priority Habitats, it was identified by the Applicant that there would be permanent loss of hedgerows and deciduous woodland during construction. There are no direct impacts on lowland wood pasture and parkland and cereal field margins identified. Nonetheless, there are anticipated to be indirect impacts from operation pollution to habitats in terms of air quality, surface water runoff, sedimentation, and accidental spillages. Species poor hedgerows would be gap filled to increase species diversity and quality across the site. New deciduous woodland would take a long time to reach former maturity. No residual impacts from pollution are anticipated and no mitigation is proposed to be required. Accordingly, a slight residual adverse impact for hedgerows and deciduous woodland is recorded by the Applicant but a neutral impact for all other Norfolk BAP Priority Habitats.
- 5.10.49. Botanical impacts during construction included the loss of the botany within the Meadow Farm Meadow and old woodland habitat and through the adjustment of the drainage ditches leading to water level change. Those impacts were identified as major adverse permanent construction effects. Species-rich grassland would be included as mitigation across the

scheme as part of the landscape planning. In addition, the reduction in use of nutrient rich topsoil would enable a more diverse botanical population to colonise newly created bare ground. Meadow planting is assessed as being able to reach maturity quickly by the Applicant. Whereas new deciduous woodland would take a long time to reach comparable maturity levels. No residual effects from pollution are anticipated by the Applicant. In view of such mitigatory provision the Applicant reports that there would be a neutral residual impact to the botany of Meadow Farm Meadow and a slight adverse impact in terms of the old woodland planting. No significant changes are identified for the operation phase.

### Species

5.10.50. In summary, the Applicant's assessment found that following mitigation, the Proposed Development would have no significant adverse construction phase effects on:

- terrestrial invertebrates;
- aquatic invertebrates (at Cantley stream);
- reptiles;
- great crested newts;
- breeding birds;
- Wintering birds;
- Barn owl - a slight adverse residual effect was identified post mitigation owing to loss of foraging habitat and suitable roosting habitat. No direct impacts on known nesting sites are identified to occur throughout the proposed works. Where suitable rough grassland areas would be lost during the construction phase, the Applicant states this would be compensated for in the final landscape design;
- Bats - after mitigation that would be included in the Natural England (NE) mitigation licence method statement, residual effects to roosts are anticipated by the Applicant to be neutral. Disturbance from loss of habitat during construction will not be remediated immediately as there will be a time lag between loss and the remediated habitats reaching maturity. Disturbance from noise, vibration and light spill is not predicted to cause slight residual effects;
- otter;
- water vole;
- badger;



- other notable species such as common toad, hedgehog, and fish species.

5.10.51. The Applicant's assessment found that there would be no significant operational phase effects on species. Bat and owl disturbance from noise, vibration and light spill during operational phases is predicated to cause slight adverse residual effects. This is largely because mortality through traffic collisions is predicted to be less likely once remediated road-side trees mature. The addition of a 3m high environmental barrier to create a bat crossing point between the existing A47 and the proposed new slip road is anticipated to help maintain the current higher bat flight path over the slip road and encourage bats to fly above traffic reducing road casualties. And the mitigation is also likely to encourage owls and other birds to fly higher. With such mitigatory provision slight adverse operation impacts are noted by the Applicant but are not deemed to be residual significant effects.

#### Ecological receptors and air quality

5.10.52. Considered together with ES Chapter 5 concerning air quality [[APP-042](#)] the Applicant concludes that there would not be significant impacts to habitats or species during the construction or operational phases.

5.10.53. The Applicant's findings take into account all designated sites which include SACs, Ramsar Sites, SPAs, LWSs, ancient woodland and any veteran trees within 200m of the scheme. That is because designated sites contain features which may be sensitive to pollutants in the air which have the potential to adversely affect vegetation. The designated sites were assessed by the competent expert for biodiversity for those features sensitive to nitrogen deposition and included in the assessment. The designated sites identified for this air quality assessment are shown in ES Figure 5.5 [[APP-056](#)]. Four CWSs are considered as being sensitive ecological receptors Intwood Carr; Meadow Farm; Earlham and Colney Marshes; and Bowthorpe Marsh County Wildlife Site & Local Nature Reserve.

#### Applicant's conclusions

5.10.54. Although the design has been undertaken with the aim of avoiding trees where possible and habitat loss kept to the minimum, some areas of trees and other habitats will need to be lost due to the Proposed Development. Reduction of the likely significant effects which have been predicted for each ecological receptor are reliant on the mitigation measures.

5.10.55. Species-rich grasslands are assessed to have a slight beneficial impact after mitigation as there will be a net gain of more biodiverse grasslands with the introduction of species-rich and marshy, wet grassland. Riparian planting in the vicinity of Cantley Stream would increase beneficial habitat for aquatic invertebrates which would result in a slight beneficial impact, both of those receptors have been assessed as experiencing neutral residual effects.

- 5.10.56. It is anticipated that the proposed scheme works would have a neutral effect on European sites and the Eaton Chalk Pit SSSI during construction and operation. Neutral effects during construction and operation are also anticipated on Eaton Common, Earlham Park Woods and Marston Marshes LNR and all CWSs. The priority habitats of lowland fens, traditional orchards, rivers, coastal and floodplain grazing marsh, standing water (ponds), wood pasture and parkland were assessed as being affected at a significance of neutral residual effects.
- 5.10.57. Deciduous woodland, and hedgerows would experience significant moderate adverse residual effects due to the long-time lag to achieve their former maturity. The loss of two veteran trees would also experience a significant large adverse residual effect as they are irreplaceable. Protected species that are to be licensed (in terms of the loss of bat roosts and disturbance to water vole habitat) would have neutral residual effects as mitigation within the licence method statements would be required and developed to prevent any harm from occurring to them and would have to include increased habitat for them. Bats would experience a slight adverse residual effect overall, due to the time lag between loss of habitat and the remediated habitats reaching maturity which could lead to traffic mortality. All other residual effects for construction and operation after mitigation would be neutral or slight adverse which are considered by the Applicant to be not significant for the assessment.

### **Issues considered during the Examination**

- 5.10.58. The biodiversity and nature conservation issues considered during the Examination included:
- adequacy of baseline/ survey information;
  - veteran tree impacts/ the Applicant's finding of no ancient woodland loss;
  - light, noise and vibration, and air pollution related impacts on biodiversity;
  - other biodiversity effects; and
  - opportunities for biodiversity/ecological enhancement.

### Baseline / Survey information

- 5.10.59. The ExA in FWQ sought confirmation from all Interested Parties of their satisfaction with the range of surveys provided by the Applicant and referred to in ES Chapter 8 Biodiversity [[APP-045](#)]; as well as any comments on the baseline information presented being deemed to be a reasonable reflection of the current situation on the ground. The ExA also posed specific questions on the surveys referred to by the Applicant.
- 5.10.60. Relevant representations [including [RR-029](#) and [RR-010](#)] referred to the presence of Barbastelle Bats and owls in the vicinity of the proposed

development. During and towards the end of the examination further comments were received on bat related matters by IPs.

- 5.10.61. In the main, the Applicant has responded that Barbastelle bats will commute nightly across a home range of up to 20km from their roost. Known large colonies in Norfolk are those at Lenswade and at Paston Great Barn, the latter of which is within 20km so may be the roost from which recorded barbastelle are commuting, or alternatively the recorded Barbastelle could be individuals from smaller roosts located elsewhere. However, without undertaking radio tracking or GPS tracking of bats from site back to their roosts, which is considered by the Applicant to be impractical and excessive for the number of Barbastelle recorded on site, it is not possible to accurately ascertain the commuting route and roost location.
- 5.10.62. Bat surveys undertaken in 2020 were referenced, which specifically targeted Barbastelle, confirmed presence of this species with a single pass during the crossing point survey. Barbastelle calls were also recorded during a dusk emergence survey in August 2020, though it was not recorded as emerging from a roost. The large Barbastelle colony at Lenwade, Norfolk is within this 20km range at a distance of some 14km therefore barbastelle passing through the site could be from this colony, though at around a 14km distance it is unlikely that significant number from this colony will be using the area. Paston Great Barn SAC which is designated for its Barbastelle colony is located in the order of 32 km from the site, thus it is unlikely that Barbastelle from this colony would pass through the application site area.
- 5.10.63. Although the submitted bat roost and crossing point survey report recommends further survey on trees for bat roost potential in 2021, it was decided by the Applicant to do the updated preliminary roost inspection in trees in the winter of 2021/22. The reason for that is to ensure the most recent information on the status of bat roost potential in trees is achieved for planned surveys in 2022 to provide adequate data for any protected species licence that may be required. The survey of bat roost potential in surveys is constrained during the spring summer and autumn months by leaves on the trees, so planning to do them in the forthcoming winter ensures they will be done at the optimal time.
- 5.10.64. The Applicant provides that there will be a LEMP produced as part of the EMP [[REP8-007](#)], secured via dDCO Requirement 5 [[REP9-003](#)]. Mitigation for bats, including barbastelle, and for barn owl are to be included in that document.
- 5.10.65. The Applicant pointed out there would be an Ecological Clerk of Works (ECoW) present during all vegetation clearance as detailed in Item B2 of Table 3-1 (REAC) in the EMP [[REP8-007](#)]. With regards to bats, any trees to be felled which are not already subject to a bat mitigation licence and have been assigned a bat roosting potential above negligible will be pre-inspected by a licensed ECoW to rule out presence of bats on the same day.

- 5.10.66. The Applicant makes the argument that if any bats were to be found during construction activity, then works will halt and a licence would subsequently be sought from NE. With respect to barn owls, the buildings that have been surveyed and show evidence of use by barn owls have been identified and mitigation put in place, with the main remaining risk being collision during the operational phase of the Proposed Development. No other buildings are present within the site which may support barn owl have been identified. If barn owl were to be found to be using any tree roost by the ECoW during the construction phase, the ECoW would halt the work and advise on how to proceed. Any actions taken, or notable findings made, would be recorded by the ECoW.
- 5.10.67. Great crested newt matters were queried with the Applicant. The ExA acknowledged the Applicant's response there were limitations to the completion of great crested newt surveys in April to June 2020 due to COVID-19 pandemic restrictions in place nationally at the time. The confirmatory surveys are seasonally constrained and are scheduled to be undertaken between April and June 2022, so the results were not available during the Examination.
- 5.10.68. The Applicant has confirmed that the ES considers the worst-case scenario. The Applicant has explained during the examination that should great crested newts be discovered on site once the above confirmatory surveys are complete, ES Chapter 8 [APP-045] Tables 8-7, 8-8, and 8-9 and Items B14 and B16 of Table 3-1 (REAC) of the EMP [REP8-007] provide information on the proposed mitigation. Should mitigation be necessary, then the survey results will provide the most up to date information to inform a European Protected Species (EPS) license should this be required from NE.
- 5.10.69. With respect to the Otter and Water Vole Report [APP-095] submitted. Following questions during the Examination, the Applicant verified that its assessment considers a worst-case scenario for otters and water vole impacts arising from the Cantley Stream works proposed. As a safeguard surveys for otters and water voles are planned to be repeated in 2022 to ensure EPS licensing application is valid. This is anticipated to include monitoring of potential holts and repeat surveys of water vole populations which can show much variation across multiple years.
- Tree loss/ veteran tree impacts/ the Applicant's finding of no ancient woodland loss
- 5.10.70. The Applicant was questioned specifically on the level of overall tree loss anticipated and how such loss has been minimised or avoided. The Applicant's response to tree loss concerns refers to scheme design responses through an iterative process. It is submitted by the Applicant that it has designed the Proposed Development to minimise the loss and impact on trees as much as possible, and therefore mitigates the loss of trees as far as possible at the design option stages.
- 5.10.71. It was also pointed out during the examination by the Applicant that the delivery of the required modern highway standards has necessitated the

unavoidable removal of all the trees within group G24 and the majority of those within group G25.

- 5.10.72. The Applicant confirms that the majority of trees within group G17 would be retained. A detailed Tree Retention and Removal Plan is to be produced as part of an Arboricultural Method Statement prior to construction phases – if the DCO is made. The total number of trees to be removed would be determined during detailed final design, secured as Requirement 3 of the dDCO [[REP9-003](#)].
- 5.10.73. In the absence of a final design the Applicant has indicated the trees / tree groups that are proposed to be removed in Appendix 2 of the Arboricultural Impact Assessment Plans [[APP-085](#)].
- 5.10.74. Those trees that are retained will be protected during construction by tree protection barriers. An Arboricultural Method Statement will be produced as stated in Item LV2 of Table 3-1 (REAC) in the EMP [[REP8-007](#)].
- 5.10.75. In terms of veteran tree impacts. There are two veteran trees which are proposed for removal (these are defined as T13 and T14) in Appendix 2 of the Arboricultural Impact Assessment [[APP-085](#)].
- 5.10.76. Item B10 of Table 3-1 (REAC) in the EMP [[REP8-007](#)] was referred to by the Applicant. This requires that all veteran and mature trees to be retained that are within close proximity to the works will be protected with a suitable buffer zone during the construction phase which will incorporate the use of tree protection barriers and the implementation of the approved Arboricultural Method Statement. Item B10 also notes that any trees removed (felled) as part of the works will be relocated to nearby suitable woodland parcels to provide suitable habitat for invertebrates.
- 5.10.77. National inventory material including the Multi Agency Geographic Information for the Countryside (MAGIC) website, which is managed by NE (and the Forestry Commission as a partner organisation), was referred to as the basis for discounting any claims that ancient woodland could be affected. That approach is in line with National Planning Practice Guidance.
- 5.10.78. Following a requested further review of tree impacts by the ExA, it was confirmed by the Applicant that MAGIC does not show Cantley Wood (referenced as W2 in the submitted Arboricultural Impact Assessment) as being ancient woodland. NE and the Forestry Commission have both been consulted on the scheme details and have not raised any concerns about ancient woodland to date. Furthermore, the Applicant has made historic mapping enquires with the local authority and there is no evidence which conflicts with the Applicant's views that no ancient woodland or trees would be removed or affected by the scheme.

Light, noise and vibration and air pollution related impacts on biodiversity

- 5.10.79. It was noted during the Examination that it is stated in the DMRB Broads SAC screening matrix (Table A.1) that the lighting design for the Proposed Development is ongoing. Only outline information is known, and the assessment will be updated when final information about the lighting design has been provided. Further clarification was sought from the Applicant if that element of the scheme design was to be left to a later date or updated in the Examination itself. The reason being without a full insight of lighting implications it may be too difficult to properly determine the anticipated effects at application stage.
- 5.10.80. A Lighting Assessment has been submitted as part of Chapter 7 of the ES [APP-044] and the Applicant's case. It was argued by the Applicant that through the application of the British Standards and industry guidance, lighting can be designed in a way not to adversely affect sensitive receptors within relevant criteria. Item G2 of Table 3-1 of the REAC contained within the EMP was also referred to by the Applicant setting out how lighting during construction would be reduced to avoid disturbance to sensitive receptors which includes regard to ecology.
- 5.10.81. With respect to noise and vibration impacts to impacting on biodiversity and ecology. It was alluded to during the Examination that HDD if utilised, could be a potential source of ecological concern if overlooked.
- 5.10.82. The Applicant confirmed that HDD is not to be used close to the ecological receptors along Cantley Stream. Separate to that issue ES Chapter 11 on Noise and Vibration [APP-048] provides a summary of long-term noise changes without the Proposed Development alongside short-term and long term noise changes with the Proposed Development. Construction and operational noise and vibration were also assessed. Following queries raised during the Examination, there is nothing arising which conflicts with the overall biodiversity implications assessed and reported on by the Applicant having regard to the full range of mitigatory measures anticipated and proposed.
- 5.10.83. In terms of air quality impacts, it is noted the Applicant's case is supported by the ES Chapter 5 [APP-042] and its conclusions. Nothing convincing was advanced suggesting those conclusions cannot be relied upon. ES Chapter 5 and other Examination material combined suggests there would not be significant air impacts to habitats or species during construction or operation phases bearing in mind all mitigation measures available taken in the round.

#### Other biodiversity effects

- 5.10.84. With respect to the implications for the aquatic life living in Cantley Stream it was queried by the ExA what measures that would be in place to prevent silt and sediment from being flushed downstream from the new channel as well as what provision would ensure appropriate oxygen levels for fish and other aquatic life during stream diversion works. Clarification was also sought on how the new re-aligned section of channel would be colonised with aquatic and marginal plants and the formal route by this would be secured.

- 5.10.85. The Applicant's broad response was that the Cantley Stream works would involve: the construction of the new channel alignment 'offline'; using silt curtains to prevent downstream flushing of silt and sediment; undertaking works at times of low flow and using fish friendly pumps; having the new channel filled with water before the final breakthrough; and having marginal planning installed by a specialist contractor. It is submitted that accepted best practice would be followed during watercourse diversion works to ensure no detriment to aquatic life. Works would be undertaken in line with the necessary consents or permits (contained in Table 4-1 of the EMP [REP8-007] issued by the relevant authorities. In addition, Item RD1 in Table 3-1 (REAC) within the EMP details adherence to Construction Industry Research and Information Association guidelines on control of water pollution on linear construction sites and environmental best practice to be utilised.
- 5.10.86. The realigned section of channel would be colonised through appropriate planting and management. The planting regime is to be detailed within the LEMP for the project, and ongoing maintenance secured through the LEMP as stated in Appendix B of the EMP [REP8-007], secured through dDCO Requirement 4 [REP9-003].
- 5.10.87. In terms of the scope available to coordinate stream realignment works with other engineering and new landscaping works to enable ecological corridors the earliest chance of re-establishment prior to completion of all works –it is referred to in the Applicant's responses that its contractor is to review the detailed design and programme to identify the most appropriate time seasonally, to carry out the alignment works giving the stream the relevant period to embed and re-establish prior to completion of all works.
- 5.10.88. The Applicant was asked to fully clarify what provision and what mechanisms would ensure that there would be a suitable alternative habitat for displaced water voles during and after construction. The Applicant responded by pointing to the information detailed in Table 4-1 of the EMP [REP8-007], and stating that they are committed to obtaining the necessary EPS licences for water voles.
- 5.10.89. The conditions of the water vole licence application to be submitted to NE as set out by the Applicant include provision for ensuring that *"the unaffected habitat must be sufficient in terms of both quantity and quality to accommodate the displaced animals and those outside the footprint of the works" (condition 9); and ensuring that there is a "demonstrable net conservation gain for water voles. This means that suitable habitat must be created or existing habitat enhanced within the range of the affected population. The result of this must be the reasonable expectation that there will be a significantly greater extent of good quality water vole habitat after the completion of the works than there was before the works began" (condition 21)*. Therefore, the actions undertaken by the Applicant would be bound by conditions of the licence to ensure suitable habitat is present for displaced water vole. The habitats created for water vole as part of the licence process would be included and incorporated into the LEMP (Appendix B of the EMP [REP8-

[007](#)]) proposed to be secured via Requirement 5 of the dDCO [[REP9-003](#)].

- 5.10.90. It is also the case that ES Chapter 13 [[APP-050](#)] Paragraph 13.9.44 states that for the Cantley Stream realignment, the detailed design including water vole enhancements would be agreed in consultation with the Environment Agency, Norfolk County Council, and other stakeholders.
- 5.10.91. The Applicant has made clear during the Examination that the submitted dDCO does not override the need for these consents, permits and licenses and the Applicant acknowledges the requirement to apply for, and have in place, all necessary permits prior to any works commencing. There is no believed impediment arising to gaining such consents or permits which are scheduled by the Applicant to be applied for during 2022.
- 5.10.92. Noting that otters were a qualifying feature of the Broads SAC and that they are known to occupy large territories and range over large distances (territories and range over large distances (<35km), the Applicant was sought to explain what evidence has been used to exclude the possibility that otters commuting along Cantley Stream originated from the SAC.
- 5.10.93. The Applicant pointed to section 3.3.7 of the No Significant Effects Report (NSER) [[AS-005](#)] which evidences otters being a qualifying feature of the Broads SAC and Broadlands Ramsar site and stated that they were included in the environmental assessment reported in ES Chapter 8. Section 4.2.2 of Appendix 8.9 (Otter and water vole report) [[APP-095](#)] accepts that Cantley Stream is an important commuting route and foraging corridor for otter species. Camera trap surveys undertaken by the Applicant did not identify otters being present within the Order Limits. Further surveys would be undertaken in 2022 to provide the most up to date information pre-construction as an additional precautionary measure.

#### Opportunities for biodiversity/ecological enhancement

- 5.10.94. In response to both integration and ecological enhancement issues raised during the Examination the Applicant has highlighted that a length of the Cantley Stream downstream of the main works will be enhanced for water voles as compensation for the temporary loss of existing habitat during the works and the subsequent regrowth periods. The precise length would be determined during detailed design, secured through Requirement 3 of the dDCO [[REP9-003](#)].
- 5.10.95. Enhancement of the proposed receptor area would entail scrub removal and planting up of any bare areas of bank. Riparian corridor management, including removal of scrub, shrubs, and potentially small trees, would be undertaken to increase light availability within the receptor site, encouragement of in-channel and riparian zone growth, and improvement of wetland habitat diversity along the length of the river corridor enhanced for water vole. This would be achieved through



seeding with a wet meadow seed mix or similar to recreate the ground layer vegetation, with established specimen of the same species from the seed mix planted along with sedges to provide immediate cover and food sources for water vole.

- 5.10.96. At the ExA's Unaccompanied Site Inspection [[EV-001](#)] the probable existence of informal wildlife corridors within nearby surrounding areas was observed which could be potentially used by a wide variety of species. Further clarification was requested on the extent of planned integration with those.
- 5.10.97. It is argued by the Applicant that the creation of a more open river channel structure for the realigned section of Cantley Stream increases the mosaic of habitats available for use by a wide variety of species, including a range of invertebrates including charismatic species such as dragonfly. Planting of riparian vegetation as noted on the Environmental Masterplan [[APP-123](#)] is also argued to improve the availability of fish spawning habitat, which again would be managed through the LEMP. Integration of the proposed wetland habitats with existing local flora and fauna would occur naturally as the proposed wetland creation matches similar habitats found commonly on Norfolk rivers.
- 5.10.98. In response to tree loss concerns raised by IP's and potential further enhancements which could be pursued raised by the ExA. The Applicant submits that the structure of the proposed tree and woodland planting has been developed in response to the existing landscape framework to maximise opportunities for informal nature corridors and green infrastructure connectivity. [[APP-123](#)] shows areas of existing vegetation to be retained to help illustrate how these have been tied together with new areas and linear belts of proposed tree and woodland planting. For example, all opportunities to restore the continuity of tree planting along the A11 corridor have been taken and new planting complements the retained areas of woodland at Cantley Wood. The programming of the implementation of proposed landscaping would be carefully considered to identify opportunities to, wherever possible, maintain wildlife corridor connectivity throughout all stages of the construction period. Opportunities to do this will be considered further at detailed design. This is secured through the Environmental Masterplan [[APP-123](#)] and item G8 of the EMP REAC Table and Requirement 4 of the dDCO [[REP9-003](#)].
- 5.10.99. Both NCC and Anglian Water expressed strong encouragement for biodiversity net gains to be provided by the scheme.
- 5.10.100. The Applicant responded that there is currently no mandated framework for calculating and reporting on biodiversity net gain (BNG). Any such calculation is subject to the commencement of the Environment Act and its associated secondary legislation, which is expected to set out the SoS biodiversity metric and methodology.
- 5.10.101. Thus, any calculation using existing Biodiversity Metric approaches is subject to variation. For that reason, the Applicant would not commit to providing overall BNG or indicating the extent of BNG. That said, the

scheme seeks to maximise biodiversity delivery in its overall design approach. Landscaping and biodiversity proposals have been developed to align with CIEEM best practice principles. The package of works and mitigation proposed by the Applicant does include habitat re-creation and enhancement.

### **ExA's conclusions on biodiversity and ecological conservation**

- 5.10.102. The ExA has had regard to the policies of the NPSNN on biodiversity and ecological conservation as well as the NPPF and local development plan policies insofar as they are applicable to a nationally significant infrastructure project (NSIP).
- 5.10.103. The Applicant's overall approach to biodiversity and ecological conservation, including the scope and content of baseline surveys, was generally agreed by relevant authorities as being sufficient noted through comments received during the examination and in the absence of any specific convincing objections. The ExA has no strong basis to disagree.
- 5.10.104. The application accords with paragraph 5.22 of the NPSNN in its consideration of the full range of sites, habitats species and potential impacts and paragraph 5.26 in attaching appropriate weight to the range of sites, habitats, and species. As required by paragraph 5.38 of the NPSNN, the Applicant provided letters from NE stating that, based on the information and proposals provided, it saw no impediment to issuing bat or water vole mitigation licences, should the DCO be granted.
- 5.10.105. The Applicant's assessment methodology is comprehensive and transparent leaving little doubt as to how the effects of the proposal has been quantified. It also makes use of competent person and expert level advice in reaching its overall conclusions which the ExA gives considerable weight to.
- 5.10.106. It is accepted by the ExA that tree loss avoidance features as an embedded design mitigation within the overall planning of the scheme. The proposed loss of two veteran trees is accepted by the ExA as being an unavoidable consequence of accommodating the new road alignment based on the application details provided.
- 5.10.107. Primarily it is accepted that this largely stems from: the physical constraints arising from the existing junction layout; the range of justifications for improving the junction; planning around existing surrounding site features including avoiding heritage assets; avoiding more harmful design outcomes; and diminishing the effectiveness of the overall core aims of the Proposed Development.
- 5.10.108. The Applicant's overall ES assessment considers the possible air quality, noise, and vibration effects of the proposal on biodiversity during the construction and operational phases. The ExA finds that there is no substantive evidence to indicate that those effects would be significant overall. The ExA is therefore satisfied that the Proposed Development would accord with paragraph 5.192 of the NPSNN.

- 5.10.109. Some concerns were raised during the Examination regarding the effect of the Proposed Development on specific species having regard to bats. However, there was little in the way of hard evidence to support those concerns. The Applicant's baseline information and assessments of the effect of the Proposed Development on those and other species are found to be sound. As such, the ExA does not agree any concerns raised during the examination provide a strong basis to call into question the relevant ES findings on species impacts.
- 5.10.110. The ExA finds there is a well evidenced and extensive package of mitigation measures provided by the Applicant which can be properly secured with added built in flexibility to deal with any changes in circumstances affecting the mitigations overall potential effectiveness. The incorporation of important best practice principles is also demonstrated by the Applicant. The detailed content of those provided at Application stage has not attracted any notable objections which would be insurmountable to overcome in accepting the approach of reliance on requirements for more detailed stages of design.
- 5.10.111. In terms of the more generalised objections raised on wider cumulative biodiversity harm matters which have been alluded to during the Examination. There is no substantive evidence to show that there would be any wider effects on biodiversity or nature conservation beyond those assessed by the Applicant in the ES.
- 5.10.112. The question of whether the Proposed Development takes the opportunities available for biodiversity enhancement having regard to the weight to be attached to NPPF policies on biodiversity net gain. The Environment Act (which was only at Bill stage when the Applicant planned its scheme) is also applicable.
- 5.10.113. The NPSNN is the primary source of policy guidance for the Proposed Development. The NPPF is also an important and relevant consideration, but only to the extent relevant to a project and it is not intended to contain specific policies for NSIPs where particular considerations can apply.
- 5.10.114. In this case the NPSNN provides clear guidance on the approach to biodiversity enhancement. Paragraph 5.23 requires the Applicant to show how the proposal takes advantage of opportunities to enhance, as well as conserve, biodiversity interests. Paragraph 5.33 requires the SoS to consider whether the Applicant has maximised opportunities to build in beneficial biodiversity features in and around developments.
- 5.10.115. As such, whilst acknowledging the aims of paragraphs 174(d) and 180(d) of the NPPF to achieve a net gain in biodiversity, the ExA does not consider that those factors outweigh paragraphs 5.23 and 5.33 of the NPSNN in this case. That view takes into account in particular, that the Defra Metric 2.0 was replaced by version 3.0 when the Environment Act came into force, and remains subject to variation. To satisfy the requirements of Defra Metric 3.0, additional surveys would be necessary. As Defra Metric 3.0 was published on 7 July 2021 and post-dates the

ecological surveys carried out to inform the Applicant's biodiversity assessment, the scope of those surveys did not extend to capturing and recording the necessary condition information required as input data into the most recent metric. Accordingly, the ExA accepts that the Applicant cannot commit to providing overall BNG or indicate the extent of BNG because it was not able to provide an accurate or meaningful calculation to the Examination.

- 5.10.116. That said it is accepted that the Proposed Development has been designed to seek to maximise biodiversity delivery and conservation interests, where it is possible do so. Landscaping and biodiversity details have been developed by the Applicant to align with CIEEM best practice principles. The package of works and mitigation proposed by the Applicant does include habitat re-creation and beneficial enhancement in some respects.
- 5.10.117. The Applicant's intention to create new or extend landscaping and biodiversity elements, including species rich grassland, hedgerows, trees, woodland, and biodiversity wetlands is shown in the indicative version of the Environmental Masterplan provided to the Examination. With that information the Applicant demonstrates minimising environmental impacts and protecting and enhancing the quality of the surrounding environment. Appendix B.6 of the final EMP will contain a LEMP. The LEMP will describe the proposed management and monitoring, including durations, of the landscape and ecological mitigation and compensation features of the scheme. The commitment to deliver the LEMP will be secured through DCO Requirement 4.
- 5.10.118. The obligation in section 40 of the NERCA (2006) to have regard to the purpose of conserving biodiversity has been complied with.
- 5.10.119. The proposed loss of two veteran trees weighs substantially against the DCO being made. The NPPG states that veteran trees are irreplaceable. They are defined nationally to have exceptional biodiversity, cultural and heritage value. In that regard, the NPSNN requires the national need for, and benefits of, the Proposed Development to clearly outweigh veteran tree loss if consent is to be granted. That exercise is undertaken in Chapter 7 of this report.
- 5.10.120. Based on all of the above, the ExA is satisfied that appropriate consideration has been given to relevant policy for the Proposed Development and that, subject to the provisions of the rDCO (Appendix D), the likely reasonable worst-case effects have been identified in respect to biodiversity and ecological conservation.

## **5.11. CLIMATE CHANGE**

- 5.11.1. This section considers the effect of the Proposed Development in relation to climate change.
- 5.11.2. The following related matters are covered elsewhere in this report:
- air quality in Section 5.7 and health in Section 5.6;

- flood risk in Section 5.9;
- biodiversity in Section 5.10;
- traffic in Section 5.2 and NMUs in Section 5.6;
- social and economic matters in Section 5.6; and
- the case for making a DCO in Chapter 7.

### **Policy and legal context**

- 5.11.3. Carbon emissions are addressed in paragraphs 5.16 to 5.19 of the NPSNN. Paragraph 5.16 refers to a system of five year carbon budgets that set a trajectory to a cut in greenhouse gas (GHG) emissions by at least 80% by 2050 and says that *"carbon budgets and plans will include policies to reduce transport emissions, taking into account the impact of the Government's overall programme of new infrastructure as part of that."* Paragraphs 5.16-17 state that *"the impact of road development on aggregate levels of emissions is likely to be very small"* and that it is *"very unlikely that the impact of a road project will, in isolation, affect the ability of Government to meet its carbon reduction plan targets."*
- 5.11.4. Paragraph 5.17 requires applicants for road projects to *"provide evidence of the carbon impact of the project and an assessment against the Government's carbon budgets"*.
- 5.11.5. Paragraph 5.19 requires evidence to be provided of mitigation measures *"incorporating engineering plans on configuration and layout, and use of materials"*. It requires the SoS to *"consider the effectiveness of such mitigation measures in order to ensure that, in relation to design and construction, the carbon footprint is not unnecessarily high."* and states that *"the adequacy of the mitigation measures relating to design and construction will be a material factor in the decision making process."*
- 5.11.6. Paragraph 5.18 sets out that the Government's national carbon reduction strategy is likely to ensure that any carbon increases from road development do not compromise its overall carbon reduction commitments. It considers that *"any increase in carbon emissions is not a reason to refuse development consent, unless the increase in carbon emissions resulting from the proposed scheme are so significant that it would have a material impact on the ability of Government to meet its carbon reduction targets."*
- 5.11.7. Climate change adaptation is addressed in paragraphs 4.36 to 4.47 of the NPSNN. The paragraphs identify that applicants must consider the impacts of climate change when planning location, design, build and operation and set out how developments would respond to and accommodate the potential effects of climate change using the latest UK climate projections.
- 5.11.8. Paragraph 4.43 requires applicants to *"demonstrate that there are no critical features of the design of new national networks infrastructure"*

*which may be seriously affected by more radical changes to the climate beyond that projected in the latest set of UK climate projections."*

- 5.11.9. Paragraph 4.44 sets out that *"any adaptation measures must themselves also be assessed as part of any environmental impact assessment and included in the environment statement, which should set out how and where such measures are proposed to be secured."*
- 5.11.10. The Climate Change Act 2008 was amended on 26 June 2019, after the application was submitted. The Climate Change Act 2008 (2050 Target Amendment) Order 2019 amends s1 of the Climate Change Act 2008 from *"it is the duty of the Secretary of State to ensure that the net UK carbon account for the year 2050 is at least 80% lower than the 1990 baseline"* to *"it is the duty of the Secretary of State to ensure that the net UK carbon account for the year 2050 is at least 100% lower than the 1990 baseline."*
- 5.11.11. Section 104 of the PA2008 states that the SoS must decide an application for a national networks NSIP in accordance with the NPSNN unless it is satisfied that to do so would, amongst other things, lead to the UK being in breach of its international obligations.
- 5.11.12. As referred to in Section 3.3, the Paris Agreement 2015 provides a framework for keeping global warming well below 2°C and was ratified by the UK Government in November 2016, after the NPSNN was designated in December 2014.
- 5.11.13. Relevant local plans and policies have been set out in Chapter 3 of this report.

### **The Application**

- 5.11.14. The main sections of the application relevant to the climate change matters considered here are:
- ES Chapter 14 – Climate originally [[APP-051](#)] but updated to [[REP3-006](#)];
  - ES Appendix 14.1 – Embodied Carbon Report [[APP-116](#)];
  - ES Appendix 15.1: Cumulative Effects Stage 2 Screening originally [[APP-117](#)] but updated to [[REP4-016](#)]
  - ES Appendix 15.2: Cumulative Effects Development Type (Short list) [[APP-118](#)]
  - Chapter 5 – Air Quality [[APP-042](#)];
  - Chapter 15 –Cumulative Effects Assessment [[APP-052](#)]; and
  - EMP [[REP8-007](#)].

- 5.11.15. Chapter 14 – Climate [REP3-006] gives the Applicant's assessment of GHG impacts, climate change resilience and in-combination effects of a changing climate and the Proposed Development on the surrounding environment.
- 5.11.16. No potential in-combination effects were considered significant. In-combination effects are addressed as necessary in the other relevant sections of this report.

#### Methodology and Study Area

- 5.11.17. It is accepted by the assessment that new road construction would require maintenance and replacement during its design life. The carbon emissions associated with these future activities was excluded from the assessment due to the inherent uncertainty as to the frequency and extent of maintenance works. That said, an initial estimate of the carbon emissions resulting from the replacement of the surface asphalt courses due to the design life of the materials was calculated as a reasonable worst-case replacement scenario, applying professional judgement. This would result in approximately 1,864 tonnes of CO<sub>2</sub> equivalent (tCO<sub>2</sub>e). The estimate is not considered likely to materially affect the baseline calculations and was therefore not anticipated to alter the outcome of the assessment. Nonetheless, this will be included within the carbon estimate for the Proposed Development at a more advanced design stage.
- 5.11.18. The study area for the construction phase comprised of the physical infrastructure assets associated with Proposed Development and therefore included the embodied carbon of Proposed Development materials and emissions associated with construction activities.
- 5.11.19. The study area to be considered for the operational phase included the operational energy requirements of the Proposed Development (i.e., road lighting), and the affected road network for road user carbon (vehicle emissions).
- 5.11.20. Climate projection data corresponding to the 2080s (2070-2099) under a high emissions scenario was selected in line with NPS NN (2014) paragraph 4.41, which states: "*Where transport infrastructure has safety-critical elements and the design life of the asset is 60 years or greater, the applicant should apply the UK Climate Projections 2009 (UKCP09) high emissions scenario (high impact, low likelihood) against the 2080 projections at the 50% probability level.*" However, since 2014, when the NPS NN was written, the UK Climate Projections 2009 (UKCP09) referred to in the above statement were updated to UKCP18 projections. The most recent projections (UKCP18) have therefore been used in the assessment.
- 5.11.21. The assessment (which was updated during the Examination) notes that the Sixth Carbon Budget, was accepted by UK Government in April 2021 and enshrined in law in June 2021, accommodates both the Paris Agreement and the UK Government's commitment to net zero carbon emissions by 2050.

### ***Applicant's Green House Gas/carbon impact assessment***

- 5.11.22. Carbon emissions were calculated based on categories as defined by the Highways England Carbon Tool:
- Bulk Materials
  - Earthworks
  - Fencing, Barriers and Road Restraint Systems
  - Drainage
  - Road Pavements
  - Street Furniture and Electrical Equipment
  - Civil Works and Retaining Walls
  - Fuel, Energy and Water
  - Waste
- 5.11.23. An assumption was built into the assessment that imported materials would be transported a nominal distance of 60km by HGV. This is due to the approximate distance between the most easterly and westerly of the A47 schemes (120km), and the location of a provider of larger items such as concrete or steel within this distance. This distance was halved owing to the likelihood of a provider based in Norwich for the scheme.
- 5.11.24. A construction period of approximately 23 months is proposed. Therefore, embodied carbon emissions from construction materials are the main contributor to climate change during this period, with additional emissions arising from the direct use of plant and transport of materials. These were calculated using the Highways England Carbon Tool (v2.3) and estimated to be approximately 25,946 tCO<sub>2</sub>e.
- 5.11.25. Highways England Carbon Tool predicts emissions associated with operational energy for the Proposed Development to be approximately 18 tCO<sub>2</sub>e per annum, based on the annual kilowatt hour (kWh) electricity demand of lighting columns, i.e., 1,080 tCO<sub>2</sub>e over the 60-year appraisal period.
- 5.11.26. For end user traffic emissions, a comparison of Do-Minimum (without the Proposed Development) and Do-Something (with the Proposed in place) scenarios was undertaken based on the Proposed Development opening year (2025) and Design year (2040). The estimated Do-Minimum emissions total over the 60-year appraisal period was estimated as 53,504,200 tCO<sub>2</sub>e, the corresponding Do-Something emissions total is estimated as 53,640,925 tCO<sub>2</sub>e. Therefore, the total increase in vehicle carbon emissions associated with the Proposed Development (comparison of Do-Minimum and Do-Something scenarios) over the 60-year appraisal period (2025 to 2085) was estimated to be 136,725



tCO<sub>2</sub>e. The total increase in carbon emissions over the 60-year appraisal period (excluding construction emissions) was estimated to be 137,805 tCO<sub>2</sub>e.

### National carbon budgets

- 5.11.27. The Applicant details the Proposed Development's carbon emissions against relevant carbon budgets (DMRB LA 114) as per the below extract from [REP3-006], Table 14-9, page 16:

Project Stage	Estimated total carbon over carbon budget (tCO <sub>2</sub> e) ('Do something' Scenario) *	Net CO <sub>2</sub> project GHG emissions (tCO <sub>2</sub> e) (Do something – Do minimum) *	Relevant carbon budget	
Construction	25,946	+25,946	Fourth (2023 to 2027) 1,950 MtCO <sub>2</sub> e	Fifth (2028 to 2032) 1,725 MtCO <sub>2</sub> e
Operation	7,553,099	+11,767		
Total	7,579,045	+37,713		

\*Totals over the forth and fifth carbon budget periods (2025-2032)

- 5.11.28. The increase in carbon emissions resulting from the Proposed Development represented approximately 0.001% of the UK's Fourth and Fifth carbon budgets over their respective periods.
- 5.11.29. The Applicant detailed the potential impact of the Proposed Development on carbon emissions in each of the UK Government carbon budget periods below, (an extract from [REP3-006], Table 14-10, page 17):

Proposed Scheme stage	Carbon emissions distributed per relevant carbon budget (tCO <sub>2</sub> e)			Estimated total emissions over 60-year appraisal period (tCO <sub>2</sub> e)
	Fourth (2023 - 2027)	Fifth (2028 - 2032)	Beyond last set carbon budget (2033 onwards)	
Baseline (DM)	2,868,208	4,673,125	45,962,868	53,504,201
Construction (DS)	25,946	-	-	25,946
Operation (DS)	2,871,968	4,681,132	46,088,906	53,642,006
Total (DS)	2,897,914	4,681,132	46,088,906	53,667,952
Difference (DS-DM)	+29,706	+8,007	+126,038	+163,751

**Note:** The construction carbon value is representative of the Highways England Carbon Tool assessment. The operational carbon value is representative of estimated operational energy

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plus estimated user utilisation emissions for the ARN over the 60-year appraisal period. DM = Do-Minimum, DS = Do-Something

### Design, mitigation and enhancement measures to reduce the effects on climate

- 5.11.30. In terms of embedded design responses undertaken by the Applicant, the following are referred to:
- Highways England Carbon Tool use was carried out in developing the scheme. Therefore, carbon has been considered throughout the design iteration process, from an initial carbon baseline to which further reductions could be obtained.
  - Efficiencies were identified within the structures design equating to a saving of 3,128 tCO<sub>2</sub>e from the structural concrete. Concrete volumes were further reduced by proposing changes to the structural construction work for the proposed underpasses.
  - Additional material, buildability and construction programme efficiencies were achieved by way of reducing the deck width of Cantley Wood Overbridge and Cantley Wood Link.
- 5.11.31. Efforts to minimise carbon emissions are planned during the design and construction of the Proposed Development at this stage were outlined in accordance with requirements set out in DMRB LA 114.
- 5.11.32. Planned steps to further reduce carbon emissions through design considerations and recalculation of carbon emissions at later stages of the design process have also been made.
- 5.11.33. Measures that would be developed at relevant stages of the scheme delivery would be:
- Optimisation of the re-use of existing site won and recycled materials which would minimise as far as possible the use of primary aggregates and other offsite sourced construction materials.
  - Developing a comprehensive and holistic materials management plan that allows for optimised management of materials across construction including re-use of site won earthworks materials and thereby minimising earthworks import.
  - Undertaking an appropriate intrusive pavement survey and engagement with supply chain and by implementing industry best practice.
  - Use innovative applications to reduce the carbon emissions associated with construction compounds and support facilities. Options such as EcoSmart Welfare cabins which harness green energy (using solar and hydrogen cells), solar construction lighting, rainwater harvesting, and electric site vehicles with EV

charging on site, avoiding the use of conventional on-site power sources (diesel generators).

- Monitoring and reporting on carbon emissions associated with energy and fuel use during the construction process is stipulated as a requirement and this has been included in the EMP.

5.11.34. Although beyond the direct control of the design and construction of the Proposed Development, the assessment anticipates that UK government announcement on ending the sale of new petrol and diesel vehicles by 2030 would further reduce the schemes end user carbon emissions.

### ***Vulnerability of the Proposed Development to climate change assessment***

5.11.35. The Proposed Developments vulnerability to climate change during construction and operation was assessed through consideration of projected climate changes.

5.11.36. The potential vulnerability of Proposed Development drainage systems was focused on. However, it was concluded that there were no increased risks caused by the climate projections having regard to storm events.

5.11.37. However, although mitigation was considered by the Applicant's assessment for a range of effects it did not conclude that any measures during the construction or operation phases were needed. That finding is also separate to the overall drainage provision package which would be delivered by the scheme considered in Section 5.9 of this report.

5.11.38. The proposed scheme drainage design has been designed to a 1 in 100-year storm event which includes a 20% climate change allowance to allow for changes in peak rainfall intensity. Bearing in mind the drainage strategy to be applied the scheme is assessed as being resilient to climate change adaptation.

5.11.39. In terms of monitoring provision considerations. The Proposed Development would result in an increase in carbon emissions. Monitoring of carbon emissions associated with the construction of the Proposed Development would be undertaken as per National Highways requirements to meet their own relevant Key Performance Indicator.

5.11.40. The Applicant's assessment identified no significant adverse effects because of climate, therefore no other monitoring was deemed to be required. However, it is noted that climate change projections are likely to change within the appraisal period of the Proposed Development (60 years), therefore the vulnerability of the Proposed Development to such changes should be reviewed when updated projections become available.

### **The Applicant's overall assessment conclusions**

5.11.41. In accordance with DMRB LA 114, carbon emissions associated with the Proposed Development were provided in knowledge of the published UK carbon budgets. Carbon budgets currently extend until 2037 and can be

compared with 29% of the emissions increase associated with the Proposed Development. The remaining 71% of the increase in carbon emissions will occur after 2037 (the end of the last currently published UK carbon budget).

- 5.11.42. The assessment references the advice of DMRB which states that the assessment of projects on climate should only report significant effects where increases in GHG emissions have a material impact on the ability of Government to meet its carbon reduction targets.
- 5.11.43. The magnitude of emissions from the scheme, in isolation, would not have a material impact on the ability of the UK Government to meet its carbon budgets, and is not anticipated to give rise to a significant effect. UK Carbon Budgets are inherently cumulative as they capture emissions across all sectors of the economy.
- 5.11.44. The assessment presented is described as conservative and did not take into account carbon reductions that should be secured through implementation of the DfT's Transport Decarbonisation Plan (July 2021) and Highways England's 2030/2040/2050 net zero highways plan (July 2021).
- 5.11.45. The vulnerability of Proposed Development assets to projected changes in climate during operation has been assessed, and deemed to be resilient. No significant effects as a result of climate change are anticipated.

### **Issues considered during the Examination**

- 5.11.46. Climate change matters addressed during the Examination included:
- Assessment methodology and cumulative considerations.
  - Likely impacts on meeting the Sixth Carbon Budget, and policy changes arising.

#### Assessment methodology and cumulative considerations

- 5.11.47. Above the various initial relevant representations received Climate Emergency Policy and Planning (CEPP) made several submissions including [\[REP5-030\]](#) [\[REP10-011\]](#) [\[REP10-012\]](#) [\[REP10-013\]](#) [\[REP10-014\]](#) [\[REP10-015\]](#) relating to how carbon emissions should be quantified, as well as connected EIA regulation compliance issues, national policy and related information matters. Arguments are presented that GHG cumulative impacts are not sufficiently demonstrated.
- 5.11.48. The Applicant's responses on climate change issues included: responses to Written Representations [\[REP2-007\]](#); responses to the ExA's first written questions [\[REP2-006\]](#); the revision to ES Chapter 14 [\[REP3-006\]](#); written response following ISH1 [\[REP3-019\]](#) responses to submissions at D5 [\[REP6-019\]](#); the submission of a Climate Change Position Statement requested by the ExA under Rule 17 [\[REP8-013\]](#); and responses to the

late submissions submitted at D10 which include those from CEPP [[AS-041](#)].

- 5.11.49. The Applicant reasoned that it addressed the points raised by CEPP with regards to assessment methodology and compliance through [[REP3-019](#)] (annex A), [[REP6-019](#)] and [[REP8-013](#)] and traffic models referenced in [APP-125 and REP1-004 (common response E)].
- 5.11.50. Contentions on the assessment of cumulative effects of GHG from the Proposed Development with other existing and/or approved projects were major areas of disagreement throughout the Examination.
- 5.11.51. The Applicant in the main highlighted that the traffic modelling for the Proposed Development was evidenced as undertaken in line with Transport Appraisal Guidance published by DfT. The Transport Assessment for the Proposed Development has been submitted to the DCO examination within the Case for the Scheme [[APP-125](#)]. The traffic model used for the Proposed Development is evidenced as being developed in line with DfT requirements and is described as inherently cumulative by the Applicant.
- 5.11.52. The Applicant argued that this is because the traffic models used to support Proposed Development assessment contains data about the following:
- The Proposed Development and adjoining Strategic Road Network and local road network;
  - Other Proposed Developments promoted by National Highways in the near vicinity of the Proposed Development with high certainty that they are to be progressed (i.e. progressed beyond preferred route announcement stage) which are based on discussions with the relevant planning authority, of foreseeable developments promoted by third parties as likely to be developed in a similar timeline to the proposed National Highways' Proposed Development. Knowing where the proposed third-party development is to be sited, the extents and types of development, and the timescales of when it is to be completed are requirements to ensure that the third-party developments can be reasonably described in the traffic model; and
  - National government regional growth rates which include a representation of likely growth rates excluding known planning developments already included in the traffic model. This is represented by DfT's growth factors for car usage, and growth in freight is derived from DfT's National Transport Model.
- 5.11.53. In terms of operational carbon, it is evidenced when National Highways evaluates the changes in carbon dioxide equivalent (CO<sub>2</sub>e) emissions of their Proposed Developments they do so by comparing changes in the road traffic on the Strategic Road Network and local road network between the 'without Proposed Development scenario' and the 'with Proposed Development scenario'. This takes into account the assessment

of the Proposed Development and all other developments likely to have an influence on the Proposed Development and on the area the Proposed Development is likely to influence.

- 5.11.54. The Applicant puts forward the argument that in essence, both with and without Proposed Development scenarios already include all likely developments and traffic growth factors, the ES assessment is inherently cumulative as regards operational carbon emissions.

Likely impacts on meeting the Sixth Carbon Budget, and policy changes arising

- 5.11.55. The ExA through the first set of written questions issued noted that the Carbon Budget Order 2021 came into force on 24 June 2021. In view of that the Applicant was asked to provide additional information on the Proposed Development's compliance with the Sixth Budget and an update of the assessment contained within ES Chapter 14 [APP-051] which was undertaken and submitted at D4, thus updated to [REP3-006].
- 5.11.56. Of specific note the Applicant in response to FWQ GC 4.7 [REP2-006] provided information about net carbon implications because of the development compared to the carbon budgets legislated (including the Sixth Budget 2033 to 2037). The information provided includes a table of carbon emissions distributed over relevant budget periods. The Applicant has provided that information using the approved Highways England Carbon Tool assessment. The operational carbon value being representative of estimated operational energy plus estimated user utilisation emissions for the affected road network over a 60-year appraisal period.
- 5.11.57. It was addressed by them that DMRB LA114 requires projects to only report significant effects where increases in GHG emissions would materially impact on the ability of Government to meet its carbon reduction targets.
- 5.11.58. It was also recognised that paragraph 5.17 of the NPSNN states *carbon impacts will be considered as part of the appraisal of scheme options (in the business case),<sup>2</sup> prior to the submission of an application for DCO. Where the development is subject to EIA, any Environmental Statement will need to describe an assessment of any likely significant climate factors in accordance with the requirements in the EIA Directive. It is very unlikely that the impact of a road project will, in isolation, affect the ability of Government to meet its carbon reduction plan targets. However, for road projects applicants should provide evidence of the carbon impact of the project and an assessment against the Government's carbon budgets.*
- 5.11.59. In the Applicant's view, based on the NPSNN and DMRB LA114 the magnitude of the emissions from the Proposed Development taken in isolation would not have a material impact on the ability of the UK

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<sup>2</sup> As per NPSNN paragraphs 4.5 to 4.7

Government to meet its published carbon budgets nor give rise to a significant effect.

- 5.11.60. It was generally accepted during the Examination that the DfT's Transport Decarbonisation Plan (issued July 2021) and the National Highways Net Zero Highways our 2030/2040/2050 Plan (issued July 2021) were both important policy commitment changes made post submission of the application.

#### DfT Transport Decarbonisation Plan

- 5.11.61. In summary the document makes the following commitments: an end to the sale of new petrol and diesel cars and vans by 2030; all new cars and vans to be zero emissions at the tailpipe by 2035; all new L-category vehicles to be fully zero emissions at the tailpipe by 2035; the end of the sale of all non-zero emissions HGVs by 2040; in addition there is Government support for at least 4,000 zero emission buses as well as a consultation for a date to end the sale of non-zero emissions motorbikes.

#### National Highways Net Zero Highways our 2030/2040/2050 Plan

- 5.11.62. In summary the plan gives commitments to: corporate emissions becoming net zero by 2030; maintenance and construction activities becoming net zero by 2040; and road user emissions on the strategic road network becoming net zero by 2050.
- 5.11.63. Highways England's roadmap to net zero by 2050 sets out commitments to: develop a blueprint for EV charging and energy storage by 2023; report to Government on global HGV technology trials; and set out proposals for trials in the UK in 2022. The Net Zero 2030/2040/2050 Plan advises that:
- Roads will be a vital part of zero carbon travel
  - Most journeys are made by road
  - Road travel will decarbonise fast
  - A net zero Britain will still travel by road in 2050
  - Investment in Britain's roads supports a thriving net zero economy
  - The plan is based on strong science and evidence. It aligns with: The 1.5°C reduction goal of the Paris Agreement; The UK's commitment to be a net zero economy by 2050; Government's Decarbonising Transport: A Better, Greener Britain (2021) and Industrial Decarbonisation Strategy; and The Committee on Climate Change's Sixth Carbon Budget.

#### Government's Net Zero Strategy

- 5.11.64. In addition, CEPP pointed to Government's Net Zero Strategy: Build Back Greener (published October 2021) as a further important policy change.

The ExA accepts the importance of that strategy relative to the age of the NPSNN and has considered its content.

- 5.11.65. This strategy builds on that approach to keep the UK on track in meeting its carbon budgets, Government's 2030 Nationally Determined Contribution, and net zero by 2050. It includes:
- decarbonisation pathways to net zero by 2050, including illustrative scenarios.
  - policies and proposals to reduce emissions for each sector.
  - cross-cutting action to support the transition.
- 5.11.66. It was pointed out by the Applicant that under the Climate Change Act 2008, UK carbon budgets are set by Government in response to recommendations from the UK Climate Change Committee. The latest Committee recommendations informed the development of the Sixth Carbon Budget. In advising successive UK governments on carbon budget matters, the Climate Change Committee takes into account a range of considerations including progress made in respect of previous and current carbon budgets. As the seventh, eighth, ninth and subsequent carbon budgets have not yet been prepared, it is not possible to assess the Proposed Development against those.
- 5.11.67. The Applicant argues that noting the fact that 99% of emissions during the period of unpublished carbon budgets (from 2037 onwards) would come from tailpipe emissions and having regard to the DfT's Transport Decarbonisation Plan and National Highways Net Zero Plan combined there is no basis on which to conclude that the Proposed Development would have a material effect on Government's ability to meet its published carbon budgets, or have a material effect on the ability to meet future carbon budgets.
- 5.11.68. As referenced in [\[REP8-013\]](#) the assessment of user end emissions data from WebTAG data (DfT's transport assessment guidance) would likely to be higher than given in the tables and therefore a worst case scenario was up taken by the Applicant with regard to electric vehicle uptake. The Applicant provides a table reiterating the figures inclusive of electricity sensitivity testing in [\[AS-041\]](#).
- 5.11.69. It is accepted by the ExA that the policy commitments outlined by the above Plans, as well as Government's Net Zero Strategy, are very likely to further reduce cumulative national carbon emissions. Noting they are substantial policy changes encountered post submission of the application and in light of similar contested issues being raised on other similar road investment schemes.
- 5.11.70. In response to CEPP carbon quantification concerns being influenced by monetary carbon values. The Applicant also makes the case that quantification of carbon would remain unaltered in the ES if there is a monetary change in carbon value. In line with best practice, it is intended by the Applicant that further work on the schemes economic



benefit cost ratio analysis would be applied later in the year as part of the major project's governance process. But in any event a high carbon value sensitivity test was undertaken on top of the core scenario prior to the submission of the application.

### **ExA's conclusions on climate change related impacts**

- 5.11.71. Section 104(4) of the PA2008 refers to a need to consider whether the Proposed Development would lead to the UK being in breach of any of its international obligations. These obligations include the Paris Agreement 2015. Its goals include to substantially reduce global greenhouse gas emissions to limit the global temperature increase in this century to 2 degrees Celsius while pursuing efforts to limit the increase even further to 1.5 degrees and to review countries' commitments every five years.
- 5.11.72. It is noted that the Paris Agreement 2015 does not set out a specific commitment on carbon emissions for the UK. Instead, those are provided in the Climate Change Act 2008 (as amended). Compliance with the Climate Change Act 2008 would provide a route towards compliance with the Paris Agreement 2015 and contribute towards avoiding a breach of the UK's international obligations.
- 5.11.73. The Applicant has sought to demonstrate that the Proposed Development would not affect the ability of the Government to meet the net zero by 2050 overall target.
- 5.11.74. As per paragraph 5.17 of the NPSNN, the Applicant has identified that the emissions arising as a result of the Proposed Development represent no greater than 0.0102% of the total operational emissions in any five-year UK carbon budget (including the sixth budget 2033-37) during which they would arise as highlighted in [AS-041]. With a sensitivity test aligned to the DfT's recent Transportation Decarbonisation Plan that figure is lower. The ExA is therefore content that the GHG emissions impact of the Proposed Development on its own would be unlikely to have a material impact on the UK Government meeting the carbon reduction targets in place at the time of the assessment.
- 5.11.75. With respect to cumulative assessment impacts. The ExA accepts that the assessment provided by the Applicant can be deemed as inherently cumulative for the reasons it has explained. The Applicant's methodology of assessing emissions from the Proposed Development does not appear to conflict with current policy or guidance, also having regard to wider regulatory requirements.
- 5.11.76. In decision making Paragraph 5.18 of the NPSNN states that *the Government has an overarching national carbon reduction strategy (as set out in the Carbon Plan 2011) which is a credible plan for meeting carbon budgets. It includes a range of non-planning policies which will, subject to the occurrence of the very unlikely event described above, ensure that any carbon increases from road development do not compromise its overall carbon reduction commitments. The Government is legally required to meet this plan. Therefore, any increase in carbon*

*emissions is not a reason to refuse development consent, unless the increase in carbon emissions resulting from the proposed scheme are so significant that it would have a material impact on the ability of Government to meet its carbon reduction targets.*

- 5.11.77. The NPSNN remains the framework triggered for assessing the DCO (accepting there is a pending review of the NPS by Government). In view of all of the above considerations the Applicant argues that its climate change assessment is conservative.
- 5.11.78. In making its assessment the Applicant has provided a comprehensive set of information showing how the proposed development would impact national carbon budgets. Although the information provided has been subject to dispute during the Examination the ExA finds there is no strong basis to disagree with the conclusions provided by the Applicant in making its overall assessment.
- 5.11.79. That is largely because the national carbon budgets are themselves cumulative measures. The Climate Change Act 2008 does not obligate that regional or local budgets should be applied. Moreover, there is no requirement to undertake such an assessment in the NPSNN. There is therefore no strong basis to assess the impact of an individual schemes against the total carbon emissions from RIS1 and RIS2.
- 5.11.80. Related to those points, the ExA accepts the Applicant's arguments that seeking reliable regional and local baseline information would be difficult to undertake in making a comparison of the carbon impacts of the scheme to the overall carbon impacts of RIS1 and RIS2. That is because it would likely to be subject to a great deal of inconsistency due to the complexity of all cross-cutting inputs and variables such an exercise would need sufficiently cover. There is no current policy basis to support that approach in any event.
- 5.11.81. Therefore, the ExA is content that the Applicant is only able to realistically assess the cumulative effects of the GHG emissions for the Proposed Development against anything other than the national level carbon budgets, accounting for information which is presently known and can be relied upon for decision making purposes.
- 5.11.82. The new national policy commitments insofar as the publication of Government's Net Zero Strategy: Build Back Greener, the DfT's Transport Decarbonisation Plan (issued July 2021) and the National Highways Net Zero Highways our 2030/2040/2050 Plan all arising post submission of the application are important material changes to factor.
- 5.11.83. Those strategy and policy commitments provide a clear and convincing basis that the proposed development would not have a likely impact on the UK meeting its existing or its future carbon targets when considered together with the information the Applicant has provided in the ES, and in follow up correspondence to IP submissions.
- 5.11.84. It is recognised by the ExA that the justification for achieving net zero and climate change objectives UK wide involves a broad range of cross

cutting measures outside of pure road investment considerations. Indeed, Government's Net Zero Strategy highlights the need for cross cutting measures.

- 5.11.85. Although substantial opposing arguments on climate change matters were made during the course of the Examination there is nothing convincing to suggest that the UK would be likely to breach any of its legal commitments on GHG because of the Proposed Development, should the DCO proceed based on the information submitted.
- 5.11.86. The known direction of travel towards successful delivery of significant reductions in GHG emissions is evidenced by the Applicant's Net Zero Plan, which is complimentary to other Government Plans and the Net Zero Strategy referred to, as it provides a reasonable forward planning basis to strongly believe the UK would be able to meet its statutory obligations. The Plans and Strategy would apply at both an individual scheme level and at a cumulative level.
- 5.11.87. The ExA finds that the vulnerability of Proposed Development to projected changes in climate during operation has been adequately assessed and would be resilient. There is strong evidence that the Applicant has designed the scheme with regard to minimising carbon emission impacts. Monitoring and reporting on carbon emissions associated with energy and fuel use during the construction process has also been included in the EMP secured by the rDCO.
- 5.11.88. No conflict with existing or emerging development plan policies has been identified in reaching any of the above conclusions.
- 5.11.89. Overall, the ExA finds with respect to climate change impacts there are no significant effects which weigh against the DCO being made.

## **5.12. OTHER POLICY ISSUES AND RELATED MATTERS**

- 5.12.1. This section deals with matters identified in the NPSNN, NPPF or local policies which require consideration when making a decision on the NSIP, but which have not been covered in the preceding sections of this chapter. Having regard also to the issues raised in the Examination it considers:
- land instability and contaminated land;
  - waste management and material assets; and
  - nuisance.
- 5.12.2. This section also deals briefly with:
- dust, odour and artificial light;
  - civil and military aviation and defence interests;
  - other relevant safety issues;

- security, major accidents, and disasters; and
- decommissioning.

5.12.3. The penultimate part of this section considers the combined and cumulative effects of the Proposed Development. Following that the ExA then provides his conclusions on all the issues considered in this section.

## **Land instability and contaminated land**

### ***Policy context***

- 5.12.4. When considering pollution control, paragraph 4.50 of the NPSNN guides that the ExA and SoS should focus on *“whether the development itself is an acceptable use of the land, and on the impacts of that use, rather than the control of processes, emissions or discharges themselves. They should assess the potential impacts of processes, emissions or discharges to inform decision making, but should work on the assumption that in terms of the control and enforcement, the relevant pollution control regime will be properly applied and enforced.”*
- 5.12.5. Paragraph 5.117 states *“Where necessary, land stability should be considered in respect of new development, as set out in the National Planning Policy Framework and supporting planning guidance. Specifically, proposals should be appropriate for the location, including preventing unacceptable risks from land instability”*.
- 5.12.6. Paragraph 5.118 goes on to advise that a preliminary assessment of ground instability should be carried out and that applicants should ensure that any necessary investigations are undertaken to ascertain that their sites are and will remain stable, or can be made so, as part of the development.
- 5.12.7. Paragraphs 183 to 188 of the NPPF, amongst other policies also guide national decision-making having regard to ground conditions and pollution. It highlights that the focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.

### ***The application***

- 5.12.8. The parts of the application most relevant to the consideration of land stability and contaminated land issues are:
- ES Chapter 9: Geology and Soils [[APP-046](#)];
  - Appendix 9.1 – Agricultural land classification [[APP-100](#)];

- Appendix 9.2 – 2018 agricultural survey results [[APP-101](#)];
- Appendix 9.3 – Preliminary Sources Study Report [[APP-102](#)]; and [[APP-103](#)]
- Appendix 9.4 – Assessment of risk to construction workers during construction of the Proposed Scheme [[APP-104](#)]; and

### ***Applicant's Assessment***

#### Methodology, baseline, and study area

- 5.12.9. The Applicant states that its assessment was undertaken in accordance with the methodology presented in DMRB LA 109 (Geology and Soils) to establish the baseline conditions.
- 5.12.10. The methodology stated as being undertaken also follows a Scoping Report (February 2018). The effects of the Proposed Development on agricultural land are included in the Geology and Soils chapter [[APP-046](#)] having regard to the scoping assessment.
- 5.12.11. Baseline source data is stated as including information from the following reports:
- Readily available information on pertinent ground related and regulatory aspects of the scheme has been extracted from the preliminary sources study report (PSSR) (AECOM 2017); and
  - Geo-environmental data has been based on the findings of a ground investigation undertaken in 2018.
  - In addition, information was obtained from several other sources such as: British Geological Survey (BGS); the Coal Authority's online interactive maps; NE; Environment Agency; Ordnance Survey mapping; Landmark Envirocheck report; Defra's MAGIC website; Norfolk County Council's Minerals and Waste Policy team; as well as information on controlled waters detailed in ES Chapter 13: Road Drainage and the Water Environment.
- 5.12.12. The Applicant's assessment of effects of contamination on the identified receptors, human health, and controlled waters (surface water and groundwater), were informed by the findings of an intrusive ground investigation. The intrusive ground investigation incorporated the alignment of the A47/A11 connector road and the Cantley Lane Link Road (undertaken between March 2018 and July 2018) to inform baseline conditions. It looked at geology, hydrogeology, hydrology, landfill records, current land use, route history, agricultural land as well as potential contamination risks.
- 5.12.13. The Applicant determined the assessment study area based on the following criteria recommended in the DMRB:

- The construction footprint or project boundary (including compounds and temporary land take)
- The location of contamination outside the project boundary or footprint that have the potential to migrate on site and effect receptors
- The location of sensitive off any site receptors (for example, designated sites) that could be affected by the scheme or contaminates.

5.12.14. It is noted that the study area involved extended up to 1km beyond the DCO limits allowing the consideration of certain specific features of interest for example for hydrological features or past pollution incidents.

5.12.15. Land uses within the DCO limits and study area predominantly comprise of land with agricultural activity (mainly arable production) and localised areas of hard standing including residential and commercial structures. Smaller parcels of land present were assessed as being used as permanent pasture, parkland, and woodland and therefore those smaller spaces indicated little agricultural viability.

5.12.16. Therefore, the study area for the included a separate agricultural land assessment within the DCO boundary itself. In some cases, it was possible for the Applicant to scope out areas for survey, or deem an area as not Best and Most Versatile land (subgrade was defined as 3b or lower whereas Grades 1, 2 and 3a are classified as BMV land. BMV agricultural land is a finite national resource and is given special consideration in national policy and guidance), due to topography, stoniness, or non-agricultural use in accordance with national policy advice).

5.12.17. Following field survey and using MAGIC information available the permanent footprint of the Proposed Development was deemed to be a mixture of Grade 3a (good quality) and 3b (moderate quality) agricultural land.

#### Potential impacts

5.12.18. Potential land contamination impacts arising from construction in the main were identified as the following:

- ground disturbance on top of and within close proximity to the Cantley Lane landfill which could lead to the creation of new pathways for the migration of contamination
- ground disturbance on top of and within close proximity to the infilled gravel pit on the south east of the proposed scheme which could lead to the disturbance of potentially contaminated materials
- storage of excavated made ground soils in stockpiles which could lead to the release of contamination to the ground through rainwater run-off and infiltration

- importation of unsuitable materials which have the potential to introduce new sources of contamination
- dewatering activities which could lead to the discharge of contaminated water to surface water or groundwater.

5.12.19. Potential operational impacts were identified as:

- Risks to the health of maintenance workers from ground gas which has the potential to migrate and accumulate in structures located close to potential ground gas sources e.g., the Cantley Lane landfill, and the infilled gravel pit on the south east of the proposed DCO area.
- Leaching of contamination from the soils which will be exposed to form the drainage pond within the infilled gravel pit on the south east of the study area.
- Re-use of made ground in sensitive areas of the Proposed Development which could increase the risk to human health and controlled waters.

#### Potential agricultural land/soil impacts

5.12.20. It is accepted in the Applicant's assessment that the construction and operational phases of the proposed scheme will result in both the permanent and temporary loss of agricultural land including BMV agricultural land.

5.12.21. For construction effects on agricultural land/soil the following potential effects were considered: the formation of temporary access tracks requiring the stripping of topsoil and compaction of the ground which would result in a temporary reduction in agricultural land or long term damage to soil quality; all land take, both temporary and permanent, resulting in the loss of agricultural land; as well as stripping and storage of soils and materials which could adversely impact soil quality as a resource resulting in a reduction in soil quality and/or the production of waste soils if they become unusable.

5.12.22. For operation phases, the proposed scheme was assessed as unlikely to give rise to any significant effects upon geology or soils, beyond the permanent loss of an anticipated 14.88 hectares of land classified as agricultural.

5.12.23. The magnitude of potential impacts was determined based on the baseline conditions identified.

#### Design, mitigation, and enhancement measures

5.12.24. The Applicant states that the area of agricultural land impacted by the Proposed Development has been minimised as far as reasonably practicable in formulating the design taken forward.

- 5.12.25. During construction phases the implementation of the EMP is to be relied upon which would set out controls to ensure that all identified environmental risks are appropriately managed and minimised. Mitigation measures within the EMP include best practice environmental management procedures and appropriate waste management in the form of:
- ensuring adequate space for storage of topsoil and subsoil which must be segregated during excavation
  - protection of watercourses from entry of polluting matter
  - stripping, storing, and reinstating of soils using best practice measures to minimise the risk of degradation to soils, and
  - suppression of odour and dust (also using best practice measures).
- 5.12.26. Other than to minimise the amount of agricultural land involved as far as possible the EMP is also planned to include a Soil Management Plan (SMP) incorporating guidance provided by the “Code of Practice for the Sustainable Use of Soils on Construction Sites” to ensure the use of best practice measures for soil handling.
- 5.12.27. Other mitigation measures during construction phases include:
- The implementation of a Materials Management Plan (MMP) to minimise excavation of soils and ensure that soils will be reused as much as possible by the Proposed Development.
  - Construction compounds and working areas will include a clear demarcation (fence) to prevent compaction or damage of soils.
  - Construction vehicles will be confined to designated routes to minimise areas of soil compaction.
  - In dealing with made and infilled ground present in the scheme improvement area in ground structures would be designed with an appropriate concrete class.
  - As construction workers are defined as temporary receptors, and as required by The Construction (Design and Management) Regulations 2015, will construction activity would only be undertaken with an acceptable level of risk.
- 5.12.28. Based on the Applicant’s assessment of potential contamination sources the following operational mitigation may be required:
- Inclusion of a break layer between contaminated materials and areas of soft landscaping to remove the pathway between contamination and receptors.
  - Gas protection installed into service ducting in areas where ground gas production is considered to be a potential risk.



- The inclusion of gas monitoring and mitigation strategies for all maintenance work within confined spaces.

5.12.29. However, the above would be informed by further survey work and therefore the need for any mitigation was not finalised in the Applicant's assessment.

5.12.30. Soil stripping, handling and storage is also to be monitored to ensure that it follows the procedures outlined in the SMP. The provision referred to would include an assessment mechanism for any unexpected soil contaminants and the design of a suitable remediation strategy such as sub-soiling or drainage.

Applicant's summary of geology and soil effects and potential for pollutant impacts

5.12.31. The assessment summarises the potential effects during the construction and operational phases under the broad headings of:

- Agricultural soils (for permanent and non-permanent works);
- Future site users;
- Offsite human receptors;
- Controlled waters (surface and groundwater)

5.12.32. With the expectation of agricultural soil impacts, the assessment found that, with the identified design and mitigation measures in place, and adherence to appropriate construction and operational practices, the effects on soils and geology would be either negligible or, at worst, minor.

5.12.33. For agricultural soils the stripping of topsoil across the proposed development area footprint required for the permanent works (road, structures, utilities, environmental bunds etc) would lead to moderate adverse permanent impacts and moderate adverse non-permanent impacts for temporary the range of works involved in the scheme delivery.

5.12.34. The Applicant's overall findings are that the construction of the Proposed Development will result in the permanent land take of 12.64 ha of Grade 3a (BMV) and 2.24 ha of Grade 3b agricultural land, and the temporary land take of 13.02 ha of Grade 3a agricultural land and 3.54 ha of temporary land take. Provided that the mitigation measures are effective, and areas of temporary land take are restored back to their former condition, the long-term residual effects on agricultural soils would be limited to the permanent loss of agricultural land.

5.12.35. The permanent loss of 12.64 hectares of Grade 3a (BMV) agricultural land is considered to be of moderate magnitude resulting in a large adverse significance of effect. The permanent loss of 2.24 ha of Grade 3b

agricultural land is considered to be of moderate magnitude and moderate adverse significance of effect.

### **Issues considered during the examination**

- 5.12.36. Land stability issues were not raised in the Examination. Contamination issues raised during the Examination included whether the proposal would adequately deal with the risk of ground contamination and subsequent impacts on groundwater, drainage, and potential remediation.
- 5.12.37. The Environment Agency and the Applicant agreed on several contamination impacts during the course of the Examination. These are set out in the SoCG with the Environment Agency [[REP9-012](#)].
- 5.12.38. It was recognised that Requirement 4 requires the preparation of the EMP. The EMP would secure mitigation measures during the construction phases outlined in the ES.
- 5.12.39. There was broad agreement on surface and groundwater resources impacts during the Examination subject to the Environment Agency being given opportunity to review the content of detailed proposals prior to construction. Subsequently, the Applicant has made the Environment Agency a named consultee in the discharge process for Requirement 4. Requirement 6 of the rDCO which manages issues relating to contaminated land and groundwater was amended by the Applicant to allow the Environment Agency scope to require remediation work following formal consultation. The Environment Agency following request was also made a named consultee in the Discharge of Requirement 8 relating to surface and foul water drainage.
- 5.12.40. There were no contaminated land issues of particular note raised by SNC in their LIR having regard to their submitted SoCG which features references of input from their Environmental Health department [[REP9-013](#)]. Furthermore, NCC did not set out any particular disagreement with the approaches undertaken by the applicant with respect to dealing with contamination related issues.

### **Waste management and material assets**

#### ***Policy context***

- 5.12.41. Paragraph 5.42 of the NPSNN guides that the Applicant should set out the arrangements proposed for managing any waste produced and should normally seek to minimise the volumes of waste produced and sent for disposal.
- 5.12.42. Paragraph 5.43 requires the SoS to consider the extent to which the Applicant has proposed a process to ensure the effective management of hazardous and non-hazardous waste arising during the construction and operational phases.

- 5.12.43. The process should ensure that waste would be properly managed, both on-site and off-site, that, the waste from the proposal facility could be dealt with appropriately by the waste infrastructure and that adequate steps would be taken to minimise the volume of waste arisings.

### ***The Application***

- 5.12.44. The part of the application most relevant to the consideration of waste management and material assets issues are:
- ES Chapter 10 Materials Assets and Waste [[APP-047](#)]
  - Appendix 10.1: Legislation and policy framework [[APP-105](#)]
  - Appendix 10.2: Waste disposal assessment [[APP-106](#)]
  - Appendix 10.3: Outline site waste management plan (SWMP) [[APP-107](#)]
  - Appendix 10.4: Minerals impact assessment (MIA) [[APP-108](#)]

### ***Applicant's Assessment***

- 5.12.45. The Applicant states that its assessment has followed the guidance of DMRB LA 110 which relates to the consumption of materials and products (from primary, recycled, or secondary and renewable sources), the use of materials offering sustainable benefits, and the use of excavated soils and other arisings that fall within the scope of waste exemption criteria; as well as production and disposal of waste.
- 5.12.46. The Applicant sets out in the assessment that the Norfolk Minerals and Waste Plan Preferred Options Document (published July 2019) has been given regard to. Moreover, Policy 1 of the Joint Core Strategy for Broadland, Norwich and South Norfolk in March 2011 (amended 2014) which addresses climate change and protecting environmental assets highlights the need to protect mineral and other natural resources identified through the Norfolk Minerals and Waste Development Framework.
- 5.12.47. Appendix 10.2 [APP-106](#), provides the data obtained from a 2018 ground investigation undertaken by the Applicant which was reviewed alongside the current waste regulatory framework to assess the potential disposal options for excavated materials unsuitable for retention or surplus to requirements.
- 5.12.48. The assessment study area involved the DCO boundary where site clearance, earthworks and construction are proposed and materials would be consumed (used, re-used and recycled) and waste generated. That includes the footprint of the scheme and any temporary land requirements associated to its delivery during the construction phase such as temporary offices, compounds, and storage. The DCO boundary also informed mineral safeguarded site sterilisation matters as a defined area.

- 5.12.49. In tandem with the initial study area outlined a second wider study area was also taken into account for the source of material assets in the east of England region. The second study area involved extended to the management of inert and non-hazardous wastes within the region, with landfills licenced to accept these wastes. Accordingly, for that reason the region referred to spans the counties of Norfolk, Bedfordshire, Cambridgeshire, Essex, Hertfordshire and Suffolk.
- 5.12.50. In the absence of the proposed development the use of material assets from the operation of the existing A47 was considered to be limited and associated with infrequent maintenance activities for both of the study areas.

#### Potential impacts

- 5.12.51. The likely potential impacts were assessed to be the following:
- Depletion of natural resources through the predominant use of primary aggregates and the use of recycled and or secondary aggregates below the 31% east of England regional target.
  - Depletion of natural resources through recycling and or recovery of construction and demolition waste (CDW) below the 70% recovery target.
  - Sterilisation of one or more mineral safeguarding site.
  - Reduction in the capacity of regional inert and non-hazardous landfill facilities through generation of surplus excavation materials, generation and disposal of CDW from the demolition of any existing buildings or structures and generation of packaging materials and construction material wastage through damage and overordering.
  - Generation of hazardous waste requiring disposal to hazardous waste landfill outside of the region.

#### Design, mitigation and enhancement measures

- 5.12.52. The Applicant submits that the Proposed Development is designed to avoid and minimise the environmental impacts of material assets and waste (as far as reasonably practicable) through the process of the assessment of alternatives [[APP-040](#)] undertaken and subsequent embedded mitigation.
- 5.12.53. The Applicant's submitted EMP (first iteration) includes the provision for a SWMP of which an outline version has also been submitted [[APP-107](#)]. A MMP would also form part of the EMP which would govern the re-use of materials on and off site. The MMP would be developed in accordance with the findings of ES and mitigation recommended but also in accordance with CL: AIRE DoW CoP, Version 2, 2011.

- 5.12.54. The essential mitigation required in addition to embedded mitigation to reduce and offset likely significant adverse environmental effects as a result of material assets and waste was identified as the following:
- Waste reduction principles throughout construction.
  - Design for re-use and recovery by identifying, securing, and using materials that already exist, or can be sourced from other projects. A CDW recovery and or recycling rate of 70% would be set in the EMP.
  - Off-site construction maximising the use of prefabricated structures and components, encouraging a process assembly rather than construction on the site.
  - Using local waste management facilities for waste management.
- 5.12.55. Enhancement opportunities cited include the re-use of suitable surplus excavated materials on local developments concurrent to the construction phase, including the provision of materials for quarry restoration schemes. Other surplus initiatives cited include using it for noise and landscape bunding where land availability allows. Utilising recycled mulch from tree felling on any adjacent community facilities is also referenced.
- 5.12.56. Monitoring of waste generation during the construction phase would be undertaken via the SWMP, which is to be included within the EMP following the input of the Principal Contractor.
- 5.12.57. With regard to waste, construction works are anticipated to generate approximately 126,744m<sup>3</sup> (253,488 tonnes assuming an average density of 2 tonnes per m<sup>3</sup> for general soils and stones) of excavation arisings which are unsuitable for retention on the Proposed Development or surplus to requirements.
- 5.12.58. It is anticipated by the Applicant that an overall CDW recovery rate of 94% can be achieved far in excess of the Government's 70% target for recovery of construction waste.
- 5.12.59. Using a worst-case assumption that all waste generated from the Proposed Development would be disposed of to landfill (138,095m<sup>3</sup>). Doing so would utilise approximately 0.3% of the regional landfill capacity. However, in practice a large proportion of waste from the scheme is most likely to be recovered rather than disposed of to landfill, further reducing the overall quantities of waste for disposal.
- 5.12.60. The scheme is also anticipated by the Applicant to not generate any notable wastes at the location of the Cantley Lane landfill and gravel pit west of the existing A47. Based on current design assumptions, less than 1% of the schemes total volume of waste would require disposal to landfill outside of the region as hazardous waste.

- 5.12.61. Significant environmental effects from the use of material assets and generation of waste during the first year of operational activities (opening year) are not predicted due to limited material use and waste generation from infrequent maintenance activities.
- 5.12.62. Design, mitigation, and enhancement measures would be implemented during construction and controlled through the EMP. Overall, the recycled content of the materials used are predicted to be in excess of the regional target of 31% and over 70% of the waste generated will be re-used or recycled in line with the Government's target for the recovery of construction waste. Additionally, the Proposed Development is not likely to result in a 1% reduction or alteration in the regions landfill capacity.
- 5.12.63. The likely impacts are assessed as being slight adverse and not significant.

### ***Issues arising in the Examination***

- 5.12.64. The main issue considered was the adequacy and effectiveness of waste disposal provision referred to in the ES and captured in the Applicant's dDCO.
- 5.12.65. The SocG between the Environment Agency and the Applicant sets out various technical issues agreed on during the Examination. There were no substantial issues of disagreement when the Examination closed.
- 5.12.66. The Environment Agency sought evidence of how waste disposal would be managed to prevent harm to human health having regard to preventing the creation of pathways from any contaminated land to sensitive environmental receptors; minimising impacts on local amenity; and ensuring residual waste is left in a manner which minimises the prospect of environmental pollution.
- 5.12.67. Based on the outline SWMP it was settled that the final SWMP produced during detailed design phases would include a section on managing waste from the Cantley Lane landfilled waste area and gravel pit east of Cantley Lane South. The Applicant committed to: keeping as much of the existing materials in-situ or moving none (if that was an option); minimising the need for new pollutant linkages because of the works applied for; and the avoidance of unnecessary and burdensome disposal at landfill off site.
- 5.12.68. Whilst the SWMP would not identify the likely disposal options and the degree and nature of hazard the Applicant reaffirmed that the SWMP will still otherwise follow all of the procedures set out in the WFD associated regulations including testing and characterisation, material tracking and duty of care. Any materials which would be excavated would be subject to the SWMP which is to be compliant with CL:aire definition of waste code of practice applying site of origin principles and best practice.
- 5.12.69. In order to satisfy WFD considerations the Applicant evidenced that the construction and operational activities affecting Intwood Stream and the River Yare would not result in any water quality deterioration. Therefore, future attainment of WFD water body targets would be unaffected. The

relevance of the mitigation and enhancement measures set out in the REAC which forms Table 3-1 of the EMP were also referred to of which the Environment Agency would be consultee.

- 5.12.70. Overall, the Applicant has demonstrated that it would be able to meet all of the technical concerns of the Environment Agency through the provisions of the DCO which have been subject to their agreement and separate to any other consenting regime triggered.

### **Dust, odour, artificial light, smoke and steam**

- 5.12.71. Paragraph 5.84 of the NPSNN advises that the Applicant should assess any likely significant effects on amenity arising from emissions of odour, dust, steam, smoke and artificial light and describe these in the ES.
- 5.12.72. As paragraph 5.81 of the NPSNN guides, the pollution impacts from some of these emissions (e.g., dust, smoke and steam) are covered in the consideration of air emissions. In this case, they are dealt with in Section 5.7 of this report. The effect of artificial lighting is covered in Sections 5.3, 5.4 and 5.6 where no significant effects are found.
- 5.12.73. The Applicant's Planning Statement and National Policy Statement Accordance Table [[APP-126](#)] considered that emissions of odour, smoke and steam were expected to be negligible. No substantive evidence arose during the Examination to dispute that assessment based on the information contained within the ES.

### **Common Law Nuisance and Statutory Nuisance**

#### ***Policy and legal context***

- 5.12.74. Section 158 of the PA2008 provides a defence of statutory authority against claims in civil and criminal proceedings for nuisance, unless the DCO provides otherwise.
- 5.12.75. Section 79(1) of the Environmental Protection Act 1990 (EPA) establishes the definition of 'statutory nuisance'. The term covers matters such as noise, smoke, or gas emitted from premises, if they either constitute a (common law) nuisance or are prejudicial to health.
- 5.12.76. Paragraph 4.58 of the NPSNN directs the consideration of possible sources of nuisance, and how they may be mitigated or limited so that appropriate requirements can be included in any subsequent order granting development consent.
- 5.12.77. Paragraph 5.88 of the NPSNN adds that the decision maker should consider whether there is a justification for the entire authorised project being covered by a defence of statutory authority against nuisance claims. If it cannot conclude that this is justified, it should disapply in whole or in part the defence through a provision in the DCO.
- 5.12.78. The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (the APFP) regulation 5(2)(f) requires that

an application must be accompanied by “a statement whether the proposal engaged one or more of the matters set out in section 79(1) of the Environmental Protection Act 1990 and, if so, how the applicant proposes to mitigate or limit them.”

- 5.12.79. Article 44 of the rDCO (Appendix D) would provide specific defences where proceedings are brought in the magistrates’ court under s82(1) EPA 1990 in relation to certain categories of nuisance within s79(1). These are the categories described in the EPA 1990 s79(1) (g) (noise emitted from premises) and (ga) (noise emitted from or caused by a vehicle, machinery or equipment in a street). It relates to cases brought by individuals or other legal persons (such as companies). It would remain open to the undertaker to raise the general PA2008 s158 defence of statutory authority against proceedings for nuisance taken by the LA under s80, or by individuals in relation to any of the other categories of nuisance under s82.
- 5.12.80. The Applicant’s Statement Relating to Statutory Nuisance [[APP-122](#)] reviews the scope of statutory nuisance potentially arising from the Proposed Development. It identifies the potentially engaged areas of statutory nuisance categories under s79(1) EPA1990 as follows:
- (d) Dust arising on business and residential premises
  - (fb) Artificial light from premises
  - (ga) Noise emitted from premises or caused by a vehicle, machinery or equipment in a street
- 5.12.81. Section 79(6A) EPA1990 clarifies that subsection (1)(ga) does not apply to noise made by traffic but could apply to construction vehicles or plant.
- 5.12.82. Having regard to the s79(1) EPA1990 matters that could potentially be engaged the Applicant’s Statement Relating to Statutory Nuisance [[APP-122](#)] refers to the associated assessments undertaken in the ES for Air Quality [[APP-042](#)], Landscape and Visual [[APP-044](#)] and Noise and Vibration [[REP4-008](#)]. It concludes that with the mitigation secured in the rDCO (Appendix D) and the EMP [[REP8-007](#)] mechanism, none of the statutory nuisances identified in s79(1) EPA1990 were predicted to arise as a result of the Proposed Development.

### ***Issues considered during the Examination***

- 5.12.83. The main issues considered during the Examination related to the likelihood of statutory nuisance occurring and whether the provisions of the DCO adequately deals with statutory nuisances should that situation arise.
- 5.12.84. The impact of lighting was raised by several parties during the examination. SNC have assessed lighting impacts through the perspective of potential statutory nuisance to occupants in the surrounding area.



- 5.12.85. The ExA notes the content of [\[APP-086\]](#), Appendix 7.7 Lighting Assessment as to the extent of lighting with those issues in mind.
- 5.12.86. It was agreed by NCC in their SoCG [\[REP10-005\]](#) that the need for lighting should be carefully considered. Where it is required the lighting design should be informed by current best practice guidelines Institute of Lighting Engineers. A lighting assessment was undertaken in accordance with DMRB TA 501 Road Lighting Appraisal, with a technical note produced of the findings. Lighting provision for the Proposed Development would be provided in accordance with those findings.
- 5.12.87. Nothing arose in the Examination to suggest there would likely to be any form of statutory nuisance encountered because of the development proposed. It was generally accepted that Article 44 in the rDCO would allow for a suitable mechanism to deal with nuisance issues should they be encountered. NCC's SoCG [\[REP10-005\]](#) provides assurances that the issues raised by the ExA can be deemed as being resolved.
- 5.12.88. For potential general issues amenity of relating to construction or operational noise, light, dust impacts falling below a statutory nuisance threshold the provisions of EMP secured in the DCO would provide adequate safeguards. Taking into account those safeguards (which include several references to construction industry best practice) and the evidence provided by the Applicant in the ES there is unlikely to be statutory nuisance problems.
- 5.12.89. **Civil and Military Aviation and Defence**
- 5.12.90. Paragraph 5.47 of the NPSNN refers to the importance of UK air space for both civilian and military aviation interests and states that it is essential that the safety of UK aerodromes, aircraft and airspace is not adversely affected by new national networks infrastructure. Paragraph 5.54 states that it is important that new national networks infrastructure does not significantly impede or compromise the safe and effective use of any defence assets.
- 5.12.91. There is nothing raised in the Applicant's ES to suggest that there would be significant effects on the operation of civil and military aviation or defence infrastructure or procedures as a result of the Proposed Development.
- 5.12.92. The Applicant states that no civil or military aviation and/or other defence assets will be affected by the scheme and no issues were identified in the responses to the statutory consultation, which included relevant bodies such as the Ministry of Defence and Civil Aviation Authority.
- 5.12.93. Nothing arose during the Examination to call into question the scheme's impacts on Civil and Military Aviation and Defence. The Ministry of Defence or other parties did not raise any particular issues presenting a problem during the Examination. The ExA has not identified any concerns.

## Safety

### *Policy context*

- 5.12.94. Paragraph 4.60 of the NPSNN advises that developments should take the opportunity to improve safety, including introducing the most modern and effective safety measures where proportionate. Paragraph 4.61 goes on to require the Applicant to undertake an objective assessment of the impact of the Proposed Development on safety. This includes putting in place arrangements for undertaking the road safety audit process (paragraph 4.62) and demonstrating that the Proposed Development would be consistent with the Highways Agency's Safety Framework for the Strategic Road Network and with the national Strategic Framework for Road Safety (paragraph 4.64).
- 5.12.95. The SoS should be satisfied that all reasonable steps have been taken and will be taken to minimise the risk of road casualties arising from the development and that the proposal would contribute to an overall improvement in the safety of the SRN (paragraph 4.66).
- 5.12.96. In responses to the policies set out in the NPSNN the Applicant has stated that the requirements resulting from the road safety audit it undertook at Preliminary Design stage have been incorporated into the preliminary scheme design where appropriate. At a future stage once the scheme is completed a further road safety audit would be undertaken to assess the safety and operational aspects of the scheme. If any mitigation is then required, it will follow on from that assessment.
- 5.12.97. The Applicant's Case for the Scheme [[APP-125](#)] outlines the safety benefits in Section 4. An assessment of the overall impact of the scheme on road safety, in accordance with WebTAG and Highways England (formerly Highways Agency) guidance is given in Section 4.7. The document states that overall, the scheme is likely to save 242 accidents when compared with to without the scheme or do-nothing scenario. The accident saving includes one fatal and 26 serious accidents over a 60-year period. Section 5 states that this translates to a monetised estimated saving of £7.2 million.
- 5.12.98. The proposed development has been designed to comply with DMRB which sets the standards for safe highway design at a national level. Section 4 of the Case for Scheme provided an analysis of accident risk and safety and concludes overall the scheme would contribute to an overall improvement in the safety of the SRN at the Thickthorn Junction. Furthermore, the DCO scheme has been designed to improve safety for WCH users as set out in Chapter 12 Population and Human Health of the ES.
- 5.12.99. Measures to minimise the risk of death and injury arising from the construction phases are accounted for within the EMP. Design planning has prioritised safety as an emended feature and is modelled to decrease the overall number of accidents on the road network by creating a high-

quality interchange link and providing new WCH infrastructure that would improve safety for WCH and other vulnerable users.

### ***Issues considered during the Examination***

- 5.12.100. Existing and future safety levels of the junction shared between Station Lane and the A11 was an issue raised during the Examination by a local business owner (Ian James) regularly using the junction.
- 5.12.101. Aside from some of the safety issues already covered in the Land use, social and economic section of this Chapter it is noted that Ian James [[AS-015](#)] [[EV-021](#)] at the OFH2 [[REP9-033](#)] raised specific issues in relation to Station Lane and the A11 (Works 29). Ian James' input came from various written submissions as well as orally during OFH2. The Applicant's response to the points is largely contained in submission [[REP10-009](#)].
- 5.12.102. In response to COVID-19 pandemic circumstances decreasing traffic making the July 2020 traffic survey data on the A11 inaccurate. The Applicant confirmed that the data was adjusted using a conversion factor between 2019 and 2020 traffic levels using survey traffic data from 2019 given those circumstances. That information was then used to inform the modelling for the A11 Station Road junction taper design. The ExA accepts that the Applicant has therefore factored in the reason for lower vehicle numbers in 2020 when assessing the flow of traffic in both directions on the A11.
- 5.12.103. The Applicant broadly highlighted that the scheme improvement works would have no significant impact on the junction. It was also acknowledged that the A11 was under the jurisdiction of NCC and that the existing junction design is part of the local highway network. NCC as the Highway Authority did not submit any particular safety concerns. Although the Applicant did acknowledge public concerns made during the Examination it considered the basis of them to be beyond the remit of the Thickthorn junction improvement works.
- 5.12.104. In relation to direct concerns that the options for traffic to safely enter Station Lane from the A11 northbound, including Side Roads Strategy 'Option 5' should be revisited. The Applicant referred to the Case for the Scheme Section 2 [[APP-125](#)] which provides the reasons why it was discounted, namely:
- The detour would lead to an adverse impact to emergency services, accessing Cantley Lane South.
  - Access to properties on Cantley Lane South would be restricted by the low-lying railway bridge for driver head height.
- 5.12.105. It was further clarified by the Applicant that to improve driver awareness, junction warning signs would be placed in advance of the junction (some 305m in advance) in the highway verge. That would be in conjunction with advanced slow warning road markings at the location of the signs. Advanced direction signage for the A11/A47 connector road would also

be placed 270 metres downstream of the Station Road exit. All of those provisions would assist to avoid any driver confusion.

- 5.12.106. Suggestions were made by Ian James that safety levels could be increased by encouraging drivers to slow down on the A11 before turning into Station Lane rather than funding an 'acceleration lane'. In response, the applicant confirmed that safety risk assessments in accordance with DMRB GG104 highlighted the minor potential risk of side swipes and rear shunts for vehicles joining the A11. Due to the relative proximity of the proposed A11/A47 connector road, a further safety risk assessment identified that a merge taper should be included in the design of the scheme as it offers the greatest risk benefit. The Applicant stated that it does not intend to review the side road strategy further. It was also confirmed that in the Applicant's view reducing the speed limit on the A11 carriageway would not be necessary.
- 5.12.107. The reliability of the estimated accident saving analysis provided by the Applicant was also questioned by an IP (Richard Hawker) during the examination. This included written submissions as well as representations at hearings suggesting baseline source data had not been submitted and therefore it was not possible to verify the Applicant's conclusions. However, there are no substantive reasons to believe that the source data has not been properly assessed bearing in mind DfT processes (WebTAG methodology) and guidance. No other substantive challenges to the Applicant's assessment of safety emerged during the Examination including drawing on responses from NCC and SNC. In conclusion the ExA does not find the safety assessment matters highlighted within the ES to be flawed.
- 5.12.108. In summary the Applicant's assessment of safety matters and the provisions clarified do not suggest to the ExA that road safety would be compromised by the works proposed to Station Lane at the A11 junction.

### **Security, major accidents, and disasters**

- 5.12.109. Paragraph 4.74 of the NPSNN states that national security considerations apply across all national infrastructure sectors. The DfT has lead responsibility for security matters concerning national networks and for directing the security approach to be taken. It works with government agencies including the Centre for the Protection of National Infrastructure to reduce the vulnerability of the most 'critical' infrastructure assets.
- 5.12.110. Paragraph 4.76 advises that the Applicant should only include such information in the application as is necessary to enable the ExA to examine the development consent issues and make a properly informed recommendation on the application.
- 5.12.111. The Applicant's Planning Statement and National Policy Statement Accordance Table [[APP-126](#)] states that no significant issues were identified in the responses to the statutory consultation undertaken. Therefore, there was no requirements to consult relevant security

experts from the Centre for the Protection of National Infrastructure or DfT.

- 5.12.112. No issues were raised during the Examination to take a contrary view.

### **Decommissioning**

- 5.12.113. The Applicant takes the view that it is very unlikely that the Proposed Development would be demolished after its design life, as the road would have become an integral part of nationally important infrastructure. The end-of-life assessment of the demolition and decommissioning phase was, therefore, scoped out of the ES assessment.

### **Cumulative effects (single and different projects)**

- 5.12.114. Paragraph 4.17 of the NPSNN requires the ExA to consider how significant cumulative effects, and the interrelationship between effects might, as a whole, affect the environment, even though they may be acceptable when considered on an individual basis with mitigation measures in place.
- 5.12.115. The Applicant's Cumulative Effects Assessment [[APP-052](#)] defines cumulative effects as resulting from multiple actions on receptors over time and are generally additive or interactive in nature. They can also be considered as effects resulting from incremental changes caused by other past, present or reasonably foreseeable actions together with the Proposed Development.
- 5.12.116. It was acknowledged by the Applicant in its assessment that the DMRB LA 104 Environmental Assessment and Monitoring (2019) includes guidance on cumulative effects. The DMRB was updated from the scoping opinion the Applicant obtained in 2018 through a change in terminology, changing from 'combined' and 'cumulative' to 'single project' and 'different projects' respectively. Therefore, the revised terminology has been carried forward.
- 5.12.117. Cumulative effects with other developments are considered as necessary for each topic in the earlier sections of this chapter.
- 5.12.118. In terms of single project effects, the Applicant states that during construction, additive cumulative effects are expected on some human receptors and heritage receptors. Notably, properties on Cantley Lane South due to temporary visual intrusion, construction noise, and temporary increased journey length to access Thickthorn Junction. Additive Slight adverse cumulative effects are also expected at Two Tumuli scheduled monument, which may experience temporary cumulative effects due to the alteration of its cultural heritage setting, visual effects, noise and vibration increase and light intrusion during construction. The cumulative effect is not deemed to be significant. Moreover, no significant cumulative effects were identified during operation.

- 5.12.119. In terms of multiple project effects, the Applicant's assessment for cumulative effects has involved the identification of incremental changes likely to be caused by a shortlist of other developments and the Proposed Development itself. Namely: 1. Cringleford Residential Development (that is land to the north-east and south-east of Thickthorn Junction has planning permission for housing developments. Round House Park would provide 1,000 dwellings and is currently on course for construction as part of the Greater Norwich Development Partnership's Joint Core Strategy (Cringleford Neighbourhood Development Plan, 2014) This is in addition to a minimum of 1,200 dwellings allocated in Cringleford. This includes planning permission 2014/00025 from South Norfolk Council (which was allowed on appeal and subsequently varied by planning permission 2017/2120)); 2. Thickthorn Park and Ride extension; 3. Hethersett North Village; 4. Newfound Farm (east and west side Norwich Research Park South West site and South East site); 5. Norwich Research Park North West site and North East site; 6. Hornsea Project Three Offshore Wind Farm; 7. Norfolk Vanguard Offshore Wind Farm; and 8. Norfolk Boreas Offshore Wind Farm.
- 5.12.120. The assessment has followed the methodology Planning Inspectorate Advice Note Seventeen. The assessment findings of the Applicant are that the residual cumulative effects during the construction and operational phases of the Proposed Development with of all of the other developments are not anticipated to contribute beyond that of the effects identified in relevant ES chapters.
- 5.12.121. There were inferred suggestions during the Examination to consider additional developments beyond the short list compiled by the Applicant and include other wider A47 RIS2 schemes. However, doing so would result in an unfocused and overly excessive assessment where it would not add to the quality of information considered bearing in mind the overall methodology and rationale provided by the Applicant alongside its approach to other chapters in the ES. Significance descriptors have also been aligned with the considerations included within Planning Inspectorate Advice Note Seventeen: Cumulative Effects Assessment.
- 5.12.122. The Applicant's proposed assessment methodology for cumulative effects was described in Chapter 15 of the EIA A47/ A11 Thickthorn Junction Scoping Report issued to the Planning Inspectorate in February 2018. The scope of the Applicant's assessment takes into account comments received within the Scoping Opinion for the Proposed Scheme (2018) as well as consultation with NCC and SNC both of which have not objected to the information provided.

### **ExA's overall conclusions on other policy and factual issues**

- 5.12.123. The ExA is satisfied that the Applicant's assessment of land stability and contaminated land implications is robust.
- 5.12.124. Requirement's 4 and 6 of the rDCO (Appendix D), supported by the provisions of the first iteration of the EMP [[REP8-007](#)] would provide the necessary controls to manage potential impacts associated with ground

contamination and controlled waters having regard to expected and unexpected remediation.

- 5.12.125. The ExA finds that there would be adequate safeguards to mitigate risks. There is also the presence of other legislation, including health and safety protection for workers to acknowledge. The Applicant and its contractor would be bound by health and safety worker legislation in addition to the provisions of the DCO.
- 5.12.126. The ExA concludes that the risk posed by the Proposed Development regarding land instability and contaminated land would be minor at worst and not significant for the purposes of the overall planning balance to be applied. As such, the ExA is satisfied that the proposal would comply with paragraphs 5.117 and 5.118 of the NPSNN and Paragraph's 183 to 188 of the NPPF.
- 5.12.127. Regarding waste management and material asset issues, the EMP [[REP8-007](#)] would require the SWMP to seek to minimise waste and put in place measures to control the disposal of waste. A Materials Management Plan (MMP) would be implemented to mitigate the risk arising from the re-use of materials in addition to the SWMP. Both of which would be obtained and implemented through the EMP provision detailed in Requirement 4 of the rDCO (Appendix D). Therefore, the ExA finds that the proposals for waste management and the use of material assets would be satisfactory and accord with paragraphs 5.42 and 5.43 of the NPSNN. As such, the ExA is satisfied the issues does not weigh significantly for or against the DCO being made.
- 5.12.128. The effects of the Proposed Development in relation to dust, smoke and artificial light have been dealt with earlier in the air quality impacts previously considered this chapter. There is nothing to suggest that the proposed scheme would have significant effects regarding odour or steam. Thus, the ExA find's that the Proposed Development would comply with paragraph 5.84 of the NPSNN and these matters do not weigh significantly for or against the DCO being made.
- 5.12.129. The requirement of paragraph 4.58 of the NPSNN to consider potential sources of nuisance and how they may be mitigated are satisfied by the Applicant's Statement Relating to Statutory Nuisance [[APP-122](#)] relevant chapters in the ES and the mitigation secured in the rDCO (Appendix D) and EMP [[REP8-007](#)].
- 5.12.130. Noting the substantial precedent for similar provisions to Article 44 of the dDCO, considering article 7 of the model provisions and recent National Highways orders such as the M20 Order (article 42) and the M4 Order (article 38), and the lack of any objections to this provision in response to direct questions, the ExA is satisfied that it is appropriate.
- 5.12.131. Section 158 of the 2008 Act confers statutory authority for the purposes of a defence in civil or criminal proceedings for nuisance. Article 44 provides a defence to proceedings brought in a magistrates' court under s.82(1) of the Environmental Protection Act 1990 in relation to certain

nuisances set out in paragraph 79(1) of that Act. The defence is available if the nuisance relates to: (a) the use of premises by National Highways for the purposes of or in connection with the construction or maintenance of the authorised development and is attributable to the carrying out of the authorised development in accordance with a notice served, or consent given, under the Control of Pollution Act 1974; or (b) the construction, maintenance or use of the Scheme and cannot reasonably be avoided.

- 5.12.132. Although the Applicant's Statement Relating to Statutory Nuisance [[APP-122](#)] highlights that none of the statutory nuisances identified in s79(1) EPA 1990 are predicted to result in significant issues there could be unforeseen effects and nuisance could occasionally occur. Thus, the ExA concludes that appropriate mitigation has been provided for relevant effects. In the event nuisance occurs as an unforeseen issue, or unavoidable and an inevitable consequence of the Proposed Development adequate remedy steps have been provided in the dDCO. Taking all of those matters together the ExA is content that there is a case for the entire authorised project to be covered by a defence against statutory nuisance claims in accordance with paragraph 5.87 of the NPSNN and as provided by s158 of the PA2008. Accordingly, the ExA also concludes that nuisance does not add any significant weight for or against the DCO being made to that identified elsewhere in this chapter.
- 5.12.133. The ExA finds that the Applicant has undertaken sensible steps to establish the effects of the Proposed Development on civil and military aviation and defence assets. There is no indication that it would materially affect such interests in accordance with paragraphs 5.47 and 5.54 of the NPSNN. Accordingly, these matters do not weigh significantly for or against the DCO being made.
- 5.12.134. With respect to all road safety and other safety matters. The Applicant's assessment of safety is robust and accords with the requirements of paragraphs 4.61, 4.62 and 4.64 of the NPSNN. It is accepted that the scheme is likely to save an estimated 242 accidents when compared with to a without the scheme scenario. That saving would include one fatal and 26 serious accidents over a 60-year period and translate to a monetised saving of £7.2 million. The evidence provided by the Applicant on those matters is deemed to be credible and weighs significantly in favour of the DCO being made.
- 5.12.135. The ExA finds there is nothing to suggest that the Proposed Development poses a material risk to, or is itself vulnerable to, national security considerations, in line with paragraphs 4.74 and 4.76 of the NPSNN. Thus, such issues do not weigh significantly for or against the DCO being made.
- 5.12.136. Bearing in mind the nature of the scheme the ExA does not find it necessary to consider the prospect of decommissioning in more detail.



- 5.12.137. With respect to cumulative effects - cumulative effects with other developments are considered as necessary for each topic in the earlier sections of this Chapter.
- 5.12.138. There is no strong basis to disagree with the Applicant's Cumulative Effects Assessment [[APP-052](#)] conclusions. Although disruption from a single project would result in some limited short term adverse impacts to various local receptors those issues are reported on by the Applicant in relation to the individual ES chapters. The residual cumulative effects during the construction and operational phases of the Proposed Development with of all of the other developments which were considered are not anticipated to contribute beyond the effects identified in relevant ES chapters.
- 5.12.139. The importance of a predicted reduction of almost 242 accidents when compared with to a without the scheme scenario is recognised in Section 5.6. The saving would include one fatal and 26 serious accidents over a 60-year period would amount to a significant beneficial road safety impact together with improvements to WCH facilities. Safety improvements weigh significantly in favour of the DCO being made.
- 5.12.140. Outside of the overall safety improvement benefits identified Section 5.6 which weigh the DCO's favour the ExA finds there are no significant safety detriments which otherwise weigh against it.

## **6. FINDINGS AND CONCLUSIONS IN RELATION TO HABITATS REGULATIONS ASSESSMENT**

### **6.1. INTRODUCTION**

- 6.1.1. This chapter sets out the ExA's reasoned conclusions relevant to the Habitats Regulations Assessment (HRA). The information provided will assist the Secretary of State for Transport (SoST) or those acting on behalf the SoST, as the competent authority, in performing the decision makers duties under the Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations').
- 6.1.2. Regulation 63 of the Habitats Regulations states that if a plan or project is likely to have a significant effect on a European site designated under the Habitats Regulations (either alone or in-combination with other plans or projects), then the competent authority must undertake an appropriate assessment of the implications for that site in view of its conservation objectives. Consent can only be granted if the appropriate assessment concludes that the integrity of European sites would not be adversely affected, subject to Regulation 64 (considerations of overriding public interest).
- 6.1.3. Paragraph 4.22 of the National Policy Statement for National Networks (NPSNN) requires the Secretary of State (SoS) to consider, under the Habitats Regulations, whether the Proposed Development could have a significant effect on the conservation objectives of a European site, or on any site to which the same protection is applied as a matter of policy, either alone or in combination with other plans or projects.
- 6.1.4. Paragraph 4.23 advises that applicants are required to provide enough information to enable the SoS to carry out an Appropriate Assessment if required. The information provided may also assist the SoS in concluding that an appropriate assessment is not required because significant effects on European sites are sufficiently unlikely that they can be excluded.

### **6.2. HRA IMPLICATIONS**

- 6.2.1. The Proposed Development is not connected with or necessary to the management for nature conservation purposes of any European sites.
- 6.2.2. In accordance with Regulation 5(2)(g) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (APFP Regulations), the Applicant provided a No Significant Effects Report (NSER) [[REP8-006](#)] (updated from [[APP-124](#)] and [[REP4-018](#)] during the Examination) as part of their application, together with screening matrices [[REP4-028](#)].
- 6.2.3. The NSER was produced using guidance in the DMRB LA 115 on 'Habitats Regulations Assessment' Revision 1, PINS Advice Note 10: Habitats

Regulations Assessment relevant to NSIPs and guidance from the European Commission: 'Managing Natura 2000 Sites'.

6.2.4. The study area for the screening assessment presented in the NSER [[REP8-006](#)] was defined as:

- 2km from the Proposed Development;
- 30km for any Special Areas of Conservation (SACs) for which bats are a qualifying feature; and
- instances where the Proposed Development crosses, is adjacent to, upstream of, or downstream of, watercourses designated in part or wholly as SACs, candidate Special Areas of Conservation (cSACs), possible Special Areas of Conservation (pSACs), Special Protection Areas (SPAs), possible Special Protection Areas (pSPAs) or Ramsar sites, as well as to cited SPA bird species where flight paths, feeding or roosting areas may occur outside the SPA boundary;
- where the Proposed Development has a potential hydrological or hydrogeological linkage to a European site containing a groundwater dependent terrestrial ecosystem which triggers the assessment of European sites in accordance with LA 113; and
- where the Proposed Development has an affected road network (ARN) which triggers the criteria for the assessment of European sites in accordance with DMRB LA 105.

6.2.5. It is noted by the ExA that one international site was initially included in the HRA screening in 2017 which does not fall within the above criteria. That site is Norfolk Valley Fens SAC which is designated for its fenland, woodland, grassland, and heath habitats and for snail species.

6.2.6. It was screened out of the Applicant's assessment because it does not meet any of the criteria for inclusion. The closest part of the SAC, Flordon Meadow, is over 6km south of the Proposed Development and drains into the River Tas which meets the River Yare 4.5km to the east (downstream) of the Proposed Development.

6.2.7. As such, the Proposed Development is identified by the NSER as not hydrologically or ecologically connected to the Norfolk Valley Fens SAC and has not been given further consideration by the Applicant.

6.2.8. The screening assessment undertaken identified potential for likely significant effect pathways between the Proposed Development on the following international sites:

- The Broads SAC;
- Broadland SPA; and the
- Broadland Ramsar site.

- 6.2.9. The Broadlands SPA and Ramsar site lie around 11.5km east of the Proposed Development at its nearest point. This international site is hydrologically connected to the Proposed Development, first through Cantley Stream, which flows into Mill Stream and then the River Yare, before connecting to Broadland SPA and Broadland Ramsar site. Therefore, it was anticipated by the Applicant that there may be indirect effects on the qualifying bird species as they are likely to move through or utilise this hydrological corridor.
- 6.2.10. A review of the potential implications to the SAC arising from the works subject to the application was undertaken, and related evidence was gathered as part of the Environmental Impact Assessment (EIA) of the potential effects, alongside appropriate screening matrices using the guidance contained in Planning Inspectorate Advice Note Ten: Habitats Regulations Assessment (November 2017 Version 8).
- 6.2.11. Based on those submitted screening matrices it is considered by the Applicant that there are no reasonably foreseeable likely significant effects on any of the European sites arising from the Proposed Development during construction or operation, primarily as a result of the 11.5km distance between the sites and the Proposed Development.
- 6.2.12. The screening process referred to assessed each potential affect to conclude whether they would cause a likely significant effect on the features associated with identified sites.
- 6.2.13. As part of that process, it was noted that otters are a qualifying feature for the Broads SAC and Broadlands Ramsar site. Otter surveys were undertaken throughout the study area in 2016, 2018 and 2020. Signs of otter were recorded along Cantley Stream throughout the study area that suggest that Cantley Stream is used by commuting otters. Camera trap surveys undertaken by the Applicant did not identify otters being present in the Order limits. Because otters are also a European Protected Species and have been assessed as part of the EIA process, full details of the assessment of the potential effects of Proposed Development upon otters are presented in the biodiversity chapter of the Applicant's ES.
- 6.2.14. None of the qualifying features of the Broadlands SPA and Ramsar site were recorded in the study area during 2017, 2018 or 2019 wintering bird surveys undertaken by the Applicant. In addition, there is either no habitat available for the species that have specific habitat requirements, or there is more suitable foraging habitat within and closer to the boundary of the SPA and Ramsar site. On that basis it is considered by the Applicant that no likely significant effect is expected for all of the qualifying features of the SPA and Ramsar site.
- 6.2.15. The conclusions of the screening exercise evidenced in the Examination as being undertaken in February 2020 were discussed with the Natural England in addition to prior consultations which were carried out in 2019. It was agreed that as the Assessment of Implications on European Sites report produced in 2017 was preliminary and based on information then available that the screening exercise would be updated and reviewed as

the scheme progressed. The NSER demonstrates compliance with that advice.

- 6.2.16. In addition, in November 2020, the Applicant undertook consultation with Natural England pertaining to the findings within the NSER to inform the HRA, which were subsequently reviewed and approved by Natural England.
- 6.2.17. The Order land is not identified as being located within any SAC, cSAC, pSAC, SPA, pSPA or Ramsar sites, nor is it within 2km of such sites.
- 6.2.18. The Order land does not cross or lie adjacent to any watercourses which are designated in part or wholly as a SAC, cSAC, pSAC, SPA, pSPA or Ramsar site.
- 6.2.19. The Order limits do not fall within nor affect the Site of Special Scientific Interest (SSSI) Risk Impact Zone of any European designated sites. No other potential constraints on European sites were identified and no in-combination effects with other plans or projects are anticipated.
- 6.2.20. The Applicant did not identify any potential impacts on European sites in any European Economic Area States.
- 6.2.21. No convincing evidence came to light during the Examination to cast any significant doubt on the findings of the NSER provided by the Applicant. Questions from the ExA relating to the HRA were issued and the Applicant's responses including the submission of a revised NSER addressed all queries made fully.
- 6.2.22. Moreover, it is accepted in the Applicant's NSER that there is potential for species to be missed or go unnoticed due to the nature of breeding bird and wintering bird surveys and possibilities of birds not vocalising or being in dense vegetation. There is also potential to miss species those that are most active at dawn or dusk. During various ecological surveys undertaken in the area by the Applicant, casual sightings of such species were observed, and these incidental sightings have been considered in the Applicant's overall assessment.
- 6.2.23. The ExA is satisfied that the Applicant has correctly identified the relevant European sites and qualifying features/interests for consideration within the NSER.
- 6.2.24. The ExA is satisfied with the overall content of the Application documents and NSER, and that the Applicant has not relied on mitigation measures in reaching its conclusion on HRA matters. The ExA concludes that the Proposed Development would have no significant effects on any European sites, and therefore no European sites are required to be considered and taken forward to Appropriate Assessment.

### **6.3. HRA CONCLUSIONS**

- 6.3.1. The ExA's understanding of HRA matters in relation to the Proposed Development is drawn from the information provided in the application,

with reference to the Applicant's NSER [[REP8-006](#)] as part of their application, together with screening matrices [[REP4-028](#)].

- 6.3.2. No new relevant or important HRA issues or concerns were raised during the Examination by any Interested Parties and Natural England which provide a convincing basis to take a view contrary to the findings of the Applicant's NSER.
- 6.3.3. The ExA is satisfied that sufficient consideration has been given to the likely significant effects of the Proposed Development and that such effects can be ruled out due to the nature of the pathways involved. On that basis, the ExA concludes that there is no requirement to undertake an Appropriate Assessment of the potential effects of the Proposed Development on the European sites.

## **7. CONCLUSION ON THE CASE FOR DEVELOPMENT CONSENT**

### **7.1. INTRODUCTION**

- 7.1.1. This Chapter sets out the reasoning and conclusions on whether there is a case for the making of a Development Consent Order (DCO) for the Proposed Development.
- 7.1.2. The ExA's conclusions are based on the provisions of the recommended DCO (rDCO) (Appendix D), the drafting of which is discussed in Chapter 8.
- 7.1.3. Relevant legislation and policy have been identified in Chapter 3. Consideration towards the need for the Proposed Development in Section 5.3 of this report (taking into considerations in Chapter 4) and the potential effects Chapters 5 and 6.
- 7.1.4. Following that brief introduction, the remainder of this Chapter specifically considers:
- the matters to be taken into account as required by the Planning Act 2008 (PA2008) and other relevant legislation and policy including the need case for the Proposed Development;
  - the likely impacts of the Proposed Development by topic; and
  - the planning balance and conclusions.
- 7.1.5. Matters in relation to Compulsory Acquisition (CA) and Temporary Possession (TP) of land and/or rights and the creation of new rights over land are discussed in Chapter 8.

### **7.2. THE PLANNING BALANCE**

- 7.2.1. The designated National Policy Statement for National Networks (NPSNN) provides the primary basis for making decisions on development consent applications for national networks Nationally Significant Infrastructure Projects (NSIP) in England by the Secretary of State for Transport (SoST).
- 7.2.2. The Examining Authority's (ExA's) conclusions on the case for making a DCO are therefore reached within the context of the policies contained in the NPSNN. Also, as indicated in Chapters 3 and 4, the ExA has taken all other relevant law and policy into account including due regard to the Public Sector Equality Duty (PSED).
- 7.2.3. Paragraph 4.2 of the NPSNN advises that, subject to the detailed policies in the NPSNN and the provisions of s104 of the PA2008, there is a presumption in favour of granting development consent for NSIPs that fall within the need for infrastructure established in the NPSNN.

7.2.4. Section 104 of the PA2008 requires the Secretary of State (SoS) to decide an application for a national networks NSIP in accordance with the NPSNN, unless it is satisfied that to do so would:

- lead to the United Kingdom (UK) being in breach of its international obligations;
- be unlawful;
- lead to the SoS being in breach of any duty imposed by or under any legislation;
- result in adverse impacts of the development outweighing its benefits; or
- be contrary to legislation about how the decisions are to be taken

7.2.5. Paragraph 4.3 of the NPSNN states that "*In considering any proposed development, and in particular, when weighing its adverse impacts against its benefits, the Examining Authority and the Secretary of State should take into account:*

- *its potential benefits, including the facilitation of economic development, including job creation, housing and environmental improvement, and any long-term or wider benefits;*
- *its potential adverse impacts, including any longer-term and cumulative adverse impacts, as well as any measures to avoid, reduce or compensate for any adverse impacts."*

7.2.6. The ExA's conclusions are informed by all evidence presented to the Examination, including the application documents, the Environmental Statement (ES), the Habitats Regulations Assessment (HRA), the Local Impact Reports (LIR), Statements of Common Ground (SoCG), Relevant and Written Representations, oral submissions at the hearings, answers to questions, responses to requests for information and the Unaccompanied Site Inspections undertaken.

### **7.3. THE NEED CASE FOR THE PROPOSED DEVELOPMENT**

7.3.1. The Applicant's need case for the Proposed Development and the benefits arising from it are set out in the Case for the Scheme [[APP-125](#)].

7.3.2. The Applicant's need case and submissions made on it during the Examination are addressed in Section 5.2 of this report and the proceeding Sections taken in the round. The ExA is satisfied that the need for the Proposed Development has been established in accordance with the requirements of the NPSNN.

7.3.3. The main benefits arising from the Proposed Development set out in the Applicant's need case [[APP-125](#)] include that it would:



- Result in economic benefits from increased road capacity to support regional and local housing and employment growth;
- Reduce congestion;
- Reduce road accidents and fatalities in the long term;
- Reduce transport costs; and
- Allow more reliable journey times and therefore support businesses accessing Peterborough, Kings Lynn, London, Cambridge, the Midlands and the North.

7.3.4. Norfolk County Council's (NCC's) LIR [\[REP1-008\]](#) in particular gives notable support for the principle of upgrading the Thickthorn Junction which is accepted as being subject to ongoing traffic congestion. Moreover, the need for the upgrade of the junction infrastructure was established in the Greater Norwich City Deal to support growth plans for the area. It is also accepted that the A47/A11 Thickthorn Junction is operating at over capacity on a number of approaches which will worsen with increased traffic growth.

7.3.5. Having considered all submissions to the Examination, including the LIRs and detailed consideration of relevant matters in Chapters 4 and 5, the ExA is satisfied that the benefits identified by the Applicant would be likely to be delivered by the Proposed Development. The ExA finds that the benefits articulated weigh heavily in favour of the DCO being made.

## **7.4. LIKELY IMPACTS OF THE PROPOSED DEVELOPMENT**

7.4.1. This section provides a summary of the conclusions found in Chapter 5 focusing on:

- the Applicant's assessment methodology and findings;
- key issues considered during the Examination;
- the adequacy of mitigation measures and how they are secured;
- compliance with the NPSNN; and
- matters weighing significantly for or against the making of the DCO.

7.4.2. Unless directed otherwise by the NPSNN or otherwise stated below, the matters that the ExA to consider weigh significantly for or against the making of the DCO for each topic are the likely significant beneficial or adverse effects identified in Chapter 5.

### **Environmental Impact Assessment**

7.4.3. The Proposed Development is Environment Impact Assessment (EIA) development. Apart from specific issues towards cumulative impacts and

related climate change matters set out below, no other submissions were made which raised substantive concerns about the overall adequacy of the ES. Nonetheless, the ES and associated information submitted by the Applicant during the Examination provided an adequate overall assessment of the environmental effects of the Proposed Development in accordance with the requirements of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.

7.4.4. The ExA has found that Applicant has defined the Rochdale Envelope and sufficient controls are in place through the rDCO (Appendix D) and the Environmental Management Plan (EMP) [[REP8-007](#)] to mitigate the effects identified using the Rochdale Envelope. The ES also gives sufficient consideration to alternatives to the Proposed Development.

7.4.5. Regarding Transboundary impacts, the ExA agreed with the Secretary of State for Housing, Communities and Local Government's screening opinion that the Proposed Development is unlikely to have a significant effect either alone or cumulatively on the environment in another European Economic Area State. Consequently, it is considered that the EIA process has been undertaken satisfactorily.

#### **Habitats Regulation Assessment**

7.4.6. The HRA is a matter for the SoST to undertake as the decision maker and competent authority. Nevertheless, the ExA is satisfied that there would be no likely significant effects arising from the Proposed Development on European Sites. The ExA concludes that there is no requirement to undertake an Appropriate Assessment of the Proposed Development.

#### **Traffic and Transport**

7.4.7. In accordance with paragraph 5.204 of the NPSNN, the local highway authority and local planning authority indicated that the Applicant has consulted with them on the assessment of transport impacts. There is clear evidence provided that the Applicant has taken account of local models, consistent with paragraph 5.212 of the NPSNN. Although Interested Parties have questioned the accuracy of the traffic modelling owing to no background data being available, the ExA finds that the model information provided by the Applicant can be taken in confidence in its suitability for the purposes of assessment.

7.4.8. Matters arising during the Examination included congestion on local roads during the construction phase, maintenance of roads, the potential for increased waiting times on the Cantley Lane link road, the impact to the local bus network. Those matters have been fully considered and there is reasonable mitigation secured in the rDCO (Appendix D) consistent with paragraph 5.215 of the NPSNN.

7.4.9. The results of traffic modelling have been used for: assessing driver stress; noise and vibration, air quality; climate change; safety as well as gauging social and economic impacts.

- 7.4.10. The ExA is satisfied that the traffic modelling, anticipation of traffic flows, congestion and delays, as well as associated mitigation during the construction and operational phases are appropriate for use in assessment of other matters.
- 7.4.11. The ExA is satisfied that the Proposed Development seeks to address a specific traffic congestion issue at the Thickthorn junction as required by paragraph 2.24 of the NPSNN. During the operational phase it would support the reduction of journey times and release capacity in the road network.
- 7.4.12. The ExA finds that there is likely to be a beneficial effect for users of the A47 in terms of journey time reductions that would be significant.

### **Air Quality**

- 7.4.13. The ExA has found that the Applicant's study area, selection of receptors (as well as its rationale for choosing those), baseline conditions, changes to vehicle emission rates, type of emissions, assessment of significant effects, and the methodology are all appropriate for the purposes of the air quality assessment.
- 7.4.14. Adequate consideration has been given to vehicle emissions, how more stringent emission standards are expected to reduce particulate matter of 10 micrometres or less in diameter (PM<sub>10</sub>) and nitrogen oxide NO<sub>x</sub> emissions, air quality effects over the wider area, relevant statutory air quality thresholds as required by paragraphs 2.16, 3.6-8 and 5.10-12 of the NPSNN.
- 7.4.15. Matters arising from the Examination included regard to compliance with the Air Quality Directive (AQD), construction emissions, vehicle emissions, nitrogen dioxide monitoring, mitigation in general terms, dust mitigation and monitoring during construction, general health impacts.
- 7.4.16. The ExA finds that the consideration of mitigation for potential effects including those specified in paragraph 5.15 of the NPSNN is appropriate, and that necessary measures are secured in the rDCO (Appendix D).
- 7.4.17. With respect to the AQD implications. The Proposed Development would be unlikely to cause any delays in non-compliant areas becoming compliant, or to cause any compliant areas to become non-compliant. The requirements of paragraphs 5.9 and 5.13 of the NPSNN have therefore been satisfied.
- 7.4.18. The Proposed Development is unlikely to result in any significant effects with respect to air quality considering the nature of the junction improvement works involved.
- 7.4.19. Bringing all of those points together, the ExA considers that air quality effects do not weigh significantly for or against the DCO being made.

### **Noise and vibration**

- 7.4.20. The ExA is satisfied that the Applicant's consideration of baseline conditions, study area, baseline surveys, noise models, identification of receptors, best practice, cumulative impacts and assessment methodology are appropriate for the purposes of the noise and vibration assessment. The ExA is content that the likely reasonable worst-case noise and vibration effects have been identified.
- 7.4.21. The ExA has given due consideration to matters arising in the Examination including Noise Important Areas (NIA), the duration of effects, the case for noise and vibration limits, best practice, day/night-time works, road surfacing, noise barriers and mitigation measures.
- 7.4.22. The ExA is satisfied that appropriate, proportionate, and reasonable mitigation has been secured in the rDCO (Appendix D) and the EMP [REP8-007]. The ExA is also satisfied that the considerations of paragraph 5.194 of the NSPNN regarding the optimisation of the scheme layout have been met.
- 7.4.23. Significant noise effects would occur without mitigation at some of the receptors closest to construction works. The ExA agrees where all mitigation is implemented effectively, no significant residual construction noise effects are likely.
- 7.4.24. In terms of the assessment of potential construction vibration impacts the Applicant has identified that significant effects would occur without mitigation at the closest receptors to vibration-generating activities. Therefore, prior warning to residents, pre-condition building surveys, restrictions on the timings of the works, and vibration monitoring are proposed as mitigation at the closest properties to these works. It is also necessary for the Principal Contractor to carry out further detailed assessments of vibration from piling at receptors in the vicinity of the S45 Cantley Lane footbridge works and the S46 and S47 Cantley Lane culvert works. The ExA is satisfied with these mitigations secured in the rDCO (Appendix D) taking into account the EMP [REP8-007] and the OTMP [APP-129]. Vibration due to construction is not expected to result in any significant effects subject to the effective implementation of this mitigation.
- 7.4.25. The effects of construction traffic has been anticipated by the Applicant. The ExA agrees that provided vehicle movements and routes are restricted as described by the Applicant and defined in the Outline Traffic Management Plan (OTMP) and subsequent Traffic Management Plan (TMP), potential significant effects are unlikely.
- 7.4.26. An assessment of operational noise has been carried out and demonstrates that there are no significant adverse or significant beneficial noise effects expected due to changes in road traffic noise. This applies at all receptors within the study area and the NIAs. Mitigation is not necessary to avoid significant adverse operational traffic noise effects.

- 7.4.27. When considering the potential impacts against the Lowest Observed Effect Level (LOAEL) and Significant Observed Adverse Effect Level (SOAEL) values, the Proposed Development meets the policy aims of NPSNN and Noise Policy Statement for England (NPSE).
- 7.4.28. The ExA finds that there are unlikely to be any significant adverse nor beneficial effects arising from noise or vibration associated to the scheme should the mitigation measures identified by the Applicant be successfully implemented.

### **The Water Environment**

- 7.4.29. The ExA is content that the Applicant's revised Flood Risk Assessment (FRA) [[REP3-008](#)] makes appropriate allowance for climate change and meeting the requirements of the NPSNN.
- 7.4.30. The Environment Agency's flood map for planning and the Greater Norwich Strategic FRA identifies the majority of the Proposed Development lies within Flood Zone 1. There are areas identified within Flood Zones 2, 3a and the indicative extent of Flood Zone 3b. Those areas are associated with Cantley Stream and its floodplain.
- 7.4.31. The Proposed Development is accepted as being at low risk of flooding from water, sewerage, and highway infrastructure failure. It is not at risk of flooding from canals, reservoir failure or tidal sources.
- 7.4.32. The removal of the throttle at the Cantley Lane South culvert, extension of the A11 culvert and Cantley Lane stream realignment have the potential to alter existing patterns of flood risk. However, no 'more vulnerable' (as defined under the National Planning Policy Framework (NPPF) flood risk vulnerability classification) receptors are predicted to be affected by the Proposed Development.
- 7.4.33. Discharge from the proposed drainage system to Cantley Stream will have negligible impacts on flood risk at Cantley Stream and on freeboard at the new Cantley Lane South culvert. The Proposed Development is unlikely to result in additional fluvial or surface water flood risk.
- 7.4.34. Potential impacts on flood risk during construction would be mitigated by the implementation of appropriate temporary drainage measures which will be outlined in temporary works drainage strategy and implemented through the rDCO (Appendix D) and EMP [[REP8-007](#)].
- 7.4.35. The ExA is satisfied the FRA has considered the risk to the Proposed Development and the risk posed by the Proposed Development on flooding from all sources. Due regard has also been given to Sustainable Drainage Systems provision by the Applicant. The ExA is also content that with mitigation as part of the Proposed Development it is very unlikely to cause any increase in surface water and groundwater flood risk elsewhere. There are changes to the patterns of flood risk resulting from the removal of the existing Cantley Lane South culvert throttle and the stream realignment to downstream farmland and amenity areas.

However, the development is considered compliant under the requirements of the NPPF and NPSNN.

- 7.4.36. Overall, the ExA finds that the effect of the Proposed Development on the water environment does not weigh significantly for or against the DCO being made.

### **Biodiversity and ecology**

- 7.4.37. The Applicant has proposed a series of ecological design and mitigation measures during the operational phase. Biodiversity gains and losses have been assessed by the Applicant using the Defra metric 2.0, which has informed the proposed mitigation measures to minimise the effects of the Proposed Development.
- 7.4.38. It is accepted by the ExA that the scheme would have a neutral effect on European Sites as well as the Eaton Chalk Pit Site of Special Scientific Interest (SSSI) during construction and operation. The ExA is also satisfied there would be a neutral effect during construction and operation on Eaton Common, Earlham Park Woods and Marston Marshes local nature reserve (LNR) and all County Wildlife Sites. Moreover, the priority habitats of lowland fens, traditional orchards, rivers, coastal and floodplain grazing marsh, standing water (ponds), wood pasture and parkland were assessed as being affected at a significance of neutral residual effects is not opposed.
- 7.4.39. The ExA agrees existing deciduous woodland, and hedgerows will have significant moderate adverse residual effects due to the lag to achieve their former maturity. In particular, the loss of two veteran trees would have a significant large adverse residual effect as they are 'irreplaceable'.
- 7.4.40. Protected species that are to be licensed (loss of bat roosts and water vole) would have neutral residual effects as mitigation within the licence method statements would be required and developed to remove any harm from occurring to them and would have to include increased habitat for them. Bats have a slight adverse residual effect overall, due to the time lag between loss of habitat and the remediated habitats reaching maturity which could lead to traffic mortality.
- 7.4.41. All pre- and post- construction monitoring would be delivered as outlined in the EMP. The likely significant effects which have been predicted for each ecological receptor are reliant on the successful application of mitigation measures. The ExA is satisfied that all other residual effects for construction and operation after mitigation would be neutral or slight adverse. It is accepted that slight adverse impacts identified would not be significant.
- 7.4.42. Overall, the value placed on veteran trees in the NPSNN weighs significantly against the Proposed Development. In the planning balance below, the ExA considers whether the national need for, and benefits of, the Proposed Development clearly outweigh the loss of the trees, as required by paragraph 5.32 of the NPSNN.

## Landscape and Visual

- 7.4.43. The ExA is content that the methodology used for the assessment of landscape and visual effects was robust and allowed the effects of the Proposed Development to be properly considered in accordance with the relevant policies of the NPSNN.
- 7.4.44. The proposed removal of veteran trees (and any other trees) within the scheme improvement boundary was a matter of notable concern locally during the Examination. As a consequence of woodland and tree removal during the construction phase, the effect on the Yare Tributary Farmland with Parkland landscape character area during construction would be moderate adverse in magnitude and result in a moderate adverse significance of effect.
- 7.4.45. The construction of the Proposed Development would negatively impact existing views. The removal of existing vegetation would lead to an increased levels of openness from public vantages and the disruption caused by construction earthworks combined with the diverse and extensive influence of construction vehicles, machinery, materials, and haul routes would notably contrast with the rural surroundings away from the existing trunk roads. This is particularly relevant in the vicinity of Cantley Lane South.
- 7.4.46. Adverse residual effects after a period of 15 years would be associated with the irreplaceable loss of the two veteran trees north of the A11 and of several mature roadside trees at Cantley Lane South.
- 7.4.47. Changes in landscape character would principally be associated with the removal of areas of woodland and tree cover; the introduction of the additional overbridges at the new Cantley Lane Link road; the new pedestrian footbridge; the changes that would take place to create the new junction of the Cantley Lane Link road with the realigned section of the existing Cantley Lane South. At the latter location, the new local road highway infrastructure would differ in character to the existing very narrow, tree-lined and informal rural character at Cantley Lane South.
- 7.4.48. As a direct consequence of construction there would be a moderate adverse effect on landscape character. This would principally be associated with the removal of areas of woodland and individual trees.
- 7.4.49. The ExA is satisfied by year 15 of operation, with the establishment of appropriate landscape mitigation, effects on landscape character would be slight adverse. By year 15 of operation the establishment appropriate planting would enable screening and landscape integration. Accepting there is scope for further overall aesthetic enhancement. Significant visual effects at year 15 would be limited to residential properties close to the proposed new junction at Cantley Lane South.
- 7.4.50. The Applicant's Engineering Drawings [[REP9-002](#)] and Environmental Masterplan [[APP-123](#)] (updated to [[AS-032](#)] following a non-material change) are both not at a final design stage. Therefore, further aesthetic enhancements to both landscaping provision and the design of the

proposed pedestrian footbridge are realistically possible when applying the good design advice of the NPSNN and the NPPF.

- 7.4.51. Appropriate wording in the requirements of the rDCO would facilitate the consideration of additional enhancements through a Design Review mechanism.
- 7.4.52. In making that assessment, the ExA is aware the Design Manual for Roads and Bridges (DMRB) LA107 requires that the effect of the Proposed Development on landscape and visual amenity is to be assessed independently and the outcome combined into a single conclusion on the overall likely significance of effect.
- 7.4.53. However, the scheme is focused within a relatively small geographical quadrant rather than a solely linear road proposal. Thereby the resultant effects are more concentrated. Thus, a single combined conclusion approach recommended in the DMRB would not be appropriate as it would not reflect the quadrant nature of the scheme and the overall effects where the development is most concentrated.
- 7.4.54. Overall, the ExA finds that the following harms are negative factors which weigh against the DCO being made, albeit taken in the context that a road improvement scheme by its nature is likely to result in some visual harm:
- A moderate adverse permanent effect on landscape character during construction. Principally associated with the removal of areas of woodland and individual veteran trees.
  - A very large to moderate adverse visual effect to receptors during construction in the vicinity of the proposed junction of the new Cantley Lane Link Road and the realigned section of Cantley Lane South near Cantley Stream.
  - Moderate adverse effects on landscape character of the Yare Tributary Farmland with Parkland, Landscape Character Area (LCA) in the opening year reducing to slight adverse impacts by year 15.
  - Moderate to large adverse effects during operation on some visual receptors. Particularly in the vicinity of the proposed junction of the new Cantley Lane Link road and the realigned section of Cantley Lane South near Cantley Stream.

#### **Land use, social and economic**

- 7.4.55. Impacts on population and human health are predominantly not significant during operational phases. However, the exception to that is users of Cringleford footpath 4A would experience a moderate adverse effect due to journey increases associated with the permanent diversion of the footpath across the new Cantley Lane Footbridge (Cringleford).
- 7.4.56. Beneficial effects would be experienced by horse-riders and cyclists travelling between Cantley Lane and Cantley Lane South via the new



Cantley Lane footbridge and by pedestrians and cyclists travelling along the shared footway and cycleway which would be provided on the eastern frontage of the Cantley Lane link road.

- 7.4.57. Regarding the effect of the proposal on human health, the ExA did not find that there would be significant impacts due to reductions in air quality or access to facilities.
- 7.4.58. The ExA is satisfied that appropriate consideration has been given to non-motorised users (NMUs). Moreover, during the operational phase, the easing of congestion should improve the reliability of bus journeys passing through the junctions.
- 7.4.59. The loss of a proposed area of public open space at the extant Cringleford residential development currently under construction would result in a large adverse effect should an alternative solution not be agreed with the developer (Big Sky Developments Limited, which is Council owned) and local planning authority. There is nothing submitted to the Examination which suggests that cannot be realistically achieved.
- 7.4.60. During construction, there are likely to be some effects on local communities and potentially their health in terms of the noise and dust created by construction activities and the visual amenity impact of construction vehicles and compounds. Mitigation measures including the provisions within the EMP [[REP8-007](#)], the subsequent further iterations secured by the DCO, alongside provision of a Community Liaison Officer is expected to be successful in minimising those temporary effects as far as possible.
- 7.4.61. The Proposed Development is unlikely to have a negative impact on the long-term viability of the majority of the agricultural holdings identified as part of the Applicant's assessment. However, during construction phases, considerable disruption to access of adjacent agricultural blocks farmed by holding 2 is likely. Moreover, the permanent land take required from holding 2 will result in a moderate adverse effect for both the construction and operation of the Proposed Development.
- 7.4.62. In conclusion the ExA found the following benefits as positive factors to weigh in favour of the DCO:
- The substantial economic betterments the scheme would result in.
  - The substantial improvements to human safety. Through road accident reduction including minimising accident related fatalities.
  - Permanent beneficial effects for walkers, cyclists and horse riders which are partially also related to the positive weight attributed to improved long term journey times to community services and general delay reduction in the wider area.
- 7.4.63. Some adverse effects were identified by the ExA which are attributed negative weight. These are:

- The temporary short-term combined effects on local communities in board health terms having regard to temporary noise and dust from construction activity as well as the associated localised visual amenity impact of construction vehicles and compounds during construction and subject to EMP provision.
- The existing users of Cringleford footpath 4A would experience a moderate adverse effect due to journey increases associated with the permanent diversion of the footpath across the new Cantley Lane Footbridge (Cringleford).
- The loss of a proposed area of public open space at the Cringleford Residential Development should an appropriate alternative solution not be agreed with Big Sky and local planning authority through variation of existing s106 commitments. This was not demonstrated during the Examination period.
- The effects of the proposed land take from affected agricultural holdings when considered collectively. In particular, disruption to access of adjacent agricultural blocks farmed by Holding 2.

### **The Historic Environment**

- 7.4.64. The ExA is satisfied that the Applicant's assessment has identified the significance of all relevant heritage assets and their settings which would be potentially affected by the Proposed Development. The Applicant's assessment also includes sufficient information to allow the nature and value of the significance of the assets to be properly understood.
- 7.4.65. There is one designated heritage asset located within the DCO boundary, Milestone No.4, grade II listed building, for which protection with fencing throughout construction is recommended and therefore no impact is predicted.
- 7.4.66. Impacts upon historic landscape character have largely been minimised by the Applicant restricting the DCO boundary of the Proposed Development. This includes regard to the position of the scheduled ancient monument 'Two Tumuli in Big Wood' and Thickthorn Hall (a grade II listed building) which are both outside the boundary.
- 7.4.67. An enhancement or public benefit through the provision of an information board has been identified by the Applicant on the proposed pathway on the Cantley Lane link road, particularly should a line of sight be possible to Two Tumuli in Big Wood. This is recognised by the ExA an opportunity for significant enhancement as the barrows are not currently publicly accessible and recognition of the cultural importance of the monument would encourage the appreciation of it for all members of society.
- 7.4.68. A significant large adverse residual construction phase effects have been identified to the setting of Two Tumuli in Big Wood.
- 7.4.69. Slight adverse residual construction phase effects have been identified in respect of a further six Grade II listed buildings (Thickthorn Hall, Kitchen

Garden Walls; The Round House; North House and The Farmhouse; Cantley House; and Milestone No. 4) for which minor magnitude effects are predicted.

- 7.4.70. No significant effects have been identified as a result of permanent construction phase impacts. All identified effects can effectively be mitigated through archaeological recording.
- 7.4.71. In terms of residual operational effects, the impact assessment has identified a moderate residual adverse effect in respect of the scheduled monument 'Two Tumuli in Big Wood'. This would arise as a result of permanent alteration of its setting from construction of the Cantley Lane link road, including potential noise and visual intrusion. The permanent effect relates to the severance of a significant aspect of the asset's setting, in which the barrows historically could be viewed prominently from downslope to the south.
- 7.4.72. Slight adverse residual effects on setting have been identified as a result of the operation of the Proposed Development upon which minor or moderate magnitude impacts are predicted for two grade II listed buildings (Thickthorn Hall, and Kitchen Garden Walls and attached building) and associated undesignated heritage assets within the setting of Thickthorn Hall, two undesignated heritage assets (site of limekilns and tramway, and Lodge House), and the unregistered historic landscape within and adjacent to the Proposed Development DCO boundary.
- 7.4.73. Appropriate cultural heritage noise sensitive receptors have been assessed by the Applicant. The noise and vibration impact assessment identifies that significant adverse noise or vibration effects are not predicted at any of these receptors as a result of construction or operation of the Proposed Development.
- 7.4.74. At the scheduled monument effects of the Proposed Development are predicted to be a minor to moderate reduction in noise change (although this does not lead a significant beneficial noise effect). At the rest of the receptors, there is only predicted to be a negligible reduction in noise levels during operation of the Proposed Development.
- 7.4.75. Overall, the ExA has found that the Proposed Development has the potential for some minor beneficial but also adverse effects on cultural heritage assets. That said, the adverse effects have been reduced or eliminated as far as possible by the Applicant through a combination of sensitive design and targeted mitigation.
- 7.4.76. Design intervention and mitigation has been included in the Applicant's impact assessments for the heritage assets. A planting plan which would be incorporated into the Environmental Masterplan [[APP-123](#)] (updated to [[AS-032](#)] following a non-material change) would go some way to reduce adverse effects on the setting of several cultural heritage sites. Accepting there is scope for further enhancements via a Design Review before the final Environmental Masterplan is settled on.

- 7.4.77. Temporary construction phase impacts upon four designated heritage assets ranging from slight to large effects are considered to be short term (less than four years) and reversible and therefore are not considered to be significant.
- 7.4.78. Overall, the ExA concluded that the following elements are adverse impacts which weigh against the DCO being made:
- Less than substantial harm to the setting of a scheduled ancient monument (Two Tumuli in Big Wood);
  - Less than substantial harm to the setting of two nearby listed buildings (Thickthorn Hall and Kitchen Garden walls and attached octagonal building c.60 metres (m) north-east of Thickthorn Hall);
  - Slight adverse effects on the setting several non-designated heritage assets (Thickthorn Park; Lodge House; Thickthorn Lodge; Hollow way; Medieval moat; site of lime kilns and tramway); and
  - Slight adverse impacts on the overall non-designated historic landscape character setting within the DCO boundary.

### **Climate Change**

- 7.4.79. When applying paragraph 5.17 of the NPSNN, the Applicant has identified that the emissions arising as a result of the Proposed Development represent less than 0.0102% of the total emissions in any five-year UK carbon budget during which they would arise [[AS-041](#)]. That figure would be lower bearing in mind sensitivity testing for electric vehicle uptake evidenced. The ExA therefore is satisfied that the greenhouse gas emissions impact of the Proposed Development taken in isolation would be unlikely to have a material impact on the UK Government meeting the carbon reduction targets in place at the time of the assessment.
- 7.4.80. Under the Climate Change Act 2008 a net zero carbon by 2050 target was introduced. The Applicant has sought to demonstrate that the Proposed Development would not affect the ability of the Government to meet the new target. The ExA finds that there is no convincing information available which suggests the Government would not be able to achieve the target when across the board aspects of achieving the net zero aim are taken in the round. That view takes into account recently published national Plans and Strategies which give a clear framework and confidence to the UK being able to meet its statutory obligations alongside the other information evidenced by the Applicant.
- 7.4.81. The SoST will still need to be satisfied on all related climate change matters before making a decision should there be any other relevant legal decisions which may affect the reasoning given in this report in the interim. But in the view of the ExA there is nothing convincing evidenced which would prevent compliance with s104(4) of the PA2008, with respect to the development applied for.

7.4.82. Moreover, it is accepted by the ExA that the vulnerability of the scheme improvement works to climate change, projected climate change is not anticipated to have a significant effect.

7.4.83. Overall, the ExA has found that resultant climate change effects do not weigh for or against the DCO.

#### **Cumulative impacts**

7.4.84. Overall, the ExA has found that cumulative impacts do not weigh for or against the DCO.

### **7.5. PLANNING BALANCE AND OVERALL CONCLUSIONS**

7.5.1. In reaching my conclusions on the case for making the DCO, I have had regard to NPSNN, the NPPF, the LIRs and all other matters which I consider are both important and relevant to the SoST's decision.

7.5.2. When applying the provisions of s104 of the PA2008 the ExA is satisfied that the development accords with the content of the NPSNN, which subsequently directs approval.

7.5.3. The ExA considers that the environmental information submitted by the Applicant, including the ES, other environmental information obtained during the Examination and information relevant to the HRA, meets the statutory and policy requirements triggered. The ExA has taken it into account, along with all submissions made to the Examination, in reaching the recommendation and the view of the ExA is that the SoST can rely on it in determining the case for making the DCO.

7.5.4. The ExA has considered the following matters and, for the reasons given above and subject to the SoST's consideration of compliance with the Paris Agreement 2015, cumulative carbon emissions and meeting the target of net zero carbon by 2050, it is concluded that they do not weigh significantly for or against the DCO being made:

- air quality;
- noise and vibration;
- the water environment and flood risks;
- climate change impacts;
- Land instability and contaminated land impacts;
- Waste management and material assets impacts;
- Nuisance issues; and dust, odour and artificial light impacts;
- civil and military aviation and defence interests;
- safety;

- security, major accidents, and disasters impacts; or
- decommissioning interests.

7.5.5. Consequently, now fall the benefits weighing significantly in favour of making the DCO and matters weighing significantly against, before considering the balance of issues and reaching the ExA's conclusions.

**Benefits weighing significantly in favour of the DCO being made**

7.5.6. The Proposed Development would deliver an NSIP, the need for which has been demonstrated as a matter of UK Government policy.

7.5.7. Paragraph 4.2 of the NPSNN advises that, subject to the detailed policies in the NPSNN and the provisions of section 104 of the PA2008, there is a presumption in favour of granting development consent for NSIPs that meet an established national need for infrastructure.

7.5.8. The ExA notes the Government's strong policy support for schemes that seek to deliver a well-functioning SRN. In providing junction improvements to the SRN to address congestion and improve performance the Proposed Development would help to deliver this policy in accordance with paragraphs 2.23-2.27 of the NPSNN. In summary, the ExA considers that the Proposed Development would result in benefits including:

- supporting a critical need to improve the strategic road network (SRN) as recognised in the NPSNN in the context of the projected national growth in traffic levels;
- helping to deliver a national network that meets the country's long-term needs, supporting a prosperous and competitive economy;
- reducing journey times for users of the A47 which are predicted to worsen over time;
- providing additional capacity and facilitate long-term housing and economic development and growth;
- the provision of new facilities for non-motorised users. The permanent beneficial effects for walkers, cyclists, and horse riders (which are partially also related to the positive weight attributed to improved long term journey times to community services and general delay reduction in the local area);
- the substantial improvements to safety through reduction in predicted collisions and the risks associated to injury and accident-related fatalities;
- the potential beneficial impacts related to the appreciation of a scheduled monument through potential improved public views of it and public information board which is accessible to all.

## **Adverse impacts weighing significantly against the DCO being made**

7.5.9. The matters that the ExA considers which weigh against the DCO being made are:

- The removal of veteran trees as irreplaceable assets. Defined nationally to have exceptional biodiversity, cultural and heritage value.
- Less than substantial harm to the setting of a scheduled monument (noting its national significance) because of landscape severance.
- Less than substantial harm to the settings of two listed buildings; Thickthorn Hall and Kitchen Garden Walls and attached octagonal building c.60m north-east of Thickthorn Hall.
- Slight adverse effects on the setting of several non-designated heritage assets. Namely: Thickthorn Park; Lodge House; Thickthorn Lodge; Hollow way; Medieval moat; site of lime kilns and tramway.
- Slight adverse impacts on the setting of non-designated historic former parkland landscape character evidenced within the DCO boundary.
- A moderate adverse permanent effect on landscape character during construction. Principally associated with the removal of areas of woodland and individual veteran trees.
- A very large to moderate adverse visual effect to receptors during construction in the vicinity of the proposed junction of the new Cantley Lane Link Road and the realigned section of Cantley Lane South near Cantley Stream.
- Moderate adverse effects on landscape character in the opening year reducing to slight adverse impacts by year 15.
- Moderate to large adverse effects during operation on some visual receptors. Particularly in the vicinity of the proposed junction of the new Cantley Lane Link road and the realigned section of Cantley Lane South near Cantley Stream.
- The temporary short-term combined effects on local communities having regard to temporary noise and dust from construction activity as well as the associated localised visual amenity impact of construction vehicles and compounds during construction and subject to EMP provision.
- The moderate adverse impact to the users of Cringleford footpath 4A due to journey increases associated with the permanent

diversion of the footpath across the new Cantley Lane Footbridge (Cringleford).

- The loss of a proposed area of public open space at the Cringleford Residential Development (assuming an appropriate alternative solution has not been agreed through variation of existing s106 commitments which was not demonstrated during the Examination period).
- The effects of the proposed land take from affected agricultural holdings when considered collectively. In particular, disruption to access of adjacent agricultural blocks farmed by Holding 2.

### **The Planning Balance**

- 7.5.10. The ExA accepts that through the Applicant's consideration of alternative options the loss of two veteran trees would be unavoidable. That said, the ExA considers that the likely loss of veteran trees would be clearly outweighed by the national need for, and benefits of, the Proposed Development, and therefore finds that paragraph 5.32 of the NPSNN has been satisfied.
- 7.5.11. Moreover, although there would be less than substantial harm to the setting of designated heritage assets including a scheduled monument and two listed buildings. The national need case for the proposed development put forward by the Applicant provides an overwhelming and compelling list of public benefits which outweighs those harms.
- 7.5.12. Overall, bringing all relevant points together the ExA finds the national need for, and considerable public benefits of, the Proposed Development clearly outweigh all of the adverse effects identified.
- 7.5.13. Although there would be other wider adverse effects none of those, either individually or cumulatively, lead the ExA to a different conclusion in the overall balance of benefits and adverse impacts.
- 7.5.14. The ExA has had regard to the findings of the Applicant's No Significant Effects Report and the comments of Natural England and considers that the conclusions of no likely significant effects are supported and that an Appropriate Assessment is not required prior to making the DCO. The ExA sees no reason for HRA matters to prevent the making of the DCO.
- 7.5.15. Therefore, the ExA finds that, subject to the provisions of the rDCO (Appendix D) and subject to the SoST's consideration of compliance with the Paris Agreement 2015, cumulative carbon emissions and meeting the target of net zero carbon by 2050, the case for the making of the DCO for the Proposed Development has been made and is recommended accordingly.



## **8. COMPULSORY ACQUISITION AND RELATED MATTERS**

### **8.1. INTRODUCTION**

8.1.1. The application includes proposals for the CA of the freehold of land, the CA of rights over land, the creation of new rights in land and TP of land. Construction of the Proposed Development would be done by using the powers to enter and use land under TP.

8.1.2. This chapter sets out the following:

- Legislative requirements;
- Request for Compulsory Acquisition (CA) and Temporary Possession (TP) powers;
- The structure and function of the DCO;
- A summary of the processes used to examine the dDCO and the iterations to the dDCO during Examination;
- Reporting on the consideration of the dDCO and relevant submissions made by the Applicant and other parties;
- The changes made to the dDCO during the Examination;
- Recommended changes leading to the rDCO (Appendix D); and
- The relationship between the DCO and other consents and legal agreements.

### **8.2. LEGISLATIVE REQUIREMENTS**

8.2.1. CA powers can only be granted if the conditions set out in s122 and s123 of the PA2008 are met. Specific provisions in respect of Statutory Undertaker (SU) land, Special Category Land, and Crown Land are set out in Section 7.10.

8.2.2. S122(2) states that the land subject to CA must be required for the development to which the development consent relates or must be required to facilitate or be incidental to the development. National CA Guidance<sup>3</sup> states that in respect of land required for the development, the land to be taken must be no more than is reasonably required and be proportionate.

8.2.3. S122(3) states that there must be a compelling case in the public interest to acquire the land, which means that the public benefit derived from the CA must outweigh the private loss that would be suffered by

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<sup>3</sup> Planning Act 2008: guidance related to procedures for the compulsory acquisition of land Department for Communities and Local Government (DCLG) September 2013

those whose land is affected. In balancing public interest against private loss, CA must be justified in its own right.

8.2.4. S123 requires that one of three procedural conditions in subsections (2) to (4) must be met, namely:

(2) The condition is that the application for the order included a request for CA of the land to be authorised.

(3) The condition is that all persons with an interest in the land consent to the inclusion of the provision.

(4) The condition is that the prescribed procedure has been followed in relation to the land.

8.2.5. Several other considerations also have to be addressed, either as a result of following the applicable guidance or in accordance with legal duties on decision-makers:

- all reasonable alternatives to CA must have been explored;
- the Applicant must have a clear idea of how it intends to use the land subject to CA powers;
- the Applicant must be able to demonstrate that funds are available to meet the compensation liabilities that might flow from the exercise of CA powers; and
- the decision-maker must be satisfied that the purposes stated for the CA are legitimate and sufficiently justify the inevitable interference with the human rights of those affected.

8.2.6. Further to Part 1 of Schedule 5 to the PA2008 at paragraph 2, TP powers are capable of being within the scope of a DCO. PA2008 and the associated DCLG CA Guidance do not contain the same level of specification and tests to be met in relation to the granting of TP powers as, by definition, such powers do not seek to permanently deprive or amend a person's interests in land. Based on the PA2008 and DCLG CA Guidance, TP requires:

- justification that the TP powers are needed to enable the construction of the Proposed Development;
- demonstration that the TP powers are compatible with Human Rights tests; and
- that there are suitable compensation provisions for interference with a relevant right or interest.

8.2.7. S19(7) of the Neighbourhood Planning Act 2017 includes several provisions for TP, including with respect to notice and compensation, and requires that the instrument authorising TP must:

- (a) identify the land which is to be subject to TP;
- (b) describe the purposes for which TP is required; and
- (c) specify the total period of time for which the land may be subject to TP.

### **8.3. CASE FOR DEVELOPMENT**

- 8.3.1. The ExA has considered the case for development in the preceding chapters. In Chapter 7 the Examining Authority (ExA) has concludes that the case for the making of the DCO for the Proposed Development has been made subject to the provisions of the recommended Development Consent Order (rDCO) (Appendix D).

### **8.4. REQUEST FOR CA AND TP POWERS**

- 8.4.1. The dDCO included with the application [[APP-017](#)] and all subsequent dDCOs submitted by the Applicant to the Examination up to and including its most recent draft version [[REP9-003](#)] include provisions intended to grant the Applicant powers of CA and TP of land and rights over land.

- 8.4.2. The application was accompanied by:

- an EM [[APP-018](#)];
- a Book of Reference (BoR) [[APP-022](#)];
- Land Plans [[APP-006](#)];
- Special Category Land Plans [[APP-013](#)];
- Crown Land Plans [[APP-012](#)];
- Statement of Reasons (SoR) [[APP-020](#)]; and
- a Funding Statement [[APP-021](#)].

- 8.4.3. The Examination and the Applicant's due diligence processes led to some of the above documentation being updated during the Examination. By the close of the Examination, the most up-to date versions were as follows:

- EM [[REP9-005](#)];
- BoR [[REP9-009](#)];
- Land Plans [[AS-020](#)];
- Special Category Land Plans [[AS-026](#)];
- Crown Land Plans [[AS-025](#)]; and
- SoR [[AS-030](#)].

- 8.4.4. Those documents set out the land and rights sought by the Applicant together with the reasons for their requirement and the basis on which compensation would be funded. Together with submissions made to the Examination they form the basis of the ExA's considerations in this Chapter.
- 8.4.5. Chapter 2 sets out our summary description of the Proposed Development. The Applicant describes the Proposed Development and the Order land in the SoR [[AS-030](#)].
- 8.4.6. Unless stated otherwise, references to the documents in this Chapter from this point should be read as references to the latest versions cited above and plot references employed in this Chapter are as per the most recently submitted Land Plans [[AS-020](#)].

## **8.5. PURPOSE FOR WHICH POWERS ARE REQUESTED**

- 8.5.1. The purposes for which the CA and TP powers are requested are set out in the SoR [[AS-030](#)] and the BoR [[REP9-009](#)] and as shown on the Applicant's Land Plans [[AS-020](#)], in the areas shaded in pink and green.
- 8.5.2. CA powers are being sought for the following proposed works and purposes:
- Supporting the delivery of new signing along the existing A11 and along the B1172.
  - Supporting the delivery of improvements to Station Lane / A11 junction.
  - Facilitating junction improvements at Station Lane junction with the A11, entry slip road, new carriageway, embankments, and associated drainage.
  - Facilitating the alteration of the existing A11 carriageway, footways, embankments, structures, services, and drainage on adjacent land parcels.
  - Allowing the construction of new and realigned carriageway, footways, embankments, stream realignment, service diversions and drainage works on adjacent land parcels.
  - The extension of the A11 bridge over Cantley Stream underpass, new carriageway and footways, embankments, and associated drainage to form the A11/A47 connector road, taking traffic from the A11 northbound to the A47 southbound.
  - Detention basin and earthwork landscaping bund provision, associated drainage, and drivable maintenance access track west of Cantley Lane Link Road. As well as the diversion of a surface water sewer.

- New carriageway and footways, embankments, and associated drainage to form the new Cantley Lane Link Road. New Cantley Wood Link Road overbridge structure.
- Construction of private means of access to enter the National Grid pylon and central area north of the scheduled monuments.
- The delivery of the new A11 / A47 link Road.
- The construction of a material disposal area.
- Allowing Cantley Lane South realignment to improve visibility at the new junction with Cantley Link Road plus associated footways, embankment and approaches, and drainage works on adjacent land parcels.
- Supporting the delivery of wider highways work, service diversions and access to Cantley Lane South.
- Supporting the construction of new carriageway, footways, embankments, structures, stream realignment, service diversions and drainage works on adjacent land parcels.
- Improved residential access provision from Cantley Lane South to existing properties to the east and to support the construction of service diversions on adjacent land parcels.
- Supporting the construction of new carriageway, carriageway widening/ lining, works footways, footways, embankments, earthworks, landscaping bunds, service diversions and/or removals, and drainage works on adjacent land parcels. Within the DCO area including along the B1172 and at the Thickthorn Junction.
- Earthwork's landscaping bund on the south west quadrant of the Thickthorn junction.
- Supporting delivery of ancillary highways work and utilities/service diversions and/or removals.
- Detention basin and earthwork landscaping bund, associated drainage and drivable maintenance access track south of Cantley Lane South.
- Supporting the delivery of highways work along the existing A47.

8.5.3. Moreover, the powers sought by the National Highways include the acquisition of 'rights' (and as shaded in blue on the Land Plans [[AS-020](#)] which are needed for:

- The diversion of a surface water sewer.
- Diversion and/or removal of electricity utility cables.

- Provision of service diversions and/or removals. Including the removal of a potable water pipeline, electricity cables, gas main and electronic communications.
- Supporting the diversion and/or removal of an electricity line.
- Supporting the diversion of drainage pond outfall.

8.5.4. TP powers in the areas identified on the Land Plans [[AS-020](#)] are being sought for the following works and purposes:

- Temporary compound provision to support: - junction improvements at Station Lane junction with the A11; entry slip road; new carriageway; embankments and associated drainage; a material storage processing area north of A11 and east of Station Lane.
- Construction compound, material storage and processing area(s).
- Supporting the construction of new carriageway, footways, embankments, approaches, service diversions and drainage works on adjacent land parcels within the DCO area and the new junction of Cantley Lane Link Road with the B1172.
- Supporting the delivery of the proposed realigned A47 southbound merge on slip road.
- Facilitation of the delivery of new access provisions to private property on Cantley Lane South.
- Supporting diversion and/or removal of 132kv electricity line.
- Water vole relocation area provision along Cantley Stream.
- Supporting the construction of the detention basin outfall, the delivery of highways work (including along the existing A47) and drainage outfall.
- Cantley Lane South realignment to improve visibility at the new junction with Cantley Lane Link Road plus associated footways, embankment, and approaches.

8.5.5. The main powers authorising CA are contained in Article 24 (compulsory acquisition of land) and Article 27 (compulsory acquisition of rights and imposition of restrictive covenants) of the rDCO (Appendix D). Article 27 allows for rights in land to be acquired as well as the land itself, and for new rights to be created over land rather than outright acquisition.

8.5.6. The Land Plans [[AS-020](#)] identify the land rights proposed to be acquired permanently or used temporarily using colour coding. Schedule 5 of the rDCO (Appendix D) sets out the purposes for which rights over land may be acquired. Schedule 7 sets out the purposes for which TP may be taken.

- 8.5.7. Other CA powers sought by the Applicant include Article 29 which allows for the extinguishment of existing private rights over land, subject to the compulsory acquisition of rights, or subject to the imposition of restrictive covenants, to the extent that continuing the existing rights would be inconsistent with the right acquired or restrictive covenant imposed.
- 8.5.8. The Article further provides that, where new rights are being compulsorily acquired or restrictive covenants are being imposed on land then any existing private rights or restrictive covenants which that land is subject to may be extinguished to the extent that continuing enjoyment of those private rights or restrictive covenants would be inconsistent with the new rights acquired or restrictive covenants imposed.
- 8.5.9. Article 32 provides that where the Applicant has, in respect of any land, powers of compulsory acquisition under Article 24 then it may, for the same purposes for which it is authorised to acquire the whole of the land, choose instead to acquire only the subsoil underneath, or airspace over the land. This power is included for flexibility as it would allow the Applicant to minimise its costs and/or impact to land interests by acquiring subsoil or airspace only where it is possible to do so and still deliver the scheme, leaving land interests in possession of the valuable part of the land.
- 8.5.10. Article 33 concerning rights on or over streets is not in a strict sense a power of compulsory acquisition. However, it is included by the Applicant to: a) enter on and appropriate so much of the subsoil underneath or the airspace over any street within the limits of the DCO as may be required to provide the scheme; and b) use that subsoil or airspace for the purposes of carrying out the Proposed Development or any purpose ancillary to it.
- 8.5.11. Article 34 would authorise the Applicant to take temporary possession of: a) the land specified Schedule 7 to the rDCO, and b) any other land within the limits of the rDCO, so long as the Applicant has not served a notice of entry or executed a General Vesting Declaration (GVD) in respect of the land. It would also authorise the Applicant to remove vegetation and buildings from the land, construct temporary works (including accesses) and buildings, and to construct permanent works in Schedule 1 to the rDCO. The power to take temporary possession would be subject to time limits under Article 34(3).
- 8.5.12. Article 35 would empower the Applicant to take temporary possession of any land within the limits of the rDCO, if reasonably required for the purpose of maintaining the Proposed Development, at any time during the maintenance period. The maintenance period is five years from the date on which that part of the scheme is first open for use.
- 8.5.13. In addition to powers of compulsory acquisition, if made the DCO would also confer other rights and powers on the Applicant that may interfere with property rights and private interests.

- 8.5.14. The relevant additional powers are: a) Article 16 which concerns the temporary alteration, diversion and restriction of use of streets; b) Article 17 for the permanent stopping up and restriction of use of streets and private means of access; c) Article 22 concerning protective works to buildings; d) Article 23 which gives authority to survey and investigate the land; and e) Article 39 relating to the felling or lopping of trees and removal of hedgerows.

## **8.6. PROCESS FOR THE EXAMINATION OF CA AND TP**

- 8.6.1. The examination included consideration of all written and oral submissions relevant to CA and TP.

### **Written Process**

- 8.6.2. Relevant representations (RRs) and written submissions from parties stating a specific objection to CA or TP provisions, or to the resultant effects of it were made by:
- Norfolk County Council [[RR-001](#)] expressed specific concerns towards taking on new highways infrastructure post completion of the scheme.
  - Anglian Water [[RR-002](#)] sought modified protective provisions to enable their customers to have uninterrupted water and waste water services during construction and subsequent operation of the scheme.
  - Cadent [[RR-003](#)] has highlighted discussion with the Applicant regarding protective provisions and those adopted within the M25 J28 scheme are referenced as being the preferred option in order to meet its statutory obligations as an undertaker. It is also noted that Cadent has low and medium pressure gas pipelines and associated apparatus located within the order limits which are affected by works proposed and for which the DCO proposes two diversions referenced as work numbers 40 and 46. The DCO must include adequate land rights for work number 40 (the diversion of a low pressure main) over plots 7/1a, 7/7b and 7/7d. Schedule 5 'Land in Which Only New Rights etc May be Acquired' as currently drafted includes the following rights to 'divert, install, underground, alter, retain, use, monitor and maintain and remove gas mains and associated infrastructure'. Cadent wants to safeguard against the outcome of insufficient rights on land within DCOs for necessary diversions of its apparatus or securing rights for the benefit of incorrect entities. Sufficient rights are needed to allow Cadent to maintain its gas distribution network in accordance with its statutory obligations. Cadent has specified it will not decommission its existing apparatus and/or commission new apparatus until sufficient land rights are in place (to its satisfaction) whether pursuant to the DCO or otherwise.
  - National Grid [[RR-007](#)] has been liaising with the Applicant in relation to the protective provisions for inclusion within the DCO,



along with any supplementary agreements which may be required. National Grid's primary concern is that there is no adverse barrier to meet its statutory obligations.

- Network Rail [[RR-008](#)] lodged objections to the DCO during the Examination on the basis the Applicant proposes to carry out works to the Cringleford Rail Bridge in close proximity to the Railway. Network Rail has concerns that the proposed works might interfere with the safe and efficient operation of the railway. Network Rail have also stated that in order to be in a position to withdraw its objection Network Rail seek adequate protective provisions and/or requirements to be included within the Order and an agreement with the Promoter to ensure that the works for the scheme are carried out in regulated manner to prevent adverse impacts to the Railway and which regulate the following:  
a) the protection of the Railway from adverse impacts during construction of the scheme; b) the liability of the Applicant for any necessary repairs and upgrades to the railway as a result of its use by construction and operational traffic associated with the scheme, including terms which protect Network Rail's statutory undertaking; and c) a safe system of work for large vehicles working adjacent to the railway.
- Royal Mail [[RR-022](#)] has requested that: 1. the DCO includes specific requirements that during the construction phase so Royal Mail is consulted by National Highways or its contractors at least one month in advance on any proposed road closures / diversions / alternative access arrangements, hours of working, and on the content of the final CTMP, and 2. the final CTMP includes a mechanism to inform major road users (including Royal Mail) about works affecting the local highways network (with particular regard to Royal Mail's distribution facilities near the DCO application boundary as identified above). Royal Mail reserves its position to object to the DCO application if the above requests are not adequately addressed.
- Big Sky Development [[RR-009](#)] were concerned about temporary possession impacts on approved housing development and the alternatives potentially available to the Applicant limit impacts.
- Bidwells LLP on behalf of The Trustees of CM Watt Residual Trust [[RR-011](#)] and the Trustees Mackintosh Trust [[RR-012](#)] have expressed concerns that the extent of land take involved in the DCO goes too far and that rights need to be in place to allow sufficient future uninterrupted access provision.
- Birketts LLP on behalf of Mr and Mrs Thompson [[RR-034](#)] and [[REP1-035](#)] raised possible detriment issues arising from resultant access rights. They requested that rights of access need to be granted by National Highways to Mr and Mrs Thompson and that access to the property known as 'The Sycamores' maintained during the construction period.

- Brown & Co on behalf of Jason Graver under [[RR-038](#)] (and [[REP1-037](#)] expressed initially concerns with respect to the adequacy of resultant access rights. The latter correspondence [[REP1-037](#)] suggesting various agreements with the Applicant and there has been no other commentary to suggest the issues are not now settled).

8.6.3. The Applicant has given responses related to those submissions including: [[REP1-004](#)] ; [[REP2-007](#)] ; [[REP3-018](#)] ; [[REP3-020](#)] ; [[REP5-020](#)] ; [[REP5-021](#)] ; [[REP6-019](#)] ; [[REP6-021](#)] ; [[REP7-007](#)] ; [[REP9-019](#)] ; [[REP9-022](#)] ; [[REP9-024](#)] ; [[REP9-025](#)].

8.6.4. The ExA raised written questions about CA and TP [[PD-006](#)] and [[PD-008](#)] during the examination period in addition to those posed at a Compulsory Acquisition Hearing. The following issues were addressed:

- the need for CA and TP having regard to mitigation, enhancement and working space;
- rights to existing open space (should there be any impacted) and any proposed replacement land;
- updates to the BoR, SoR and Land Plans and their accuracy;
- diligent enquiry into land interests;
- whether the limits of deviation (LoD) are appropriately defined;
- the potential during the detailed design phase to reduce the scope of rights required and whether any reductions could be made at this stage;
- updates to the CA Objections Schedule;
- the CA and TP matters raised by relevant parties;
- consent of the appropriate Crown Authority;
- matters raised by SUs, potential detriments to their undertakings and the securing of appropriate provisions in the DCO
- progress of voluntary agreements and blight;
- The ExA being given regular updates on the progress of negotiations for CA, new rights over existing land and of TP of land;
- Updates and clarification to the Funding Statement;
- Detailed matters in relation to DCO provisions including Articles and Schedules;

- Regard to Human Rights, the Equalities Act 2010, and the Public Sector Equality Duty (PSED).

8.6.5. In response, the Applicant updated or gave further clarification with respect to the dDCO and EM, Plans, BoR, SoR and Funding Statement information during the Examination as a whole. An updated Compulsory Acquisition Schedule [[REP9-025](#)] was provided by the Applicant. A Crown Land Consent Letter has also been provided [[REP9-023](#)].

### Hearings

8.6.6. A single CA Hearing and two Issue Specific Hearing's (ISH) dealing with dDCO matters (albeit one of the ISH's dealing with both Environmental Matters and dDCO matters combined) were held as noted in Chapter 1. Oral submissions were made at the Hearings by the representative of Big Sky Developments Ltd and Richard Hawker (a representative of Stop Wensum Link).

### Site inspections

8.6.7. The two Unaccompanied Site Inspections carried out, as noted in Chapter 1 assisted the ExA's understanding of the plots of land proposed to be subject to the CA and TP powers.

## 8.7. THE APPLICANT'S OVERALL CASE

8.7.1. The majority of the Applicant's case is set out in the SoR [[AS-030](#)]. The Assessment of Alternatives provided [[APP-040](#)] is also applicable read alongside the Applicant's National Policy Statement for National Networks Accordance Table [[APP-126](#)].

8.7.2. The Applicant considers that the powers of CA and TP sought in the dDCO are necessary, proportionate and justified. It considered that the powers sought are in accordance with all relevant statutory provisions and associated guidance and was firmly of the view that there was a compelling case in the public interest for the CA and TP powers sought.

8.7.3. In the SoR the Applicant addressed the statutory tests and the general considerations which the DCLG CA Guidance indicates should be demonstrated to justify the powers sought. The matters covered include whether:

- reasonable alternatives to CA and TP have been explored;
- the Applicant has a clear idea of how it intends to use the land;
- the proposed acquisition is legitimate, proportionate and necessary;
- there is a compelling case in the public interest;
- there is funding for the acquisition; and whether

- the interference with human rights is proportionate and justified.

8.7.4. The Applicant's responses to Examination questions, objections and submissions from other parties and special considerations are addressed below.

#### **Reasonable Alternatives to CA and TP**

8.7.5. The SoR [[AS-030](#)] advises that all the Land in the Order Limits is considered to be necessary to deliver the scheme. However, the Applicant acknowledges should it transpire that any part of the Land within the Order Limits is not required, for instance, because of the detailed design process to be undertaken, the Applicant would only seek to acquire that part of the Land required, and in all events, will seek to minimise the effects on land interests. The optioneering process carried out prior to deciding on the Proposed Development being put forward is also detailed.

8.7.6. The main powers authorising the compulsory acquisition of land, or interests in, or rights over land, are contained in Articles 24 (compulsory acquisition of land) and 27 (compulsory acquisition of rights and imposition of restrictive covenants) of the DCO.

8.7.7. The SoR also records that in designing the scheme and determining the land subject to compulsory acquisition and temporary possession powers, the Applicant has considered alternatives and modifications in order to minimise the potential land-take. Those alternatives and modifications were consulted upon and the preferred route has been chosen based on a thorough consideration of relevant issues. Following public consultation, the Applicant then selected what it viewed as the most appropriate option informed by several inputs including:

- views of consultees including persons with an interest in the land;
- environmental impacts;
- meeting the objectives for the Proposed Development;
- affordability;
- value-for-money;
- safety and construction; and
- operational considerations.

8.7.8. Further details about the consultation process can be found in Section 2 of the Applicant's Consultation Report.

8.7.9. The Applicant submits that none of the alternatives or modifications considered would obviate the need for the CA and TP of land.

**Does the Applicant have a clear idea of how it intends to use the land?**

- 8.7.10. The SoR [[AS-030](#)] in Annex A records what each plot is to be used for. The Land Plans [[AS-020](#)] show the location of each plot and whether it is for the CA of land, rights over land, or TP.

**Is the proposed acquisition legitimate, proportionate, and necessary?**

- 8.7.11. The SoR [[AS-030](#) Annex A] set out the compulsory powers sought in relation to each plot of land and references to the works to be carried out at each location. It considers that the land subject to CA powers would be needed for or to facilitate the development or would be incidental to the development.
- 8.7.12. The SoR states that the limits of the land have been drawn as tightly as possible and that any land required outside the existing A47/A11 Thickethorn corridor is required to ensure compliance with design safety standards, to ensure environmental mitigation measures can be implemented, to deliver and to accommodate highway drainage infrastructure. The Applicant considered that the land included in the dDCO is the minimum land-take required to construct, operate, maintain, and mitigate the Proposed Development and that the land-take is necessary to achieve the objectives of the Proposed Development.
- 8.7.13. TP of land is noted as having been identified to ensure the delivery of the Proposed Development with minimum disruption to stakeholders and users of the existing highway and supporting road network, whilst ensuring the temporary land acquisition is proportionate and only that needed to undertake the works. It includes for drainage in accordance with relevant standards and for the diversion of SUs' apparatus.

**Is there a compelling case in the public interest?**

- 8.7.14. The needs and benefits of the Proposed Development are set out in the SoR [[AS-030](#)] and in the Planning Statement for National Networks Accordance Table [[APP-126](#)] and include that the Proposed Development would:
- support a 'critical need' to improve the SRN as recognised in the NPSNN in the context of the projected national growth in traffic levels;
  - reduce journey times for users of the A47 and local roads;
  - provide additional capacity and facilitate long-term housing and economic development and growth; and that it would
  - provide new facilities for NMUs.
- 8.7.15. It is the Applicant's view that the Proposed Development is consistent with core policies and that the statutory requirements have been met. As

such they consider that *"the presumption in favour of the development set out in Paragraph 4.2 of the NPS NN should be afforded great weight as the public benefits of the scheme outweigh any residual adverse affects, including private loss, suffered by individual landowners and occupiers. On this basis, Highways England (National Highways) considers that there is a clear and justified case in the public interest for the scheme"*.

### **Is there funding for acquisition?**

- 8.7.16. The Applicant's Funding Statement [[APP-021](#)] provides the funding arrangements for acquisition. The cost estimate for the Proposed Development is identified in the Funding Statement is £91.2 million. That estimate includes all costs up to the opening for traffic and includes allowances for compensation payments relating to the CA and TP of land and potential claims under Part 1 of the Land Compensation Act 1973, s10 of the Compulsory Purchase Act 1965 and s152(3) of the PA2008.
- 8.7.17. The Proposed Development was announced in RIS1 as a committed and, therefore, funded scheme. RIS1 provides certainty of Government funding with over £15 billion to be invested in major roads between 2015/16 and 2020/21. The funding commitment was reiterated in the Highways England Delivery Plan 2015-2020 and in RIS2.
- 8.7.18. RIS2 commits the Government to spending £27.4 billion to both build new road capacity and improve the quality and reduce the negative impacts of the existing Strategic Road Network. The Government's expenditure priorities confirm the ongoing commitment to the Proposed Development. The Government's funding commitment was reiterated in the Highways England Delivery plan 2020 – 2025 which was published in August 2021.
- 8.7.19. The Funding Statement [[APP-021](#)] confirms that the Government and Highways England commitments set out above demonstrate that the Proposed Development *"will be fully funded by the Department for Transport and consequently the Scheme is not dependant on funding contributions from other parties"*.
- 8.7.20. Consequently, the Applicant's view is that there would be no funding impediment to the delivery of the Proposed Development, or to the payment of compensation to persons affected by CA, TP, or a blight claim.

### **Is interference with Human Rights proportionate and justified?**

- 8.7.21. The Applicant through the SoR [[AS-030](#)] has considered potential infringements of human rights as a result of the CA and TP powers sought in the dDCO with respect to Article 1 of The First Protocol, Article 6 and Article 8 of the European Convention on Human Rights. The SoR sets out details of the Applicant's negotiations with each affected landowner and provides detail and justification for the interference of rights in relation to specific plots.

8.7.22. In summary, the Applicant's case [[AS-030](#)] for interference with Articles 1 (the right to peaceful enjoyment of possessions) and 8 (right to respect for private and family life, home and correspondence) is that:

- the significant public benefits that would arise from the Proposed Development would outweigh any harm;
- a compelling case in the public interest for CA has been demonstrated;
- the land over which CA powers are sought are the minimum necessary to deliver the Proposed Development;
- the Proposed Development has been designed to minimise harm while achieving its objectives;
- the interference with human rights is both proportionate and justified; and that
- those affected by the CA and TP powers would be entitled to compensation and the Applicant has the resources to pay such compensation.

8.7.23. In summary, the Applicant's case based on the SoR with respect to Article 6 (entitlement to a fair and public hearing) is that:

- proper procedures have been followed for both the consultation on the Proposed Development and in determining the CA powers included within the dDCO;
- persons with an interest in the land have been given a full opportunity to comment;
- it has endeavoured to engage with landowners and has had regard to landowner feedback; and that
- there have been opportunities for individuals to submit representations during the Examination.

8.7.24. Chapter 4 and Annex B of the SoR summarise the Applicant's discussions with landowners and occupiers to acquire the Land by agreement. More detail on the status of negotiations with some of those parties have also been set out in the relevant Statements of Common Ground (SoCGs). Matters outstanding at the close of the Examination are considered below.

## **8.8. EXAMINATION OF THE APPLICANT'S OVERALL CASE**

### **Introduction**

8.8.1. This section sets out the ExA's consideration of the responses from the Applicant and other parties to matters raised in relation to the Applicant's

overall case. Individual objections and issues are addressed in the next section. The section considers each of the following elements in turn:

- alternatives and whether the proposed acquisition would be legitimate, proportionate and necessary;
- funding and potential impediments;
- human rights; and
- the ExA's conclusions on the Applicant's overall case.

**Alternatives and whether the proposed acquisition would be legitimate, proportionate, and necessary**

8.8.2. The ExA has considered the approach to alternatives to a road-based scheme and the junction layout improvement in Chapter 5, Section 5.2 of this report and is satisfied that option findings from the applicant have been undertaken on an appropriate basis.

8.8.3. Paragraphs 5.1.6 and 5.1.10 of the SoR [[AS-030](#)], set out the consideration that has been given to the Affected Persons, balancing with the Applicant's ability to deliver the scheme. Specifically, the Applicant's view is that there is a compelling case in the public interest for the compulsory acquisition of the land, as the benefits to the public of the compulsory acquisition of land would outweigh the private loss that would be suffered by those whose land is to be acquired.

8.8.4. Moreover, the Applicant is a publicly owned company whose purpose is to plan, design, build, operate, and maintain the strategic road network (SRN) for the benefit and safety of the wider public. The Applicant submits that it would not be proposing the scheme if there were not significant benefits to the public in doing so, despite there being the potential for private loss to be suffered by individuals.

8.8.5. In answering the ExA's written questions relating to clarification on the legitimacy, proportionality, and necessity of the scheme the Applicant [[REP2-006](#)] has directly referred to its aim to acquire only land or interests that are required to allow the Proposed Development to proceed and to cause as little interference with existing interests in land as possible. Specific examples in the response obtained from the Applicant extend to:

- The Applicant's decision to adopt a segregated left turn lane at the Thickthorn Gyratory instead of a connector road from the A47 westbound to the A11 southbound, reducing acquisition of land to the north of Cantley Lane South;
- The use of powers other than for freehold acquisition (for instance the acquisition of new rights for the alteration and diversion of existing utilities apparatus) rather than seeking full freehold acquisition powers;



- The Applicant has sought to use, wherever possible, land for compounds that will be acquired temporarily.

*General consideration of alternatives*

- 8.8.6. Details of the consideration of alternatives are evidenced at Section 3 of the Environmental Statement (ES) [APP-040]; Section 2 of the Case for the Scheme [APP-125]; and in Chapter 5, Section 5.2 of this report. In designing the scheme and determining the land subject to compulsory acquisition and temporary possession powers, the Applicant has considered alternatives and modifications to the Proposed Development to minimise the potential land-take. The ExA accepts that alternatives and modifications were consulted on, and the preferred route has been chosen based on a thorough consideration of relevant issues.
- 8.8.7. The ExA notes there is no specific optionality included within the Proposed Development such as different options for the location or form of any structures or works. That said, the following key design changes are identified by the Applicant following statutory consultation undertaken between 3 June and 11 July 2019:
- removal of the A47 westbound to A11 southbound link road
  - repositioning of the proposed drainage detention basins
  - shortening of the realignment of Cantley Stream
  - repositioning of the replacement footbridge across the A47, shortening the previously proposed detour
  - removing the requirement to widen the Breckland railway bridge
  - removal of proposed works between the existing A47/A11 Thickthorn Interchange and the Round House Way roundabout
  - addition of a segregated left-hand turn from the A47 westbound onto the A11 southbound
  - repositioning of the Cantley Lane Link Road and Cantley Lane South junction.
- 8.8.8. Paragraph 4.27 of the NPSNN references the Road Investment Strategy (RIS) programme and says that proportionate option consideration of alternatives will have already been undertaken as part of the investment decision making process and that it *"is not necessary for the Examining Authority and the decision maker to reconsider this process but they should be satisfied that this assessment has been undertaken"*.
- 8.8.9. Considering all of the above the ExA is satisfied that this assessment has been undertaken in accordance with the NPSNN.

**Funding and potential impediments**

### Cost estimate and funding

- 8.8.10. The ExA notes that cost estimates to deliver the scheme provided by the Applicant have been informed by land referencing activities, engagement of professional surveyors, and information received from consultation and engagement with parties having an interest in the land.
- 8.8.11. Change control mechanisms which exist to the license holder and the SoS are also available subject to the range of parameters found within Annex 6 of the Funding Statement.
- 8.8.12. The ExA considers funding source, allocation and provision has been fully addressed and accounted for by the Applicant. The conclusion of the ExA being that funding availability would not impede any CA or TP matter.

### Impediments

- 8.8.13. A Consents and Agreements Position Statement was updated by the Applicant during the Examination, with a final version being provided at D9 [[REP9-007](#)]. During the Examination the ExA asked the Applicant for updates on any known impediments, including with respect to other consents. Towards the end of the Examination the Applicant indicated that there were no known impediments from its perspective or that it had been made aware of in discussion with the relevant regulatory authorities.
- 8.8.14. Letters of no impediment from Natural England (NE) in relation to European Protected Species licensing have been provided. [[REP8-015](#)] – for bats and [[REP5-024](#)] – for water voles. The Environment Agency (EA) have not advised there is an insurmountable impediment.

### **Human Rights**

- 8.8.15. No parties raised any objections to with respect to the regard given by the Applicant to human rights, the Equalities Act 2010 or PSED.
- 8.8.16. Subsoil interest issues were a matter of dispute for CM Watt Residual Trust and Mackintosh Trust in their submission's [[AS-039](#)] and [[AS-040](#)] which, related to Human Rights matters. The Applicant responded to the issue at D8 under [[REP8-012](#)].
- 8.8.17. As noted in the BoR [[REP9-009](#)] the CM Watt Residual Trust has a rebuttable presumption in which they own the subsoil up to centre line of the highway contiguous with the extent of their ownership. The monetary value attributed to those interests is proposed to be dealt with through the compensation claim process and can be referred to the Upper Tribunal (Lands Chamber) in the event of a dispute. The Applicant has not stated that the landowner is not entitled to any compensation in respect of that interest. The DCO therefore would make provisions for the loss should a compensation package not be settled.

### **Conclusions on the Applicant's overall case**

- 8.8.18. The ExA is satisfied that the condition applicable in s123(2) of the PA2008 is met because the application for the DCO included a request for CA of the land to be authorised. The Applicant has also properly considered the statutory tests overall, DCLG CA Guidance and infringement to human rights.
- 8.8.19. Following the ExA's consideration of the case for development in the preceding chapters the ExA is satisfied that the need case has been made subject to the provisions of the rDCO (Appendix D). On that basis the ExA is satisfied that the Applicant has established the public benefit derived from the proposed CA.
- 8.8.20. The purposes for which the CA and TP powers are requested are set out in the SoR [[AS-030](#)]. Based on the matters addressed above and in the preceding chapters, the ExA finds that they are required for the delivery of the Proposed Development. The ExA is satisfied with the Applicant's reasons and associated information supporting the application about the land required for environmental mitigation and enhancement, dealing with drainage and flood risk works, cycleways, utilities, and other works areas. Consideration of the SoR [[AS-030](#)], BoR [[REP9-009](#)], Land Plans [[AS-020](#)] and responses to matters raised during the Examination leads the ExA to accept that the Applicant has a clear idea of how it intends to use the land. The powers sought are set out in the rDCO (Appendix D).
- 8.8.21. The consideration of alternatives and modification is set out in the SoR [[AS-030](#)]. The ExA has assessed specific issues with respect to alternatives and modifications.
- 8.8.22. The Applicant has considered alternative junction layouts before opting for the Proposed Development detailed in the application made. The ExA accepts other alternatives would be at the significant cost of other potential impacts, including in relation to landscaped areas which are remnants of historic parkland, the position of a scheduled monument, and the potential loss of mature trees and wooded areas in surrounding areas. The position of the existing Thickthorn junction and the nature of the existing road layout are further applicable factors.
- 8.8.23. The ExA finds that there is no convincing justification for other alternatives to be considered further and is satisfied that reasonable alternative junction layouts and alignments have been considered relative to on the ground environmental constraints as well as the current Thickthorn junction layout subject to improvement.
- 8.8.24. Based on the above the ExA concludes that the Applicant has explored all reasonable alternatives to CA and no other credible alternative could be identified. There is no compelling evidence to disagree with the Applicant's proposals with respect to the provisions for maintenance, lateral deviation, and the potential to reduce CA and TP during the detailed design phase.
- 8.8.25. Sufficient evidence has been provided for the ExA to find that costings, including the costs of acquisition and compensation, have been identified

appropriately. The Proposed Development is included in the RIS2 programme and, as such, the ExA is content that there would be unlikely to be a funding impediment to its delivery or to the payment of compensation. There is no substantive evidence of any other known likely impediments to the Proposed Development.

- 8.8.26. With respect to the acquisition of any unknown third-party rights the information provided by the Applicant is reasonable and regard has been given to the Equalities Act 2010 and PSED within the examination process taken as a whole.

## **8.9. INDIVIDUAL OBJECTIONS AND ISSUES**

### **CM Watt Residual Trust and The Trustees of the Mackintosh Trust**

- 8.9.1. Various access and other related matters were raised throughout the Examination by the Trustees of CM Watt Residual Trust and The Trustees of the Mackintosh Trust [[RR-011](#)] [[RR-012](#)] [[REP1-004](#)] [[REP2-012](#)] [[REP2-013](#)] [[AS-013](#)] [[AS-039](#)] and [[AS-040](#)]. Subsoil interests issues were also a matter of dispute for CM Watt Residual Trust in their submission [[AS-039](#)].

### **Bidwells LLP on behalf of M P Kemp Limited**

- 8.9.2. Access interests were raised on behalf of M P Kemp Limited [[RR-013](#)].

### **Birketts LLP on behalf of Mr and Mrs Graham Thompson**

- 8.9.3. Birketts LLP on behalf of Mr and Mrs Graham Thompson [[RR-034](#)] [[REP1-035](#)] [[REP1-036](#)] [[REP2-014](#)] relating to concerns residential property access (to The Sycamores).

### **Brown and Co on behalf of Janet Grint**

- 8.9.4. [[RR-037](#)] raised specific concerns towards potential landscape screening removal as well as light, noise and airborne pollutants issues.

### **Jason Graver**

- 8.9.5. Jason Graver [[RR-038](#)] [[REP1-037](#)] raised concerns regarding new farm access provision, drainage and landscaping treatments inclusive of gates and fencing.
- 8.9.6. In summary, taking into account all matters referred to in Chapter 5 and the direct responses of the Applicant to the above objections it is demonstrated that all reasonable steps have been explored to resolve all of the issues arising.
- 8.9.7. Whilst the subsoil concerns of CM Watt Residual Trust and The Trustees of the Mackintosh Trust have not been withdrawn the ExA does not consider that any further steps are needed and that the other issues have been addressed.

## 8.10. SPECIAL CONSIDERATIONS

8.10.1. This section details the ExA's consideration of the Applicant's case and matters raised during the Examination with respect to:

- Crown Land;
- Special Category Land; and
- Statutory Undertakers.

### **Crown Land**

8.10.2. S135(1) of the PA2008 precludes the CA of interests in Crown land unless the land is held "otherwise than by or on behalf of the Crown", and the appropriate Crown authority consents to the acquisition.

8.10.3. S135(2) precludes a DCO from including any provision applying to Crown land or Crown rights without consent from the appropriate Crown authority. This is not limited to CA provisions in a DCO.

8.10.4. The BoR [[REP9-009](#)] identifies plots subject to Crown interests, and the powers requested by the Applicant:

- CA of land at plots 1/1a, 1/1b, 3/1a, 6/1b, 6/1c, 6/2a, 6/2b, 6/2c, 6/2f, 6/2g, 6/2i, 7/4a, 7/5a, 7/5c, 7/5d, 7/5e, 7/5f, 7/5g, 7/5h, 7/5i, 7/5j;
- TP of plots 7/11a, 7/11b and with the acquisition of new rights for 7/11b

8.10.5. The extent of the land owned by the Crown Estate, or in which there is a Crown interest, is shown on the Crown Land Plans [[AS-025](#)].

8.10.6. Towards the end of the Examination, the Applicant obtained a letter from the Department for Transport [[REP9-023](#)] which confirms that the appropriate Crown authority (as defined in s227 of the Act) is the Secretary of State for Transport (SoST). The land required for the DCO includes the Property in which the SoST has an interest and therefore constitutes Crown land as defined in section 227 of the Planning Act 2008 ("the Act"). It is confirmed that the SoST holds a number of retained rights in favour of the SoST (as historic vendor and adjoining landowner).

8.10.7. On that basis the submitted letter [[REP9-023](#)] gives: 1. consent pursuant to s135 (1) and 135 (2) of the Act and Article 53 of the DCO as drafted to the inclusion of provisions within the DCO which would apply to the Property (to the extent that they relate to the detail specified in the Application); and 2. The SoST hereby agrees to the wording of Article 53 of the DCO as drafted.

8.10.8. There are no omissions or inconsistencies which suggest that the letter received does not fully address the powers requested by the Applicant

relating to Crown Land taking into account the BoR [[REP9-009](#)] and in accordance with s135(1) of the PA2008.

### **Special Category Land**

- 8.10.9. S131 and s132 of the PA2008 make provisions for a Special Parliamentary Procedure in respect of the acquisition of common, open space or fuel or field garden allotments. In this case CA powers are sought for the acquisition of open space land. To avoid the need for Special Parliamentary Procedures (SPP), s131 and s132 require the SoST to be satisfied that one of a number of circumstances applies, which include that replacement land has been or would be given in exchange for the land to be compulsorily acquired, with the same rights, trusts and incidents. The provisions do not apply to TP.
- 8.10.10. Paragraph 5.166 of the NPSNN says that existing open space should not be developed unless the land is surplus to requirements or the loss would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location.
- 8.10.11. Paragraph 5.174 states that consent should not be granted for development on open space unless an assessment has been undertaken either by the local authority or independently, which has shown the open space or the buildings and land to be surplus to requirements, or the Secretary of State determines that the benefits of the Proposed Development (including need) outweigh the potential loss of such facilities, taking account of any proposals made by the Applicant to provide compensatory land.
- 8.10.12. National guidance 'Guidance related to procedures for the compulsory acquisition of land' issued by Department of Communities and Local Government, September 2013 concerning the PA2008 further states that land which is already subject to rights of common or to other rights, or used by the public, even informally, for recreation, cannot usually be given as replacement land, since this would reduce the amount of such land.
- 8.10.13. There are no areas of 'existing' public open space proposed to be permanently or temporarily acquired. The BoR [[REP9-009](#)] highlights plots 6/9a, 6/9b, 6/9c, 6/10a, 7/7a, 7/7b, 7/7c, 7/7d, 7/7e as land the acquisition of which is subject to special parliamentary procedure, is special category land or is replacement land.
- 8.10.14. Planned open space impacts were referred to in Section 5.6 (Land use, social and economic) of this report and it is accepted the land included for acquisition constitutes ordinary land. Indeed, the BoR only mentions land that has the potential to become public open space.
- 8.10.15. The land that is planned to become open space is within plots 6/9a, 6/9b, 6/9c, 6/10a, 7/7a, 7/7b, 7/7c, 7/7d and 7/7e and comprises 13,656 square metres of land required temporarily for construction, 20,542 square metres of land where permanent rights are required for access, maintenance or other and 18,617 square metres required permanently

(together, the Potential Open Space) the land forms part of a wider site of a proposed housing development which benefits from a planning permission promoted by Big Sky Developments Limited (Big Sky), a company owned by South Norfolk Council (SNC).

- 8.10.16. S131 of the PA 2008 applies to compulsory acquisition of any land forming part of a common, open space, fuel or field garden allotment. S132 of the PA 2008 applies to the compulsory acquisition of any rights over land forming part of a common, open space, fuel or field garden allotment. These make provision for SPP to apply where a DCO authorises the compulsory acquisition of land or of rights over such land. This means the DCO would be subject to SPP unless the Secretary of State is satisfied that one of the following circumstances applies:
- replacement land will be given in exchange for the land to be compulsorily acquired with the same rights, trusts and incidents;
  - the Land to be acquired does not exceed 200 square metres or is required for the widening or drainage of an existing highway and the giving of land in exchange is unnecessary;
  - for open space land only, replacement land in exchange is not available or would only be available at a prohibitive cost, but it is strongly in the public interest for a scheme to proceed sooner than SPP would allow;
  - for open space land only, the land is only being compulsorily acquired for a temporary purpose.
- 8.10.17. Because the potential open space at plots 6/9a, 6/10a, 7/7c and 7/7/e is only required for a temporary purpose, the Applicant considers the third exception set out above is met for this land, and that development consent can be granted in respect of these plots without reference to SPP, in accordance with s131 (4B) of the PA 2008.
- 8.10.18. S132 of the PA 2008 provides, to the extent that a DCO authorises the compulsory acquisition of a right over land comprising open space, SPP will apply unless one of the following five circumstances applies:
- that the open space, when burdened with the right, will be no less advantageous than it was before to its owners; any other persons entitled to rights of common or other rights, and the public;
  - that replacement land will be given in exchange;
  - that the land being acquired does not exceed 200 square metres or the land is specified for highway works in certain circumstances; and that the giving of other land in exchange for the right is unnecessary in the interests of the persons entitled to rights of common or other rights, or the public;

- that replacement land is not available but that it is strongly in the public interest to grant development consent for the scheme sooner than SPP would allow;
  - the right is for a temporary, "although possibly long-lived" purpose.
- 8.10.19. The potential open space at plots 6/9c and 7/7/a is required permanently. That area is too large to benefit from the exception for land less than 200 square metres at section 131(5)(a) of the PA 2008.
- 8.10.20. While this area is not specifically required for the widening of the adjacent A47 and connected drainage works, it is required for works in connection to the general improvement of the A47 and its related networks. The potential open space is not open space at present and would only become so contingently. The Applicant considers that the limited exception in the fourth bullet above could apply were the land to become open space, however, as it is (per s131(5)(b) PA 2008) "required partly for the widening and partly for the drainage" of an existing highway, and "the giving in exchange of other land is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public."
- 8.10.21. Whether giving land in exchange for the permanently required Potential Open Space is "unnecessary" for the purpose of s131(5)(b) of the PA 2008 is material.
- 8.10.22. The NPSNN advises that existing open space, sports and recreational buildings and land should not be developed unless the land is surplus to requirements or the loss would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location. Applicants considering proposals which would involve developing such land should have regard to any local authority's assessment of need for such types of land and buildings. Accordingly, the Applicant makes the case that whether giving land in exchange is "necessary" must be assessed in the context of the local authority's identified need for open space.
- 8.10.23. In its negotiations with Big Sky the Applicant's land take to reduce the planned delivery of open space where the total after the reduction would continue to exceed the SNC's minimum policy requirement.
- 8.10.24. The Applicant's approach is to compensate the SNC for the loss of open space land on similar terms to the commuted sums typically paid by developers to the Council in lieu of open space provision. The ExA has no objections to that approach.
- 8.10.25. The ExA agrees that all of the Special Category Land plots identified within the BoR within the DCO boundary should not be subject to SPP as at least one or more of the five circumstances identified within s132 of the PA 2008 applies (set out in 8.10.18 above).

### **Statutory Undertakers**



- 8.10.26. S127 of the PA2008 has provisions in relation to CA of land or rights over SUs land. If a SU has made a representation that has not been withdrawn before the end of the Examination, then CA may only be authorised if there is no serious detriment to the carrying on of the undertaking.
- 8.10.27. S138 of the PA2008 has provisions for the removal of SUs' apparatus if the SoS is satisfied that is necessary for the Proposed Development.
- 8.10.28. The BoR [[REP9-009](#)] lists the following SUs as having interests in plots for which powers are requested:
- Cadent Gas Limited (Cadent) (in respect of access and maintenance rights of gas pipelines and other apparatus);
  - Openreach Limited (in respect to overhead cables and poles);
  - National Grid Electricity Transmission Plc (in respect of access and maintenance rights of low voltage and high voltage cables)
  - UK Power Networks Holdings Limited (in respect of overhead electricity cables and poles)
  - Anglian Water Services Limited (in respect of underground water pipelines)
  - Norfolk County Council (in respect of street lighting, cables, and apparatus)
  - Virgin Media (in respect of access and maintenance rights of telecommunication wires, fibre optics, conduits, cables, and other telecommunication apparatus)
  - Vodafone Limited (in respect of access and maintenance rights of telecommunication wires, fibre optics, conduits, cables, and other telecommunication apparatus)
  - Eastern Power Networks Plc (in respect of rights and restrictive covenants as contained within a Deed of Grant dated 6 September 2012, and Plot's including 7/7c, 7 7/7d, 7/7e, 7/8a, 7/8d,)
  - British Gas Plc (in respect of rights contained within a Deed dated 12 November 1984)
  - Energis Communications Ltd (in respect of rights and restrictive covenants as contained within a Deed dated 9 March 1995)
- 8.10.29. In addition, the SoR [[APP-020](#)] (at Annex B) gives a schedule of all representations made in respect of the granting of compulsory acquisition powers, and progress of negotiations with those affected persons.
- 8.10.30. Although Network Rail Infrastructure Limited (Network Rail) is not listed as a SU in the previous paragraph 8.10.17 of this report, it is included in

considerations within this section as it comes under the meaning given by s8 of the Acquisition of Land Act 1981, as referenced by s127(8) of the PA2008.

- 8.10.31. The ExA also notes that the Applicant has taken the cautious approach of seeking powers of compulsory acquisition (or rights of use) in respect of all plots of land required for the Proposed Development even where it already holds an interest or presumes it holds an interest in the land. This is to ensure that the Applicant has the right to acquire the interests it needs in the whole of the DCO land even where an unidentified owner later asserts an interest in land which the Applicant believes it owns.
- 8.10.32. The specific purposes for which each plot of Land subject to compulsory acquisition powers (including temporary possession) is required by the Applicant are set out in the tables in Annex A of the SoR [[APP-020](#)] together with the Land Pans [[AS-020](#)].
- 8.10.33. Schedule 9 of the rDCO (Appendix D) includes relevant protective provisions (PPs):
- Part 1 – For the protection of electricity, water and sewage undertakers;
  - Part 2 – For the protection of operators of electronic communications code networks;
  - Part 3 – For the protection of National Grid as Electricity and Gas Undertaker
  - Part 4 – For the protection of Anglian Water Services Limited; and
  - Part 5 – For the protection of Cadent Gas Limited.
  - Part 6 – For the Protection of Railway Interests
- 8.10.34. Towards the end of the Examination the Applicant provided a Statutory Undertakers Schedule [[REP9-020](#)], which summarised the position with SU's. Some of the SU's identified in the Schedule have not made any representations on the Proposed Development. S127 is not engaged when no representations have been received. The Schedule identifies outstanding concerns with respect to: National Grid Electricity Transmission Plc; Cadent; and Network Rail.

#### National Grid

- 8.10.35. Issues broached during the Examination concerned the permanent acquisition of Plots 3/3f, 3/5a, 3/6c, 3/6d, 6/1c, 6/1f, 6/2a, 6/2i, 6/3c, 6/3e, 6/4a, 7/5c, 7/7a, 7/10a. The temporary possession of Plots 3/3e, 3/8a, 6/3f, 6/10a, 7/6b, 7/7c, 7/7e, 7/11a. As well as the Acquisition of Rights for Plots 7/7b, 7/7d, 7/8c, 7/11b.
- 8.10.36. The Applicant following negotiations submits that it and National Grid Gas have reached agreement on the form of protective provisions that are

included in the rDCO. Subsequently, National Grid provided confirmation of that through [\[AS-042\]](#).

- 8.10.37. Overall, the test in s127(3)(b) can be met through the provision of protective provisions in Part 3 of Schedule 9 of the rDCO. Any compulsory acquisition of land would not result in serious detriment to the carrying on of the undertaking.

#### Cadent Gas Limited

- 8.10.38. Cadent initially submitted that: it was seeking the protective provisions are appended at Appendix 1 [\[RR-003\]](#) it has low and medium pressure gas pipelines and associated apparatus located within the order limits which are affected by works proposed and for which the DCO proposes two diversions referenced as work numbers 40 and 46.
- 8.10.39. Cadent was not satisfied that the DCO includes adequate land rights for work number 40 (the diversion of a low pressure main) over plots 7/1a, 7/7b and 7/7d.
- 8.10.40. Schedule 5 'Land in Which Only New Rights etc May be Acquired' as originally drafted included the following rights to "*Divert, install, underground, alter, retain, use, monitor and maintain and remove gas mains and associated infrastructure*". Cadent referred to experience of promoters securing insufficient rights in land within DCOs for necessary diversions of its apparatus or securing rights for the benefit of incorrect entities. Cadent sought sufficient rights were granted to allow it as SU to maintain its gas distribution network in accordance with its statutory obligations. Cadent will not decommission its existing apparatus and/or commission new apparatus until sufficient land rights are in place (to its satisfaction) whether pursuant to the DCO or otherwise. These points were raised with the Applicant.
- 8.10.41. The issues described also included regard to the permanent acquisition of Plots: 1/1a, 1/1b, 1.3a, 2/1a, 2/2b, 3/1a, 3/2a, 3/6c, 4/1a, 5/1a, 5/3a, 6/1a, 6/1b, 6/1c, 6/2a, 6/2d, 7/3a, 7/4a, 7/5a, 7/7a; the temporary acquisition of Plots 1/3b, 2/2a, 3/2b, 5/3b, 7/7c; as well as the acquisition of Rights for Plots 7/7b and 7/9a.
- 8.10.42. The Applicant and Cadent negotiated and agreed the form of protective provisions to be included in the dDCO during the Examination which were provided in Part 5 of Schedule 9 of the dDCO. Cadent [\[AS-037\]](#) subsequently wrote to the ExA withdrawing its initial objections subject to the inclusion of the agreed protective provisions.
- 8.10.43. Overall, and in any event the test in s127(6)(b) can be met through the provision of protective provisions at Part 5 of Schedule 9 of the rDCO. The compulsory acquisition of rights would not result in serious detriment to the carrying on of the undertaking.

#### Network Rail

- 8.10.44. Network Rail initially submitted via [[RR-008](#)] that the Order sought by the Applicant includes consent and powers to improve the junction between the A47 and the A11 by adding 2 new link roads to ease congestion in the area. The Applicant seeks authority and powers in the draft Order for works to be carried out to the section of the A47 which passes over the Cringleford Rail Bridge and intends to acquire all interests and rights in the overbridge to the extent owned by Network Rail.
- 8.10.45. The Applicant also seeks to acquire temporary rights to use Network Rail owned land for the purposes of carrying out works. Network Rail sought that the proposed works will not have a detrimental impact on the operation of the railway and that the safety of the railway is maintained during the construction, operation, and ongoing maintenance requirements of the scheme.
- 8.10.46. As the Applicant proposes to carry out works to the Cringleford Rail Bridge and in close proximity to the Railway, Network Rail objected to the making of the Order on the ground that the proposed works might interfere with the safe and efficient operation of the Railway.
- 8.10.47. In order to withdraw its objection Network Rail sought adequate PPs and/or requirements to be included within the Order and an agreement with the Promoter to ensure that the works for the scheme are carried out in regulated manner to prevent adverse impacts to the railway and which regulate the following:
- a) the protection of the Railway from adverse impacts during construction of the scheme;
  - b) the liability of the Promoter for any necessary repairs and upgrades to the Railway as a result of its use by construction and operational traffic associated with the scheme, including terms which protect Network Rail's statutory undertaking; and
  - c) a safe system of work for large vehicles working adjacent to the Railway.
- 8.10.48. The issue concerns the permanent acquisition of Plots 7/5g, 7/5h, 7/5i, 7/5j, 7/6b, and the temporary acquisition of Plot 7/6c.
- 8.10.49. Plots 7/5g /5g, 7/5h, 7/5i, 7/5j are needed to support the construction of new carriageway, structures, footways, embankments, earthworks landscaping bunds, service diversions and drainage works on adjacent land parcels, as part of DCO Work No.24.
- 8.10.50. Plot 7/6b is needed for a water vole relocation area along Cantley Stream east of work No. 13 at Cantley Land South as part of DCO Work No.8.
- 8.10.51. Plot 7/6c is needed to support the delivery of highways work and drainage outfall, as part of DCO Work No.6.

- 8.10.52. No works are proposed to the railway infrastructure. However, works are to be carried out on Plot 7/6b which is required for a water vole relocation area along Cantley Stream. However, relevant rights may need to be extinguished.
- 8.10.53. The Applicant and Network Rail have been in discussions on the form of the PPs to be included for the benefit of Network Rail. The Applicant included its preferred form of PPs in the DCO submitted at D9. The Applicant has stated they will continue to engage in discussions with Network Rail in relation to this issue and hope to reach agreement on PPs before the ExA's report goes to the Secretary of State, following the close of the examination. The Applicant also expects that Network Rail's objections will be withdrawn following the close of the examination following dialogue with them.
- 8.10.54. A SoCG on these matters has been prepared by the Applicant [[REP10-006](#)] evidencing a full record of engagement.
- 8.10.55. Overall, the view of the ExA is that the test in s138(4) can be met. The extinguishment of rights is considered by the ExA as necessary for the carrying out of the development to which the Order relates. Moreover, it would not result in serious detriment to the carrying on of the undertaking as PPs have been provided in Part 6 of Schedule 9 of the DCO submitted at D9.
- 8.10.56. It is not clear whether the Applicant or Network Rail seek to rely upon any remaining outstanding potential side agreements deemed necessary (it is not the ExA's view that a side agreement is required in this instance). The ExA does not consider that the recommended version of the PPs would lead to serious detriment and recommends accordingly.

#### Other Statutory Undertakers

- 8.10.57. Norfolk County Council (NCC) initially submitted [[RR-001](#)] which set out the following issue:
- "The most significant item of concern relates to unresolved issues around the County Council taking on responsibilities for assets including significant new infrastructure comprising a link from the B1172, across the A11 trunk road and Norwich-Cambridge railway line, to Cantley Lane south and the proposed classification of this new link as a B class road. In summary the County Council supports the principle of upgrading the existing A47/A11 Thickthorn Junction subject to the implementation of appropriate highway, historic environment, and surface water conditions / requirements being resolved through the DCO process."*
- 8.10.58. The Applicant's response was [[REP1-004](#)]: that engagement with NCC was ongoing with regards to handover of new assets. In accordance with the Department for Transport (DfT) Statutory guidance 'Guidance on Road classification and the primary route network 2012' it is the Local Highway Authority's responsibility to manage local road classifications, which in the case of Cantley Lane Link Road, is NCC. Therefore, the

Applicant would liaise with NCC in relation to classification of the Cantley Lane Link Road.

- 8.10.59. The SoCG between the Applicant and NCC [[REP10-005](#)] (submitted at D10) sets out the most up to date position of NCC in that no agreement has been made for it to accept any current National Highways assets.
- 8.10.60. NCC submitted they will not do so until an agreement process including exchange of data and provision of funding regarding assets which may require attention in the short to medium term has been completed. NCC also state that the agreement should be based on the condition and number of the assets to generate either a sum of funding to be transferred to NCC, or the asset brought up to an as new or good condition. NCC would expect to receive a commuted sum, agreed with Highways England, for future maintenance of transferred assets.
- 8.10.61. In that context, NCC has submitted at D10 draft PPs beyond the high level consents and 'satisfaction' that it is required to be given under Articles 14 and 17 of the draft DCO, with the aims that there are proper processes and demarcation of responsibilities between the parties [[REP10-010](#)].
- 8.10.62. NCC indicates that it has continued in discussions with the Applicant in relation to reach an agreement on the management of the handover process of roads that are to be de-trunked under the DCO and new local roads that are to be created under the DCO. The agreement sought relates to processes and principles which would cover all three of the A47 DCOs being brought forward by the Applicant. It is therefore the case that these discussions have been going on for some time, without final resolution.
- 8.10.63. NCC has also submitted that they will continue to discuss its concerns with National Highways, including in relation to the drafting of its Protective Provisions, with the hope of agreeing all issues between them across all three A47 schemes. However, failing agreement, NCC must ensure its interests as a local Highways Authority are adequately protected, which it believes is achieved through the inclusion of the draft PPs it submits and seeks.
- 8.10.64. In addition, NCC objected to the classification of the new link from Cantley Lane South to the B1172 as a B class road. That is because Cantley Lane South is currently effectively a single lane track with passing bays along it, predominantly used by northbound traffic. Classifying the road as a B road is likely to indicate to traffic that this is a through route and encourage further traffic, which would not be appropriate. However, the Applicant has been guided by NCC in classifying the new link as a C road in its preferred dDCO. That issue is therefore resolved.
- 8.10.65. Having regard to all of the above, it is noted by the ExA that the principle of upgrading the Thickthorn junction is otherwise fully supported by NCC.

- 8.10.66. No part of the Applicant's dDCO is for the protection of NCC as the Highway Authority. The ExA agrees that the inclusion of provisions requested by NCC at D10 extends beyond providing protection for the local highway authority and provides NCC with an inappropriate level of control over the delivery of the NSIP.
- 8.10.67. With respect to maintenance matters disputed by NCC the inclusion of a commuted sum payment mechanism in addition to the funding that NCC would receive from Government would suggest double recovery. The funding provided by Government is external to the issues considered in the DCO. Therefore, with that issue in mind the maintenance wording suggested to be included as PP would be unduly onerous.
- 8.10.68. As also recognised by the Applicant s120 of the PA2008 sets out what items may be included in a DCO, including (at s120(2)(a)) "*requirements corresponding to conditions which could have been imposed on the grant of any permission, consent or authorisation, [...] which [...] would have been required for the development*". Conversely if matters are not required for the development, then they may not be included in the DCO.
- 8.10.69. The ExA notes that it is also important to recognise that highway specifications for surface water drainage agreement can be reasonably dealt with in Requirement 8 which would involve consultation with NCC as the Lead Local Flood Authority. That is significant because drainage is likely to form an important part of maintenance considerations where input from NCC at a local level on the final drainage design details settled upon would be apparent. National Highways would be otherwise be completing the scheme to nationally approved strategic road network standards where there is no reason to believe an additional commuted sum for general maintenance and repair would be appropriate.
- 8.10.70. In view of all of those points as well as the wording of Articles 14 and 17 in the rDCO (Appendix D) the ExA does not consider that the Applicant's version of the PPs would lead to any serious detriment to NCC and recommends accordingly.

## **8.11. CONCLUSIONS AND RECOMMENDATIONS**

- 8.11.1. The ExA's approach to the question of whether and what CA and TP powers should be recommended to the SoST to grant is to have full regard to and apply the relevant sections of the PA2008, notably sections 122 and 123, the DCLG CA Guidance, the Human Rights Act 1998 and s19(7) of the Neighbourhood Planning Act 2017; and, in the light of the representations received and the evidence submitted, to consider whether a compelling case has been made in the public interest, balancing the public interest against private loss.
- 8.11.2. The rDCO (Appendix D) sets out the powers which the Applicant can CA and TP land. The case for CA and TP powers could not properly be considered unless and until the ExA had formed a view on the case for the development overall, and the consideration of the CA and TP issues must be consistent with that view.

- 8.11.3. The ExA has considered the case for development in the preceding chapters and in Chapter 7 concluded that the case has been made, subject to the provisions of the rDCO (Appendix D).
- 8.11.4. In considering the question of whether there is a compelling case in the public interest to acquire the land (s122(3) of the PA2008), the ExA has taken into account the Applicant's case for CA and TP, the individual issues and objections raised, and all submissions made to the Examination.
- 8.11.5. The question the ExA therefore addresses here is the extent to which, in the light of the factors set out above, the case is made for CA & TP powers necessary to enable the Proposed Development to proceed.
- 8.11.6. In this Chapter the ExA has considered:
- the need for CA and TP;
  - the purposes for which the powers are requested;
  - alternatives;
  - individual objections and issues;
  - Crown Land;
  - Special Category Land;
  - Statutory Undertakers;
  - availability and adequacy of funds;
  - potential impediments;
  - human rights and the compelling case in the public interest; and
  - DCO provisions.
- 8.11.7. The ExA's recommendations on the granting of CA and TP powers are subject to the SoST being satisfied on the following points:
- The ExA does not consider that the recommended version of the PPs would lead to serious detriment and recommends accordingly.
- 8.11.8. In relation to the application of CA powers the ExA concludes that:
- the land sought for the Proposed Development and subject to CA would be land required for the purposes of s122(2)(a) and (b) of the PA2008 and that it meets the tests set out in that section;
  - the Applicant has shown that all reasonable alternatives to CA have been explored and that there are no alternatives which ought to be preferred;



- the Applicant has demonstrated that the extent of land over which powers are sought would be no more than is reasonably required and it is proportionate to the needs of the Proposed Development;
- the private loss to those affected would be mitigated to a large degree by limiting the use of CA powers to land essential to deliver the Proposed Development and by the use of TP powers wherever possible to minimise both land-take and the extent of rights and interests to be acquired;
- with reference to s127 and s138 of the PA2008, no serious detriment to the carrying on of the undertakings of SUs has been demonstrated;
- with reference to s131 and s132 of the PA2008, suitable replacement land does not need to be provided in exchange for planned future open space subject to CA powers and therefore Special Parliamentary Procedures are not required;
- adequate and secure funding would be available for CA;
- that the Examination has ensured a fair and public hearing, that any interference with human rights arising from implementation of the Proposed Development would be for a legitimate purpose that would justify such interference in the public interest and to a proportionate extent;
- compensation would be available for quantifiable loss; and that
- there would be no disproportionate or unjustified interference with human rights that would conflict with the provisions of the Human Rights Act 1998.

8.11.9. Taking the above factors together, the ExA considers that the SoST can be satisfied that there is a compelling case in the public interest for CA and that the Proposed Development would comply with the PA2008.

8.11.10. Regarding the application for TP powers, the ExA is satisfied that:

- the land to be subject to TP, the purposes for which it would be required and the period for which land might be subject to TP, have been identified; and
- it has been demonstrated that the TP powers are compatible with the relevant human rights tests and that there are suitable compensation provisions.

8.11.11. Therefore, in respect of TP, the ExA finds that the Proposed Development would comply with the PA2008 and with s19(7) of the Neighbourhood Planning Act 2017.

8.11.12. The ExA has had regard to the provisions of the Human Rights Act 1998. In some cases, there would be interference with the peaceful enjoyment

of possessions in contravention of Article 1 of the First Protocol of the Human Rights Act 1998. In relation to Article 6 (entitlement to a fair and public hearing), the Examination has ensured a fair and public hearing. The weight of national policy in favour of the Proposed Development and the wider public interest justifies the interference with human rights.

- 8.11.13. Subject to matters set out in paragraph 8.12.8 above, the ExA concludes that any interference with human rights arising from implementation of the Proposed Development would be proportionate and would strike a fair balance between the rights of the individual and the public interest.

## **9. DRAFT DEVELOPMENT CONSENT ORDER AND RELATED MATTERS**

### **9.1. INTRODUCTION**

9.1.1. This chapter gives an overview of the Applicant's changes to the draft Development Consent Order (dDCO) during the Examination as well as the Examining Authority's (ExA's) subsequent changes to the Applicant's final dDCO [[REP9-003](#)] before reaching the recommended DCO (rDCO) included in this recommendation report to the Secretary of State for Transport (SoST) (Appendix D).

9.1.2. A dDCO [[APP-017](#)] and an Explanatory Memorandum (EM) [[APP-018](#)] were initially prepared and submitted by the Applicant as examination documents in making the application. The EM describes the purpose of the dDCO and each of its articles and schedules.

9.1.3. Whilst the Infrastructure Planning (Model Provisions) (England and Wales) Order 2009, (the model provisions) have been repealed, the submission version of the dDCO drew on the model provisions as well as precedent set by made DCOs for highways development under the Planning Act 2008 (PA2008). It is accepted there has been a change of approach to the use of model provisions since the Localism Act 2011, and although they provide a starting point for the consideration of the DCO, precedent cases are generally more appropriate.

9.1.4. The application dDCO [[REP9-003](#)] and subsequent iterations are in the form of a Statutory Instrument as required by section (s)117(4) of the PA2008.

9.1.5. The following sections of this chapter seek to:

- describe the structure and functions of the dDCO;
- summarise the processes used to examine the dDCO and the iterations to the dDCO during the Examination;
- report on the ExA's consideration of the dDCO and relevant submissions made by the Applicant and other parties during the Examination;
- set out the changes made to the dDCO during the Examination;
- provide the ExA's recommended changes leading to the rDCO (Appendix D); and
- address the relationship between the DCO and other consents and legal agreements.

### **9.2. STRUCTURE AND FUNCTION OF THE DRAFT DCO**

- 9.2.1. Each iteration of the Applicant's dDCOs contains articles and schedules including requirements and PPs. The articles are contained in seven parts, which are briefly described here and in more detail in the final EM [[REP9-005](#)] submitted to the Examination. The ExA's rDCO (Appendix D) has the same structure as the dDCOs.
- 9.2.2. Part 1 contains the preliminary provisions providing for citation, commencement and terms used in the dDCO, including definitions from the model provisions and precedent DCOs with additions to add certainty. Provisions are included for the disapplication of certain requirements that would otherwise apply under general legislation. Provisions are included to clarify responsibilities for the maintenance of drainage.
- 9.2.3. Part 2 sets out the principal powers, provides for the grant of development consent for the Proposed Development and allows it to be constructed and operated. It includes provisions in relation to maintenance, Limits of Deviation (LoD), who has the benefit of the Order and how those powers can be transferred.
- 9.2.4. Part 3 provides for the execution of works in or under the streets, matters relating to the application of the New Roads and Street Works Act 1991 as well as construction and maintenance, classification, stopping up and restrictions, access to works, clearways and traffic regulation.
- 9.2.5. Part 4 provides supplemental powers relating to the discharge of water, protective works to buildings and the authority to survey and investigate the Order land.
- 9.2.6. Part 5 contains powers in relation to the Compulsory Acquisition of land and rights and the Temporary Possession (TP) of land. It includes provisions for time limits, public rights of way, private land, acquisition of subsoil or airspace only, rights under and over streets, Statutory Undertakers, Special Category Land, compensation, and modifications to the compulsory purchase and compensation provisions under general legislation.
- 9.2.7. Part 6 contains powers in relation to trees and hedgerows.
- 9.2.8. Part 7 contains several miscellaneous and general provisions in relation to landlord and tenant law, statutory nuisance, Protective Provisions (PPs), crown rights, certification, notices, arbitration, human remains, and appeals relating to the Control of Pollution Act 1974.
- 9.2.9. The Schedules contain information referred to in the articles, including the description of the authorised development, requirements applying to the authorised development, classification of roads, permanent stopping up of streets and private means of access, land in which only new rights may be acquired, modification of compensation and compulsory purchase enactments, land of which TP may be taken, trees subject to Tree Preservation Orders, PPs, and documents to be certified.

## 9.3. DRAFT EXAMINATION PROCESS AND ITERATIONS

### Examination process

9.3.1. The ExA examined the dDCO through written questions and an Issue Specific Hearing (ISH) which included the following documents and the Applicant's responses:

- First written questions [[PD-006](#)] . Response [[REP2-006](#)];
- Second written questions [[PD-008](#)] . Response [[REP5-020](#)];
- ISH1 [[EV-009](#)] and [[EV-011](#)]. Response [[REP3-019](#)];
- Draft Development Consent Order Hearing 1 [[EV-015](#) and [EV-017](#)] . Response [[REP3-020](#)]; and
- ISH2 [[EV-030](#)] and [[EV-032](#)] Response [[REP9-021](#)];

9.3.2. Other parties who made written submissions on the dDCO included:

- Norfolk County Council (NCC) [[REP2-017](#)] [[REP4-032](#)] [[REP6-023](#)] [[REP6-024](#)] [[REP10-010](#)] [[REP1-006](#)] [[REP1-007](#)] [[REP1-008](#)] [[REP2-020](#)] [[REP4-032](#)] [[REP5-021](#)] [[REP5-025](#)] [[REP5-026](#)] [[REP6-022](#)] [[REP6-023](#)] [[REP6-024](#)] [[REP9-028](#)];
- South Norfolk Council (SNC) [[REP1-010](#)] [[REP2-019](#)] [[REP5-027](#)] [[REP9-031](#)];
- Environment Agency (EA) [[RR-004](#)] [[REP2-015](#)] [[REP5-028](#)];
- Network Rail [[RR-008](#)] [[REP1-028](#)];
- Anglian Water Limited [[RR-002](#)] [[REP6-025](#)];
- Historic England [[RR-005](#)] [[REP1-026](#)] [[REP2-016](#)];
- Royal Mail [[RR-022](#)];
- Cadent Gas [[RR-003](#)] – objections subsequently withdrawn under [[AS-037](#)];
- National Grid [[RR-007](#)] [[REP1-027](#)]– objections subsequently withdrawn under [[AS-042](#)];
- Ministry of Defence Safeguarding Team [[RR-006](#)] [[REP7-001](#)];
- Public Health England [[RR-021](#)];
- Birketts LLP on behalf of Mr and Mrs Graham Thompson [[RR-034](#)] [[REP1-035](#)] [[REP1-036](#)] [[REP2-014](#)];

- Trustees of CM Watt Residual Trust and The Trustees of the Mackintosh Trust [[RR-011](#)] [[RR-012](#)] [[REP1-004](#)] [[REP2-012](#)] [[REP2-013](#)] [[AS-013](#)] [[AS-039](#)] and [[AS-040](#)];
- Bidwells LLP on behalf of M P Kemp Limited [[RR-013](#)];
- Brown and Co on behalf of Janet Grint [[RR-037](#)];
- Jason Graver [[RR-038](#)] [[REP1-037](#)].

9.3.3. The Applicant responded to each submission made at relevant deadlines including: [[REP1-004](#)] [[REP2-006](#)] [[REP2-007](#)] [[REP2-008](#)] [[REP3-018](#)] [[REP3-019](#)] [[REP3-020](#)] [[REP4-026](#)] [[REP6-019](#)] [[REP7-007](#)] [[REP8-012](#)] [[REP8-014](#)] [[REP9-022](#)] [[REP9-023](#)] [[REP10-009](#)] [[AS-041](#)].

### Iterations

9.3.4. The dDCO was updated several times during the Examination, responding to issues raised by Interested Parties (IPs) and the ExA. The Applicant also submitted copies showing tracked changes from the previous clean copy version as Examination documents. The clean (untracked) copy versions of the dDCO submitted by the Applicant during the Examination were:

- Revision 0 Application issue [[APP-017](#)];
- Revision 1 [[REP2-002](#)];
- Revision 2 [[REP3-002](#)];
- Revision 3 [[AS-028](#)];
- Revision 4 [[REP5-002](#)];
- Revision 5 [[REP6-003](#)];
- Revision 6 [[REP8-002](#)]; and
- Revision 7 [[REP9-003](#)].

9.3.5. Each version provided by the Applicant was accompanied by a Schedule of Changes.

9.3.6. The Applicant provided updates to the EM during the Examination [[REP3-004](#)] [[REP5-004](#)] [[REP6-005](#)] The final EM being [[REP9-005](#)]. Together with versions [[REP3-005](#)] [[REP5-005](#)] [[REP6-006](#)] and [[REP9-006](#)] which showed tracked changes from the original version submitted with the application [[APP-018](#)].

9.3.7. The ExA issued a schedule of changes to the Applicant's dDCO [[PD-014](#)] with IPs invited to comment on it at Deadline 8 (3 March) as per the Examination Timetable. It was only commented on by the Applicant [[REP8-014](#)]. Some of those suggested changes arose from first and second written questions and matters discussed at the hearings.

- 9.3.8. The Applicant's final dDCO [[REP9-003](#)] was accompanied by a copy [[REP9-004](#)] that showed tracked changes and a validation report.
- 9.3.9. If the SoS decides to make the Order, the ExA's rDCO is provided in Appendix D.

## **9.4. EXAMINATION OF THE DRAFT DCO**

- 9.4.1. This section of the ExA's report does not detail every change made to the dDCO during the Examination period. That is because many of the modifications involved typographical errors or revisions that are not deemed by the ExA to be controversial in nature.
- 9.4.2. In addition, any ExA's queries which have been adequately justified by the Applicant and not necessitating change to the dDCO or in need of important acknowledgement are not included.
- 9.4.3. Comment is however provided on those changes made during the Examination that the ExA considers to be significant because of their effect or because they gave rise to important reasoning, additional submissions, or questions.

### Purpose of the Order

- 9.4.4. Following discussion at the Preliminary Meeting and in acknowledgement of statutory provisions towards a defined legal entity the Applicant has applied a formal name change which transpired around the time of acceptance of the application. This was the name change of Highways England to National Highways and the wording within the dDCO was updated accordingly.

### **Articles - general matters**

- 9.4.5. Article 2 – definition of "commence"
- 9.4.6. It was noted by the ExA during first written questions [[PD-006](#)] that the effect of the definition as originally proposed by the Applicant may permit some works before the discharge of the requirements. Interested Parties were invited to comment whether they were concerned with any particular works that could be carried out prior to the discharge of requirements giving reasons inclusive of regard to works which could, or are, controlled by a requirement.
- 9.4.7. Following a review by the Applicant the definition of "commence" was subsequently amended to delete reference to "diversion and laying of underground apparatus".
- 9.4.8. No further objections from Local Authorities or indeed any other IP has been raised in relation to the change. Although the definition of commence remains wide ranging the definition now submitted in the Applicant's final dDCO is accepted by the ExA as being fit for purpose.

### Article 10 – consent to transfer the benefit of the order

- 9.4.9. The ExA asked during the Examination how Article 10 as originally submitted is appropriately triggered and whether it includes the power to transfer compulsory acquisition powers as well.
- 9.4.10. The Applicant set out that the Article requires the written consent of the SoS to transfer any or all benefits of the Order. The power is included so that if the Applicant needed to transfer the benefit of the Order to another legal entity the mechanism exists to allow this, noting that the definition of undertaker in the Order is currently the Applicant.
- 9.4.11. The Applicant explained that the nature of the Proposed Development and the Applicant's statutory position makes the event of the power being needed very unlikely. The Applicant also advised that the power allows for transfer of part if needed, as opposed to the whole of the Proposed Development. Moreover, the Applicant confirmed that it could allow the transfer of compulsory acquisition powers, but in doing so the Applicant would still be responsible for the payment of compensation, where the benefit of part of the benefit of the Order was transferred to a Statutory Undertaker.
- 9.4.12. For further clarity the Applicant provided a modification to Article 10 to reflect the drafting that was included in the A303 Stonehenge DCO (now quashed) and is being proposed in Article 11 of the draft Black Cat to Caxton Gibbet Improvements DCO.
- 9.4.13. An amendment to Article 10(3) has been included in the dDCO to ensure that the person benefitting from any such transfer of grant would be subject to the same obligations as the Applicant, but an exception is made in relation to liability for the payment of compensation due in connection with the compulsory acquisition of land. This drafting specifically clarifies that the liability for the payment of compensation will remain with the Applicant.
- 9.4.14. The ExA is content with the wording of the modification and the updated provision made.

#### Article 21 – Discharge of Water

- 9.4.15. The ExA questioned the wording of the Article referring to any watercourse within Article 21 (6) referring to a permit mechanism being triggered if required. The main issue being whether this was adequate for the requirement relating to Cantley Stream, in knowledge of existing local environmental factors and the range of impacts assessed in the Environmental Statement (ES) and having regard to emerging legislation stemming from the Environment Act 2021.
- 9.4.16. The Applicant advised during the Examination that the purpose of Article 21 (6) is to ensure that the Applicant cannot circumvent the need for any relevant permit relating to other relevant environmental matters. If a permit is deemed to be required in relation to Cantley Stream, then the Applicant will be legally obliged to obtain one. The specific wording of the Article further clarifies that any permit required in an area will need to be obtained before any works commence in such an area. Furthermore, the



Article is a model provision and is included in DCOs so that Nationally Significant Infrastructure Projects (NSIPs) are not rendered undeliverable by a drainage issue or a private landowner holding the scheme to ransom.

- 9.4.17. In relation to the wider issue of discharge of water, the Applicant reviewed and later confirmed the nature and extent of discharge proposed into Cantley Stream as part of the planned scheme improvement works.
- 9.4.18. There are several discharge points proposed along Cantley Stream and these are shown on the Drainage and Surface Water Plans ([APP-011](#)).
- 9.4.19. Having considered that information the ExA is content that Article 21 is necessary as this ensures the Applicant is able to discharge into the stream, provided they have consent from the owner of the stream (not to be unreasonably withheld). The ExA is also content that Article 21(6) ensures the Applicant must secure an environmental permit if deemed necessary. Therefore, the ExA is satisfied the content of the Article included (which is based on the model provision) is appropriately worded in light of the need to discharge into Cantley Stream having regard to local constraints and all relevant factors.

#### Article 39 – felling or lopping of trees and removal of hedgerows

- 9.4.20. This article was amended by the Applicant following responses to the ExA's further written questions [[REP5-027](#)] as well as SNC seeking confirmation during the dDCO hearing whether there was a mechanism available to guarantee that best practices would be used in exercise of powers relating to the felling or lopping of trees and removal of hedgerows being included.
- 9.4.21. In response to SNC the Applicant has included additional wording Article 39(2), which ensures that works are carried out in accordance with British Standards or other suitable recognised codes of good practice provided this meets or exceeds the appropriate British Standards.
- 9.4.22. The ExA is satisfied that the change is appropriate and properly deals with local concerns in relation to the felling or lopping of trees and removal of hedgerows largely raised by SNC but also other IPs involved in the Examination.

#### **Schedule 2 Paragraph 1 (Requirements) - general issues**

##### Definitions

- 9.4.23. The definition of "masterplan" has been amended in paragraph 1 of Schedule 2 'Requirements' to "environmental masterplan".
- 9.4.24. The ExA accepts the change was needed as the definition of the document must reflect the name used in the other Examination Library documents required linked by the revised wording for the purposes of applying the statutory tests.

### Provisions for consultation and agreement

- 9.4.25. The Applicant's broad approach to the discharging of provisions is for any agreement to be provided by SoST and for other parties, including the local planning authorities and EA, to be consulted with as appropriate. No parties have objected in principle to that method and the ExA is content that the broad approach taken by the Applicant is reasonable
- 9.4.26. Based on the above and noting that there was no disagreement with the Applicant's updated final dDCO requirements by IPs, the ExA is satisfied that appropriate provisions are in place for consultation during the discharging of requirements when read as a whole.

### **Schedule 2 Part 1 (Requirements) - other matters**

#### Requirement 4 – Environmental Management Plan

- 9.4.27. The Lead Local Flood Authority (LLFA) has been listed by the Applicant as a consultee under Requirement 4(1) concerning the approval of an Environmental Management Plan. That amendment was made at the request of NCC as the LLFA in its Local Impact Report ([REP1-008](#)). The EA has also been included as a consultee in accordance with the Applicant's responses to Relevant Representations ([REP1-004](#)).
- 9.4.28. During the Examination it was noted by the ExA that the dDCO relies upon mechanisms to relating to first, second and third iterations of the Environmental Management Plan.
- 9.4.29. The ExA through written questions raised the issue whether a streamlined two step approach in terms of an Outline and Final Environmental Plan in substantial accordance with the outline could have been opted for. This was important given the range of ecological impacts considered by the ES and any subsequent mitigation being adequately addressed. The Applicant was specifically asked to justify why such a streamlined approach could not be implemented taken and read alongside the Record of Environmental Actions and Commitments (REAC).
- 9.4.30. The reasoning provided by the Applicant included an updated approach as detailed Design Manual for Roads and Bridges (DMRB) which was accepted by the ExA.

#### Details of consultation - Requirement 17

- 9.4.31. The original wording has been updated by the Applicant during the examination to replace 15 business days with 20 business days following a request by SNC in response to written questions ([REP5-027](#)).
- 9.4.32. Although the period applied is shorter than the 28-day timeframe requested by SNC the ExA finds the Applicant's amendment strikes an acceptable balance between its own delivery commitments and the nature of the details to be consulted upon relative to the DCO boundary

as well as the administrative duties incumbent on a single district authority the expected consultation will involve.

- 9.4.33. It is noted that a Planning Performance Agreement has also been sought by SNC. However, it is not considered by the ExA to be a necessary step in the wording of the Requirement opted for and there is nothing to prevent such direct provision between the Applicant and SNC should they decide otherwise.

#### Requirement 5 – Landscaping

- 9.4.34. Paragraph 3(f) was amended during the examination to update the replacement period to a "minimum" of five years and inserted additional wording "unless the LEMP specifies a longer replacement period".
- 9.4.35. The change was applied following the Examining Authority's Schedule of recommended Changes to the DCO [[PD-014](#)].
- 9.4.36. This was an important change because the weighing up of local ecology management considerations at a future point in the LEMP may require additional replacement period protection. Therefore, ample flexibility was warranted to ensure successful future implementation of the LEMP.

#### Requirement 5 – Landscaping (design)

- 9.4.37. A new paragraph was added by the Applicant to require the landscaping scheme to address the guidance in paragraph 4.29 of the National Policy Statement for National Networks for the appearance of national network projects to demonstrate good design as far as possible.
- 9.4.38. The ExA noted during the examination that the Environmental Masterplan [[APP-123](#)] presented as an application document is not a final design. Accordingly, the potential for meaningful substantive landscaping enhancements in line with national approaches to securing good design (also having regard to the National Planning Policy Framework, as well as important heritage considerations) are still possible and should be pursued by the Applicant.
- 9.4.39. In the ExA's view the consideration of a final Environmental Masterplan should be informed through undertaking a formal independent Design Review and a designer's response to that. This update would ensure adequate consideration of the possibilities available informing the final design approach.
- 9.4.40. The approach outlined follows a request in the ExA's Schedule of recommended Changes to the DCO [[PD-014](#)].

#### Removal of human remains

- 9.4.41. The Applicant and IPs were asked in written questions if the dDCO should include an article to deal with the removal of human remains (as per that found under article 17 of the model provisions). They were asked to

provide the reasoning which informed their views and the Applicant invited to include an appropriately worded article in the dDCO.

- 9.4.42. The ExA acknowledges elsewhere in this report that the Proposed Development lies adjacent to a known ancient human burial site (the scheduled ancient monument identified as Two Tumuli in Big Wood) albeit beyond the scheme application boundary.
- 9.4.43. Therefore, the ExA is of the view that adequate precautionary measures and reasonable safeguard should be applied to wider parts of the application boundary given the discovery of unexpected human remains is possible.
- 9.4.44. The ExA has considered all submissions by the Applicant and IPs. The Applicant during the Examination has accepted that the model provision should be applied having the benefit of NCC Historic Environment Team's responses confirming similar [REP5-025]. Subsequently the model wording highlighted has been added to the Applicant's dDCO and is deemed an appropriate change by the ExA.

### **Other Schedules**

#### Schedule 3 – Classification of Roads, etc., Parts 2 and 2A, Classified B Roads and Classified C Roads

- 9.4.45. A change to the classification of Cantley Lane Link Road was requested by NCC. Cantley Lane Link Road has been removed from Part 2 "Classified B Roads" and inserted into Part 2A "Classified C Roads". The change applied to the dDCO has not attracted further comments from IPs and the ExA finds that it is reasonable and appropriate.

#### Schedule 5 – Land in which only new rights may be acquired

- 9.4.46. Plot's 3/3l and 7/11b were originally omitted and have been added so that Schedule 5 aligns with the plots shown on the Land Plans [AS-020]. The change is considered necessary and reasonable by the ExA.

#### Schedule 8 – Removal of Hedgerows, Part 1, Removal of Hedgerows

- 9.4.47. A hedgerow reference was corrected by the Applicant to ensure Schedule 8 matches the Hedgerow Plans [REP4-002]. The change in part addresses initial IP concerns and no further comments were received.

#### Schedule 9 – Protective Provisions

- 9.4.48. Part 1 is for the protection of electricity gas, water, and sewage undertakers; Part 2 for the protection of electronic communications code networks; Part 3 for the protection of National Grid as electricity and gas undertaker; Part 4 for the protection of Anglian Water Services Limited; Part 5 for the Protection of Cadent; Part 6 for the protection of Railway Interests.

- 9.4.49. No part is for the protection of the EA, who have not objected and therefore indicates that it is content with the provisions. The ExA does not have a reason to disagree.
- 9.4.50. Moreover, no part is for the protection of NCC as the Highway Authority. The ExA agrees that the inclusion of provisions requested by NCC at Deadline 10 extends beyond providing protection for the local highway authority and provides NCC with an inappropriate level of control over the delivery of the NSIP. With respect to maintenance matters disputed by NCC the inclusion of a commuted sum in addition to the funding that NCC would receive from Government would suggest double recovery. Therefore, with that issue in mind the maintenance wording suggested to be included as PP would be onerous.
- 9.4.51. Section 120 of the Planning Act 2008 sets out what items may be included in a DCO, including (at s120(2)(a)) *"requirements corresponding to conditions which could have been imposed on the grant of any permission, consent or authorisation, [...] which [...] would have been required for the development"*. Conversely if matters are not required for the development, then they may not be included in the DCO.
- 9.4.52. The ExA accepts that here is no convincing evidence before the Examination to demonstrate or justify the need for a commuted sum.
- 9.4.53. Overall, the ExA concludes that no changes are required.

Schedule 9, Part 3 'For the Protection of National Grid as electricity and gas undertaker'

- 9.4.54. The PPs for the benefit of National Grid were updated at D8. The Applicant has submitted that the drafting has been agreed with National Grid.

Schedule 9, Part 6 'For the Protection of Railway Undertakers'

- 9.4.55. Drafting has been included for the protection of Network Rail Infrastructure Limited. The wording is not yet agreed with Network Rail but is the Applicant's preferred drafting.
- 9.4.56. The outstanding issues between the Applicant and Network Rail have already been set out in Chapter 8. Subject to the SoST confirming with the Applicant and Network Rail that all outstanding agreements have been settled, the ExA does not consider that the recommended version of the PPs would lead to serious detriment and recommend accordingly.

Schedule 10 – Documents to be certified

- 9.4.57. The Applicant has provided updates to Schedule 10 in tandem with its Guide to the Application [[REP10-007](#)] referring to all relevant changes during the Examination and for the latest versions to be identified clearly and unambiguously.

- 9.4.58. The ExA is satisfied with the updates provided, noting that the Environmental Masterplan at submission was [APP-123] and then referred to by the Applicant as being updated to [REP6-007] in the Applicant's Guide to the Application. But that appears to be erroneous as [REP6-007] is a version of the EMP and a non-material change for [APP-123] to be updated to [AS-032] was also granted by the ExA following the Applicant's request during the Examination. Therefore, [AS-032] was the most recent document available to the ExA.
- 9.4.59. Furthermore, the Engineering Drawings are referenced by the Applicant to be updated from [APP-010] to [REP9-002] in the Applicant's Guide to the Application yet document reference carried forward into the Applicant's dDCO Revision 7 in Schedule 10 [REP9-003] refers to [APP-010]. The nature of the changes made in the Engineering Drawing Deadline 9 submission is unclear to the ExA therefore the recommendation is based on APP-010 as that is the document version which has been consulted upon (accepting non-material changes may potentially be argued by the Applicant in the absence of an explanation as to what has altered and anything more substantial is likely to be subject to additional public consultation measures). Thus, no changes to the DCO are proposed by the ExA.
- 9.4.60. Schedule 3 (linked to Articles 12, 13 and 19) for the Classification of Roads, Etc at Part 2A confirms that the Cantley Lane Link Road (as a defined 947 metre length of highway) is to be classified as C Road. Such provision therefore satisfies NCC's objections to previous B Road classification.
- 9.4.61. NCC's asset transfer objections are not withdrawn however the ExA does not recommend further changes to the DCO.

## 9.5. CHANGES TO THE APPLICANT'S FINAL DRAFT DCO

- 9.5.1. The ExA's reasoning for recommending changes to the final version of the dDCO submitted by the Applicant to the Examination [REP9-003] is set out in the previous section. This section summarises the changes included in the rDCO (Appendix D).
- 9.5.2. This section of the report addresses all outstanding matters which there was discussion between the Applicant and the ExA at ISH2 [EV-029] [EV-030] [EV-032] (post an initial Draft Development Consent Order Hearing [EV-013] [EV-015] [EV-017] and the publications of ExA Schedule of ExA's Recommended Changes to the Applicant's draft DCO Version Revision 5 [REP6-003] under [PD-014]) about potential changes to the preferred dDCO (Revision 7) [REP9-003], in a tabulated format. It also deals with some of the points of disagreement contained in the Applicant's response to the ExA's suggested changes within [REP8-014].
- **Table 1** sets out the provisions in respect of which the ExA has accepted the Applicant's submissions at ISH2 [EV-029] [EV-030] [EV-032] and within [REP8-014] (post an initial Draft Development Consent Order Hearing [EV-013] [EV-015] [EV-017]

and the publication Schedule of ExA's Recommended Changes to the Applicant's draft DCO Version Rev 5 [REP6-003] under [PD-014] and has decided that no changes are required, for reasons.

**Table 2** sets out the provisions in respect of which the ExA has recommended changes to the Applicant's preferred dDCO ([REP9-003] Revision 7) in the rDCO (Appendix D) and the reasons following the consideration of the Applicant's comments in [REP8-014].

**Table 1: DCO Provisions Not Recommended to be Changed**

Provision/Requirement	Examination Issue	ExA Reasoning
<p>ExA's suggested change [REP6-003]:</p> <p>Article 2(1)</p> <p>"commence" means beginning to carry out any material operation (as defined in section 56(4) of the 1990 Act) forming part of the authorised development <b><i>provided that those operations do not give rise to any materially new or materially different environmental effects to those assessed in the environmental statement</i></b> and other than operations consisting of archaeological investigations and mitigation works, ecological surveys and preconstruction ecological mitigation, investigations for the purpose of assessing and monitoring ground conditions and levels, remedial work in respect of any contamination or other adverse ground conditions, erection of</p>	<p>Applicant's draft DCO Rev 5 [REP6-003]</p>	<p>The ExA agrees that the parameters of the authorised development as defined in Schedule 1 have been properly assessed in the environmental statement. Therefore, the additional wording is unnecessary.</p>

Provision/Requirement	Examination Issue	ExA Reasoning
<p>any temporary means of enclosure, receipt and erection of construction plant, equipment, welfare facilities and temporary buildings, site clearance, and the temporary display of site notices or advertisements, and "commencement" is to be construed accordingly;</p>		
<p>ExA suggested change [REP6-003]:</p> <p><i>New requirement</i></p> <p><i>All of the temporary construction welfare and material storage compound area facilities indicated within the Works Plans including any temporary means of enclosure, construction plant, equipment, materials, temporary display of site notices or advertisements shall be completely removed from all relevant plots and the land restored to its former condition as soon as practicable following completion of the authorised works.</i></p>	<p>Applicant's draft DCO Rev 5 [REP6-003]</p>	<p>The ExA agrees that Article 34 provides clear and certain legal drafting about temporary use of land for carrying out the authorised development. Article 34(3) sets out the timescales for remaining in possession and Article 34(4) deals with restoration of the land. The ExA agrees such provision would not provide enough certainty for landowners. Therefore, such a proposed requirement would conflict with the wording of Article 34 through uncertainty and accepts it should not be included in the dDCO submitted at Deadline 8([REP9-003] Revision 7), nor the ExA's rDCO.</p>



Provision/Requirement	Examination Issue	ExA Reasoning
<p>Requirement 5 (4)</p> <p>All landscaping works must be carried out to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other more suitable recognised codes of good <b>or established best practice utilised by the relevant Council for the administrative area</b> provided these meet or exceed the appropriate British Standard.</p>	<p>Applicant's draft DCO Rev 5 [<a href="#">REP6-003</a>]</p>	<p>The ExA agrees the proposed additional wording creates unnecessary uncertainty. It raises the potential of the Applicant needing to meet different "codes of good or established best practice" over the course of a NSIP which are not fully defined or yet to be developed. On that basis, the proposed wording is agreed not to be included in the Applicant's dDCO or the rDCO.</p>

**Table 2: DCO Provisions Recommended to be Changed**

Provision	Examination Issue	Recommendations
<p>Article 2(1) and Article 3(4)</p>	<p>Applicant's draft DCO Rev 5 [<a href="#">REP6-003</a>]</p>	<p>The ExA recommends deletion. That the amendments to Article 2 (1) and Article 3(4) of the dDCO made by the Applicant at Deadline 6 are deleted in their entirety.</p> <p>The ExA maintains the view that the inclusion made by the Applicant would not be appropriate owing to other options available to the parties outside of the DCO and there is no compelling justification to incorporate</p>

Provision	Examination Issue	Recommendations
		such an approach based on the information presented.
<p>Schedule 2, requirement 3(1)</p> <p>The authorised development must be designed in detail and carried out so that it is compatible with the preliminary scheme design shown on the engineering drawings and sections unless otherwise agreed in writing by the Secretary of State <b><i>following an independent Design Review and a report on its findings on the design of the bridges, underpasses and structures, the Applicant's design response and the subsequent inclusion of any appropriate modifications to the engineering drawings and the final design, and consultation by the undertaker with the relevant planning authority on matters related to its functions,</i></b></p>	<p>Applicant's draft DCO Rev 5 [<a href="#">REP6-003</a>]</p>	<p>The Applicant's response to the ExA's changes as well as the content of the National Policy Statement for National Networks (NPSNN) has been noted. However, the NPSNN does refer to the need for aesthetic considerations in gauging design matters. The NPPF is also an important and relevant consideration which refers to national design policy and reaffirms the status of design issues in decision making.</p> <p>The aim of the wording is to allow meaningful aesthetic enhancements to be properly considered for all structures forming the final design prior to approval. There is no strong reason such a mechanism would come at a cost of impaired functionality or fitness for purpose, or prevent the delivery of the scheme.</p> <p>The ExA is not convinced that a further definition of independent Design Review would need to be applied in the Requirement as it is a widely used term in planning delivery matters. Accordingly, it is deemed to meet the precision test.</p> <p>It is also deemed necessary to fully explore potential enhancements to the details presented which are evidenced by the Applicant throughout the Examination</p>

Provision	Examination Issue	Recommendations
<p>provided that the Secretary of State is satisfied that any amendments to the engineering drawings and sections showing departures.</p>		<p>to not be at a final stage and thus subject to change.</p> <p>Leaving this matter of detail to the approval of the Secretary of State without an independent design review could well result in meaningful design improvement opportunities being lost or not considered at earlier time critical design stages.</p> <p>There would still remain sufficient scope for the Applicant to discount any potential changes which would interfere with other important elements assessed in the ES.</p> <p>It is also accepted by the ExA that the footbridge over the A47 could be the main component focused on at design review, accepting there may be limited scope for other structures to be enhanced owing to their primary functional criteria.</p>
<p>Requirement 5 (1)</p> <p>The authorised development must be landscaped in accordance with a landscaping scheme which sets out details of all proposed hard and soft landscaping works and which has been submitted to and approved in writing by the</p>		<p>The Applicant's response to the ExA's proposed changes as well as the content of the NPSNN is noted. However, the NPSNN does refer to the need for aesthetic considerations in gauging design matters. The NPPF is also an important and relevant consideration which refers to national design policy and reaffirms the status of design issues in decision making.</p>

Provision	Examination Issue	Recommendations
<p>Secretary of State, <b><i>following an independent Design Review and a report on its findings for the landscaping scheme provision associated to the authorised development, the Applicant's subsequent design response including any appropriate modifications to the scheme, and consultation by the undertaker with the relevant planning authority on matters related to its functions.</i></b></p>		<p>The aim of the wording is to allow meaningful aesthetic enhancements to be properly considered in the interests of improved visual appearance forming the final design prior to approval. There is no strong reason to accept that such a mechanism would come at a cost of impaired functionality or delivery of the scheme.</p> <p>Taking into account the Applicant's views the ExA is not convinced that a definition of independent Design Review would need to be applied in the Requirement as it is a common term used in planning matters. Accordingly, the wording is deemed to meet the precision test.</p> <p>It is also deemed necessary to fully explore potential enhancements to the details presented which are evidenced by the Applicant throughout the Examination to not be at a final stage and thus subject to change.</p> <p>Leaving this matter of detail to approval of the Secretary of State without an independent design review could well result in meaningful aesthetic improvements/enhancements opportunities being lost before a time critical final design stage.</p> <p>There would remain sufficient scope for the Applicant to discount any potential</p>

Provision	Examination Issue	Recommendations
		changes which would interfere with other important elements assessed in the ES. For example, that would include biodiversity considerations. Moreover, there is nothing evidenced to show that overall aesthetics of the scheme could not be improved also having regard to other important issues such as ecological and sustainability interests committed to.

## 9.6. OTHER LEGAL AGREEMENTS AND CONSENTS

- 9.6.1. At no stage during the Examination was it considered by the Applicant or LPAs that a planning obligation directly related to the Proposed Development was necessary. The ExA is content with that approach.
- 9.6.2. A list of other consents required to construct, operate and maintain the Proposed Development was referred to by the Applicant in s24 of the application Form [APP-001] through the Applicant's Consents and Agreements Position Statement [REP9-007] and is summarised in Section 1.8 of this report.
- 9.6.3. At several times during the Examination the ExA asked for updates on any known impediments, including with respect to other consents. Towards the end of the Examination the Applicant has indicated that there were no known impediments from its perspective or that it had been made aware of in discussion with the relevant regulatory authorities.
- 9.6.4. The Applicant [REP8-015] [REP5-024] provided letters from Natural England stating that, based on the information and proposals provided, it saw no impediment to issuing bat or water vole mitigation licences, should the DCO be granted.
- 9.6.5. The EA have not submitted that Applicant is unaware of any particular consents required for the works. Moreover, there is no reason to suggest any relevant consent could not be achieved taking into account the range of issues engaged on in the Statement of Common Ground between the Applicant and EA [REP9-012], as well as the Consents and Agreements Position Statement [REP9-007] provided by the Applicant.

- 9.6.6. Matters relating to other consents have been considered throughout the Examination. Given the final positions of NE, the EA, the Local Authorities, and without prejudice to the exercise of discretion by other decision makers, the ExA find no obvious impediments to the delivery of the Proposed Development arising from these consents. If a DCO is made, the ExA considers that there is a reasonable likelihood of outstanding consents being granted.
- 9.6.7. The ExA concludes that there are no additional matters arising from or relating to other consents which indicate against the grant of the DCO or for which the DCO should additionally provide.

## **9.7. CONCLUSIONS**

- 9.7.1. The ExA has had regard to all matters forming the application and put before the Examination, including the updated iterations of the dDCO.
- 9.7.2. The Applicant's final draft [[REP9-003](#)] has been assessed in full and from that exercise the ExA recommends several changes and are included in the rDCO (Appendix D).
- 9.7.3. The ExA is satisfied that the rDCO (Appendix D) adequately defines the scope of the consent being granted and that it secures the necessary controls and mitigation measures that are consistent with the assessments provided in the ES.
- 9.7.4. Overall, the view of the ExA is that the rDCO (Appendix D) only includes requirements that are necessary, relevant to planning, relevant to the development to be consented, enforceable, precise, and reasonable in all other respects. On that basis the ExA is of the view that paragraph 4.9 of the NPSNN is satisfied.
- 9.7.5. If the SoST is minded to make the DCO, it is recommended by the ExA to be made in the form set out in Appendix D.

# 10. SUMMARY OF FINDINGS AND CONCLUSIONS

## 10.1. INTRODUCTION

10.1.1. This chapter summarises the Examining Authorities (ExA's) conclusions arising from this report as a whole and sets out the primary recommendation to the Secretary of State for Transport (SoST).

## 10.2. CONSIDERATION OF FINDINGS AND CONCLUSIONS

10.2.1. The ExA's conclusions are subject to the provisions of the recommended Development Consent Order (rDCO) in Appendix D of this report and, in relation to sections 104(4), 104(5) and 104(6) of the Planning Act 2008, subject to the Secretary of State for Transport satisfying themselves on the matters identified below.

10.2.2. In relation to sections 104(2) and 104(3) of the Planning Act 2008 (PA2008), the ExA concludes that making the rDCO would be in accordance with the National Policy Statement for National Networks, relevant development plans and other relevant policy, all of which have been taken into account in writing this report. Furthermore, the ExA has had regard to matters arising from the Local Impact Reports from Norfolk County Council and South Norfolk District Council and to all matters that the ExA considers to be both important and relevant in reaching any conclusions.

10.2.3. Whilst the SoST is the competent authority under the 2017 Habitats Regulations<sup>4</sup> and will make the definitive assessment, the ExA concludes that the Proposed Development would not be likely to have significant effects on European sites, species, or habitats. Accordingly, the ExA has taken this finding into account in reaching the recommendation given. The ExA considers that it is not necessary to undertake an Appropriate Assessment for the Proposed Development.

10.2.4. The ExA has considered the case for Compulsory Acquisition (CA) and Temporary Possession (TP) of land and rights required to implement the Proposed Development. The ExA concludes that the powers sought are necessary to enable the Applicant to complete the Proposed Development. The ExA finds that there is a compelling case in the public interest, that the Applicant has a clear idea of how it intends to use the land, and that funds are available for the implementation. The ExA is satisfied that the CA and TP powers sought by the Applicant are justified, comply with the PA2008, and should be granted.

10.2.5. Furthermore, the ExA has also had regard to the provisions of the Human Rights Act 1998. There would be interference with the peaceful enjoyment of possessions in contravention of Article 1 of the First Protocol of the

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<sup>4</sup> The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations)

Human Rights Act 1998. In relation to Article 6 (entitlement to a fair and public hearing), the Examination has ensured a fair and public hearing has been carried out and made possible for all relevant parties within the examination to attend if they wished to do so. The weight of national policy in favour of the Proposed Development and the wider public interest qualifies any interference with the human rights affected. The ExA concludes that any interference with human rights arising from implementation of the Proposed Development would be proportionate and strike a fair balance between the rights of the individual and the public interest.

- 10.2.6. The ExA has had regard to the Public Sector Equality Duty (PSED). There is nothing to suggest that the Proposed Development would result in harm to the interests of persons who share a protected characteristic or have any adverse effect on the relationships between such persons and persons who do not share a protected characteristic. The ExA finds there to be no breach of the PSED.
- 10.2.7. As required by Regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010, the ExA has considered the desirability of preserving listed buildings and scheduled monuments, their setting, and any features of special architectural or historic interest that they possess. The ExA finds that the Proposed Development would result in less than substantial harm to a scheduled ancient monument and to the settings of nearby listed buildings. The ExA attaches considerable weight and importance to these harms. Nonetheless the ExA finds that the public benefits of the Proposed Development would overcome the harm identified to heritage assets.
- 10.2.8. As required by Regulation 7 of the Infrastructure Planning (Decisions) Regulations 2010, the ExA has had regard to the United Nations Environmental Programme Convention on Biological Diversity. The Proposed Development would have large adverse construction effects on two veteran trees which would be removed. Accepting, the overall level of public good would demonstrably outweigh the loss of those irreplaceable assets having regard to nature. However, the development would also lead to a range of enhancements delivered collectively through the Environmental Masterplan, Environmental Management Plan and Landscape and Ecology Management Plan. That would be specifically achieved through considered planting to create new or extend landscaping and biodiversity elements, including species rich grassland, hedgerows, trees, woodland, and wetlands as shown indicatively in the submitted Environmental Masterplan which is not yet final.
- 10.2.9. Overall, therefore, the ExA considers that the Proposed Development would accord with the aims of the United Nations Environmental Programme Convention on Biological Diversity.

### **10.3. RECOMMENDATION**

- 10.3.1. The ExA's findings and conclusions on important and relevant matters are set out in this report.



10.3.2. The ExA considers that the Proposed Development meets the tests in s104 of the Planning Act 2008. On that basis, it is recommended that the Secretary of State for Transport makes the A47/A11 Thickthorn Junction Development Consent Order in the form attached at Appendix D to this report.



# **APPENDICES**

**APPENDIX A: EVENTS IN THE EXAMINATION**

**APPENDIX B: EXAMINATION LIBRARY**

**APPENDIX C: LIST OF ABBREVIATIONS**

**APPENDIX D: THE RECOMMENDED DCO**

## **APPENDIX A: EVENTS IN THE EXAMINATION**

## APPENDIX A: EVENTS IN THE EXAMINATION

The table below lists the main events in that occurred during the Examination and the procedural decisions taken by the ExA.

Date	Event
19 and 20 August 2021	<b>Unaccompanied Site Inspection</b>
19 and 20 August 2021	Publication of the <b>Rule 6</b> letter by ExA
06 September 2021	<p><b>Procedural Deadline A</b></p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> <li>• Written submissions on the Examination procedure including any submissions about the use of virtual procedures</li> <li>• Any changes that are considered necessary to the draft Examination Timetable</li> <li>• Requests to be heard orally at the Preliminary Meeting</li> </ul>
13 September 2021	<b>Preliminary Meeting Part 1</b>
17 September 2021	<p><b>Procedural Deadline B</b></p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> <li>• Written submissions on Examination procedure including responses to matters raised orally at the Preliminary Meeting Part 1</li> <li>• Requests to be heard orally at the Preliminary Meeting Part 2</li> </ul>
23 September 2021	<b>Preliminary Meeting Part 2</b> was not required
23 September 2021	<b>Start of Examination</b>
23 September 2021	Publication of <b>Rule 8</b> letter and ExA's First Written Questions ( <b>ExQ1</b> )
13 October 2021	<p><b>Deadline 1</b></p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> <li>• Comments on Relevant Representations</li> <li>• Summaries of all RRs exceeding 1500 words</li> <li>• Local Impact Reports (LIR) from Local Authorities</li> </ul>

	<ul style="list-style-type: none"> <li>• Written Representations (WRs)</li> <li>• Summaries of all WRs exceeding 1500 words</li> <li>• Statements of Common Ground (SoCGs)</li> <li>• Statement of Commonality for SoCG</li> <li>• Compulsory Acquisition Schedule</li> <li>• Guide to the Application</li> <li>• Notification by Statutory Parties of their wish to be considered as an Interested Party</li> <li>• Notification of wish to speak at an Issue Specific Hearing</li> <li>• Notification from any Affected Person of wish to speak at Compulsory Acquisition Hearing</li> <li>• Notification of wish to speak at an Open Floor Hearing</li> <li>• Nominations of suggested locations and justifications for site inspections for consideration by the ExA</li> <li>• Any further information requested by the ExA under Rule 17 of the Examination Procedure Rules (EPR)</li> </ul>
26 October 2021	<p><b>Deadline 2</b></p> <p>Deadline for receipt by ExA of:</p> <ul style="list-style-type: none"> <li>• Responses to the ExA's Written Questions (ExQ1)</li> <li>• Comments on LIR(s)</li> <li>• Comments on WRs</li> <li>• The Applicant's revised draft Development Consent Order (draft DCO) Schedule of changes to the draft DCO</li> <li>• Comments on any additional information/submissions received by Deadline 1</li> <li>• Any further information requested by the ExA under Rule 17 of the EPR</li> </ul>
16 November 2021	Open Floor Hearing ( <b>OFH1</b> )
17 November 2021	Issue Specific Hearing 1 ( <b>ISH1</b> ) on Environmental Matters
18 November 2021	draft Development Consent Order Hearing ( <b>DCO1</b> )
22 and 23 November 2021	Unaccompanied and Access Required Site Inspection
23 November 2021	<p><b>Deadline 3</b></p> <p>Deadline for receipt by ExA of:</p> <ul style="list-style-type: none"> <li>• Comments on responses to ExQ1</li> <li>• Post hearing submissions including written summaries of oral case</li> <li>• The Applicant's revised draft DCO</li> <li>• Schedule of changes to the draft DCO</li> <li>• Updated Compulsory Acquisition Schedule</li> <li>• Progressed SoCGs</li> <li>• Progressed Statement of Commonality for SoCG</li> </ul>

	<ul style="list-style-type: none"> <li>• Comments on any additional information/submissions received by Deadline 2</li> <li>• Any further information requested by the ExA under Rule 17 of the EPR</li> </ul>
30 November 2021	Issue by the ExA of Further Written Questions and requests for information ( <b>ExQ2</b> )
6 December 2021	<p><b>Deadline 4</b></p> <p>Deadline for receipt by ExA of:</p> <ul style="list-style-type: none"> <li>• An updated Guide to the Application</li> <li>• Comments on any additional information/submissions received by Deadline 3</li> <li>• Any further information requested by the ExA under Rule 17 of the EPR</li> </ul>
20 December 2021	<p><b>Deadline 5</b></p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> <li>• Responses to ExQ2 (if required)</li> <li>• The Applicant's revised draft DCO</li> <li>• Schedule of changes to the draft DCO</li> <li>• Updated Compulsory Acquisition Schedule</li> <li>• Progressed SoCGs</li> <li>• Progressed Statement of Commonality for SoCG</li> <li>• Applicant's suggested draft Itinerary for an ASI (if required)</li> <li>• Comments on any additional information/submissions received by Deadline 4</li> <li>• Responses to any further information requested by the ExA for this deadline</li> </ul>
18 January 2022	<p><b>Deadline 6</b></p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> <li>• Comments on responses to the ExQ2</li> <li>• An updated Guide to the Application</li> <li>• The Applicant's revised draft DCO</li> <li>• Schedule of changes to the draft DCO</li> <li>• Updated Compulsory Acquisition Schedule</li> <li>• Comments on any additional information/submissions received by Deadline 5</li> <li>• Responses to any further information requested by the ExA for this deadline.</li> </ul>
10 February 2022	<p><b>Deadline 7</b></p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> <li>• Post hearing submissions including written summaries of oral case (if required)</li> </ul>

	<ul style="list-style-type: none"> <li>• Updated Compulsory Acquisition Schedule</li> <li>• The Applicant's revised draft DCO</li> <li>• Schedule of changes to the draft DCO</li> <li>• Progressed SoCGs</li> <li>• Progressed Statement of Commonality for SoCG</li> <li>• Comments on any additional information/submissions received by Deadline 6</li> <li>• Responses to any further information requested by the ExA for this deadline</li> </ul>
21 February 2022	Publication of the ExA's proposed schedule of changes to the draft DCO/Commentary on the draft DCO
1 March 2022	Open Floor Hearing 2 ( <b>OFH2</b> )
2 March 2022	Compulsory Acquisition Hearing 1 ( <b>CAH1</b> )
3 March 2022	Issue Specific Hearing 2 ( <b>ISH2</b> ) on Environmental Matters and Draft DCO
3 March 2022	<p><b>Deadline 8</b></p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> <li>• Comments on the ExA's proposed schedule of changes to the draft DCO/Commentary on the draft DCO</li> <li>• An updated Guide to the Application</li> <li>• Comments on any additional information/submissions received by Deadline 7</li> <li>• Responses to any further information requested by the ExA for this deadline</li> </ul>
14 March 2022	<p><b>Deadline 9</b></p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> <li>• Final draft DCO to be submitted by the Applicant in the SI template with the SI template validation report</li> <li>• Final Explanatory Memorandum</li> <li>• Final Compulsory Acquisition Schedule (identifying any unresolved objections)</li> <li>• Final SoCGs</li> <li>• Final Statement of Commonality also listing matters not agreed (in circumstances where a SoCG could not be finalised)</li> <li>• Comments on any additional information/submissions received by Deadline 8</li> <li>• Responses to any further information requested by the ExA for this deadline</li> </ul>
18 March 2022	<p><b>Deadline 10</b></p> <ul style="list-style-type: none"> <li>• Final Guide to the Application</li> <li>• Comments on any additional information/submissions received by Deadline 9</li> </ul>



	<ul style="list-style-type: none"><li>• Any further information requested by the ExA under Rule 17 of the Examination</li></ul>
23 March 2022	<b>Examination closed</b>

## **APPENDIX B: EXAMINATION LIBRARY**

## **A47/A11 Thickthorn Junction Examination Library**

**Updated –13 June 2022**

This Examination Library relates to the A47/A11 Thickthorn Junction application. The library lists each document that has been submitted to the examination by any party and documents that have been issued by the Planning Inspectorate. All documents listed have been published to the National Infrastructure's Planning website and a hyperlink is provided for each document. A unique reference is given to each document; these references will be used within the Report on the Implications for European Sites and will be used in the Examining Authority's Recommendation Report. The documents within the library are categorised either by document type or by the deadline to which they are submitted.

Please note the following:

- This is a working document and will be updated periodically as the examination progresses.
- Advice under Section 51 of the Planning Act 2008 that has been issued by the Inspectorate, is published to the National Infrastructure Website but is not included within the Examination Library as such advice is not an examination document.
- This document contains references to documents from the point the application was submitted.
- The order of documents within each sub-section is either chronological, numerical, or alphabetical and confers no priority or higher status on those that have been listed first.

**TR010037 - A47/A11 Thickthorn Junction****Examination Library - Index**

<b>Category</b>	<b>Reference</b>
<a href="#">Application Documents</a>  As submitted and amended version received before the PM. Any amended version received during the Examination stage to be saved under the Deadline received	APP-xxx
<a href="#">Adequacy of Consultation responses</a>	AoC-xxx
<a href="#">Relevant Representations</a>	RR-xxx
<a href="#">Procedural Decisions and Notifications from the Examining Authority</a>  Includes Examining Authority's questions, s55, and post acceptance s51	PD-xxx
<a href="#">Additional Submissions</a>  Includes anything accepted at the Preliminary Meeting and correspondence that is either relevant to a procedural decision or contains factual information pertaining to the examination including responses to Rule 6 and Rule 8 letters	AS-xxx
<a href="#">Events and Hearings</a>  Includes agendas for hearings and site inspections, audio recordings, responses to notifications and applicant's hearing notices	EV-xxx
<b><a href="#">Representations – by Deadline</a></b>	
<a href="#">Procedural Deadline A:</a>	PDA-xxx
<a href="#">Procedural Deadline B:</a>	PDB-xxx
<a href="#">Deadline 1:</a>	REP1-xxx
<a href="#">Deadline 2:</a>	REP2-xxx

<a href="#">Deadline 3:</a>	REP3-xxx
<a href="#">Deadline 4:</a>	REP4-xxx
<a href="#">Deadline 5:</a>	REP5-xxx
<a href="#">Deadline 6:</a>	REP6-xxx
<a href="#">Deadline 7:</a>	REP7-xxx
<a href="#">Deadline 8:</a>	REP8-xxx
<a href="#">Deadline 9:</a>	REP9-xxx
<a href="#">Deadline 10:</a>	REP10-xxx
<a href="#">Other Documents</a>  Includes s127/131/138 information, s56, s58 and s59 certificates, and transboundary documents	OD-xxx

**TR010037 - A47/A11 Thickthorn Junction****Examination Library****Application Documents**

APP-001	<a href="#">Highways England</a> 1.1 Application form
APP-002	<a href="#">Highways England</a> 1.2 Covering Letter and Completed Section 55 Checklist
APP-003	<a href="#">Highways England</a> 1.3 Introduction to the Application
APP-004	<a href="#">Highways England</a> 2.1 Location Plan
APP-005	<a href="#">Highways England</a> 2.2 General Arrangement Plans
APP-006	<a href="#">Highways England</a> 2.3 Land Plans
APP-007	<a href="#">Highways England</a> 2.4 Works Plans
APP-008	<a href="#">Highways England</a> 2.5 Rights of Way and Access Plans
APP-009	<a href="#">Highways England</a> 2.6 Traffic Regulations Plans
APP-010	<a href="#">Highways England</a> 2.7 Engineering Drawings and Sections
APP-011	<a href="#">Highways England</a> 2.8 Drainage and Surface Water Plans
APP-012	<a href="#">Highways England</a> 2.9 Crown Land Plans
APP-013	<a href="#">Highways England</a> 2.10 Special Category Land Plans
APP-014	<a href="#">Highways England</a> 2.11 Classification of Roads Plans
APP-015	<a href="#">Highways England</a> 2.12 Hedgerow Plans
APP-016	<a href="#">Highways England</a> 3.1 Draft Development Consent Order Validation Report
APP-017	<a href="#">Highways England</a> 3.1 Draft Development Consent Order
APP-018	<a href="#">Highways England</a> 3.2 Explanatory Memorandum
APP-019	<a href="#">Highways England</a> 3.3 Consents and Agreements Position Statement
APP-020	<a href="#">Highways England</a> 4.1 Statement of Reasons
APP-021	<a href="#">Highways England</a> 4.2 Funding Statement
APP-022	<a href="#">Highways England</a> 4.3 Book of Reference (parts 1-5) and Schedules
APP-023	<a href="#">Highways England</a> 5.1 Consultation Report

APP-024	<a href="#">Highways England</a> 5.2 Consultation Report Annex A Options consultation and Cantley Lane link engagement materials
APP-025	<a href="#">Highways England</a> 5.2 Consultation Report Annex B The Infrastructure Planning (EIA) Regulations 2017 Regulation 8(1) and 10(1) letter to PINS
APP-026	<a href="#">Highways England</a> 5.2 Consultation Report Annex C Copies of the draft SoCC provided to local authorities
APP-027	<a href="#">Highways England</a> 5.2 Consultation Report Annex D Correspondence to local authorities for SoCC consultations
APP-028	<a href="#">Highways England</a> 5.2 Consultation Report Annex E Response from local authorities on the draft SoCC
APP-029	<a href="#">Highways England</a> 5.2 Consultation Report Annex F Published SoCC
APP-030	<a href="#">Highways England</a> 5.2 Consultation Report Annex G: List of Prescribed Consultees Identified and Consulted
APP-031	<a href="#">Highways England</a> 5.2 Consultation Report Annex H: Section 42 Letter and Enclosures
APP-032	<a href="#">Highways England</a> 5.2 Consultation Report Annex I: Section 46 Letter and Acknowledgement
APP-033	<a href="#">Highways England</a> 5.2 Consultation Report Annex J: Section 47 Consultation Materials
APP-034	<a href="#">Highways England</a> 5.2 Consultation Report Annex K: Section 47 and 48 Newspaper Notices
APP-035	<a href="#">Highways England</a> 5.2 Consultation Report Annex L: Targeted Statutory Consultation and Project Update Materials
APP-036	<a href="#">Highways England</a> 5.2 Consultation Report Annex M: Table Evidencing Regard had to Statutory Consultation Responses
APP-037	<a href="#">Highways England</a> 5.2 Consultation Report Annex N: Engagement with Stakeholders
APP-038	<a href="#">Highways England</a> 6.1 Environmental Statement Chapter 1 – Introduction
APP-039	<a href="#">Highways England</a> 6.1 Environmental Statement Chapter 2 – The Proposed Scheme
APP-040	<a href="#">Highways England</a> 6.1 Environmental Statement Chapter 3 – Assessment of Alternatives
APP-041	<a href="#">Highways England</a> 6.1 Environmental Statement Chapter 4 – Environmental Assessment Methodology
APP-042	<a href="#">Highways England</a> 6.1 Environmental Statement Chapter 5 – Air Quality

APP-043	<a href="#">Highways England</a> 6.1 Environmental Statement Chapter 6 – Cultural Heritage
APP-044	<a href="#">Highways England</a> 6.1 Environmental Statement Chapter 7 – Landscape and Visual
APP-045	<a href="#">Highways England</a> 6.1 Environmental Statement Chapter 8 - Biodiversity
APP-046	<a href="#">Highways England</a> 6.1 Environmental Statement Chapter 9 – Geology and Soils
APP-047	<a href="#">Highways England</a> 6.1 Environmental Statement Chapter 10 – Materials Assets and Waste
APP-048	<a href="#">Highways England</a> 6.1 Environmental Statement Chapter 11 – Noise and Vibration
APP-049	<a href="#">Highways England</a> 6.1 Environmental Statement Chapter 12 – Population and Human Health
APP-050	<a href="#">Highways England</a> 6.1 Environmental Statement Chapter 13 – Road Drainage and the Water Environment
APP-051	<a href="#">Highways England</a> 6.1 Environmental Statement Chapter 14 – Climate
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AoC-003	<a href="#">Broads Authority</a> Adequacy of Consultation Representation
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RR-002	<a href="#">Anglian Water</a>
RR-003	<a href="#">Cadent Gas Limited</a>
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RR-005	<a href="#">Historic England</a>
RR-006	<a href="#">Ministry Of Defence DIO Safeguarding Team</a>
RR-007	<a href="#">National Grid</a>
RR-008	<a href="#">Addleshaw Goddard LLP on behalf of Network Rail Infrastructure Limited</a>
RR-009	<a href="#">Brown &amp; Co on behalf of Big Sky Developments Ltd</a>
RR-010	<a href="#">Climate Emergency Planning and Policy (CEPP) (Climate Emergency Planning and Policy (CEPP))</a>
RR-011	<a href="#">Bidwells LLP on behalf of The Trustees of The CM Watt Residual Trust</a>
RR-012	<a href="#">Bidwells LLP on behalf of The Trustees of The Mackintosh Trust</a>
RR-013	<a href="#">Bidwells LLP on behalf of M P Kemp Limited</a>
RR-014	<a href="#">New Anglia LEP</a>
RR-015	<a href="#">Norfolk Constabulary</a>
RR-016	<a href="#">Technical Support Officer for the Norfolk Local Access Forum on behalf of Norfolk Local Access Forum</a>
RR-017	<a href="#">Norwich Cycling Campaign</a>
RR-018	<a href="#">Norwich Green Party Group of City and County Councillors</a>
RR-019	<a href="#">Norwich &amp; Norfolk Friends of the Earth</a>

RR-020	<a href="#">Orsted Hornsea Project Three (UK) (Orsted Hornsea Project Three (UK))</a>
RR-021	<a href="#">Public Health England</a>
RR-022	<a href="#">BNP Paribas Real Estate on behalf of Royal Mail Group</a>
RR-023	<a href="#">Tim Hancock Associates on behalf of Shell U.K. Limited</a>
RR-024	<a href="#">Stop Wensum Link</a>
RR-025	<a href="#">Transport Action Network</a>
RR-026	<a href="#">Vattenfall Wind Power Ltd</a>
RR-027	<a href="#">The Woodland Trust</a>
RR-028	<a href="#">Adrian Holmes</a>
RR-029	<a href="#">Alyson Lee</a>
RR-030	<a href="#">Andrew M Cawdron</a>
RR-031	<a href="#">Anne Robinson</a>
RR-032	<a href="#">Emily Scott Bolton</a>
RR-033	<a href="#">Gil Murray</a>
RR-034	<a href="#">Birketts LLP on behalf of Mr &amp; Mrs Graham Thompson</a>
RR-035	<a href="#">Jamie Osborn</a>
RR-036	<a href="#">Jan Davis</a>
RR-037	<a href="#">Brown &amp; Co on behalf of Janet Grint</a>
RR-038	<a href="#">Brown &amp; Co on behalf of Jason Graver</a>
RR-039	<a href="#">John Elbro</a>
RR-040	<a href="#">Richard Hawker</a>
<b>Procedural Decisions and Notifications from the Examining Authority</b>	
PD-001	<a href="#">Notification of Decision to Accept Application</a>
PD-002	<a href="#">Section 55 Checklist</a>
PD-003	<a href="#">Appointment of the Examining Authority</a> Notice of appointment of the Examining Authority
PD-004	<a href="#">Rule 6 letter - Notification of the Preliminary Meeting and matters to be discussed</a>
PD-005	<a href="#">Rule 8 – notification of timetable for the examination</a>
PD-006	<a href="#">Examining Authority's First Written Questions</a>
PD-007	<a href="#">Rule 13 - Notification of Hearings</a>
PD-008	<a href="#">Examining Authority's Further Written Questions - ExQ2</a>
PD-009	<a href="#">Rule 9 letter - Procedural Decision to accept change request</a>
PD-010	<a href="#">Rules 8, 9 and 17 - Notification and Request for Information (To all specific parties)</a>
PD-011	<a href="#">Rule 13 - Notification of Second Round Hearings</a>
PD-012	<a href="#">Rule 17 - Request for Information</a>
PD-013	<a href="#">Rule 8(3), 13 and 17 Notice of update to the Examination Timetable, Notice of Hearings and Request for Further Information</a>
PD-014	<a href="#">Examining Authority's Schedule of Change to the Applicant's draft DCO</a>
PD-015	<a href="#">S102A Letter to Mr Ian James</a>
PD-016	<a href="#">Notification of completion of the Examining Authority's Examination</a>
<b>Additional Submissions</b>	
AS-001	<a href="#">Highways England</a>

	Additional Submission accepted at the discretion of the Examining Authority - 2.3 Land Plans - Submitted as part of the updated application documents
AS-002	<a href="#">Highways England</a> Additional Submission accepted at the discretion of the Examining Authority - 2.9 Crown Land Plans - Submitted as part of the updated application documents
AS-003	<a href="#">Highways England</a> Additional Submission accepted at the discretion of the Examining Authority - 4.3 Book of Reference (Clean) - Submitted as part of the updated application documents
AS-004	<a href="#">Highways England</a> Additional Submission accepted at the discretion of the Examining Authority - 4.3 Book of Reference (Tracked Changes) - Submitted as part of the updated application documents
AS-005	<a href="#">Highways England</a> Additional Submission accepted at the discretion of the Examining Authority - 6.9 Environmental Statement - Report to inform Habitats Regulations Assessment (Clean) (Rev 1) - Submitted as part of the updated application documents
AS-006	<a href="#">Highways England</a> Additional Submission accepted at the discretion of the Examining Authority - 6.9 Environmental Statement - Report to inform Habitats Regulations Assessment (Tracked Changes) (Rev 1) - Submitted as part of the updated application documents
AS-007	<a href="#">South Norfolk Council</a> Additional Submission accepted at the discretion of the Examining Authority
AS-008	<a href="#">Highways England on behalf of The Health and Safety Executive</a> Additional Submission accepted at the discretion of the Examining Authority
AS-009	<a href="#">Ramblers' Association: Norfolk Area</a> Additional Submission accepted at the discretion of the Examining Authority
AS-010	<a href="#">Ministry of Defence</a> Additional Submission accepted at the discretion of the Examining Authority - Confirmation of the safeguarding position
AS-011	<a href="#">Climate Emergency Planning and Policy</a> Additional Submission accepted at the discretion of the Examining Authority
AS-012	<a href="#">Climate Emergency Planning and Policy</a> Additional Submission accepted at the discretion of the Examining Authority - Notification of intention to submit evidence relating to cumulative carbon assessment
AS-013	<a href="#">Bidwells LLP on behalf of the Trustees of the Mackintosh Trust</a> Additional Submission accepted at the discretion of the Examining Authority - Update on discussions with the applicant
AS-014	<a href="#">Hethersett Parish Council</a> Additional Submission accepted at the discretion of the Examining Authority
AS-015	<a href="#">Ian James</a>

	Additional Submission accepted at the discretion of the Examining Authority - Non-Interested Party (Non-IP) Submission
AS-016	<a href="#">Highways England</a> Additional Submissions – Request for a Non-Material Change to the Application – Cover Letter
AS-017	<a href="#">Highways England</a> Additional Submissions – 9.16 Request for a Non-Material Change to the Application
AS-018	<a href="#">Highways England</a> Additional Submissions – Request for a Non-Material Change to the Application – 2.1 Location Plan
AS-019	<a href="#">Highways England</a> Additional Submissions – Request for a Non-Material Change to the Application – 2.2 General Arrangement Plans
AS-020	<a href="#">Highways England</a> Additional Submissions – Request for a Non-Material Change to the Application – 2.3 Land Plans
AS-021	<a href="#">Highways England</a> Additional Submissions – Request for a Non-Material Change to the Application – 2.4 Works Plans
AS-022	<a href="#">Highways England</a> Additional Submissions – Request for a Non-Material Change to the Application – 2.5 Rights of Way and Access Plans
AS-023	<a href="#">Highways England</a> Additional Submissions – Request for a Non-Material Change to the Application – 2.6 Traffic Regulations Plans
AS-024	<a href="#">Highways England</a> Additional Submissions – Request for a Non-Material Change to the Application – 2.8 Drainage and Surface Water Plans
AS-025	<a href="#">Highways England</a> Additional Submissions – Request for a Non-Material Change to the Application – 2.9 Crown Land Plans
AS-026	<a href="#">Highways England</a> Additional Submissions – Request for a Non-Material Change to the Application – 2.10 Special Category Land Plans
AS-027	<a href="#">Highways England</a> Additional Submissions – Request for a Non-Material Change to the Application – 2.11 Classification of Roads Plans
AS-028	<a href="#">Highways England</a> Additional Submissions – Request for a Non-Material Change to the Application – 3.1 Draft Development Consent Order (Clean)
AS-029	<a href="#">Highways England</a> Additional Submissions – Request for a Non-Material Change to the Application – 3.1 Draft Development Consent Order (Tracked Changes)
AS-030	<a href="#">Highways England</a> Additional Submissions – Request for a Non-Material Change to the Application – 4.1 Statement of Reasons (Clean)
AS-031	<a href="#">Highways England</a> Additional Submissions – Request for a Non-Material Change to the Application – 4.1 Statement of Reasons (Tracked Changes)

AS-032	<a href="#">Highways England</a> Additional Submissions – Request for a Non-Material Change to the Application – 6.8 Environmental Masterplan
AS-033	<a href="#">Highways England</a> Additional Submissions – Request for a Non-Material Change to the Application – 9.1 Guide to the Application (Clean)
AS-034	<a href="#">Highways England</a> Additional Submissions – Request for a Non-Material Change to the Application – 9.1 Guide to the Application (Tracked Changes)
AS-035	<a href="#">Highways England</a> Additional Submissions – Request for a Non-Material Change to the Application – 9.15 Environmental Statement Addendum
AS-036	<a href="#">Highways England</a> Additional Submissions – Request for a Non-Material Change to the Application – draft DCO Validation Report
AS-037	<a href="#">Cadent Gas Limited</a> Additional Submission accepted at the discretion of the Examining Authority – Withdrawal of Objection
AS-038	<a href="#">Climate Emergency Planning and Policy</a> Additional Submission accepted at the discretion of the Examining Authority
AS-039	<a href="#">Bidwells LLP on behalf of The Trustees of CM Watt Residual Trust</a> Additional Submission accepted at the discretion of the Examining Authority - Update on the outstanding matters
AS-040	<a href="#">Bidwells LLP on behalf of The Trustees of the Mackintosh Trust</a> Additional Submission accepted at the discretion of the Examining Authority - Update on the outstanding matters
AS-041	<a href="#">Highways England</a> Additional Submission accepted at the discretion of the Examining Authority – Applicant’s response to Deadline 10 Submissions
AS-042	<a href="#">National Grid Electricity Transmission plc</a> Additional Submission accepted at the discretion of the Examining Authority – Withdrawal of Objection
AS-043	<a href="#">Andrew M Cawdron</a> Additional Submission accepted at the discretion of the Examining Authority
<b>Events and Hearings</b>	
<b>Accompanied and Unaccompanied Site Inspections</b>	
EV-001	<a href="#">Note of Unaccompanied Site Inspection - 19 and 20 August 2021</a>
<b>Preliminary Meeting</b>	
EV-002	<a href="#">Recording of Preliminary Meeting - Part 1 - 13 September 2021</a>
EV-003	<a href="#">Preliminary Meeting - Part 1 - Transcript - 13 September 2021</a> This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-004	<a href="#">Preliminary Meeting Note</a>
<b>Open Floor Hearing</b>	
EV-005	<a href="#">Agenda for Open Floor Hearing 1 (OFH1) - 16 November 2021</a>
EV-006	<a href="#">Recording of Open Floor Hearing 1 - 16 November 2021</a>



EV-007	<a href="#">Open Floor Hearing 1 - Transcript - 16 November 2021</a> This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
<b>Issue Specific Hearing</b>	
EV-008	<a href="#">Agenda for Issue Specific Hearing 1 (ISH1) on Environmental matters - 17 November 2021</a>
EV-009	<a href="#">Recording of Issue Specific Hearing 1 - Session 1 - 17 November 2021</a>
EV-010	<a href="#">Issue Specific Hearing 1 - Session 1 - Transcript - 17 November 2021</a> This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-011	<a href="#">Recording of Issue Specific Hearing 1 - Session 2 - 17 November 2021</a>
EV-012	<a href="#">Issue Specific Hearing 1 - Session 2 - Transcript - 17 November 2021</a> This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
<b>Draft Development Consent Order Hearing</b>	
EV-013	<a href="#">Agenda for draft Development Consent Order Hearing 1 (DCO1) - 18 November 2021</a>
EV-014	<a href="#">Action points arising from draft Development Consent Order Hearing 1 (DCO1) - 18 November 2021</a>
EV-015	<a href="#">Recording of draft Development Consent Order Hearing 1 - Session 1 - 18 November 2021</a>
EV-016	<a href="#">draft Development Consent Order Hearing 1 - Session 1 - Transcript - 18 November 2021</a> This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-017	<a href="#">Recording of draft Development Consent Order Hearing 1 - Session 2 - 18 November 2021</a>
EV-018	<a href="#">draft Development Consent Order Hearing 1 - Session 2 - Transcript - 18 November 2021</a> This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
<b>Unaccompanied and Access Required Site Inspection</b>	
EV-019	<a href="#">Note of an Unaccompanied Site and Unaccompanied Access Required Inspection - Monday 22 and Tuesday 23 November 2021</a>
<b>Open Floor Hearing 2</b>	
EV-020	<a href="#">Agenda for Open Floor Hearing (OFH2) - 1 March 2022</a>
EV-021	<a href="#">Recording of Open Floor Hearing 2 - 1 March 2022</a>

EV-022	<a href="#">Open Floor Hearing 2 - Transcript - 1 March 2022</a> This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
<b>Compulsory Acquisition Hearing</b>	
EV-023	<a href="#">Agenda for Compulsory Acquisition Hearing 1 (CAH1) - 2 March 2022</a>
EV-024	<a href="#">Recording of Compulsory Acquisition Hearing 1 - Session 1 - 2 March 2022</a>
EV-025	<a href="#">Compulsory Acquisition Hearing 1 - Session 1 - Transcript - 2 March 2022</a> This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-026	<a href="#">Recording of Compulsory Acquisition Hearing 1 - Session 2 - 2 March 2022</a>
EV-027	<a href="#">Compulsory Acquisition Hearing 1 - Session 2 - Transcript - 2 March 2022</a> This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-028	<a href="#">Action Points from Compulsory Acquisition Hearing 1 – Wednesday 2 March 2022</a>
<b>Issue Specific Hearing 2</b>	
EV-029	<a href="#">Agenda for Issue Specific Hearing 2 (ISH2) on Environmental Matters and draft DCO - 3 March 2022</a>
EV-030	<a href="#">Issue Specific Hearing 2 - Session 1 - 3 March 2022</a>
EV-031	<a href="#">Issue Specific Hearing 2 - Session 1 - Transcript - 3 March 2022</a> This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-032	<a href="#">Issue Specific Hearing 2 - Session 2 - 3 March 2022</a>
EV-033	<a href="#">Issue Specific Hearing 2 - Session 2 - Transcript - 3 March 2022</a> This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-034	<a href="#">Action Points from Issue Specific Hearing 2 – Thursday 3 March 2022</a>
<b>Representations</b>	
<b>Procedural Deadline A – 6 September 2021</b>	
Deadline for receipt by the ExA of: <ul style="list-style-type: none"> <li>Any changes that are considered necessary to the draft Examination Timetable; and</li> </ul>	

<ul style="list-style-type: none"> <li>• Agenda items the parties wish to speak on, points to make, and why these need to be made orally rather than in writing.</li> </ul>	
PDA-001	<a href="#">Highways England</a> Procedural Deadline A Submission - Response to the Rule 6 Letter
PDA-002	<a href="#">Bidwells LLP on behalf of Charles Jonathan Watt, Susan Mary Shenkman, John Clive Third Viscount Mackintosh of Halifax and Graham Charles Mackintosh</a> Procedural Deadline A Submission - Response to the Rule 6 Letter
PDA-003	<a href="#">Historic England</a> Procedural Deadline A Submission - Response to the Rule 6 Letter
PDA-004	<a href="#">Norfolk County Council</a> Procedural Deadline A Submission - Response to the Rule 6 Letter
<b>Procedural Deadline B – 17 September 2021</b>  Deadline for receipt by the ExA of: <ul style="list-style-type: none"> <li>• Written submissions on Examination procedure including responses to matters raised orally at the Preliminary Meeting Part 1</li> <li>• Requests to be heard orally at the Preliminary Meeting Part 2</li> </ul>	
PDB-001	<a href="#">Highways England</a> Procedural Deadline B Submission
<b>Deadline 1 – 13 October 2021</b>  Deadline for receipt by ExA of: <ul style="list-style-type: none"> <li>• Comments on Relevant Representations</li> <li>• Summaries of all RRs exceeding 1500 words</li> <li>• Local Impact Reports (LIR) from Local Authorities</li> <li>• Written Representations (WRs)</li> <li>• Summaries of all WRs exceeding 1500 words</li> <li>• Statements of Common Ground (SoCGs)</li> <li>• Statement of Commonality for SoCG</li> <li>• Compulsory Acquisition Schedule</li> <li>• Guide to the Application</li> <li>• Notification by Statutory Parties of their wish to be considered as an Interested Party (IP)</li> <li>• Notification of wish to speak at an Issue Specific Hearing</li> <li>• Notification from any Affected Person of wish to speak at Compulsory Acquisition Hearing</li> <li>• Notification of wish to speak at an Open Floor Hearing</li> <li>• Nominations of suggested locations and justifications for site inspections for consideration by the ExA</li> </ul>	
REP1-001	<a href="#">Highways England</a> Deadline 1 Submission - Cover letter
REP1-002	<a href="#">Highways England</a> Deadline 1 Submission - 8.1 - Statement of Commonality for Statements of Common Ground

REP1-003	<a href="#">Highways England</a> Deadline 1 Submission - 9.1 - Guide to the Application
REP1-004	<a href="#">Highways England</a> Deadline 1 Submission - 9.2 - Applicants Comments on Relevant Representations
REP1-005	<a href="#">Highways England</a> Deadline 1 Submission - 9.5 Accompanied Site Inspection (ASI) Itinerary (DRAFT)
REP1-006	<a href="#">Norfolk County Council</a> Deadline 1 Submission - Summary of Written Representation
REP1-007	<a href="#">Norfolk County Council</a> Deadline 1 Submission - Written Representation
REP1-008	<a href="#">Norfolk County Council</a> Deadline 1 Submission - Local Impact Report
REP1-009	<a href="#">Norfolk County Council</a> Deadline 1 Submission - Notification of wish to speak at an Issue Specific Hearing
REP1-010	<a href="#">South Norfolk Council</a> Deadline 1 Submission - Local Impact Report
REP1-011	<a href="#">South Norfolk Council</a> Deadline 1 Submission - DM 3.8 Design Principles applying to all development
REP1-012	<a href="#">South Norfolk Council</a> Deadline 1 Submission - DM 3.11 Road Safety and free flow of traffic
REP1-013	<a href="#">South Norfolk Council</a> Deadline 1 Submission - DM 3.13 Amenity, Noise and Quality of Life
REP1-014	<a href="#">South Norfolk Council</a> Deadline 1 Submission - DM 3.14 Pollution, Health and Safety
REP1-015	<a href="#">South Norfolk Council</a> Deadline 1 Submission - DM 4.2 Sustainable Drainage and Water Management
REP1-016	<a href="#">South Norfolk Council</a> Deadline 1 Submission - DM 4.5 Protection and Enhancement of Landscape Character
REP1-017	<a href="#">South Norfolk Council</a> Deadline 1 Submission - DM 4.6 Landscape Setting of Norwich
REP1-018	<a href="#">South Norfolk Council</a> Deadline 1 Submission - DM 4.8 Protection of Trees and Hedgerows
REP1-019	<a href="#">South Norfolk Council</a> Deadline 1 Submission - DM 4.9 Incorporating Landscape into Design
REP1-020	<a href="#">South Norfolk Council</a> Deadline 1 Submission - DM 4.10 Heritage Assets
REP1-021	<a href="#">South Norfolk Council</a> Deadline 1 Submission - Policy 1 Addressing climate change and protecting environmental assets
REP1-022	<a href="#">South Norfolk Council</a> Deadline 1 Submission - Policy 2 Promoting good design

REP1-023	<a href="#">South Norfolk Council</a> Deadline 1 Submission - Policy 5 Economy
REP1-024	<a href="#">South Norfolk Council</a> Deadline 1 Submission - Policy 6 Access and Transportation
REP1-025	<a href="#">South Norfolk Council</a> Deadline 1 Submission - Notification to attend the Issue Specific Hearing
REP1-026	<a href="#">Historic England</a> Deadline 1 Submission - Written Representation
REP1-027	<a href="#">National Grid Electricity Transmission Plc</a> Deadline 1 Submission - Written Representation
REP1-028	<a href="#">Addleshaw Goddard LLP on behalf of Network Rail Infrastructure Limited</a> Deadline 1 Submission - Written Representation
REP1-029	<a href="#">Climate Emergency Planning and Policy</a> Deadline 1 Submission - Written Representation
REP1-030	<a href="#">Climate Emergency Planning and Policy</a> Deadline 1 Submission - Written Representation - Appendix D
REP1-031	<a href="#">Climate Emergency Planning and Policy</a> Deadline 1 Submission - Written Representation - Appendix E
REP1-032	<a href="#">Climate Emergency Planning and Policy</a> Deadline 1 Submission - Written Representation - Appendix F
REP1-033	<a href="#">Climate Emergency Planning and Policy</a> Deadline 1 Submission - Written Representation - Appendix G
REP1-034	<a href="#">Bidwells LLP on behalf of The Thickthorn Estate</a> Deadline 1 Submission - Nomination of locations for site inspection for consideration by the Examining Authority
REP1-035	<a href="#">Birketts LLP on behalf of Mr &amp; Mrs Thompson</a> Deadline 1 Submission - Written Representation
REP1-036	<a href="#">Birketts LLP on behalf of Mr &amp; Mrs Thompson</a> Deadline 1 Submission - Response to Examining Authority's first written questions
REP1-037	<a href="#">Brown &amp; Co on behalf of Jason Graver</a> Deadline 1 Submission - Written Representation
REP1-038	<a href="#">Brown &amp; Co on behalf of Big Sky Developments Ltd</a> Deadline 1 Submission - Written Representation
REP1-039	<a href="#">Brown &amp; Co on behalf of Big Sky Developments Ltd</a> Deadline 1 Submission - Notification of wish to speak at an Open Floor Hearing
REP1-040	<a href="#">Richard Hawker</a> Deadline 1 Submission - Written Representation
REP1-041	<a href="#">The Woodland Trust</a> Deadline 1 Submission - Written Representation

## **Deadline 2 – 26 October 2021**

Deadline for receipt by ExA of:

- Responses to the ExA's Written Questions (ExQ1)
- Comments on Local Impact Reports
- Comments on Written Representations
- The Applicant's revised draft Development Consent Order (draft DCO)
- Schedule of changes to the draft DCO

<ul style="list-style-type: none"> <li>• Comments on any additional information/submissions received by Deadline 1</li> <li>• Any further information requested by the ExA under Rule 17 of the EPR</li> </ul>	
REP2-001	<a href="#">Highways England</a> Deadline 2 Submission - Cover Letter
REP2-002	<a href="#">Highways England</a> Deadline 2 Submission - 3.1 Draft Development Consent Order (clean) rev 2
REP2-003	<a href="#">Highways England</a> Deadline 2 Submission - 3.1 Draft Development Consent Order (tracked) rev 2
REP2-004	<a href="#">Highways England</a> Deadline 2 Submission - 9.1 Guide to the Application (clean) rev 1
REP2-005	<a href="#">Highways England</a> Deadline 2 Submission - 9.1 Guide to the Application (tracked) rev 1
REP2-006	<a href="#">Highways England</a> Deadline 2 Submission - 9.3 Applicant's Response to the Examining Authority's First Written Questions (ExQ1s)
REP2-007	<a href="#">Highways England</a> Deadline 2 Submission - 9.4 Applicant's Response to the Written Representations
REP2-008	<a href="#">Highways England</a> Deadline 2 Submission - 9.6 Applicant's Comments on Local Impact Reports
REP2-009	<a href="#">Highways England</a> Deadline 2 Submission - 9.7 Draft Development Consent Order - Schedule of Drafting Changes
REP2-010	<a href="#">Highways England</a> Deadline 2 Submission - 9.8 Geoarchaeological Monitoring Report
REP2-011	<a href="#">Highways England</a> Deadline 2 Submission - 9.9 Compulsory Acquisition Schedule
REP2-012	<a href="#">Bidwells LLP on behalf of CM Watt Residual Trust</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1)
REP2-013	<a href="#">Bidwells LLP on behalf of The Trustees of the Mackintosh Trust</a> Deadline 2 - Responses to the Examining Authority's Written Questions (ExQ1)
REP2-014	<a href="#">Birketts LLP on behalf of Mr &amp; Mrs Thompson</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1)
REP2-015	<a href="#">Environment Agency</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1)
REP2-016	<a href="#">Historic England</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1)
REP2-017	<a href="#">Norfolk County Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1)

REP2-018	<a href="#">Orsted Hornsea Project Three (UK) Limited</a> Deadline 2 Submission - Statement of Common Ground Position Statement
REP2-019	<a href="#">South Norfolk Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1)
REP2-020	<a href="#">Norfolk County Council</a> Deadline 2 Submission - Responses to the Examining Authority's Written Questions (ExQ1) - Accepted as a late submission at the discretion of the Examining Authority
<b>Deadline 3 - 23 November 2021</b>	
Deadline for receipt by ExA of:	
<ul style="list-style-type: none"> <li>• Comments on responses to ExQ1</li> <li>• Post hearing submissions including written summaries of oral case</li> <li>• The Applicant's revised draft DCO</li> <li>• Schedule of changes to the draft DCO</li> <li>• Updated Compulsory Acquisition Schedule</li> <li>• Progressed SoCGs</li> <li>• Progressed Statement of Commonality for SoCG</li> <li>• Comments on any additional information/submissions received by deadline 2</li> <li>• Any further information requested by the ExA under Rule 17 of the EPR</li> </ul>	
REP3-001	<a href="#">Highways England</a> Deadline 3 Submission - Cover letter
REP3-002	<a href="#">Highways England</a> Deadline 3 Submission - 3.1 Draft Development Consent Order (Clean) - Rev 2
REP3-003	<a href="#">Highways England</a> Deadline 3 Submission - 3.1 Draft Development Consent Order (Tracked Changes) - Rev 2
REP3-004	<a href="#">Highways England</a> Deadline 3 Submission - 3.2 Explanatory Memorandum (Clean) - Rev 1
REP3-005	<a href="#">Highways England</a> Deadline 3 Submission - 3.2 Explanatory Memorandum (Tracked Changes) - Rev 1
REP3-006	<a href="#">Highways England</a> Deadline 3 Submission - 6.1 Environmental Statement Chapter 14 - Climate (Clean) - Rev 1
REP3-007	<a href="#">Highways England</a> Deadline 3 Submission - 6.1 Environmental Statement Chapter 14 - Climate (Tracked Changes) - Rev 1
REP3-008	<a href="#">Highways England</a> Deadline 3 Submission - 6.3 Environmental Statement Appendix 13.1 - Flood Risk Assessment (Clean) - Rev 1
REP3-009	<a href="#">Highways England</a> Deadline 3 Submission - 6.3 Environmental Statement Appendix 13.1 - Flood Risk Assessment (Tracked Changes) - Rev 1

REP3-010	<a href="#">Highways England</a> Deadline 3 Submission - 8.1 Statement of Commonality for Statements of Common Ground - Rev 1
REP3-011	<a href="#">Highways England</a> Deadline 3 Submission - 8.8 Statement of Common Ground with Network Rail Infrastructure Limited - Rev 0
REP3-012	<a href="#">Highways England</a> Deadline 3 Submission - 8.11 Statement of Common Ground with Big Sky Developments Ltd - Rev 0
REP3-013	<a href="#">Highways England</a> Deadline 3 Submission - 9.1 Guide to the Application (Clean) - Rev 2
REP3-014	<a href="#">Highways England</a> Deadline 3 Submission - 9.1 Guide to the Application (Tracked Changes) - Rev 2
REP3-015	<a href="#">Highways England</a> Deadline 3 Submission - 9.7 Draft Development Consent Order - Schedule of Drafting Changes for Deadline 3 - Rev 1
REP3-016	<a href="#">Highways England</a> Deadline 3 Submission - 9.9 Compulsory Acquisition Schedule Deadline 3 (Clean) - Rev 1
REP3-017	<a href="#">Highways England</a> Deadline 3 Submission - 9.9 Compulsory Acquisition Schedule Deadline 3 (Tracked Changes) - Rev 1
REP3-018	<a href="#">Highways England</a> Deadline 3 Submission - 9.10 Comments on Responses to the Examining Authority's First Written Questions (ExQ1s)
REP3-019	<a href="#">Highways England</a> Deadline 3 Submission - 9.11 Post hearing submission including written summaries of oral case at Issue Specific Hearing 1
REP3-020	<a href="#">Highways England</a> Deadline 3 Submission - 9.12 Post hearing submission including written summaries of oral case at Issue Specific Hearing 2
REP3-021	<a href="#">Highways England</a> Deadline 3 Submission - draft Development Consent Order Validation Report - Late Submission accepted at the discretion of the Examining Authority
REP3-022	<a href="#">Norfolk County Council</a> Deadline 3 Submission - Post hearing submission including written summaries of oral case at November hearings
REP3-023	<a href="#">Environment Agency</a> Deadline 3 Submission - Comments on applicant's revised draft Development Consent order received at Deadline 2
REP3-024	<a href="#">Brown &amp; Co on behalf of Big Sky Developments Ltd</a> Deadline 3 Submission - Comments on submissions received by deadline 2 and progressed Statement of Common Ground with the applicant
REP3-025	<a href="#">Richard Hawker</a> Deadline 3 Submission - Comments on submissions received by Deadline 2
<b>Deadline 4 - 06 December 2021</b>	



Deadline for receipt by ExA of:

- An updated Guide to the Application
- Comments on any additional information/submissions received by Deadline 3
- Any further information requested by the ExA under Rule 17 of the EPR

REP4-001	<a href="#">Highways England</a> Deadline 4 Submission - Cover letter
REP4-002	<a href="#">Highways England</a> Deadline 4 Submission - 2.12 Hedgerow Plans (Clean) - Rev 1
REP4-003	<a href="#">Highways England</a> Deadline 4 Submission - 2.12 Hedgerow Plans (Tracked Changes) - Rev 1
REP4-004	<a href="#">Highways England</a> Deadline 4 Submission - 4.3 Book of Reference (Clean) - Rev 2
REP4-005	<a href="#">Highways England</a> Deadline 4 Submission - 4.3 Book of Reference (Tracked Changes) - Rev 2
REP4-006	<a href="#">Highways England</a> Deadline 4 Submission - 6.1 Environmental Statement Chapter 2 - The Proposed Scheme (Clean) - Rev 2
REP4-007	<a href="#">Highways England</a> Deadline 4 Submission - 6.1 Environmental Statement Chapter 2 - The Proposed Scheme (Tracked Changes) - Rev 2
REP4-008	<a href="#">Highways England</a> Deadline 4 Submission - 6.1 Environmental Statement Chapter 11 - Noise and Vibration (Clean) - Rev 1
REP4-009	<a href="#">Highways England</a> Deadline 4 Submission - 6.1 Environmental Statement Chapter 11 - Noise and Vibration (Tracked Changes) - Rev 1
REP4-010	<a href="#">Highways England</a> Deadline 4 Submission - 6.2 Environmental Statement Figures Figure 1.1 - Rev 1
REP4-011	<a href="#">Highways England</a> Deadline 4 Submission - 6.2 Environmental Statement Figures 2.1 - 2.2 - Rev 2
REP4-012	<a href="#">Highways England</a> Deadline 4 Submission - 6.3 Environmental Statement Appendix 8.7 - Wintering Bird Survey Report - Rev 1
REP4-013	<a href="#">Highways England</a> Deadline 4 Submission - 6.3 Environmental Statement Appendix 8.7 - Wintering Bird Survey Report (Tracked Changes) - Rev 1
REP4-014	<a href="#">Highways England</a> Deadline 4 Submission - 6.3 Environmental Statement - Appendix 8.8 - Bat Roost and Crossing Point Survey Report (Clean) - Rev 1
REP4-015	<a href="#">Highways England</a> Deadline 4 Submission - 6.3 Environmental Statement - Appendix 8.8 - Bat Roost and Crossing Point Survey Report (Tracked Changes) - Rev 1

REP4-016	<a href="#">Highways England</a> Deadline 4 Submission - 6.3 Environmental Statement Appendix 15.1 – Cumulative Effects Assessment Stage 2 Screening (Clean) - Rev 1
REP4-017	<a href="#">Highways England</a> Deadline 4 Submission - 6.3 Environmental Statement Appendix 15.1 – Cumulative Effects Assessment Stage 2 Screening (Tracked Changes) - Rev 1
REP4-018	<a href="#">Highways England</a> Deadline 4 Submission - 6.9 Environmental Statement Report to inform Habitats Regulations Assessment (Clean) - Rev 2
REP4-019	<a href="#">Highways England</a> Deadline 4 Submission - 6.9 Environmental Statement Report to inform Habitats Regulations Assessment (Tracked Changes) - Rev 2
REP4-020	<a href="#">Highways England</a> Deadline 4 Submission - 7.4 Environmental Management Plan (Clean) - Rev 1
REP4-021	<a href="#">Highways England</a> Deadline 4 Submission - 7.4 Environmental Management Plan (Tracked Changes) - Rev 1
REP4-022	<a href="#">Highways England</a> Deadline 4 Submission - 7.5 Outline Traffic Management Plan (Clean) - Rev 1
REP4-023	<a href="#">Highways England</a> Deadline 4 Submission - 7.5 Outline Traffic Management Plan (Tracked Changes) - Rev 1
REP4-024	<a href="#">Highways England</a> Deadline 4 Submission - 9.1 Guide to the Application (Clean) - Rev 3
REP4-025	<a href="#">Highways England</a> Deadline 4 Submission - 9.1 Guide to the Application (Tracked Changes) - Rev 3
REP4-026	<a href="#">Highways England</a> Deadline 4 Submission - 9.13 Applicant’s Response to submissions received at Deadline 3
REP4-027	<a href="#">Highways England</a> Deadline 4 Submission - 9.14 Proposed Pre-Construction Environmental Survey Schedule
REP4-028	<a href="#">Highways England</a> Deadline 4 Submission - Report to Inform Habitat Regulations Assessment - Planning Inspectorate screening matrices (Clean)
REP4-029	<a href="#">Highways England</a> Deadline 4 Submission - Report to Inform Habitat Regulations Assessment - Planning Inspectorate screening matrices (Tracked Changes)
REP4-030	<a href="#">Environment Agency</a> Deadline 4 Submission - Comments on the Applicant's revised draft Development Consent Order submitted at Deadline 3
REP4-031	<a href="#">Environment Agency</a>

	Deadline 4 Submission - Comments on the Applicant's Environmental Statement Appendix 13.1 - Flood Risk Assessment Rev 1 submitted at Deadline 3
REP4-032	<a href="#">Norfolk County Council</a> Deadline 4 Submission - Further post-hearing submission as indicated in the written summary to November hearings
REP4-033	<a href="#">Richard Hawker</a> Deadline 4 Submission - Comments on the Applicant's post-hearing submission including written summary of oral submission at ISH1 submitted at Deadline 3 (REP3-019)
<b>Deadline 5 - 20 December 2021</b>	
Deadline for receipt by ExA of:	
<ul style="list-style-type: none"> <li>• Responses to ExQ2</li> <li>• The Applicant's revised draft DCO</li> <li>• Schedule of changes to the draft DCO</li> <li>• Updated Compulsory Acquisition Schedule</li> <li>• Progressed SoCGs</li> <li>• Progressed Statement of Commonality for SoCG</li> <li>• Applicant's suggested draft Itinerary for an ASI (if required)</li> <li>• Comments on any additional information/submissions received by Deadline 4</li> <li>• Any further information requested by the ExA under Rule 17 of the EPR</li> </ul>	
REP5-001	<a href="#">Highways England</a> Deadline 5 Submission - Cover letter
REP5-002	<a href="#">Highways England</a> Deadline 5 Submission - 3.1 Draft Development Consent Order (Clean) - Rev 4
REP5-003	<a href="#">Highways England</a> Deadline 5 Submission - 3.1 Draft Development Consent Order (Tracked Changes) - Rev 4
REP5-004	<a href="#">Highways England</a> Deadline 5 Submission - 3.2 Explanatory Memorandum (Clean) - Rev 2
REP5-005	<a href="#">Highways England</a> Deadline 5 Submission - 3.2 Explanatory Memorandum (Tracked Changes) - Rev 2
REP5-006	<a href="#">Highways England</a> Deadline 5 Submission - 4.3 Book of Reference (Clean) - Rev 3
REP5-007	<a href="#">Highways England</a> Deadline 5 Submission - 4.3 Book of Reference (Tracked Changes) - Rev 3
REP5-008	<a href="#">Highways England</a> Deadline 5 Submission - 7.4 Environmental Management Plan (First Iteration) (Clean) - Rev 2
REP5-009	<a href="#">Highways England</a> Deadline 5 Submission - 8.1 Statement of Commonality for Statements of Common Ground - Rev 2
REP5-010	<a href="#">Highways England</a>

	Deadline 5 Submission - 8.2 Statement of Common Ground with Highways England and Environment Agency
REP5-011	<a href="#">Highways England</a> Deadline 5 Submission - 8.3 Statement of Common Ground with Highways England and Natural England
REP5-012	<a href="#">Highways England</a> Deadline 5 Submission - 8.4 Statement of Common Ground with Highways England and Historic England
REP5-013	<a href="#">Highways England</a> Deadline 5 Submission - 8.5 Statement of Common Ground with Norfolk County Council
REP5-014	<a href="#">Highways England</a> Deadline 5 Submission - 8.6 Statement of Common Ground with South Norfolk Council
REP5-015	<a href="#">Highways England</a> Deadline 5 Submission - 9.1 Guide to the Application (Clean) - Rev 5
REP5-016	<a href="#">Highways England</a> Deadline 5 Submission - 9.1 Guide to the Application (Tracked Changes) - Rev 5
REP5-017	<a href="#">Highways England</a> Deadline 5 Submission - 9.4 Schedule of Drafting Changes for Deadline 5 - Rev 2
REP5-018	<a href="#">Highways England</a> Deadline 5 Submission - 9.9 Compulsory Acquisition Schedule (Clean) - Rev 2
REP5-019	<a href="#">Highways England</a> Deadline 5 Submission - 9.9 Updated Compulsory Acquisition Schedule (Tracked Changes) - Rev 2
REP5-020	<a href="#">Highways England</a> Deadline 5 Submission - 9.17 Applicant's Response to the Examining Authority's Written Questions (ExQ2)
REP5-021	<a href="#">Highways England</a> Deadline 5 Submission - 9.18 Applicant's Response to submissions received at Deadline 4
REP5-022	<a href="#">Highways England</a> Deadline 5 Submission - draft Development Consent Order Validation Report
REP5-023	<a href="#">Highways England</a> Deadline 5 Submission - Other: Additional DCO Document
REP5-024	<a href="#">Highways England</a> Deadline 5 Submission - Natural England's Letter of No Impediment (LONI) - Water Vole License
REP5-025	<a href="#">Norfolk County Council</a> Deadline 5 Submission - Response to Examining Authority's Written Questions (ExQ2)
REP5-026	<a href="#">Norfolk County Council</a> Deadline 5 Submission - Update on response to Examining Authority's Written Questions (ExQ2)
REP5-027	<a href="#">South Norfolk Council</a>

	Deadline 5 Submission - Response to Examining Authority's Written Questions (ExQ2)
REP5-028	<a href="#">Environment Agency</a> Deadline 5 Submission - Response to Examining Authority's Written Questions (ExQ2)
REP5-029	<a href="#">Charles Edward Birch on behalf of Big Sky Developments Ltd</a> Deadline 5 Submission - Response to Examining Authority's Written Questions (ExQ2)
REP5-030	<a href="#">Climate Emergency Policy and Planning (CEPP)</a> Deadline 5 Submission - Comments on Applicants submissions at Deadline 2 and 3, and response to Examining Authority's Written Questions (ExQ2)
REP5-031	<a href="#">Orsted Hornsea Project Three Offshore Wind Farm</a> Deadline 5 Submission - Progressed Statement of Commonality for SoCG
<p><b>Deadline 6 - 18 January 2022</b></p> <p>Deadline for receipt by ExA of:</p> <ul style="list-style-type: none"> <li>• Comments on responses to the ExQ2 (if required)</li> <li>• An updated Guide to the Application</li> <li>• The Applicant's revised draft DCO</li> <li>• Schedule of changes to the draft DCO</li> <li>• Updated Compulsory Acquisition Schedule</li> <li>• Comments on any additional information/submissions received by Deadline 5</li> <li>• Any further information requested by the ExA under Rule 17 of the EPR</li> </ul>	
REP6-001	<a href="#">Highways England</a> Deadline 6 Submission - Cover letter
REP6-002	<a href="#">Highways England</a> Deadline 6 Submission - 2.11 Classification of Roads Plans - Rev 2
REP6-003	<a href="#">Highways England</a> Deadline 6 Submission - 3.1 Draft Development Consent Order (Clean) - Rev 5
REP6-004	<a href="#">Highways England</a> Deadline 6 Submission - 3.1 Draft Development Consent Order (Tracked Changes) - Rev 5
REP6-005	<a href="#">Highways England</a> Deadline 6 Submission - 3.2 Explanatory Memorandum (Clean) - Rev 3
REP6-006	<a href="#">Highways England</a> Deadline 6 Submission - 3.2 Explanatory Memorandum (Tracked Changes) - Rev 3
REP6-007	<a href="#">Highways England</a> Deadline 6 Submission - 7.4 Environmental Management Plan (First Iteration) (Clean) - Rev 2
REP6-008	<a href="#">Highways England</a> Deadline 6 Submission - 7.4 Environmental Management Plan (First Iteration) (Tracked Changes) - Rev 2
REP6-009	<a href="#">Highways England</a>

	Deadline 6 Submission - 7.5 Outline Traffic Management Plan (Clean) - Rev 2
REP6-010	<a href="#">Highways England</a> Deadline 6 Submission - 7.5 Outline Traffic Management Plan (Tracked Changes) - Rev 2
REP6-011	<a href="#">Highways England</a> Deadline 6 Submission - 8.1 Statement of Commonality for Statements of Common Ground - Rev 3
REP6-012	<a href="#">Highways England</a> Deadline 6 Submission - 8.2 Statement of Common Ground with Highways England and Environment Agency (Clean) - Rev 1
REP6-013	<a href="#">Highways England</a> Deadline 6 Submission - 8.2 Statement of Common Ground with Highways England and Environment Agency (Tracked Changes) - Rev 1
REP6-014	<a href="#">Highways England</a> Deadline 6 Submission - 9.1 Guide to the Application (Clean) - Rev 6
REP6-015	<a href="#">Highways England</a> Deadline 6 Submission - 9.1 Guide to the Application (Tracked Changes) - Rev 6
REP6-016	<a href="#">Highways England</a> Deadline 6 Submission - 9.7 draft Development Consent Order Schedule of Drafting Changes for Deadline 6 - Rev 3
REP6-017	<a href="#">Highways England</a> Deadline 6 Submission - 9.9 Compulsory Acquisition Schedule (Clean) - Rev 3
REP6-018	<a href="#">Highways England</a> Deadline 6 Submission - 9.9 Compulsory Acquisition Schedule (Tracked Changes) - Rev 3
REP6-019	<a href="#">Highways England</a> Deadline 6 Submission - 9.19 Applicant's Response to submissions at Deadline 5
REP6-020	<a href="#">Highways England</a> Deadline 6 Submission - 9.20 Outline Water Management and Monitoring Plan
REP6-021	<a href="#">Highways England</a> Deadline 6 Submission - 9.21 Applicant's Comments on Responses to the Examining Authority's Further Written Questions (ExQ2s)
REP6-022	<a href="#">Norfolk County Council</a> Deadline 6 Submission
REP6-023	<a href="#">Norfolk County Council</a> Deadline 6 Submission - Response to Examining Authority's Written Questions (ExQ2)
REP6-024	<a href="#">Norfolk County Council</a> Deadline 6 Submission - Response to Examining Authority's Written Questions (ExQ2)
REP6-025	<a href="#">Anglian Water Services Limited</a> Deadline 6 Submission - Comments on the Applicant's revised draft DCO

REP6-026	<a href="#">Brown &amp; Co on behalf of Big Sky Developments Ltd</a> Deadline 6 Submission - Request to attend the hearings and comment on plot 7/7d
REP6-027	<a href="#">Richard Hawker</a> Deadline 6 Submission - Comments on Applicants submissions received by Deadline 4
<b>Deadline 7 - 10 February 2022</b>	
<p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> <li>• Post hearing submissions including written summaries of oral case</li> <li>• Updated Compulsory Acquisition Schedule</li> <li>• The Applicant's revised draft DCO</li> <li>• Schedule of changes to the draft DCO</li> <li>• Progressed SoCGs</li> <li>• Progressed Statement of Commonality for SoCG</li> <li>• Comments on any additional information/submissions received by Deadline 6</li> <li>• Any further information requested by the ExA under Rule 17 of the EPR</li> </ul>	
REP7-001	<a href="#">Ministry of Defence</a> Deadline 7 Submission
REP7-002	<a href="#">Highways England</a> Deadline 7 Submission - Cover Letter
REP7-003	<a href="#">Highways England</a> Deadline 7 Submission - 8.1 Statement of Commonality for Statements of Common Ground - Rev 4
REP7-004	<a href="#">Highways England</a> Deadline 7 Submission - 8.6 Statement of Common Ground with South Norfolk Council - Rev 1
REP7-005	<a href="#">Highways England</a> Deadline 7 Submission - 9.1 Guide to the Application (Clean) - Rev 7
REP7-006	<a href="#">Highways England</a> Deadline 7 Submission - 9.1 Guide to the Application (Tracked Changes) - Rev 7
REP7-007	<a href="#">Highways England</a> Deadline 7 Submission - 9.22 Applicant's Responses to Submissions at Deadline 6
REP7-008	<a href="#">Highways England</a> Deadline 7 Submission - 9.23 Applicant's Responses to Examining Authority's Request for Additional Information Under Rule 17
REP7-009	<a href="#">Highways England</a> Deadline 7 Submission - 9.24 Stage 2 Bat Survey Report
REP7-010	<a href="#">Highways England</a> Deadline 7 Submission - 9.9 Compulsory Acquisition Schedule (Clean) - Rev 4
REP7-011	<a href="#">Highways England</a> Deadline 7 Submission - 9.9 Compulsory Acquisition Schedule (Tracked Changes) - Rev 4
REP7-012	<a href="#">Richard Hawker</a>

	Deadline 7 Submission - Comments on Applicant's submissions received at Deadline 6
<b>Deadline 8 – 3 March 2022</b>	
<p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> <li>• Comments on the ExA's proposed schedule of changes to the draft DCO/Commentary on the draft DCO</li> <li>• An updated Guide to the Application</li> <li>• Comments on any additional information/submissions received by Deadline 7</li> <li>• Any further information requested by the ExA under Rule 17 of the EPR</li> </ul>	
REP8-001	<a href="#">Highways England</a> Deadline 8 Submission - Cover Letter
REP8-002	<a href="#">Highways England</a> Deadline 8 Submission - 3.1 Draft Development Consent Order (Clean) - Rev 6
REP8-003	<a href="#">Highways England</a> Deadline 8 Submission - 3.1 Draft Development Consent Order (Tracked) Rev 6
REP8-004	<a href="#">Highways England</a> Deadline 8 Submission - 6.1 Environmental Statement Chapter 13 - Road Drainage and the Water Environment (Clean)
REP8-005	<a href="#">Highways England</a> Deadline 8 Submission - 6.1 Environmental Statement Chapter 13 - Road Drainage and the Water Environment (Tracked)
REP8-006	<a href="#">Highways England</a> Deadline 8 Submission - 6.9 Report to Inform Habitats Regulations Assessment
REP8-007	<a href="#">Highways England</a> Deadline 8 Submission - 7.4 Environmental Management Plan (Clean)
REP8-008	<a href="#">Highways England</a> Deadline 8 Submission - 7.4 Environmental Management Plan (Tracked)
REP8-009	<a href="#">Highways England</a> Deadline 8 Submission - 9.1 Guide to the Application (Clean)
REP8-010	<a href="#">Highways England</a> Deadline 8 Submission - 9.1 Guide to the Application (Tracked)
REP8-011	<a href="#">Highways England</a> Deadline 8 Submission - 9.23 Applicant's Responses to ExA's Request for Additional Information under Rule 17
REP8-012	<a href="#">Highways England</a> Deadline 8 Submission - 9.25 Applicant's Responses to Submissions at Deadline 7
REP8-013	<a href="#">Highways England</a> Deadline 8 Submission - 9.26 Climate Change Position Statement
REP8-014	<a href="#">Highways England</a> Deadline 8 Submission - 9.27 Applicant's Response to the ExA's Schedule of Changes to the draft Development Consent Order
REP8-015	<a href="#">Highways England</a>



	Deadline 8 Submission - 9.28 Natural England's Letter of No Impediment - Bat License
REP8-016	<a href="#">Highways England</a> Deadline 8 Submission - 9.7 Draft Development Consent Order - Schedule of Drafting Changes for Deadline 8
REP8-017	<a href="#">Highways England</a> Deadline 8 Submission - draft Development Consent Order comparison report between Deadline 6 and Deadline 8 - Late Submission accepted at the discretion of the Examining Authority
REP8-018	<a href="#">Highways England</a> Deadline 8 Submission - draft Development Consent Order Validation Report - Late Submission accepted at the discretion of the Examining Authority
REP8-019	<a href="#">Richard Hawker</a> Deadline 8 Submission - Comments on submissions received by Deadline 7
<p><b>Deadline 9 - 14 March 2022</b></p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> <li>• Post hearing submissions including written summaries of oral case</li> <li>• Final draft DCO to be submitted by the Applicant in the SI template with the SI template validation report</li> <li>• Final Explanatory Memorandum</li> <li>• Final Compulsory Acquisition Schedule (identifying any unresolved objections)</li> <li>• Final SoCGs</li> <li>• Final Statement of Commonality also listing matters not agreed (in circumstances where a SoCG could not be finalised)</li> <li>• Comments on any additional information/submissions received by Deadline 8</li> <li>• Any further information requested by the ExA under Rule 17 of the EPR</li> </ul>	
REP9-001	<a href="#">Highways England</a> Deadline 9 Submission - Cover letter
REP9-002	<a href="#">Highways England</a> Deadline 9 Submission - 2.7 Engineering Drawings and Sections - Rev 1
REP9-003	<a href="#">Highways England</a> Deadline 9 Submission - 3.1 Draft Development Consent Order Final (Clean) - Rev 7
REP9-004	<a href="#">Highways England</a> Deadline 9 Submission - 3.1 Draft Development Consent Order Final (Tracked Changes) - Rev 7
REP9-005	<a href="#">Highways England</a> Deadline 9 Submission - 3.2 Explanatory Memorandum Final (Clean) - Rev 4
REP9-006	<a href="#">Highways England</a> Deadline 9 Submission - 3.2 Explanatory Memorandum Final (Tracked Changes) - Rev 4
REP9-007	<a href="#">Highways England</a>

	Deadline 9 Submission - 3.3 Consents and Agreements Position Statement (Clean) - Rev 1
REP9-008	<a href="#">Highways England</a> Deadline 9 Submission - 3.3 Consents and Agreements Position Statement (Tracked Changes) - Rev 1
REP9-009	<a href="#">Highways England</a> Deadline 9 Submission - 4.3 Book of Reference (Clean) - Rev 4
REP9-010	<a href="#">Highways England</a> Deadline 9 Submission - 4.3 Book of Reference (Tracked Changes) - Rev 4
REP9-011	<a href="#">Highways England</a> Deadline 9 Submission - 8.1 Statement of Commonality for Statements of Common Ground Final - Rev 5
REP9-012	<a href="#">Highways England</a> Deadline 9 Submission - 8.2 Statement of Common Ground with Highways England and Environment Agency - Rev 1
REP9-013	<a href="#">Highways England</a> Deadline 9 Submission - 8.6 Statement of Common Ground with South Norfolk Council - Rev 2
REP9-014	<a href="#">Highways England</a> Deadline 9 Submission - 8.10 Statement of Common Ground between National Highways Limited and Anglian Water Services Limited
REP9-015	<a href="#">Highways England</a> Deadline 9 Submission - 8.11 Statement of Common Ground with Big Sky Developments Ltd - Rev 1
REP9-016	<a href="#">Highways England</a> Deadline 9 Submission - 9.1 Guide to the Application (Clean) - Rev 9
REP9-017	<a href="#">Highways England</a> Deadline 9 Submission - 9.1 Guide to the Application (Tracked Changes) - Rev 9
REP9-018	<a href="#">Highways England</a> Deadline 9 Submission - 9.29 Applicant's Written Summary of Oral Submissions at Issue Specific Hearing 2
REP9-019	<a href="#">Highways England</a> Deadline 9 Submission - 9.30 Applicant's Written Summary of Oral Submissions at Compulsory Acquisition Hearing 1
REP9-020	<a href="#">Highways England</a> Deadline 9 Submission - 9.31 Statutory Undertakers Schedule
REP9-021	<a href="#">Highways England</a> Deadline 9 Submission - 9.32 Applicant's Written Summary of Oral Submissions at Open Floor Hearing 2
REP9-022	<a href="#">Highways England</a> Deadline 9 Submission - 9.33 Applicant's Responses to Submissions at Deadline 8
REP9-023	<a href="#">Highways England</a> Deadline 9 Submission - 9.34 Crown Land Consent Letter
REP9-024	<a href="#">Highways England</a> Deadline 9 Submission - 9.7 Draft Development Consent Order - Schedule of Drafting Changes for Deadline 9 - Rev 5

REP9-025	<a href="#">Highways England</a> Deadline 9 Submission - 9.9 Compulsory Acquisition Schedule (Clean) - Rev 5
REP9-026	<a href="#">Highways England</a> Deadline 9 Submission - 9.9 Compulsory Acquisition Schedule (Tracked Changes) - Rev 5
REP9-027	<a href="#">Highways England</a> Deadline 9 Submission - draft Development Consent Order Validation Report
REP9-028	<a href="#">Norfolk County Council</a> Deadline 9 Submission - Post hearing submission including written summaries of oral case at Issue Specific Hearing 2
REP9-029	<a href="#">Norfolk County Council</a> Deadline 9 Submission - Response to Action Point 4 of the Issue Specific Hearing 2
REP9-030	<a href="#">South Norfolk Council</a> Deadline 9 Submission - The Greater Norwich Local Plan - Pre-Submission Draft Strategy
REP9-031	<a href="#">South Norfolk Council</a> Deadline 9 Submission - Response to Issue Specific Hearing 2 Action Points
REP9-032	<a href="#">Richard Hawker</a> Deadline 9 Submission - Post hearing submissions including written summaries of oral case at Open Floor Hearing 2 and Issue Specific Hearing 2
REP9-033	<a href="#">Ian James</a> Deadline 9 Submission - Written Summary post Open Floor Hearing 2 - Non-Interested Party submission accepted at the discretion of the Examining Authority
<p><b>Deadline 10 - 18 March 2022</b></p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> <li>• Final Guide to the Application</li> <li>• Comments on any additional information/submissions received by Deadline 9</li> <li>• Any further information requested by the ExA under Rule 17 of the EPR</li> </ul>	
REP10-001	<a href="#">Highways England</a> Deadline 10 Submission - Cover letter
REP10-002	<a href="#">Highways England</a> Deadline 10 Submission - 2.6 Traffic Regulations Plans - Rev 2
REP10-003	<a href="#">Highways England</a> Deadline 10 Submission - 8.3 Statement of Common Ground with Highways England and Natural England
REP10-004	<a href="#">Highways England</a> Deadline 10 Submission - 8.4 Statement of Common Ground with Highways England and Historic England
REP10-005	<a href="#">Highways England</a> Deadline 10 Submission - 8.5 Statement of Common Ground with Norfolk County Council - Rev 1

REP10-006	<a href="#">Highways England</a> Deadline 10 Submission - 8.8 Statement of Common Ground with Network Rail Infrastructure Limited - Rev 1
REP10-007	<a href="#">Highways England</a> Deadline 10 Submission - 9.1 Guide to the Application (Final) (Clean) - Rev 10
REP10-008	<a href="#">Highways England</a> Deadline 10 Submission - 9.1 Guide to the Application (Final) (Tracked Changes) - Rev 10
REP10-009	<a href="#">Highways England</a> Deadline 10 Submission - 9.35 Applicant's Responses to Submissions received by Deadline 9
REP10-010	<a href="#">Norfolk County Council</a> Deadline 10 Submission - draft Protective Provisions
REP10-011	<a href="#">Climate Emergency Policy and Planning (CEPP)</a> Deadline 10 Submission - Comments on any submissions received by Deadline 9
REP10-012	<a href="#">Climate Emergency Policy and Planning (CEPP)</a> Deadline 10 Submission - Comments on submissions received by Deadline 9 - Appendix A
REP10-013	<a href="#">Climate Emergency Policy and Planning (CEPP)</a> Deadline 10 Submission - Comments on submissions received by Deadline 9 - Appendix B
REP10-014	<a href="#">Climate Emergency Policy and Planning (CEPP)</a> Deadline 10 Submission - Comments on submissions received by Deadline 9 - Appendix C
REP10-015	<a href="#">Climate Emergency Policy and Planning (CEPP)</a> Deadline 10 Submission - Comments on submissions received by Deadline 9 - Appendix D
REP10-016	<a href="#">Richard Hawker</a> Deadline 10 Submission - Response to submissions received by Deadline 9 and summary of arguments and queries raised during the Examination - Late submission for Deadline 10 accepted at the discretion of the Examining Authority
<b>Other Documents</b>	
OD-001	<a href="#">Highways England</a> Section 56 Certificate
OD-002	<a href="#">Highways England</a> Certificates of Compliance cover letter
OD-003	<a href="#">Highways England</a> Certificate of compliance - Section 56 Certificate
OD-004	<a href="#">Highways England</a> Certificate of compliance - Section 59 Certificate
OD-005	<a href="#">Highways England</a> Certificate of Compliance with Regulation 16 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017
OD-006	<a href="#">Highways England</a> Notice of November Hearings
OD-007	<a href="#">Highways England</a> Regulation 32 Transboundary Screening

## **APPENDIX C: LIST OF ABBREVIATIONS**

## APPENDIX C: LIST OF ABBREVIATIONS

Abbreviation or usage	Reference
<b>AADT</b>	Annual Average Daily Traffic
<b>AAWT</b>	Annual Average Weekly Traffic
<b>AIA</b>	Arboricultural Impact Assessment Report
<b>ALC</b>	Agricultural Land Classification
<b>AMS</b>	Arboricultural Method Statement
<b>AP</b>	Affected Person
<b>APFP</b>	Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009
<b>AQD</b>	Air Quality Directive
<b>AQMA</b>	Air Quality Management Area
<b>AQO</b>	Air Quality Objectives
<b>AQS</b>	(UK) Air Quality Strategy
<b>ARN</b>	Affected Road Network
<b>ASI</b>	Accompanied Site Inspection
<b>ATC</b>	Automated Traffic Count
<b>BAP</b>	Norfolk Biodiversity Action Plan
<b>BGS</b>	British Geological Survey
<b>BMA</b>	Biodiversity Metric Assessment
<b>BNG</b>	Biodiversity Net Gain
<b>BoR</b>	Book of Reference
<b>BS</b>	British Standard
<b>CA</b>	Compulsory Acquisition
<b>CAH</b>	Compulsory Acquisition Hearing
<b>CCA2008</b>	Countryside and Rights of Way Act 2008
<b>CDW</b>	Construction and Demolition Waste
<b>CEMP</b>	Construction Environmental Management Plan
<b>CEPP</b>	Climate Emergency Planning and Policy
<b>CIEEM</b>	Chartered Institute of Ecology and Environmental Management
<b>CNP</b>	Cringleford Neighbourhood Plan
<b>COPA</b>	Control of Pollution Act 1974
<b>CILCS</b>	Community Infrastructure Levy Charging Schedule
<b>CRoW</b>	Countryside and Rights of Way Act
<b>cSAC</b>	Candidate Special Areas of Conservation
<b>CWS</b>	County Wildlife Site(s)
<b>D</b>	Deadline
<b>dB</b>	Decibel(s)
<b>DCLG</b>	Department for Communities and Local Government
<b>dDCO/DCO</b>	draft Development Consent Order
<b>DEFRA</b>	Department for the Environment, Food and Rural Affairs
<b>DfT</b>	Department for Transport
<b>DLUHC</b>	Department for Levelling Up, Housing and Communities
<b>DMRB</b>	Design Manual for Roads and Bridges
<b>DMOY</b>	Do Minimum in the Opening Year

<b>DLL</b>	District Level Licence
<b>DM</b>	Do Minimum
<b>DS</b>	Do Something
<b>EA</b>	Environment Agency
<b>ECoW</b>	Ecological Clerk of Works
<b>EEA</b>	European Economic Area
<b>EIA</b>	Environmental Impact Assessment
<b>EM</b>	Explanatory Memorandum
<b>EMP</b>	Environmental Management Plan
<b>EPA</b>	Environmental Protection Act 1990
<b>EPR</b>	Infrastructure Planning (Examination Procedure) Rules 2010
<b>EPS</b>	European Protected Species
<b>ES</b>	Environmental Statement
<b>EU</b>	European Union
<b>ExA</b>	Examining Authority
<b>FP</b>	Footpath
<b>FRA</b>	Flood Risk Assessment
<b>FWQ</b>	First Written Questions
<b>FZ</b>	Flood Zone
<b>GNDP</b>	Greater Norwich Development Partnership
<b>GNLP</b>	(emerging) Greater Norwich Local Plan
<b>GHG</b>	Greenhouse Gas(s)
<b>GVD</b>	General Vesting Declaration
<b>ha</b>	hectare(s)
<b>HABAP</b>	Highways Agency Biodiversity Action Plan 2002
<b>HDD</b>	Horizontal Directional Drilling
<b>HE</b>	Highways England
<b>HGV</b>	Heavy Goods Vehicle
<b>HRA</b>	Habitat Regulation Assessment
<b>IAP1</b>	Initial Assessment of Principle Issues
<b>IAQM</b>	Institute of Air Quality Management
<b>IP</b>	Interested Party
<b>ISH</b>	Issue Specific Hearing
<b>JCS</b>	Joint Core Strategy (for Broadland, Norwich, and South Norfolk)
<b>km</b>	Kilometre
<b>kmph</b>	Kilometres per hour
<b>LA</b>	Local Authority
<b>LAQM</b>	Local Air Quality Management
<b>LCA</b>	Landscape Character Area
<b>LEMP</b>	Landscape Ecology Management Plan
<b>LEP</b>	Local Enterprise Partnership
<b>LHA</b>	Local Highway Authority
<b>LIR</b>	Local Impact Report
<b>LLFA</b>	Lead Local Flood Authority
<b>LNR</b>	Local Nature Reserve
<b>LRN</b>	Local Road Network
<b>LOAEL</b>	Lowest Observed Adverse Effect Level
<b>LoD</b>	Limits of Deviation

<b>LoNI</b>	Letter of No Impediment
<b>LPA</b>	Local Planning Authority
<b>LSE</b>	Likely Significant Effects
<b>LTP</b>	Local Transport Plan
<b>LV</b>	Limit Values
<b>LWS</b>	Local Wildlife Site(s)
<b>m</b>	Metre(s)
<b>MAGIC</b>	Multi Agency Geographic Information for the Countryside
<b>MCTC</b>	Manual Classified Turning Counts
<b>MHCLG</b>	Ministry of Housing, Communities and Local Government
<b>mm</b>	Millimetres
<b>MMP</b>	Materials Management Plan
<b>mph</b>	Miles per hour
<b>MU</b>	Motorised User
<b>NATS</b>	Norwich Area Transportation Strategy
<b>NC</b>	Norwich City Council
<b>NCC</b>	Norfolk County Council
<b>NERCA2006</b>	National Environment and Rural Communities Act 2006
<b>NH</b>	National Highways
<b>NIA</b>	Noise Important Area
<b>NMU</b>	Non-Motorised Users
<b>NO<sub>2</sub></b>	Nitrogen Oxide
<b>NO<sub>x</sub></b>	Mono-nitrogen Oxide
<b>NPPF</b>	National Planning Policy Framework
<b>NPPG</b>	National Planning Practice Guidance
<b>NPS</b>	National Policy Statement
<b>NPSE</b>	Noise Policy Statement for England
<b>NPSNN</b>	National Policy Statement for National Networks
<b>NSER</b>	No Significant Effects Report
<b>NSIP</b>	Nationally Significant Infrastructure Project
<b>NWL</b>	Norwich Western Link
<b>OAR</b>	Options Assessment Report
<b>OFH</b>	Open Floor Hearing
<b>OPs</b>	Other Persons
<b>OTMP</b>	Outline Traffic Management Plan
<b>PA2008</b>	Planning Act 2008
<b>PD</b>	Procedural Deadline
<b>PINS</b>	Planning Inspectorate
<b>PM</b>	Preliminary Meeting
<b>PM<sub>10</sub></b>	Particulate matter of 10 micrometres or less in diameter
<b>PM<sub>2.5</sub></b>	Particulate matter of 2.5 micrometres or less in diameter
<b>PP</b>	Protective Provision
<b>PRoW</b>	Public Right of Way
<b>pSAC</b>	Possible Special Area of Conservation
<b>PSED</b>	Public Sector Equality Duty
<b>pSPA</b>	Possible Special Protection Area



<b>PSSR</b>	Preliminary Sources Study Report
<b>RBMP</b>	River Basin Management Plan
<b>rDCO</b>	Recommended Development Consent Order
<b>REAC</b>	Register of Environmental Actions and Commitments
<b>RIES</b>	Report on Implications for European Sites
<b>RIS</b>	Road Investment Strategy
<b>RPA</b>	Root Protection Area
<b>RP2</b>	Second Road Period
<b>RR</b>	Relevant Representation
<b>s</b>	Section
<b>SAC</b>	Special Area of Conservation
<b>SAR</b>	Scheme Assessment Report
<b>SATURN</b>	Simulation and Assignment of Traffic in Urban Road
<b>SERTM</b>	South-East Regional Transport Model
<b>SFRA</b>	Strategic Flood Risk Assessment
<b>SI</b>	Statutory Instrument
<b>SMS</b>	Site Management Statement
<b>SMP</b>	Soil Management Plan
<b>SNLA</b>	South Norfolk Landscape Assessment
<b>SNC</b>	South Norfolk Council
<b>SNLP</b>	South Norfolk Local Plan (Development Management Policies 2015)
<b>SO<sub>2</sub></b>	Sulphur Dioxide
<b>SoCG</b>	Statement of Common Ground
<b>SOAEL</b>	Significant Observed Adverse Effect Level
<b>SOBC</b>	Strategic Outline Business Cases
<b>SoR</b>	Statement of Reasons
<b>SoS</b>	Secretary of State
<b>SoST</b>	Secretary of State for Transport
<b>SPA</b>	Special Protection Area
<b>SPP</b>	Special Parliamentary Procedures
<b>SPZ</b>	Source Protection Zone
<b>SRN</b>	Strategic Road Network
<b>SSSI</b>	Site of Special Scientific Interest
<b>SP</b>	Statutory Party
<b>SU</b>	Statutory Undertaker
<b>SuDS</b>	Sustainable Drainage System
<b>RR</b>	Relevant Representation
<b>SWQ</b>	Second Written Questions
<b>TAG</b>	Transport Appraisal Guidance
<b>tCO<sub>2</sub>e</b>	Tonnes of CO <sub>2</sub> equivalent
<b>TP</b>	Temporary Possession
<b>TPG</b>	National Highways Transport Planning Guidance
<b>TPO</b>	Tree Preservation Order
<b>TMP</b>	Traffic Management Plan
<b>UK</b>	United Kingdom
<b>UKCP</b>	UK Climate Projections
<b>USI</b>	Unaccompanied Site Inspection
<b>VMP</b>	Vegetation Management Plan
<b>WCH</b>	Walkers, Cyclists and Horse-riders

<b>WFD</b>	Water Framework Directive
<b>WR</b>	Written Representation
<b>WQ</b>	Written Question
<b>WSI</b>	Written Scheme of Investigation
<b>ZTV</b>	Zone of Theoretical Visual Visibility
<b>ZVI</b>	Zone of Visual Influence

## **APPENDIX D: THE RECOMMENDED DCO**

**202X No. XX**

**INFRASTRUCTURE PLANNING**

**The A47/A11 Thickthorn Junction Development Consent Order  
202X**

*Made* - - - - - \*\*\*  
*Laid before Parliament* \*\*\*  
*Coming into force* \*\*\*

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An application has been made to the Secretary of State under section 37 of the Planning Act 2008(a) (“the 2008 Act”) in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(b) for an Order granting development consent.

The application was examined by a *single appointed person* (appointed by the Secretary of State) in accordance with Chapter 4 of Part 6 of the 2008 Act and the Infrastructure Planning (Examination Procedure) Rules 2010(c).

The *single appointed person*, having considered the representations made and not withdrawn and the application together with the accompanying documents, in accordance with section 83 of the 2008 Act has submitted a report and recommendation to the Secretary of State.

The Secretary of State, having considered the representations made and not withdrawn, and the report and recommendation of the *single appointed person*, has decided to make an Order granting development consent for the development described in the application with modifications which in the opinion of the Secretary of State do not make any substantial changes to the proposals comprised in the application.

The Secretary of State, in exercise of the powers conferred by sections 114, 115, 117, 120, 122 and 123 of, and paragraphs 1 to 3, 10 to 15, 17, 19 to 23, 26, 33, 36 and 37 of Part 1 Schedule 5 to, the 2008 Act, makes the following Order—

## PART 1

### PRELIMINARY

#### **Citation and commencement**

1. This Order may be cited as the A47/A11 Thickthorn Junction Development Consent Order 202[X] and comes into force on [XX].

#### **Interpretation**

2.—(1) In this Order except where provided otherwise—

“the 1961 Act” means the Land Compensation Act 1961(d);

“the 1965 Act” means the Compulsory Purchase Act 1965(e);

“the 1980 Act” means the Highways Act 1980(f);

“the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981(g);

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(a) 2008 c. 29. Parts 1 to 7 were amended by Chapter 6 of Part 6 of the Localism Act 2011 (c. 20).

(b) S.I. 2009/2264, amended by S.I. 2010/439, S.I. 2010/602, S.I. 2012/635, S.I. 2012/2654, S.I. 2012/2732, S.I. 2013/522, S.I. 2013/755, S.I. 2014/2381, S.I. 2015/377, S.I. 2017/ 572; modified by S.I. 2012/1659.

(c) S.I. 2010/103, amended by S.I. 2012/635.

(d) 1961 c. 33.

(e) 1965 c. 56.

(f) 1980 c. 66.

(g) 1981 c. 66.

“the 1984 Act” means the Road Traffic Regulation Act 1984(a);

“the 1990 Act” means the Town and Country Planning Act 1990(b);

“the 1991 Act” means the New Roads and Street Works Act 1991(c);

“the 2008 Act” means the Planning Act 2008(d);

“the 2017 Regulations” means the Compulsory Purchase of Land (Vesting Declarations) (England) Regulations 2017(e);

“address” includes any number or address for the purposes of electronic transmission;

“Anglian water” means Anglian Water Services Limited (company number 2366656), whose registered office is at Lancaster House, Lancaster Way, Ermine Business Park, Huntingdon, Cambridgeshire, United Kingdom, PE29 6XU (or a related subsidiary company);

“apparatus” has the same meaning as in Part 3 of the 1991 Act;

“authorised development” means the development and associated development described in Schedule 1 (authorised development) and any other development authorised by this Order,

“the Book of Reference ” means the document of that description certified by the Secretary of State as the Book of Reference for the purposes of the Order;

“bridleway” has the same meaning as in the 1980 Act;

“building” includes any structure or erection or any part of a building, structure or erection;

“Cadent” means Cadent Gas Limited (company number 10080864), whose registered office is at Ashbrook Court Prologis Park, Central Boulevard, Coventry CV7 8PE;

“carriageway” has the same meaning as in the 1980 Act;

“the classification of roads plans” means the plans of that description certified by the Secretary of State as the classification of roads plans for the purposes of this Order;

“commence” means beginning to carry out any material operation (as defined in section 56(4) of the 1990 Act) forming part of the authorised development other than operations consisting of archaeological investigations and mitigation works, ecological surveys and pre-construction ecological mitigation, investigations for the purpose of assessing and monitoring ground conditions and levels, remedial work in respect of any contamination or other adverse ground conditions, erection of any temporary means of enclosure, receipt and erection of construction plant, equipment, welfare facilities and temporary buildings, site clearance, and the temporary display of site notices or advertisements, and “commencement” is to be construed accordingly;

“cycle track” has the same meaning as in section 329(1) (further provisions as to interpretation) of the 1980 Act(f) and for the purposes of this Order includes a right of way on foot;

“electronic transmission” means a communication transmitted—

(a) by means of an electronic communications network; or

(b) by other means but while in electronic form;

and in this definition “electronic communications network” has the same meaning as is in section 32(1) (meaning electronic communications networks and services) of the Communications Act 2003(g)

“the engineering drawings and sections” means the drawings of that description certified as the engineering drawings and sections by the Secretary of State for the purposes of this Order;

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(a) 1984 c. 27.

(b) 1990 c. 8.

(c) 1991 c. 22.

(d) 2008 c. 29.

(e) S.I. 2017/3.

(f) The definition of “cycle track” was amended by section 1 of the Cycle Tracks Act 1984 (c. 38) and paragraph 21(2) of Schedule 3 to the Road Traffic (Consequential Provisions) Act 1988 (c. 54).

(g) 2003 c. 21. Section 32(1) was amended by S.I. 2011/1210



“EMP (First Iteration)” means the first iteration of the environmental management plan produced in accordance with the DMRB during the preliminary design stage and certified by the Secretary of State as the environmental management plan for the purposes of the Order;

“the environmental statement” means the document of that description submitted with the application for this Order and certified by the Secretary of State as the environmental statement for the purposes of this Order;

“footpath” and “footway” have the same meaning as in the 1980 Act and includes part of a footpath or footway;

“the general arrangement plans” means the plans of that description certified by the Secretary of State as the general arrangement plans for the purposes of this Order;

“hedgerow plans” means the plans of that description certified as the hedgerow plans by the Secretary of State for the purposes of this Order;

“highway” has the same meaning as in the 1980 Act and includes part of a highway;

“the highway authority” means the undertaker;

“the land plans” means the plans of that description certified as the land plans by the Secretary of State for the purposes of this Order;

“limits of deviation” means the limits of deviation referred to in article 8 (limits of deviation);

“the local highway authority” means Norfolk County Council;

“maintain” includes, to the extent assessed in the environmental statement, inspect, repair, adjust, alter, remove, replace or reconstruct in relation to the authorised development and any derivative of “maintain” is to be construed accordingly;

“Openreach” means Openreach Limited (company number 10690039), whose registered office is at Kelvin House, 123 Judd Street, London WC1H 9NP;

“Order land” means the land shown on the land plans which is within the limits of the land to be acquired permanently or used permanently or temporarily and described in the Book of Reference;

“the Order limits” means the limits of land to be acquired permanently or used temporarily as shown on the land plans and works plans within which the authorised development may be carried out;

“outline traffic management plan” means the document of that description certified by the Secretary of State as the outline traffic management plan for the purposes of this Order;

“owner”, in relation to land, has the same meaning as in section 7 (interpretation) of the Acquisition of Land Act 1981(a);

“relevant highway authority” means the local highway authority for the land in question;

“relevant planning authority” means in any given provision of this Order the planning authority for the area in which the land to which the provision relates is situated;

“the rights of way and access plans” means the plans of that description certified as the rights of way and access plans by the Secretary of State for the purposes of this Order;

“Secretary of State” means the Secretary of State for Transport;

“the special category land plans” means the plans of that description certified by the Secretary of State as the special category land plans for the purposes of this Order;

“statutory undertaker” means any statutory undertaker for the purposes of section 127(8) (statutory undertakers’ land) of the 2008 Act;

“street” means a street within the meaning of section 48 (streets, street works and undertakers) of the 1991 Act, together with land on the verge of a street or between two carriageways, and includes part of a street,

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(a) 1981 c. 67. The definition of “owner” was amended by paragraph 9 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34). There are other amendments to section 7 which are not relevant to this Order.

“street authority”, in relation to a street, has the same meaning as in Part 3 of the 1991 Act;  
“traffic authority” has the same meaning as in section 121A(a) (traffic authorities) of the 1984 Act;

“traffic regulation plans” means the plans of that description certified as the traffic regulation plans by the Secretary of State for the purposes of this Order;

“the tribunal” means the Lands Chamber of the Upper Tribunal;

“trunk road” means a highway which is a trunk road by virtue of—

- (a) section 10(b) (general provision as to trunk roads) or section 19(1)(c) (certain special roads and other highways to become trunk roads) of the 1980 Act;
- (b) an order made or direction given under section 10 of that Act; or
- (c) an order granting development consent; or
- (d) any other enactment;

“the undertaker” means National Highways Limited, company number 09346363, whose registered office is at Bridge House, 1 Walnut Tree Close, Guildford, Surrey, GU1 4LZ;

“UKPN” means Networks (Operations) Limited (company number 0387028), whose registered office is at Newington House, 37 Southwark Bridge Road, London SE1 6NP;

“Virgin Media” means Virgin Media Limited (company number 02591237), whose registered office is at 500 Brook Drive, Reading RG2 6UU;

“Vodafone” means Vodafone Limited (company number 01471587), whose registered office is at Vodafone House, The Connection, Newbury, Berkshire RG14 2FN;

“watercourse” includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain; and

“the works plans” means the plans of that description certified as the works plans by the Secretary of State for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do or to place and maintain, anything in, on or under land or in the airspace above its surface and references in this Order to the imposition of restrictive covenants are references to the creation of rights over land which interfere with the interests or rights of another and are for the benefit of land which is acquired under this Order or is otherwise comprised in the Order land.

(3) All distances, directions and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised development are taken to be measured along that work.

(4) For the purposes of this Order, all areas described in square metres in the Book of Reference are approximate.

(5) References in this Order to points identified by letters or numbers are to be construed as references to points so lettered or numbered on the relevant plans.

(6) References in this Order to numbered works are references to the works as numbered in Schedule 1 (authorised development).

(7) The expression “includes” may be construed without limitation.

### **Disapplication of legislative provisions**

**3.—**(1) The provisions of the Neighbourhood Planning Act 2017(d) insofar as they relate to temporary possession of land under articles 34 (temporary use of land for carrying out the

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(a) This section was inserted by section 168(1) of, and paragraph 70 of Schedule 8 to, the New Roads and Street Works Act 1991 (c. 22); and brought into force by S.I. 1991/2288.  
(b) As amended by section 22(2) of the 1991 Act and paragraph 22 of Schedule 2 to the 2008 Act, and by section 1 of, and Schedule 1 to, the Infrastructure Act 2015 (c. 7).  
(c) As amended by section 1 of, and Schedule 1 to, the Infrastructure Act 2015 (c. 7).  
(d) 2017 c. 20.

authorised development) and 35 (temporary use of land for maintaining the authorised development) of this Order do not apply in relation to the construction of works carried out for the purpose of, or in connection with, the construction or maintenance of the authorised development.

(2) Section 32 (variation of awards) of the Land Drainage Act 1991(a) does not apply in relation to the construction of any work or the carrying out of any operation required for the purpose of, or in connection with, the construction of the authorised development.

(3) Schedule 1 to the 2017 Regulations is modified as follows—

(a) In paragraph (3) of Form 1, after “from the date on which the service of notices required by section 6 of the Act is completed”, insert—

“(1)(a) The [insert land or rights or both] described in Part [ ] of the Schedule hereto as being for the benefit of third parties and more particularly delineated on the plan annexed hereto shall vest in the third parties in question as from the end of the period of [insert period of 3 months or longer] from the date on which the service of notices required by section 6 of the Act is completed”.

(b) References in Form 2 to “in themselves” is substituted with “in themselves and any identified third parties”.

(c) In paragraph (b) of the notes on use of Form 2—

(i) after “Insert the name of the authority” insert “and, where the context so requires, a reference to third parties”; and

(ii) omit “Thereafter rely on that definition wherever “(b)” appears in the text.”

### **Maintenance of drainage works**

4.—(1) Nothing in this Order, or the construction, maintenance or operation of the authorised development under it, affects any responsibility for the maintenance of any works connected with the drainage of land, whether that responsibility is imposed or allocated by or under any enactment, or otherwise agreed in writing between the undertaker and the person responsible.

(2) In this article “drainage” has the same meaning as in section 72 (interpretation) of the Land Drainage Act 1991(b).

## **PART 2**

### **PRINCIPAL POWERS**

#### **Development consent etc. granted by the Order**

5.—(1) Subject to the provisions of this Order including the requirements in Schedule 2 (requirements), the undertaker is granted development consent for the authorised development to be carried out and operated within the Order limits.

(2) Any enactment applying to land within or adjacent to the Order limits has effect subject to the provisions of this Order.

#### **Construction and maintenance of authorised development**

6. The undertaker may at any time construct and maintain the authorised development, except to the extent that this Order, or an agreement made under this Order, provides otherwise.

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(a) 1991 c. 59, as amended by paragraph 323, Part 1 of Schedule 2 of S.I. 2013/755 (W.55), section 100 of the Environment Act 1995 (c. 25) and paragraph 39, Schedule 2 of the Flood Water Management Act 2010 (c. 29).

(b) 1991 c. 59, as amended by paragraph 323, Part 1 of Schedule 2 of S.I. 2013/755 (W.55), section 100 of the Environment Act 1995 (c. 25) and paragraph 39, Schedule 2 of the Flood Water Management Act 2010 (c. 29).

### **Planning permission**

7. If planning permission is granted under the powers conferred by the 1990 Act for development any part of which is within the Order limits following the coming into force of this Order that is—

- (a) not itself a nationally significant infrastructure project under the 2008 Act or part of such a project; or
- (b) required to complete or enable the use or operation of any part of the development authorised by this Order.

then the carrying out, use or operation of such development under the terms of the planning permission does not constitute a breach of the terms of this Order.

### **Limits of deviation**

8.—(1) In carrying out the authorised development the undertaker must construct any such work within the lateral limits of deviation or extents of work shown on the works plans for the relevant work.

(2) In carrying out any work comprised in the authorised development the undertaker may deviate vertically from the levels of the authorised development shown on the engineering drawings and sections, to a maximum of 1 metre upwards or 1 metre downwards, except that these maximum limits of vertical deviation do not apply where it is demonstrated by the undertaker to the Secretary of State's satisfaction and the Secretary of State, following consultation with the relevant planning authority, certifies accordingly that a deviation in excess of these limits would not give rise to any materially new or materially different environmental effects from those reported in the environmental statement.

### **Benefit of Order**

9.—(1) Subject to article 10 (consent to transfer benefit of Order) and paragraph (2), the provisions of this Order conferring powers on the undertaker have effect solely for the benefit of the undertaker.

(2) Paragraph (1) does not apply to the works for which the consent is granted by this Order for the express benefit of owners and occupiers of land, statutory undertakers and other persons affected by the authorised development.

### **Consent to transfer benefit of Order**

10.—(1) Subject to paragraph (11) the undertaker may with the written consent of the Secretary of State—

- (a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed between the undertaker and the transferee;
- (b) grant to another person (“the lessee”) for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order and such related statutory rights as may be so agreed.

(2) Where an agreement has been made in accordance with paragraph (1) references in this Order to the undertaker, except in paragraph (4), include references to the transferee or the lessee.

(3) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker, save where those benefits or rights are exercised by a statutory undertaker or by an owner or occupier of land pursuant to paragraph (2) of article 27 (compulsory acquisition of rights and imposition of restrictive covenants) of this Order, in which case liability for the payment of compensation remains with the undertaker.

(4) The undertaker must consult the Secretary of State before making an application for consent under this article by giving notice in writing of the proposed application and the Secretary of State must provide a response within four weeks of receipt of the notice.

(5) The Secretary of State must determine an application for consent made under this article within a period of eight weeks commencing on the date the application is received by the Secretary of State, unless otherwise agreed in writing with the undertaker.

(6) Where the Secretary of State is minded to refuse an application for consent made under this article and notifies the undertaker accordingly, or the Secretary of State fails to determine the application for consent under this article within the period prescribed in paragraph (5), the undertaker may refer the matter for determination in accordance with article 52 (arbitration).

(7) Prior to any transfer or grant under this article taking effect the undertaker must give notice in writing to the Secretary of State, and if such transfer or grant relates to the exercise of powers in their area, to the relevant planning authority.

(8) The notice required under paragraphs (4) and (7) must—

(a) state—

- (i) the name and contact details of the person to whom the benefit of the provisions will be transferred or granted;
- (ii) subject to paragraph (10), the date on which the transfer will take effect;
- (iii) the provisions to be transferred or granted; and
- (iv) the restrictions, liabilities and obligations that, in accordance with paragraph (3), will apply to the person exercising the powers transferred or granted; and
- (v) confirmation of the availability and adequacy of funds for compensation associated with the compulsory acquisition of the Order land.

(b) be accompanied by—

- (i) where relevant, a plan showing the works or areas to which the transfer or grant relates; and
- (ii) a copy of the document effecting the transfer or grant signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted.

(9) The date specified under paragraph (8)(a)(ii) must not be earlier than the expiry of five days from the date of the receipt of the notice.

(10) The notice given under paragraph (8) must be signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted as specified in that notice.

(11) The consent of the Secretary of State is required for a “transfer of grant” under this article, except where the transfer or grant is made to—

- (a) Cadent for the purposes of undertaking any works relating to its apparatus set out in Work No. 40;
- (b) Anglian water for the purposes of undertaking any works relating to its apparatus set out in Work Nos. 34, 37, 38, 40, 47, 49;
- (c) UKPN for the purposes of undertaking any works relating to its apparatus set out in Work Nos. 36, 37, 38, 40, 42, 48;
- (d) Openreach for the purposes of undertaking any works relating to its apparatus set out in Work Nos. 1, 37, 38, 40;
- (e) Virgin Media for the purposes of undertaking any works relating to its apparatus set out in Work Nos. 40, 41;
- (f) Vodafone for the purposes of undertaking any works relating to its apparatus set out in Work No. 46.

## PART 3

### STREETS

#### Application of the 1991 Act

**11.**—(1) Works executed under this Order in relation to a highway which consists of or includes a carriageway are to be treated for the purposes of Part 3 (street works in England and Wales) of the 1991 Act as major highway works if—

- (a) they are of a description mentioned in any of paragraphs (a), (c) to (e), (g) and (h) of section 86(3) (which defines what highway authority works are major highway works) of that Act **(a)**; or
- (b) they are works which, had they been executed by the local highway authority, might have been carried out in exercise of the powers conferred by section 64**(b)** (dual carriageways and roundabouts) of the 1980 Act or section 184**(c)** (vehicle crossings over footways and verges) of that Act.

(2) In Part 3 of the 1991 Act references to the highway authority concerned are, in relation to works which are major highway works by virtue of paragraph (1), to be construed as references to the undertaker.

(3) The following provisions of the 1991 Act do not apply in relation to any works executed under the powers conferred by this Order—

- (a) section 56**(d)** (power to give directions as to timing of street works);
- (b) section 56A**(e)** (power to give directions as to placing of apparatus);
- (c) section 58**(f)** (restrictions following substantial road works);
- (d) section 58A**(g)** (restriction on works following substantial street works);
- (e) section 73A (power to require undertaker to re-surface street);
- (f) section 73B (power to specify timing etc. of re-surfacing);
- (g) section 73C (materials, workmanship and standard of re-surfacing);
- (h) section 78A (contributions to costs of re-surfacing by undertaker); and
- (i) Schedule 3A**(h)** (restriction on works following substantial street works).

(4) The provisions of the 1991 Act mentioned in paragraph (5) (which, together with other provisions of that Act, apply in relation to the execution of street works) and any regulations made, or code of practice issued or approved, under those provisions apply (with the necessary modifications) in relation to any stopping up, alteration or diversion of a street of a temporary nature by the undertaker under the powers conferred by article 16 (temporary alteration, diversion, prohibition and restriction of use of streets) whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

(5) The provisions of the 1991 Act**(i)** referred to in paragraph (4) are—

- (a) section 54**(j)** (advance notice of certain works), subject to paragraph (6);
- (b) section 55**(a)** (notice of starting date of works), subject to paragraph (6);

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- (a)** 1991 c. 22, to which are amendments not relevant to section 86 in the act.
  - (b)** As amended by relevant instruments which are section 102 of, and Schedule 17 to, the Local Government Act 1985 (c. 51) and section 168(2) of, and Schedule 9 to, the New Roads and Street Works Act 1991 (c. 22).
  - (c)** As amended by section 4 of, and paragraph 45 of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11); and section 18 of and Schedule 8 to, the New Roads and Street Works Act 1991 (c. 22).
  - (d)** As amended by sections 40 and 43 of the Traffic Management Act 2004 (c. 18).
  - (e)** Inserted by section 44 of the Traffic Management Act 2004 (c. 18).
  - (f)** As amended by section 51 of the Traffic Management Act 2004 (c. 18).
  - (g)** Inserted by section 52 of the Traffic Management Act 2004 (c. 18).
  - (h)** Inserted by section 52 and Schedule 4 of the Traffic Management Act 2004 (c. 18).
  - (i)** Sections 54, 55, 57, 60, 68 and 69 were amended by section 40(1) and (2) of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).
  - (j)** As also amended by section 49(1) of the Traffic Management Act 2004.

- (c) section 57(b) (notice of emergency works);
- (d) section 59(c) (general duty of street authority to co-ordinate works);
- (e) section 60 (d) (general duty of undertakers to co-operate);
- (f) section 68 (e) (facilities to be afforded to street authority);
- (g) section 69 (f) (works likely to affect other apparatus in the street);
- (h) section 75(g) (inspection fees);
- (i) section 76 (liability for cost of temporary traffic regulation); and
- (j) section 77 (liability for cost of use of alternative route).

and all such other provisions as apply for the purposes of the provisions mentioned above.

(6) Sections 54 and 55 of the 1991 Act as applied by paragraph (4) have effect as if references in section 57 of that Act to emergency works were a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

(7) Nothing in article 12 (construction and maintenance of new, altered or diverted streets and other structures)—

- (a) affects the operation of section 87(h) (prospectively maintainable highways) of the 1991 Act;
- (b) means that the undertaker is by reason of any duty under that article to maintain a street to be taken to be the street authority in relation to that street for the purposes of Part 3 of that Act; or
- (c) has effect in relation to street works as respects which the provisions of Part 3 of the 1991 Act apply.

### **Construction and maintenance of new, altered or diverted streets and other structures**

**12.—(1)** Any highway (other than a trunk road) to be constructed under this Order must be completed to the reasonable satisfaction of the local highway authority in whose area the highway lies and, unless otherwise agreed in writing with the local highway authority, the highway including any culverts or other structures laid under it must be maintained by and at the expense of the local highway authority from its completion.

(2) Where a highway (other than a trunk road) is altered or diverted under this Order, the altered or diverted part of the highway must be completed to the reasonable satisfaction of the local highway authority and, unless otherwise agreed in writing with the local highway authority, that part of the highway including any culverts or other structures laid under it must be maintained by and at the expense of the local highway authority from its completion.

(3) Where a footpath, cycle track or bridleway is altered or diverted under this Order, the altered or diverted part of the highway must be completed to the reasonable satisfaction of the local highway authority and, unless otherwise agreed in writing with the local highway authority, that part of the highway including any culverts or other structures laid under it must be maintained by and at the expense of the local highway authority from its completion.

(4) Where a street which is not and is not intended to be a public highway is constructed, altered or diverted under this Order, the street (or part of the street as the case may be) must, when completed to the reasonable satisfaction of the street authority, unless otherwise agreed in writing, be maintained by and at the expense of the undertaker for a period of 12 months from its completion and at the expiry of that period by and at the expense of the street authority.

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- (a) As also amended by section 49(2) and 51(9) of the Traffic Management Act 2004.
  - (b) As also amended by section 52(3) of the Traffic Management Act 2004.
  - (c) As amended by section 41 of the Traffic Management Act 2004.
  - (d) As amended by section 40 of, and Schedule 1 to, the Traffic Management Act 2004 (c.18).
  - (e) As amended by section 40 of, and Schedule 1 to, the Traffic Management Act 2004 (c.18).
  - (f) As amended by section 40 of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).
  - (g) As amended by section 58 of the Traffic Management Act 2004 (c. 18).
  - (h) 1991 c. 22.

(5) Where a highway is de-trunked under this Order—

- (a) section 265(a) (transfer of property and liabilities upon a highway becoming or ceasing to be a trunk road) of the 1980 Act applies in respect of that highway; and
- (b) any alterations to that highway undertaken under powers conferred by this Order prior to and in connection with that de-trunking must, unless otherwise agreed in writing with the local highway authority, be maintained by and at the expense of the local highway authority from the date of de-trunking.

(6) In the case of a bridge constructed under this Order to carry a highway (other than a trunk road) over a trunk road, the highway surface (being those elements over the waterproofing membrane) must be maintained by and at the expense of the local highway authority unless otherwise agreed in writing between the undertaker and the local highway authority, and the remainder of the bridge, including the waterproofing membrane, and structure below, parapets and any system of lighting must be maintained by and at the expense of the undertaker.

(7) In any action against the undertaker in respect of loss or damage resulting from any failure by it to maintain a street under this article, it is a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that the undertaker had taken such care as in all the circumstances was reasonably required to secure that the part of the street to which the action relates was not dangerous to traffic.

(8) For the purposes of a defence under paragraph (7), the court must in particular have regard to the following matters—

- (a) the character of the street and the traffic which was reasonably to be expected to use it;
- (b) the standard of maintenance appropriate for a street of that character and used by such traffic;
- (c) the state of repair in which a reasonable person would have expected to find the street;
- (d) whether the undertaker knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause danger to users of the street; and
- (e) where the undertaker could not reasonably have been expected to repair that part of the street before the cause of action arose, what warning notices of its condition had been displayed,

but for the purposes of such a defence it is not relevant to prove that the undertaker had arranged for a competent person to carry out or supervise the maintenance of the part of the street to which the action relates unless it is also proved that the undertaker had given the competent person proper instructions with regard to the maintenance of the street and the competent person had carried out those instructions.

### **Classification of roads, etc.**

**13.—**(1) From the date on which the roads described in Part 1 (trunk roads) of Schedule 3 and identified on the classification of roads plans are completed and open for traffic, they are to become trunk roads as if they had become so by virtue of an order under section 10(2)(b) (general provision as to trunk roads) of the 1980 Act specifying that date as the date on which they were to become trunk roads.

(2) From the date on which the roads described in Part 2 (classified roads) of Schedule 3 and identified on the classification of roads plans are completed and open for traffic, they are to become classified roads for the purpose of any enactment or instrument which refers to highways classified as classified roads as if such classification had been made under section 12(3) (general provision as to principal and classified roads) of the 1980 Act.

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(a) The following provisions have been inserted into the section by paragraph 52, Schedule 1 of the Infrastructure Act 2015 (c.7).

(b) As amended by section 22 of the 1991 Act, and by section 1 of, and Schedule 1 to, the Infrastructure Act 2015 (c. 7).



(3) From the date on which the roads specified in Part 3 (speed limits) of Schedule 3 and identified on the traffic regulation plans are open for traffic, no person is to drive any motor vehicle at a speed exceeding the limit in miles per hour specified in column (3) of that Part along the lengths of road identified in the corresponding row of column (2) of that Part.

(4) Unless otherwise agreed in writing with the relevant highway authority, the footpaths, cycle tracks, footways and bridleways set out in Part 4 (footpaths, cycle tracks, footways and bridleways) of Schedule 3 and identified on the rights of way and access plans are to be constructed by the undertaker in the specified locations and open for use from the date on which the authorised development is open for traffic.

(5) The application of paragraphs (1) to (4) may be varied or revoked by any instrument made under any enactment which provides for the variation or revocation of such matters.

### **Power to alter layout etc. of streets**

**14.**—(1) Subject to paragraph (3), the undertaker may, for the purposes of constructing and maintaining the authorised development, alter the layout of any street within the Order limits and the layout of any street having a junction with such a street; and, without limitation on the scope of this paragraph, the undertaker may—

- (a) increase the width of the carriageway of the street by reducing the width of any kerb, footpath, footway, cycle track or verge within the street;
- (b) alter the level or increase the width of any such kerb, footway, cycle track or verge;
- (c) reduce the width of the carriageway of the street; and
- (d) make and maintain passing places.

(2) The undertaker must restore any street that has been temporarily altered under this article to the reasonable satisfaction of the street authority.

(3) The powers conferred by paragraph (1)—

- (a) are exercisable on the giving of not less than 42 days' notice to the street authority; and
- (b) are not to be exercised without the consent of the street authority where that authority is a public authority.

(4) If a street authority which receives an application for consent under paragraph (3) fails to notify the undertaker of its decision before the end of the period of 6 weeks beginning with the date on which the application was made, it is deemed to have granted consent.

(5) Paragraphs (2), (3) and (4) do not apply where the undertaker is the street authority for a street in which the works are being carried out.

### **Street Works**

**15.**—(1) The undertaker may, for the purposes of the authorised development, enter on so much of any of the streets as are within the Order limits and may—

- (a) break up or open the street, or any sewer, drain or tunnel under it;
- (b) tunnel or bore under the street; or carry out works to strengthen or repair the carriageway;
- (c) remove or use all earth and materials in or under the street;
- (d) place and keep apparatus in or under the street;
- (e) maintain, renew or alter apparatus in the street or change its position;
- (f) demolish, remove, replace and relocate any street furniture;
- (g) execute any works to provide or improve sight lines;
- (h) execute and maintain any works to provide hard and soft landscaping;
- (i) carry out re-lining and placement of road markings;
- (j) remove and install temporary and permanent signage; and

- (k) execute any works required for, or incidental to, any works referred to in subparagraphs (a) to (j).

(2) The authority given by paragraph (1) is a statutory right for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1)(a) (prohibition of unauthorised streetworks) of the 1991 Act.

(3) The provisions of sections 54 to 106 of the 1991 Act apply to any street works carried out under paragraph (1).

### **Temporary alteration, diversion prohibition and restriction of use of streets**

**16.**—(1) The undertaker, during and for the purposes of carrying out the authorised development, may temporarily stop up, alter, divert, prohibit the use of or restrict the use of any street and may for any reasonable time—

- (a) divert the traffic from the street; and
- (b) subject to paragraph (3), prevent all persons from passing along the street.

(2) Without limitation on the scope of paragraph (1), the undertaker may use any street temporarily stopped up or restricted under the powers conferred by this article, and which is within the Order limits, as a temporary working site.

(3) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street affected by the temporary stopping up, alteration, diversion or restriction of a street under this article if there would otherwise be no such access.

(4) The undertaker must not temporarily stop up, alter, divert or restrict the use of any street for which it is not the street authority without the consent of the street authority, which may attach reasonable conditions to any consent but such consent must not be unreasonably withheld or delayed.

(5) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1(b) of the 1961 Act.

(6) If a street authority which receives an application for consent under paragraph (4) fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application was made, it is deemed to have granted consent.

### **Permanent stopping up and restriction of use of streets and private means of access**

**17.**—(1) Subject to the provisions of this article, the undertaker may, in connection with the carrying out of the authorised development, stop up each of the streets and private means of access specified in columns (1) and (2) of Part 1, 2, 3 and 4 of Schedule 4 (permanent stopping up of highways and private means of access & provision of new highways and private means of access) and identified on the rights of way and access plans the extent specified and described in column (3) of that Schedule.

(2) No street or private means of access specified in columns (1) and (2) of Part 2 or Part 3 of Schedule 4 (being a highway or private means of access to be stopped up for which a substitute is to be provided) is to be wholly or partly stopped up under this article unless—

- (a) the new highway or private means of access to be constructed and substituted for it, which is specified in column (4) of those Parts of that Schedule, has been completed to the reasonable satisfaction of the street authority and is open for use; or
- (b) a temporary alternative route for the passage of such traffic as could have used the street or private means of access to be stopped up is first provided and subsequently maintained by the undertaker, to the reasonable satisfaction of the street authority, between the commencement and termination points for the stopping up of the highway or private

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(a) 1991 c. 21. There are amendments to section 48(3) and 51(1) but none is relevant to this Order.

(b) 1961 c. 33, Part 1 as amended by S.I. 1994/2716, 1998 (c. 38), S.I. 1999/481, S.I. 2009/1307, S.I. 2010/490, S.I. 2017/1012 and 2016 (c. 9).

means of access until the completion and opening of the new highway or private means of access in accordance with sub-paragraph (a).

(3) No street or private means of access specified in columns (1) and (2) of Part 1 or Part 4 of Schedule 4 (being a street or private means of access to be stopped up for which no substitute is to be provided) is to be wholly or partly stopped up under this article unless the condition specified in paragraph (4) is satisfied in relation to all the land which abuts on either side of the street or private means of access to be stopped up.

(4) The condition referred to in paragraph (3) is that—

- (a) the undertaker is in possession of the land; or
- (b) there is no right of access to the land from the street or private means of access concerned; or
- (c) there is reasonably convenient access to the land otherwise than from the street or private means of access concerned; or
- (d) the owners and occupiers of the land have agreed to the stopping up.

(5) Where a street or private means of access has been stopped up under this article—

- (a) all rights of way over or along the street or private means of access so stopped up are extinguished; and
- (b) the undertaker may appropriate and use for the purposes of the authorised development so much of the site of the street or private means of access as is bounded on both sides by land owned by the undertaker.

(6) Any person who suffers loss by the suspension or extinguishment of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1(a) of the 1961 Act.

(7) This article is subject to article 37 (apparatus and rights of statutory undertakers in stopped up streets).

### **Access to works**

**18.** The undertaker may, for the purposes of the authorised development, form and lay out means of access, or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development.

### **Clearways, prohibitions and restrictions**

**19.—**(1) From such day as the undertaker may determine, except as provided in paragraph (2), no person is to cause or permit any vehicle to wait on any part of the lengths of road described in column (2) of Part 5 (traffic regulation measures (clearways and prohibitions)) of Schedule 3 (classification of roads, etc.) and identified on the traffic regulation plans where it is identified in the corresponding row of column (3) of that Part that such lengths of road are to become a clearway, except upon the direction of, or with the permission of, a constable or traffic officer in uniform.

(2) Nothing in paragraph (1) applies—

- (a) to render it unlawful to cause or permit a vehicle to wait on any part of a road, for so long as may be necessary to enable that vehicle to be used in connection with—
  - (i) the removal of any obstruction to traffic;
  - (ii) the maintenance, improvement, reconstruction or operation of the road;
  - (iii) the laying, erection, inspection, maintenance, alteration, repair, renewal or removal in or near the road of any sewer, main pipe, conduit, wire, cable, or other apparatus

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(a) 1961 c. 33, Part 1 as amended by S.I. 1994/2716, 1998 (c. 38), S.I. 1999/481, S.I. 2009/1307, S.I. 2010/490, S.I. 2017/1012 and 2016 (c. 9).

for the supply of gas, water, electricity or any electronic communications apparatus as defined in Schedule 1 (the Electronic Communications Code) to the Digital Economy Act 2017(a); or

- (iv) any building operation or demolition;
- (b) in relation to a vehicle being used—
  - (i) for police, ambulance, fire and rescue authority or traffic officer purposes,
  - (ii) in the service of a local authority, safety camera partnership or Driver and Vehicle Standards Agency in pursuance of statutory powers or duties;
  - (iii) in the service of a water or sewerage undertaker within the meaning of the Water Industry Act 1991(b); or
  - (iv) by a universal service provider for the purposes of providing a universal postal service as defined by the Postal Service Act 2011(c); or
- (c) in relation to a vehicle waiting when the person in control of it is—
  - (i) required by law to stop;
  - (ii) obliged to stop in order to avoid an accident; or
  - (iii) prevented from proceeding by circumstances outside the person’s control.

(3) No person is to cause or permit any vehicle to wait on any part of the roads described in paragraph (1) for the purposes of selling, or dispensing of, goods from that vehicle, unless the goods are immediately delivered at, or taken into, premises adjacent to the land on which the vehicle stood when the goods were sold or dispensed.

(4) Paragraphs (1), (2) and (3) have effect as if made by order under the 1984 Act, and their application may be varied or revoked by an order made under that Act or any other enactment which provides for the variation or revocation of such orders.

(5) In this article, “traffic officer” means an individual designated under section 2 (designation of traffic officers) of the Traffic Management Act 2004(d).

## **Traffic Regulation**

**20.**—(1) This article applies to roads in respect of which the undertaker is not the traffic authority.

(2) Subject to the provisions of this article, and the consent of the traffic authority in whose area the road concerned is situated, which consent must not be unreasonably withheld, the undertaker may, for the purposes of the authorised development—

- (a) revoke, amend or suspend in whole or in part any order made, or having effect as if made, under the 1984 Act;
- (b) permit, prohibit or restrict the stopping, waiting, loading or unloading of vehicles on any road;
- (c) authorise the use as a parking place of any road;
- (d) make provision as to the direction or priority of vehicular traffic on any road; and
- (e) permit or prohibit vehicular access to any road,

either at all times or at times, on days or during such periods as may be specified by the undertaker.

(3) The power conferred by paragraph (2) may be exercised at any time prior to the expiry of 12 months from the opening of the authorised development for public use but subject to paragraph (7)

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(a) 2017 c. 30, as brought into force by Regulation 2 of S.I. 2017/765, Regulation 2 of S.I. 2017/1136 and Regulation 2 of S.I. 2017/1286.

(b) 1991 c. 56.

(c) 2011 c. 5.

(d) 2004 c. 18, as brought into force by Article 2 of S.I. 2004/2380 and Article 2 of S.I. 2009/1095 (W.55).

any prohibition, restriction or other provision made under paragraph (2) may have effect both before and after the expiry of that period.

(4) The undertaker must consult the chief officer of police and the traffic authority in whose area the road is situated before complying with the provisions of paragraph (5).

(5) The undertaker must not exercise the powers conferred by paragraph (2) unless the undertaker has—

- (a) given not less than—
  - (i) 12 weeks' notice in writing of the undertaker's intention so to do in the case of a prohibition, restriction or other provision intended to have effect permanently; or
  - (ii) 4 weeks' notice in writing of the undertaker's intention so to do in the case of a prohibition, restriction or other provision intended to have effect temporarily,to the chief officer of police and to the traffic authority in whose area the road is situated; and
- (b) advertised the undertaker's intention in such manner as the traffic authority may specify in writing within 28 days of its receipt of notice of the undertaker's intention in the case of sub-paragraph (a)(i), or within 7 days of its receipt of notice of the undertaker's intention in the case of sub-paragraph (a)(ii).

(6) Any prohibition, restriction or other provision made by the undertaker under paragraph (2)—

- (a) has effect as if duly made by, as the case may be—
  - (i) the traffic authority in whose area the road is situated, as a traffic regulation order under the 1984 Act; or
  - (ii) the local authority in whose area the road is situated, as an order under section 32 (power of local authorities to provide parking spaces) of the 1984 Act<sup>(a)</sup>,and the instrument by which it is effected may specify savings and exemptions to which the prohibition, restriction or other provision is subject; and
- (b) is deemed to be a traffic order for the purposes of Schedule 7 (road traffic contraventions subject to civil enforcement) to the Traffic Management Act 2004<sup>(b)</sup>.

(7) Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers conferred by paragraph (2) within a period of 24 months from the opening of the authorised development.

(8) Before exercising the powers conferred by paragraph (2) the undertaker must consult such persons as the undertaker considers necessary and appropriate and must take into consideration any representations made to the undertaker by any such person.

(9) Expressions used in this article and in the 1984 Act have the same meaning in this article as in that Act.

(10) The powers conferred on the undertaker by this article with respect to any road have effect subject to any agreement entered into by the undertaker with any person with an interest in (or who undertakes activities in relation to) premises served by the road.

(11) If the traffic authority fails to notify the undertaker of its decision within 28 days of receiving an application for consent under paragraph (2) the traffic authority is deemed to have granted consent.

(12) Any application to which this article applies must include a statement that the provisions of paragraph (11) apply to that application.

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(a) 1984 c.27, section 32 was amended by sections 1, 2, 8(1) and paragraph 4 of Schedule 5 to the Local Government Act 1985 (c. 51) and by section 168(1) of, and paragraph 39 of Schedule 8 to, the 1991 Act.

(b) 2004 c. 18, Schedule 7 as implemented by Article 2 of S.I. 2007/2053, Article 2 and Schedule of S.I. 2007/3174; as amended by Regulation 28 of S.I. 2013/362 and Regulation 2 and 3 of S.I. 2018/488.

## PART 4

### SUPPLEMENTAL POWERS

#### **Discharge of water**

**21.**—(1) Subject to paragraphs (3) and (4), the undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out, maintenance or use of the authorised development and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or use of a public sewer or drain by the undertaker under paragraph (1) is to be determined as if it were a dispute under section 106 (right to communicate with public sewers) of the Water Industry Act 1991(a).

(3) The undertaker must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose, but must not be unreasonably withheld.

(4) The undertaker must not make any opening into any public sewer or drain except—

(a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval must not be unreasonably withheld; and

(b) where that person has been given the opportunity to supervise the making of the opening.

(5) The undertaker must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain under this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(6) Nothing in this article overrides the requirement for an environmental permit under regulation 12 (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016(b).

(7) In this article—

(a) “public sewer or drain” means a sewer or drain which belongs to Homes England, the Environment Agency, an internal drainage board, a joint planning board, a local authority or a sewerage undertaker; and

(b) Other expressions, excluding watercourse, used both in this article and in the Water Resources Act 1991(c) have the same meaning as in that Act.

(8) If a person who receives an application for consent under paragraph (3) or approval under paragraph (4) fails to notify the undertaker of a decision within 28 days of receiving an application, that person is deemed to have granted consent or given approval, as the case may be.

#### **Protective work to buildings**

**22.**—(1) Subject to the following provisions of this article, the undertaker may at its own expense carry out such protective works to any building which may be affected by the authorised development as the undertaker considers necessary or expedient.

(2) Protective works may be carried out—

(a) at any time before or during the carrying out in the vicinity of the building of any part of the authorised development;

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(a) 1991 c. 56. Section 106 was amended by section 35(1) and (8) of, and Schedule 2 to, the Competition and Service (Utilities) Act 1992 (c. 43), sections 36(2) and 99 of the Water Act 2003 (c. 37) and paragraph 16(1) of Schedule 3 to the Flood and Water Management Act 2010 (c. 29).

(b) S.I.2016/1154, amended by S.I. 2018/110

(c) 1991 c. 57.

(b) after the completion of that part of the authorised development in the vicinity of the building at any time up to the end of the period of 5 years beginning with the day on which that part of the authorised development is first opened for use.

(3) For the purpose of determining how the functions under this article are to be exercised the undertaker may (subject to paragraph (5)) enter and survey any building falling within paragraph (1) and any land within its curtilage.

(4) For the purpose of carrying out protective works under this article to a building the undertaker may (subject to paragraphs (5) and (6))—

- (a) enter the building and any land within its curtilage; and
- (b) where the works cannot be carried out reasonably conveniently without entering land which is adjacent to the building but outside its curtilage, enter the adjacent land (but not any building erected on it).

(5) Before exercising—

- (a) a right under paragraph (1) to carry out protective works to a building;
- (b) a right under paragraph (3) to enter a building and land within its curtilage;
- (c) a right under paragraph (4)(a) to enter a building and land within its curtilage; or
- (d) a right under paragraph (4)(b) to enter land,

the undertaker must, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice of its intention to exercise that right and, in a case falling within sub-paragraph (a) or (c), specifying the protective works proposed to be carried out.

(6) Where a notice is served under paragraph (5)(a), (c) or (d), the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question whether it is necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 52 (arbitration).

(7) The undertaker must compensate the owners and occupiers of any building or land in relation to which rights under this article have been exercised for any loss or damage arising to them by reason of the exercise of those rights.

(8) Where—

- (a) protective works are carried out under this article to a building; and
- (b) within the period of 5 years beginning with the day on which the part of the authorised development carried out in the vicinity of the building is first opened for use it appears that the protective works are inadequate to protect the building against damage caused by the carrying out or use of that part of the authorised development,

the undertaker must compensate the owners and occupiers of the building for any loss or damage sustained by them.

(9) Nothing in this article relieves the undertaker from any liability to pay compensation under section 152(a) (compensation in case where no right to claim in nuisance) of the 2008 Act.

(10) Any compensation payable under paragraph (8) or (9) is to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(11) In this article “protective works” in relation to a building means —

- (a) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the building by the carrying out, maintenance or use of the authorised development; and
- (b) any works the purpose of which is to remedy any damage which has been caused to the building by the carrying out, maintenance or use of the authorised development.

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(a) 2008 c. 29, section 152 as implemented by Article 3 of S.I. 2010/101 and amended by S.I. 2009/1307.

### **Authority to survey and investigate the land**

**23.—**(1) The undertaker may for the purposes of this Order enter on any land shown within the Order limits or which may be affected by the authorised development and—

- (a) survey or investigate the land;
- (b) without limitation on the scope of sub-paragraph (a), make trial holes in such positions on the land as the undertaker sees fit to investigate the nature of the surface layer and subsoil and remove soil samples;
- (c) without limitation on the scope of sub-paragraph (a), carry out ecological or archaeological investigations on such land; and
- (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making trial holes.

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least 14 days' notice has been served on every owner and occupier of the land indicating the nature of the survey or investigation that the undertaker intends to carry out.

(3) Any person entering land under this article on behalf of the undertaker—

- (a) must, if so required, before or after entering the land, produce written evidence of their authority to do so; and
- (b) may take into the land such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.

(4) No trial holes are to be made under this article—

- (a) in land located within the highway boundary without the consent of the highway authority or the local highway authority as the case may be; or
- (b) in a private street without the consent of the street authority.

but such consent must not be unreasonably withheld.

(5) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the powers conferred by this article, such compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(6) If either the highway authority, the local highway authority or a street authority which receives an application for consent fails to notify the undertaker of its decision within 28 days of receiving the application for consent—

- (a) under paragraph (4)(a) in the case of the highway authority or the local highway authority; or
- (b) under paragraph (4)(b) in the case of a street authority,

that authority is deemed to have granted consent.

## **PART 5**

### **POWERS OF ACQUISITION**

#### **Compulsory acquisition of land**

**24.—**(1) The undertaker may acquire compulsorily so much of the Order land as is required for the authorised development, or to facilitate it, or is incidental to it.

(2) This article is subject to paragraph (2) of article 27 (compulsory acquisition of rights) and imposition of restrictive covenants) and paragraph (8) of article 34 (temporary use of land for carrying out the authorised development) and article 53 (crown rights).



### **Compulsory acquisition of land – incorporation of the mineral code**

25. Parts 2 and 3 of Schedule 2 (minerals) to the Acquisition of Land Act 1981(a) are incorporated into this Order subject to the modifications that—

- (a) paragraph 8(3) is not incorporated;
- (b) for “the acquiring authority” substitute “the undertaker”; and
- (c) for “undertaking” substitute “authorised development”.

### **Time limit for exercise of authority to acquire land compulsorily**

26.—(1) After the end of the period of 5 years beginning on the day on which this Order is made—

- (a) no notice to treat is to be served under Part 1 of the 1965 Act; and
- (b) no declaration is to be executed under section 4 (execution of declaration) of the 1981 Act as applied by article 31 (application of the 1981 Act).

(2) The authority conferred by article 34 (temporary use of land for carrying out the authorised development) ceases at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents the undertaker from remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

### **Compulsory acquisition of rights and imposition of restrictive covenants**

27.—(1) The undertaker may acquire such rights over the Order land or impose restrictive covenants affecting the land as may be required for any purpose for which that land may be acquired under article 24 (compulsory acquisition of land), by creating them as well as acquiring rights already in existence.

(2) In the case of the Order land specified in column (1) of Schedule 5 (land in which only new rights etc. may be acquired) the undertaker’s powers of compulsory acquisition are limited to the acquisition of such wayleaves, easements, new rights in the land or the imposition of restrictive covenants as may be required for the purpose specified in relation to that land in column (2) of that Schedule and relating to that part of the authorised development specified in column (3) of that Schedule.

(3) Subject to Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act (as substituted by paragraph 10 of Schedule 6 (modification of compensation and compulsory purchase enactments for creation of new rights)), where the undertaker acquires a right over land or the benefit of a restrictive covenant, the undertaker is not required to acquire a greater interest in that land.

(4) Schedule 6 has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right or the imposition of a restrictive covenant.

### **Public rights of way**

28.—(1) Subject to paragraph (2), the public rights of way identified in columns (1) to (3) of Parts 1 and 2 of Schedule 4 (permanent stopping up of highways and private means of access & provision of new highways and private means of access) and shown on the rights of way and access plans are to be extinguished on the date of the expiry of the notice given under paragraph (2).

(2) Prior to the extinguishment of each of the public rights of way identified in columns (1) to (3) of Parts 1 and 2 of Schedule 4 and shown on the rights of way and access plans, the undertaker

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(a) As amended by S.I. 2009/1307.

must erect a site notice at each end of the rights of way to be extinguished no less than 28 days prior to the extinguishment of that right of way.

### Private rights over land

29.—(1) Subject to the provisions of this article, all private rights over land subject to compulsory acquisition under this Order are extinguished—

- (a) from the date of acquisition of the land by the undertaker whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) (a)(power of entry) of the 1965 Act,

whichever is the earlier.

(2) Subject to the provisions of this article, all private rights over land subject to the compulsory acquisition of rights or the imposition of restrictive covenants under this Order are extinguished in so far as their continuance would be inconsistent with the exercise of the right or burden of the restrictive covenant—

- (a) from the date of the acquisition of the right or the benefit of the restrictive covenant by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the undertaker under section 11(1) (power of entry) of the 1965 Act,

whichever is the earlier.

(3) Subject to the provisions of this article, all private rights over land owned by the undertaker which being within the limits of land which may be acquire or used shown on the land plans, are required for the purposes of this Order are extinguished on commencement of any activity authorised by this Order which interferes with or breaches those rights.

(4) Subject to the provisions of this article, all private rights over land of which the undertaker takes temporary possession under this Order are suspended and unenforceable for as long as the undertaker remains in lawful possession of the land.

(5) Any person who suffers loss by the extinguishment or suspension of any private right under this article is entitled to compensation in accordance with the terms of section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act to be determined, in case of dispute, under Part 1 of the 1961 Act ((b)).

(6) This article does not apply in relation to any right to which section 138 (c) (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) of the 2008 Act or article 36 (statutory undertakers) applies.

(7) Paragraphs (1) to (4) have effect subject to—

- (a) any notice given by the undertaker before—
    - (i) the completion of the acquisition of the land or the acquisition of the rights or the imposition of restrictive covenants over or affecting the land;
    - (ii) the undertaker's appropriation of it;
    - (iii) the undertaker's entry onto it; or
    - (iv) the undertaker's taking temporary possession of it,
- that any or all of those paragraphs do not apply to any right specified in the notice; and

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(a) 1965 c. 56. Section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), Section 103 of the Planning and Compulsory Purchase Act 2004 c. 5 and S.I. 2009/1307.

(b) 1961 c. 33, Part 1 as amended by S.I. 1994/2716, 1998 (c. 38), S.I. 1999/481, S.I. 2009/1307, S.I. 2010/490, S.I. 2017/1012 and 2016 (c. 9).

(c) 2008 c. 29. Section 138 as amended by section 23 of the Growth and Infrastructure Act 2013 (c. 27) and paragraph 12, Schedule 1 of S.I. 2017/1285.

- (b) any agreement made at any time between the undertaker and the person in or to whom the right in question is vested or belongs.

(8) If any such agreement referred to in paragraph (7)(b)—

- (a) is made with a person in or to whom the right is vested or belongs; and
- (b) is expressed to have effect also for the benefit of those deriving title from or under that person,

it is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

(9) References in this article to private rights over land include any trust, incident, easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support and include restrictions as to the user of land arising by virtue of a contract, agreement or undertaking having that effect.

### **Modification of Part 1 of the 1965 Act**

**30.**—(1) Part 1 of the 1965 Act, as applied to this Order by section 125(a)(application of compulsory acquisition provisions) of the 2008 Act, is modified as follows—

“(a) In section 4A(1)(b)(extension of time limit during challenge)

- (i) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order)”, substitute “section 118 of the Planning Act 2008 (legal challenges relating to applications for orders granting development consent)”; and
- (ii) for the “three year period” mentioned in section 4 substitute the “five year period mentioned in article 25 (time limit for exercise of authority to acquire land compulsory) of the A47/A11 Thickthorn Junction Development Consent Order 202[X]”.

(2) In section 11A(c) (powers of entry: further notice of entry)—

- (a) in subsection (1)(a), after “land” insert “under that provision”;
- (b) in subsection (2), after “land” insert “under that provision”.

(3) In section 22(2) (expiry of time limit for exercise of compulsory purchase power not to affect acquisition of interests omitted from purchase), for “section 4 of this Act” substitute “article 25 of the A47/A11 Thickthorn Junction Development Consent Order 202[X]”.

(4) In Schedule 2A (counter-notice requiring purchase of land not in notice to treat)—

(a) for paragraphs 1(2) and 14(2) substitute—

“(2) But see article 32 (acquisition of subsoil or airspace only) on the A47/A11 Thickthorn Junction Development Consent Order 202[X], which excludes the acquisition of subsoil or airspace only from this schedule”;

(b) after paragraph 29, end insert—

## **“PART 4**

### **INTERPRETATION**

**30.** In this Schedule, references to entering on and taking possession of land do not include doing so under article 22 (protective works to buildings), 34 (temporary use of land for carrying out the authorised development) or 35 (temporary use of land for maintaining

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(a) 2008 c. 29, section 125 as amended by paragraph 17, Schedule 16 of the Housing and Planning Act 2016 (c. 22).

(b) 1981 c. 67.

(c) 1965 c.56, section 11A as inserted by section 202(1) Housing and Planning Act 2016 (c. 22).

the authorised development) of the A47/A11 Thickethorn Junction Development Consent Order 202[X].”

### **Application of the 1981 Act**

- 31.**—(1) The 1981 Act applies as if this Order were a compulsory purchase order.
- (2) The 1981 Act, as applied by paragraph (1), has effect with the following modifications.
- (3) In section 1 (application of Act), for subsection 2 substitute—
- “(2) This section applies to any Minister, any local or other public authority or any other body or person authorised to acquire land by means of a compulsory purchase order.”
- (4) Omit section 5 (a) (earliest date for execution of declaration).
- (5) Omit section 5A(b) (time limit for general vesting declaration).
- (6) In section 5B(c) (extension of time limit during challenge)—
- (a) for “section 23 of the Acquisition of Land Act 1981(d) (application to High Court in respect of compulsory purchase order)”, substitute “section 118 (legal challenges relating to applications for orders granting development consent) of the Planning Act 2008”; and
- (b) for the “three year period” mentioned in Section 5A substitute the “five year period mentioned in article 26 (time limit for exercise of authority to acquire land compulsorily) of the A47/A11 Thickethorn Junction Development Consent Order 202[X]”.
- (7) In section (6)(e)(notices after execution of declaration), in subsection (1)(b) substitute—
- “(b) on every person who has given information to the acquiring authority with respect to any of that land further to the invitation published and served in section 134 (notice of authorisation of compulsory acquisition of the Planning Act 2008.”
- (8) In section 7 (constructive notice to treat), in subsection (1)(a), omit “(as modified by section 4 of the Acquisition of Land Act 1981)”.
- (9) In Schedule A1(f) (counter-notice requiring purchase of and not in general vesting declaration) for paragraph 1(2) substitute—
- “(2) But see article 32 (acquisition of subsoil or airspace only) of the A47/A11 Thickethorn Junction Development Consent Order 202[X], which excludes the acquisition of subsoil or airspace only from this Schedule.”
- (10) References to the 1965 Act in the 1981 Act are to be construed as references to the 1965 Act as applied by section 125(g) (application of compulsory acquisition provisions) of the 2008 Act (and as modified by article 30 (modification of Part 1 of the 1965 Act)) to the compulsory acquisition of land under this Order.

### **Acquisition of subsoil or airspace only**

**32.**—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil of or the airspace over the land referred to in paragraph (1) of article 24 (compulsory acquisition of land) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) Where the undertaker acquires any part of, or rights in, the subsoil of or the airspace over the land referred to in paragraph (1), the undertaker is not required to acquire an interest in any other part of the land.

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- (a) 1981 c.67, section 5 was amended by Schedule 15 to the Housing and Planning Act 2016 (c. 22).
- (b) 1981 c. 67, section 5A was inserted by section 186(3) of the Housing and Planning Act 2016 (c. 22).
- (c) 1981 c. 67, section 5B was inserted by section 182(2) of the Housing and Planning Act 2016 (c. 22).
- (d) As inserted by section 202(2) of Schedule 3 to the Housing and Planning Act 2016 (c. 22).
- (e) As amended by paragraphs 1 and 59 of Schedule 13, and Part 20 of Schedule 25, to the Localism Act 2011 (c. 20) and section 92(4) of the Criminal Justice and Courts Act 2015 (c. 2).
- (f) As amended by section 142 of, and Part 21 of Schedule 25 to, the Localism Act 2011 (c. 20) and S.I. 2012/16.
- (g) 2008 c. 29, section 125 as amended by paragraph 17, Schedule 16 of the Housing and Planning Act 2016 (c. 22).

(3) The following do not apply in connection with the exercise of the power under paragraph (1) in relation to subsoil or airspace only—

- (a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act;
- (b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the Compulsory Purchase (Vesting Declarations) Act 1981; and
- (c) section 153 (4A) (blighted land: proposed acquisition of part interest; material detriment test) of the Town and Country Planning Act 1990.

(4) Paragraphs (1) and (2) are to be disregarded where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory or airspace above a house, building or manufactory.

### **Rights under or over streets**

**33.**—(1) The undertaker may enter on and appropriate so much of the subsoil of, or airspace over, any street within the Order limits as may be required for the purposes of the authorised development and may use the subsoil or airspace for those purposes or any other purpose ancillary to the authorised development.

(2) Subject to paragraph (3), the undertaker may exercise any power conferred by paragraph (1) in relation to a street without being required to acquire any part of the street or any easement or right in the street.

(3) Paragraph (2) does not apply in relation to—

- (a) any subway or underground building; or
- (b) any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting onto the street.

(4) Subject to paragraph (5), any person who is an owner or occupier of land in respect of which the power of appropriation conferred by paragraph (1) is exercised without the undertaker acquiring any part of that person's interest in the land, and who suffers loss as a result, is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act(a).

(5) Compensation is not payable under paragraph (4) to any person who is a statutory undertaker to whom section 85 (sharing of cost of necessary measures) of the 1991 Act (b) applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

### **Temporary use of land for carrying out the authorised development**

**34.**—(1) The undertaker may, in connection with the carrying out of the authorised development, but subject to article 26 (time limit for exercise of authority to acquire land compulsorily)—

- (a) enter on and take possession of—
  - (i) the land specified in columns (1) and (2) of Schedule 7 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule relating to the part of the authorised development specified in column (4) of that Schedule; and
  - (ii) any other Order land in respect of which no notice of entry has been served under section 11(c) (powers of entry) of the 1965 Act (other than in connection with the

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(a) 1961 c. 33, Part 1 as amended by S.I. 1994/2716, 1998 (c. 38), S.I. 1999/481, S.I. 2009/1307, S.I. 2010/490, S.I. 2017/1012 and 2016 (c. 9).

(b) 1991 c. 22, to which there are no amendments relevant to section 85 of the act.

(c) As inserted by paragraph 6 of Schedule 18 to the Housing and Planning Act 2016 (c. 22).

acquisition of rights only) and no declaration has been made under section 4 (execution of declaration) of the 1981 Act **(a)**;

- (b) remove any buildings and vegetation from that land,
- (c) construct temporary works (including the provision of means of access) and buildings on that land; and
- (d) construct any permanent works specified in relation to that land in column (3) of Schedule 7 (land of which temporary possession may be taken), or any other mitigation works in connection with the authorised development.

(2) Not less than 14 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land and explain the purpose for which entry is taken in respect of land specified under paragraph (1)(a)(ii).

(3) The undertaker must not, without the agreement of the owners of the land, remain in possession of any land under this article—

- (a) in the case of land specified in paragraph (1)(a)(i), after the end of the period of one year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (4) of Schedule 7 (land of which temporary possession may be taken); or
- (b) in the case of any land referred to in paragraph (1)(a)(ii), after the end of the period of one year beginning with the date of completion of the work for which temporary possession of the land was taken unless the undertaker has, by the end of that period, served a notice of entry under section 11 of the 1965 Act **(b)** or made a declaration under section 4 of the 1981 Act **(c)** in relation to that land.

(4) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not required to—

- (a) replace a building removed under this article;
- (b) restore the land on which any permanent works have been constructed under paragraph (1)(d);
- (c) remove any ground strengthening works which have been placed on the land to facilitate construction of the authorised development;
- (d) remove any measures installed over or around statutory undertakers' apparatus to protect that apparatus from the authorised development;
- (e) remove or reposition any apparatus installed for or belonging to statutory undertakers; or
- (f) remove or reposition necessary mitigation works.

(5) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of this article.

(6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, is to be determined under Part 1 of the 1961 Act **(d)**.

(7) Nothing in this article affects any liability to pay compensation under section 152 **(a)** (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other

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(a) 1981 c. 66. Section 4 as amended by section 184 and 185 of, and paragraph 2 of Schedule 18 to, the Housing and Planning Act 2016 (c. 21).

(b) 1965 c. 56, section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), Section 103 of the Planning and Compulsory Purchase Act 2004 c. 5 and S.I. 2009/1307.

(c) 1981 c. 66. Section 4 as amended by section 184 and 185 of, and paragraph 2 of Schedule 18 to, the Housing and Planning Act 2016 (c. 21).

(d) 1961 c. 33, Part 1 as amended by S.I. 1994/2716, 1998 (c. 38), S.I. 1999/481, S.I. 2009/1307, S.I. 2010/490, S.I. 2017/1012 and 2016 (c. 9).

enactment in respect of loss or damage arising from the carrying out of the authorised development, other than loss or damage for which compensation is payable under paragraph (5).

(8) The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i) except that the undertaker is not to be precluded from—

- (a) acquiring new rights over any part of that land that is also specified in column (1) of Schedule 5 (land in which only new rights etc. may be acquired); or
- (b) acquiring any part of the subsoil of or airspace over (or rights in the subsoil of or airspace over) that land under article 32 (acquisition of subsoil or airspace only).

(9) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(10) Section 13(b) (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act(c).

(11) Paragraph (1)(a)(ii) does not authorise the undertaker to take temporary possession of any land which the undertaker is not authorised to acquire under article 24 (compulsory acquisition of land) or article 27 (compulsory acquisition of rights and imposition of restrictive covenants).

### **Temporary use of land for maintaining the authorised development**

**35.**—(1) Subject to paragraph (2), at any time during the maintenance period relating to any part of the authorised development, the undertaker may—

- (a) enter upon and take temporary possession of any land within the Order limits if such possession is reasonably required for the purpose of maintaining the authorised development;
- (b) enter on any land within the Order limits for the purpose of gaining such access as is reasonably required for the purpose of maintaining the authorised development; and
- (c) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) does not authorise the undertaker to take temporary possession of—

- (a) any house or garden belonging to a house; or
- (b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days before entering upon and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(4) The undertaker is not required to serve notice under paragraph (3) where the undertaker has identified a potential risk to the safety of—

- (a) the authorised development or any of its parts;
- (b) the public; or
- (c) the surrounding environment,

and in such circumstances, the undertaker may enter the land under paragraph (1) subject to giving such period of notice as is reasonably practicable in the circumstances.

(5) The undertaker may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised development for which possession of the land was taken.

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(a) 2008 c. 29, section 152 as implemented by Article 3 of S.I. 2010/101 and amended by S.I. 2009/1307.

(b) 1965 c. 56, section 13 was amended by sections 62(3) and 139 of, and paragraphs 27 and 28 of Schedule 13, and part of Schedule 23, to, the Tribunals, Courts and Enforcement Act 2007 (c. 15)..

(c) 2008 c. 29, section 125 as amended by paragraph 17, Schedule 16 of the Housing and Planning Act 2016 (c. 22).

(6) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(7) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the powers conferred by this article.

(8) Any dispute as to a person's entitlement to compensation under paragraph (7), or as to the amount of the compensation, is to be determined under Part 1 of the 1961 Act(a).

(9) Nothing in this article affects any liability to pay compensation under section 152(b) (compensation in case where no right claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (7).

(10) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(11) Section 13(c) (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land under to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act(d).

(12) In this article "the maintenance period", in relation to any part of the authorised development, means the period of 5 years beginning with the date on which that part of the authorised development is first opened for use.

### **Statutory undertakers**

**36.**—(1) Subject to the provisions of article 27 (compulsory acquisition of rights and imposition of restrictive covenants), Schedule 9 (protective provisions) and paragraph (2), the undertaker may—

- (a) acquire compulsorily, or acquire new rights or impose restrictive covenants over, any Order land belonging to statutory undertakers; and
- (b) extinguish the rights of, or remove or reposition the apparatus belonging to, statutory undertakers over or within the Order land.

(2) Paragraph (1)(b) has no effect in relation to apparatus in respect of which the following provisions apply—

- (a) Part 3(e) (street works in England and Wales) of the 1991 Act; and
- (b) article 37 (apparatus and rights of statutory undertakers in stopped up streets).

### **Apparatus and rights of statutory undertakers in stopped up streets**

**37.**—(1) Where a street is stopped up under article 17 (permanent stopping up and restriction of use of streets and private means of access), any statutory utility whose apparatus is under, in, on, along or across the street has the same powers and rights in respect of that apparatus, subject to the provisions of this article, as if this Order had not been made.

(2) Where a street is stopped up under article 17 (permanent stopping up and restriction of use of streets and private means of access) any statutory utility whose apparatus is under, in, on, over, along or across the street may, and if reasonably requested to do so by the undertaker must—

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(a) 1961 c. 33, Part 1 as amended by S.I. 1994/2716, 1998 (c. 38), S.I. 1999/481, S.I. 2009/1307, S.I. 2010/490, S.I. 2017/1012 and 2016 (c. 9).

(b) 2008 c. 29, Section 152 as implemented by Article 3 of S.I. 2010/101 and amended by S.I. 2009/1307.

(c) 1965 c. 56, section 13 was amended by sections 62(3) and 139 of, and paragraphs 27 and 28 of Schedule 13, and part of Schedule 23, to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(d) 2008 c. 29, section 125 as amended by paragraph 17, Schedule 16 of the Housing and Planning Act 2016 (c. 22).

(e) 1991 c.22, Part 3 as amended by 2004 (c. 18), S.I. 2007/1952, S.I. 2008/102 (w. 55) and 2003 (c. 21).



- (a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as the utility may reasonably determine and have power to place it; or
- (b) provide other apparatus in substitution for the existing apparatus and place it in such position as described in sub-paragraph (a).

(3) Subject to the following provisions of this article, the undertaker must pay to any statutory utility an amount equal to the cost reasonably incurred by the utility in or in connection with—

- (a) the execution of the relocation works required in consequence of the stopping up of the street; and
- (b) the doing of any other work or thing rendered necessary by the execution of the relocation works.

(4) If in the course of the execution of relocation works under paragraph (2)—

- (a) apparatus of a better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker, or, in default of agreement, is not determined by arbitration to be necessary, then, if it involves cost in the execution of the relocation works exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which, apart from this paragraph, would be payable to the statutory utility by virtue of paragraph (3) is to be reduced by the amount of that excess.

(5) For the purposes of paragraph (4)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(6) An amount which, apart from this paragraph, would be payable to a statutory utility in respect of works by virtue of paragraph (3) (and having regard, where relevant, to paragraph (4)) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

(7) Paragraphs (3) to (6) do not apply where the authorised development constitutes major highway works, major bridge works or major transport works for the purposes of Part 3 of the 1991 Act, but instead—

- (a) the allowable costs of the relocation works are to be determined in accordance with section 85 (sharing of cost of necessary measures) of that Act and any regulations for the time being having effect under that section; and
- (b) the allowable costs are to be borne by the undertaker and the statutory utility in such proportions as may be prescribed by any such regulations.

(8) In this article—

“apparatus” has the same meaning as in Part 3 of the 1991 Act;

“relocation works” means work executed, or apparatus provided, under paragraph (2); and

“statutory utility” means a statutory undertaker for the purposes of the 1980 Act or a public communications provider as defined in section 151(1) of the Communications Act 2003(a).

### **Recovery of costs of new connections**

**38.**—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 36 (statutory undertakers) any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(2) Paragraph (1) does not apply in the case of the removal of a public sewer but where such a sewer is removed under article 36, any person who is—

- (a) the owner or occupier of premises the drains of which communicated with that sewer; or
- (b) the owner of a private sewer which communicated with that sewer,

is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or sewer belonging to that person communicate with any other public sewer or with a private sewerage disposal plant.

(3) This article does not have effect in relation to apparatus to which article 37 (apparatus and rights of statutory undertakers in stopped up streets) or Part 3 of the 1991 Act applies.

In this paragraph—

“public communications provider” has the same meaning as in section 151(1) (interpretation of Chapter 1) of the Communications Act 2003; and

“public utility undertaker” means a gas, water, electricity or sewerage undertaker.

## **PART 6 OPERATIONS**

### **Felling or lopping of trees and removal of hedgerows**

**39.**—(1) The undertaker may fell or lop any tree or shrub within or overhanging land within the Order limits or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub—

- (a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or
- (b) from constituting a danger to persons using the authorised development.

(2) In carrying out any activity authorised by paragraph (1) or (4), the undertaker must—

- (a) do no unnecessary damage to any tree or shrub;
- (b) ensure all works are carried out to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other more suitable recognised codes of good practice provided these meet or exceed the appropriate British Standards;
- (c) pay compensation to any person for any loss or damage arising from such activity; and

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(a) Section 13 was amended by sections 62(3) and 139 of, and paragraphs 27 and 28 of Schedule 13, and part of Schedule 23, to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

- (d) take steps to avoid a breach of the provisions of the Wildlife and Countryside Act 1981(a) and the Conservation of Habitats and Species Regulations 2010(b) or any successor acts and regulations.
- (3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, is to be determined under Part 1 of the 1961 Act (c).
- (4) The undertaker may, for the purposes of carrying out the authorised development —
- (a) remove any hedgerows within the Order limits and specified in Schedule 8 Part 1 (removal of hedgerows); and
  - (b) remove the important hedgerows as are within the Order limits and specified in Schedule 8 Part 2 (removal of important hedgerows).
  - (c) without limitation on the scope of sub-paragraph (a), and with the consent of the local authority in whose area the hedgerow is located, remove or translocate any hedgerow within the Order limits.
- (5) The grant of consent of a local authority in terms of paragraph (4)(c) must not be unreasonably withheld.
- (6) If a local authority fails to notify the undertaker of its decision within 28 days of receiving an application for consent under paragraph (4)(c) the local authority is deemed to have granted consent.
- (7) In this article “hedgerow” and “important hedgerow” have the same meaning as in the Hedgerows Regulations 1997(d).

#### **Trees subject to tree preservation orders**

- 40.**—(1) The undertaker may fell or lop any tree within or overhanging land within the Order limits subject to a tree preservation order which was made after 17 July 2020 if the undertaker reasonably believes it to be necessary to do so to prevent the tree or shrub—
- (a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or
  - (b) from constituting a danger to passengers or other persons using the authorised development.
- (2) In carrying out any activity authorised by paragraph (1)—
- (a) the undertaker must do no unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity;
  - (b) the duty contained in section 206(1) (replacement of trees)(e) of the 1990 Act is not to apply although where possible the undertaker is to seek to replace any trees which are removed; and
  - (c) the undertaker must consult the relevant planning authority prior to that activity taking place.
- (3) The authority given in paragraph (1) constitutes a deemed consent under the relevant tree preservation order.
- (4) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, is to be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

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(a) S.I. 2015/596.

(b) S.I. 2010/490, amended by S.I. 2010/490, S.I. 2010/2020, S.I. 2011/603, S.I. 2011/625, S.I. 2011/950, S.I. 2012/630, S.I. 2012/635, S.I. 2012/637, S.I. 2012/1914, S.I. 2012/1927, S.I. 2013/755, S.I. 2014/2933, S.I. 2015/377, S.I. 2015/1390, S.I. 2015/2020, S.I. 2016/1154, S.I. 2017/1012.

(c) 1961 c. 33, Part 1 as amended by S.I. 1994/2716, 1998 (c. 38), S.I. 1999/481, S.I. 2009/1307, S.I. 2010/490, S.I. 2017/1012 and 2016 (c. 9).

(d) S.I. 1997/1160, as amended by S.I. 2003/2155, S.I. 2015/1997, S.I. 2015/377, S.I. 2009/1307 and S.I. 2013/755.

(e) 1990 c. 8 as amended by paragraph 11 of Schedule 8 to the Planning Act 2008 (c. 29).

**PART 7**  
**MISCELLANEOUS AND GENERAL**

**Removal of human remains**

**41.**—(1) Before the undertaker carries out any development or works which are to be or may disturb any human remains it is to remove those human remains, or cause them to be removed, in accordance with the following provisions of this article.

(2) Before any such remains are removed the undertaker is to give notice of the intended removal, describing the specified land and stating the general effect of the following provisions of this article, by—

- (a) publishing a notice once in each of two successive weeks in a newspaper circulating in the area of the authorised development; and
- (b) displaying a notice in a conspicuous place on or near to the land for a minimum of 28 days.

(3) As soon as reasonably practicable after the first publication of a notice under paragraph (2), the undertaker is to send a copy of the notice to the relevant planning authority.

(4) At any time within 56 days after the first publication of a notice under paragraph (2) any person who is a personal representative or relative of any deceased person whose remains are interred in the land specified in the notice may give notice in writing to the undertaker of that person's intention to undertake the removal of the remains.

(5) Where a person has given notice under paragraph (4), and the remains in question can be identified, that person may cause such remains to be—

- (a) removed and re-interred in any burial ground or cemetery in which burials may legally take place; or
- (b) removed to, and cremated in, any crematorium,

and that person is to, as soon as reasonably practicable after such re-interment or cremation, provide to the undertaker a certificate for the purpose of enabling compliance with paragraph (10).

(6) If the undertaker is not satisfied that any person giving notice under paragraph (4) is the personal representative or relative as that person claims to be, or that the remains in question can be identified, the question is to be determined on the application of either party in a summary manner by the county court, and the court may make an order specifying who is to remove the remains and as to the payment of the costs of the application.

(7) The undertaker is to pay the reasonable expenses of removing and re-interring or cremating the remains of any deceased person under powers conferred by this article.

(8) If—

- (a) within the period of 56 days referred to in paragraph (4) no notice under that paragraph has been given to the undertaker in respect of any remains in the specified land; or
- (b) such notice is given and no application is made under paragraph (6) within 56 days after the giving of the notice but the person who gave the notice fails to remove the remains within a further period of 56 days; or
- (c) within 56 days after any order is made by the county court under paragraph (6) any person, other than the undertaker, specified in the order fails to remove the remains; or
- (d) it is determined that the remains to which any such notice relates cannot be identified,

subject to paragraph (9) the undertaker is to remove the remains and cause them to be re-interred in such burial ground or cemetery in which burials may legally take place as the undertaker thinks suitable for the purpose; and, so far as possible, remains from individual graves are to be re-interred in individual containers which are to be identifiable by a record prepared with reference to the original position of burial of the remains that they contain.

(9) If the undertaker is satisfied that any person giving notice under paragraph (4) is the personal representative or relative as that person claims to be and that the remains in question can be identified, but that person does not remove the remains, the undertaker is to comply with any reasonable request that person may make in relation to the removal and re-interment or cremation of the remains.

(10) On the re-interment or cremation of any remains under powers conferred by this article—

- (a) a certificate of re-interment or cremation is to be sent by the undertaker to the Registrar General giving the date of re-interment or cremation and identifying the place from which the remains were removed and the place in which they were re-interred or cremated; and
- (b) a copy of the certificate of re-interment or cremation and the record mentioned in paragraph (8) is to be sent by the undertaker to the relevant planning authority.

(11) The removal of the remains of any deceased person under powers conferred by this article is to be carried out in accordance with any directions which may be given by the Secretary of State.

(12) Any jurisdiction or function conferred on the county court by this article may be exercised by the district judge of the court.

(13) Section 25 (offence of removal of body from burial ground) of the Burial Act 1857(a) does not apply to a removal carried out in accordance with this article.

(14) Section 3 (burial not to take place after Order in Council for discontinuance) of the Burial Act 1853(b) does not apply to a removal carried out in accordance with this article.

#### **Application of landlord and tenant law**

**42.**—(1) This article applies to—

- (a) any agreement for leasing to any person the whole or any part of the authorised development or the right to operate the same; and
- (b) any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised development, or any part of it,

so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person's use.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants prejudices the operation of any agreement to which this article applies.

(3) No such enactment or rule of law applies in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

- (a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
- (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
- (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

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(a) 1857 c. 81. Section 25 was substituted by section 2 of the Church of England (Miscellaneous Provisions) 2014 (2014 No. 1) and amended by section 96(1) of and paragraph 1 in Schedule 3 to, the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 (2018 No. 3).

(b) 1853 c. 134.

### **Operational land for purposes of the 1990 Act**

**43.** Development consent granted by this Order is to be treated as specific planning permission for the purposes of section 264(3)(a) (cases in which land is to be treated as operational land for the purposes of that Act) of the 1990 Act(a).

### **Defence to proceedings in respect of statutory nuisance**

**44.—**(1) Where proceedings are brought under section 82(1) (summary proceedings by person aggrieved by statutory nuisance) of the Environmental Protection Act 1990(b) in relation to a nuisance falling within paragraphs (d), (fb), (g) or (ga) of section 79(1) (statutory nuisances and inspections therefor) of that Act no order is to be made, and no fine may be imposed, under section 82(2)(c) of that Act if—

- (a) the defendant shows that the nuisance—
  - (i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction sites), or a consent given under section 61 (prior consent for work on construction sites), of the Control of Pollution Act 1974(d); or
  - (ii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or
- (b) the defendant shows that the nuisance is a consequence of the use of the authorised development and that it cannot reasonably be avoided.

(2) Section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974(e) does not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development.

### **No double recovery**

**45.** Compensation is not payable in respect of the same matter both under this Order and under any other enactment, any contract, or any rule of law, or under two or more different provisions of this Order.

### **Disregard of certain improvements etc.**

**46.—**(1) In assessing the compensation payable to any person on the acquisition from that person of any land or right over any land under this Order, the tribunal must not take into account—

- (a) any interest in land; or
- (b) any enhancement of the value of any interest in land by reason of any building erected, works carried out or improvement or alteration made on the relevant land, if the tribunal is satisfied that the creation of the interest, the erection of the building, the carrying out of the works or the making of the improvement or alteration as part of the authorised development was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

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(a) 1990 c. 8, to which there are amendments to this sub-section not relevant to this Order.

(b) 1990 c. 43, to which there are amendments to this sub-section not relevant to this Order.

(c) 1990 c. 43, section 82(2) was amended by section 5(1) and (2) of the Noise and Statutory Nuisance Act 1993 (c. 40) and paragraph 6, Schedule 17 of the Environment Act 1995 (c. 25).

(d) 1974 c. 40. Section 60 was amended by section 162 of, and paragraph 15(1) and (3) of Schedule 15 to, the Environmental Protection Act 1990 (c. 43), there are further amendments to section 61 but none is relevant to this Order.

(e) 1974 c. 40, section 61 to which there are amendments to section 61 but none is relevant to this Order.

(2) In paragraph (1) “relevant land” means the land acquired from the person concerned or any other land with which that person is, or was at the time when the building was erected, the works constructed or the improvement or alteration made as part of the authorised development, directly or indirectly concerned

#### **Set off for enhancement in value of retained land**

**47.**—(1) In assessing the compensation payable to any person in respect of the acquisition from that person under this Order of any land (including the subsoil) the tribunal must set off against the value of the land so acquired any increase in value of any contiguous or adjacent land belonging to that person in the same capacity which will accrue to that person by reason of the construction of the authorised development.

(2) In assessing the compensation payable to any person in respect of the acquisition from that person of any new rights over land (including the subsoil) under article 27 (compulsory acquisition of rights and imposition of restrictive covenants), the tribunal must set off against the value of the rights so acquired—

- (a) any increase in the value of the land over which the new rights are required; and
- (b) any increase in value of any contiguous or adjacent land belonging to that person in the same capacity, which will accrue to that person by reason of the construction of the authorised development.

(3) The 1961 Act has effect, subject to paragraphs (1) and (2) as if this Order were a local enactment for the purposes of that Act.

#### **Appeals relating to the Control of Pollution Act 1974**

**48.**—(1) The undertaker may appeal in the event that a local authority issues a notice under section 60 (control of noise on construction sites), or does not give consent or grants consent but subject to conditions, under section 61 (prior consent for work on construction sites) of the Control of Pollution Act 1974(a).

(2) The appeal process is as follows—

- (a) any appeal by the undertaker must be made within 42 days of the date of the notice of the decision, or the date by which a decision was due to be made, as the case may be;
- (b) the undertaker must submit the appeal documentation to the Secretary of State and must on the same day provide copies of the appeal documentation to the local authority and affix a notice to a conspicuous object on or near the site of the works which are the subject of such appeal, which must give details of the decision of the local authority and notice that an appeal has been made together with the address within the locality where the appeal documents may be inspected and details of the manner in which representations on the appeal may be made;
- (c) as soon as is practicable after receiving the appeal documentation, the Secretary of State must appoint a person to consider the appeal (“the appointed person”) and must notify the appeal parties of the identity of the appointed person, a start date and the address to which all correspondence for their attention should be sent;
- (d) the local authority must submit their written representations to the appointed person in respect of the appeal within 10 business days of the start date and must ensure that copies of their written representations and any other representations as sent to the appointed person are sent to each other and to the undertaker on the day on which they are submitted to the appointed person;
- (e) the appeal parties must make any counter-submissions to the appointed person within 10 business days of receipt of written representations under sub-paragraph (d); and

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(a) 1974 c. 40. Section 60 was amended by section 162 of, and paragraph 15(1) and (3) of Schedule 15 to, the Environmental Protection Act 1990 (c. 43), there are further amendments to section 61 but none are relevant to this Order.

(f) the appointed person must make a decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable.

(3) The appointment of the person under sub-paragraph (2)(c) may be undertaken by a person appointed by the Secretary of State for this purpose instead of by the Secretary of State.

(4) In the event that the appointed person considers that further information is necessary to enable the appointed person to consider the appeal, the appointed person must as soon as practicable notify the appeal parties in writing specifying the further information required, the appeal party from whom the information is sought, and the date by which the information is to be submitted.

(5) Any further information required under paragraph (4) must be provided by the party from whom the information is sought to the appointed person and to other appeal parties by the date specified by the appointed person.

(6) The appointed person must notify the appeal parties of the revised timetable for the appeal on or before that day.

(7) The revised timetable for the appeal must require submission of written representations to the appointed person within 10 business days of the agreed date but must otherwise be in accordance with the process and time limits set out in sub-paragraphs (2)(c) to (e).

(8) On an appeal under this paragraph, the appointed person may—

(a) allow or dismiss the appeal; or

(b) reverse or vary any part of the decision of the local authority (whether the appeal relates to that part of it or not), and may deal with the application as if it had been made to the appointed person in the first instance.

(9) The appointed person may proceed to a decision on an appeal taking into account such written representations as have been sent within the relevant time limits and in the sole discretion of the appointed person such written representations as have been sent outside the relevant time limits.

(10) The appointed person may proceed to a decision even though no written representations have been made within the relevant time limits, if it appears to the appointed person that there is sufficient material to enable a decision to be made on the merits of the case.

(11) The decision of the appointed person on an appeal is final and binding on the parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for judicial review.

(12) Except where a direction is given under paragraph (13) requiring some or all of the costs of the appointed person to be paid by the local authority, the reasonable costs of the appointed person must be met by the undertaker.

(13) The appointed person may give directions as to the costs of the appeal and as to the parties by whom such costs are to be paid.

(14) In considering whether to make any such direction and the terms on which it is to be made, the appointed person must have regard to the relevant Planning Practice Guidance published by the Ministry for Housing, Communities and Local Government or such guidance as may from time to time replace it.

### **Protection of interests**

49. Schedule 9 (protective provisions) to the Order has effect.

### **Certification of documents, etc.**

50.—(1) As soon as practicable after the making of this Order, the undertaker must submit copies of each of the plans and documents set out in Schedule 10 (documents to be certified) to the Secretary of State for certification as true copies of those plans and documents.



(2) Where any plan or document set out in Schedule 10 requires to be amended to reflect the terms of the Secretary of State's decision to make the Order, that plan or document in the form amended to the Secretary of State's satisfaction is the version of the plan or document required to be certified under paragraph (1).

(3) A plan or document so certified will be admissible in any proceedings as evidence of the contents of the document of which it is a copy.

### **Service of notices**

**51.**—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

- (a) by post;
- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or
- (c) with the consent of the recipient and subject to paragraphs (5) to (8) by electronic transmission.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 (references to service by post) of the Interpretation Act 1978<sup>(a)</sup> as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address, and otherwise—

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and
- (b) in any other case, the last known address of that person at the time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to that person by name or by the description of "owner", or as the case may be "occupier", of the land (describing it); and
- (b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement is to be taken to be fulfilled only where—

- (a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;
- (b) the notice or document is capable of being accessed by the recipient;
- (c) the notice or document is legible in all material respects; and
- (d) the notice or document is in a form sufficiently permanent to be used for subsequent reference.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 7 days of receipt that the recipient requires a paper copy of all or part of that notice or other document the sender must provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of electronic communication given by a person may be revoked by that person in accordance with paragraph (8).

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(a) 1978 c.30, as amended by section 17 of 1994 (c. 36), there are other amendments but none are relevant.

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

- (a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
- (b) such revocation is final and takes effect on a date specified by the person in the notice but that date must not be less than 7 days after the date on which the notice is given.

(9) This article does not exclude the employment of any method of service not expressly provided for by it.

(10) In this article “legible in all material respects” means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served, given or supplied by means of a notice or document in printed form.

### **Arbitration**

**52.** Except where otherwise expressly provided for in this Order and unless otherwise agreed between the parties, any difference under any provision of this Order (other than a difference which falls to be determined by the tribunal) must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the President of the Institution of Civil Engineers.

### **Crown Rights**

**53.—(1)** Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular, nothing in this Order authorises the undertaker to use, enter upon or in any manner interfere with any land or rights of any description—

- (a) belonging to Her Majesty in right of the Crown and forming part of The Crown Estate without the consent in writing of the Crown Estate Commissioners;
- (b) belonging to Her Majesty in right of the Crown and not forming part of The Crown Estate without the consent in writing of the government department having the management of that land; or
- (c) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of that government department.

(2) Paragraph (1) does not apply to the exercise of any right under this Order for the compulsory purchase of any interest in any Crown land (as defined in the 2008 Act) for the time being held otherwise than by or on behalf of the Crown.

(3) A consent under paragraph (1) may be given unconditionally or subject to terms and conditions; and is deemed to have been given in writing where it is sent electronically.

Signed by authority of the Secretary of State for Transport

Address  
Date

*Name*  
Head of the Transport and Works Act Orders Unit  
Department for Transport

# SCHEDULES

## SCHEDULE 1

Article 2, 5 and 6

### AUTHORISED DEVELOPMENT

#### **In the administrative areas of Norfolk County Council and South Norfolk District Council**

The authorised development is a nationally significant infrastructure project as defined in sections 14 and 22(a) of the 2008 Act and associated development within the meaning of section 115(2)(b) of the 2008 Act, comprising:

**Work No. 1** – works to existing B1172 Norwich Road to create a new junction between B1172 Norwich Road and the Cantley Lane Link Road (Work No. 2) including an access to the new Cantley Lane Link Road and a ghost island turning provision together with associated utilities diversions, embankments and drainage, as shown on sheet 5 of the works plans;

**Work No. 2** – a new 949 metre length of carriageway and footways, embankment, approaches and associated drainage to form the new Cantley Lane Link Road from a point connecting to the new junction at B1172 Norwich Road (Work No. 1) to its connection with Cantley Lane South including private accesses for the construction compounds (Work Nos. 3 and 5), shown on sheets 3 and 5 of the works plans;

**Work No. 3** – a temporary construction compound and material storage and processing area south-west of the new B1172 Norwich Road and Cantley Lane Link Road junction (Work No. 1) shown on sheet 5 of the works plans;

**Work No. 4** – a new drainage basin and associated drainage, west of Cantley Lane Link Road, between B1172 Norwich Road and the A11, outfalling into Cantley Stream, shown on sheet 3 of the works plans;

**Work No. 5** – a temporary construction compound and material storage and processing area south-east of the new B1172 Norwich Road and Cantley Lane Link Road junction (Work No. 1) shown on sheet number 5 of the works plans;

**Work No. 6** – a new detention basin and associated drainage south of the A47 and east of Cantley Lane South, outfalling into Cantley Stream, shown on sheet 7 of the works plans;

**Work No. 7** – a temporary material storage area south of the Thickthorn Park and Ride's proposed extension area and east of Cantley Lane Link Road (Work No. 2) shown on sheets 3, 5 and 6 of the works plans;

**Work No. 8** – vegetation stripping and temporary fencing required to relocate wolverines in the section of Cantley Stream between Cantley Lane South and the A47 shown on sheets 3 and 7 of the works plans;

**Work No. 9** – a new drivable maintenance access track to the drainage basin west of Cantley Lane Link Road (Work No. 4) and associated drainage, shown on sheet 5 of the works plans;

**Work No. 10** – a new Cantley Lane Underpass structure, embankments, drainage, and access ramps beneath the A47 to accommodate the proposed A11/A47 Connector Road (Work No. 24) shown on sheet 6 of the works plans;

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(a) Section 22 was substituted by article 3 of S.I. 2013/1883 and amended by section 1(6) of, and paragraph 153 of Schedule 1 to, the Infrastructure Act 2015 (c. 7).

(b) Section 115(2) was amended by section 160(1) and (3) of the Housing and Planning Act 2016 (c. 22).

**Work No. 11** – extension of the existing driveable access track through the bridge extension (Work No. 31) under the A11/A47 Connector Road (Work No. 24), shown on sheet 3 of the works plans;

**Work No. 12** – a new driveable access track and associated drainage, east of the A11, west of Cantley Lane South and south of Cantley Stream, between Cantley Lane South for 383 metres to the extended Cantley Stream underpass (Work No.31), shown on sheet 3 of the works plans;

**Work No. 13** – works to realign Cantley Stream to accommodate the Cantley Lane Link Road (Work No. 2) and its new junction with the realigned Cantley Lane South (Work No. 14), shown on sheet 3 of the works plans;

**Work No. 14** – a combination of new and realigned carriageway either side of the new junction with Cantley Lane Link Road (Work No. 2) consisting of new carriageway, footways, embankments, approaches, associated drainage, improvements to private accesses to form the realigned Cantley Lane South, shown on sheet 3 of the works plans;

**Work No. 15** – a new driveable access track from the realigned Cantley Lane South (Work No.14) to an existing property to the west, shown on sheet 3 on the works plans;

**Work No. 16** – a new driveable access track from Cantley Lane South, north of the new junction with the Cantley Lane Link Road (Work No.2) to existing properties to the east, shown on sheet 3 on the works plans;

**Work No. 17** – a new drivable maintenance access track running southwards for 213 metres to the detention basin south of the A47 (Work No. 6), including embankments, approaches, associated drainage and private field accesses, shown on sheet 7 of the works plans;

**Work No. 18** – a new carriageway, drainage, embankments and associated access ramps from Cantley Lane Footbridge Cringleford (Work No. 35) and over the A47 connecting Cantley Lane South (south west of A47) for 356 metres to Cantley Lane (north east of A47), shown on sheet 7 of the works plans;

**Work No. 19** – a new Ward's Wood Underpass structure, embankments, drainage and access ramps, beneath the A11 to accommodate the proposed A11/A47 Connector Road shown on sheet 6 of the works plans;

**Work No. 20** – a new Cantley Wood Overbridge structure, embankments, drainage and access ramps to the new bridge structure over the A11 to accommodate the proposed Cantley Lane Link Road (Work No. 2) shown on sheet 3 of the works plans;

**Work No. 21** – existing carriageway altered to provide new A47 southbound merge slip road, embankments, approaches, and associated drainage connecting Thickthorn junction to the A47 southbound, shown on sheets 6 and 7 of the works plans;

**Work No. 22** – a new driveable access track from Cantley Lane South for 258 metres to the fields north of Big Wood, shown on sheets 3 and 6 of the works plans;

**Work No. 23** – two earthwork landscaping bunds on the south side of the A11/A47 connector road (Work No. 24), shown on sheet 6 of the works plans;

**Work No. 24** – a new 1516 metre length of carriageway, embankments and associated drainage to form the A11/A47 Connector Road, taking traffic from the A11 northbound to the A47 southbound and works associated with the stopping up of Cantley Lane, shown on sheets 2, 3, 6 and 7 of the works plans;

**Work No. 25** – earthwork landscaping bund south of Thickthorn junction and north of the A11/A47 Connector Road (Work No.24), between the A11 and A47, shown on sheet 6 of the works plans;

**Work No. 26** – existing carriageway altered and new carriageway and footway, embankment and associated drainage to form the segregated left turn lane from the A47 westbound approach to the A11 southbound, shown on sheet 6 of the works plans;

**Work No. 27** – resurfacing, signing, lining and ducting around Thickthorn junction and widening of the southern side of Thickthorn junction, construction of a maintenance bay and associated roundabout works shown on sheet 6 of the works plans;

**Work No. 28** – improvement works to the existing A11 approaching Thickthorn junction, including signing and lining works shown on sheet 6 of the works plans;

**Work No. 29** – alteration of the existing carriageway at the junction of Station Lane with the A11, including a new entry slip road, new carriageway, embankments and associated drainage, shown on sheet 1 of the works plans;

**Work No. 30** – central construction compound and material storage and processing area east of A11 and north of Big Wood and Cantley Stream, as shown on sheets 3 and 6 of the works plans;

**Work No. 31** – extension of the existing A11 bridge structure under the A11 to accommodate the new A11/A47 Connector Road (Work No. 24); shown on sheet 3 of the works plans;

**Work No. 32** – construction compound and material storage and processing area east of the A47 and south of Cantley Lane shown on sheet 7 of the works plans;

**Work No. 33** – Cantley Stream culvert structure underneath the realigned Cantley Lane South (Work No. 14), shown on sheet 3 of the works plans;

**Work No. 34** – diversion of surface water sewer west of the A11 between Cantley Lane Link Road (Work No.2) and Cantley Stream, shown on sheet numbers 3, 5 and 6 of the works plans;

**Work No. 35** – new bridge structure for Cantley Lane Footbridge (Cringleford) carrying the new carriageway (Work No. 18) from Cantley Lane South (south west of A47) over the A47 to Cantley Lane (north east of A47), shown on sheet 7 of the works plans;

**Work No. 36** – diversion and removal of electricity cables south of the A47 between the A11 and Cantley Lane South to accommodate Work Nos. 21, 22, 23, 24 and 25 shown on sheets 3 and 6 of the works plans;

**Work No. 37** – diversion and removal of electricity cables and electronic communications at Cantley Lane South, shown on sheet numbers 3 and 7 of the works plans;

**Work No. 38** – diversion and removal of potable water pipelines, electricity cables, sewer pipelines and electronic communications east and west of Cantley Lane South to accommodate Work Nos. 2, 12, 13, 14, 15 and 33, shown on sheet number 3 of the works plans;

**Work No. 39** – demolition of existing footbridge over the A47 linking Cantley Lane with Cantley Lane South shown on sheet no 7 of the works plans;

**Work No. 40** – diversion and removal of potable water pipelines, electricity cables, gas main and electronic communications on both sides of and crossing underneath the A47 to accommodate Work Nos. 18 and 24, shown on sheet number 7 of the works plans;

**Work No. 41** – diversion of electronic communications north of Cantley Lane along the east side of the A47 and the new A11/A47 Connector Road (Work No. 24) to accommodate Work Nos. 21, 24, 26, 27 and 39, shown on sheets 6 and 7 of the works plans;

**Work No. 42** – diversion and removal of 132kv electricity cables north east of the A47 to accommodate Work Nos. 21, 22, 24, 35 and 39, shown on sheet number 7 of the works plans;

**Work No. 43** – temporary construction compound and material storage processing area north of A11 and east of Station Lane, as shown on sheet 1 of the works plans;

**Work No. 44** – new Cantley Wood Link Road Overbridge structure, embankments, drainage and access ramps to the new bridge structure over the A11/A47 Connector Road (Work No.24) to accommodate the proposed Cantley Lane Link Road (Work No. 2) shown on sheet 3 of the works plans;

**Work No. 46** – diversion and removal of potable water pipeline, 11kv electricity cables, electronic communications and gas main on both sides of the new B1172 Norwich Road junction (Work No.1), shown on sheet number 5 of the works plans;

**Work No. 47** – diversion, removal or alteration of the sewer pipelines underneath and either side of the A11 to accommodate Work Nos. 12 and 24, shown on sheet number 3 of the works plans;

**Work No. 48** – removal of electricity overhead lines crossing the A47 north west of the existing footbridge to accommodate Work Nos. 10, 21, 22, 23 and 24, shown on sheets 6 and 7 of the works plans;

**Work No. 49** – alterations to sewer pipelines, as shown on sheet 7 of the works plans.

And for the purposes of or in connection with the construction of any of those works mentioned above, further development within the Order limits consisting of:

- (a) alteration to the layout of any street permanently or temporarily, including but not limited to increasing or reducing the width of the carriageway of the street by reducing or increasing the width of any kerb, footpath, footway, cycle track or verge within the street; and altering the level of any such kerb, footpath, footway, cycle track or verge, installing low noise surfacing and landscaping sections of abandoned sections;
- (b) works required for the strengthening, improvement, maintenance or reconstruction of any street;
- (c) ramps, means of access, non-motorised links, footpaths, cycle tracks and crossing facilities;
- (d) embankments, viaducts, aprons, abutments, shafts, foundations, retaining walls, barriers, pumping stations, parapets, drainage, outfalls, ditches, wing walls, highway lighting, fencing and culverts;
- (e) street works, including breaking up or opening up a street, or any sewer, drain or tunnel under it; tunnelling or boring under a street;
- (f) works to place, alter, remove or maintain street furniture or apparatus in a street, or apparatus in other land, including mains, sewers, drains, soakaways, pipes, cables, ducts and lights;
- (g) works to alter the course of or otherwise interfere with a watercourse;
- (h) landscaping, noise bunds and barriers, works associated with the provision of ecological mitigation and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised development;
- (i) works for the benefit or protection of land affected by the authorised development;
- (j) site preparation works, site clearance (including fencing, vegetation removal, demolition of existing structures and the creation of alternative footpaths); earthworks (including soil stripping and storage, site levelling); remediation of contamination;
- (k) the felling of trees;
- (l) construction compounds and working sites, storage areas, temporary vehicle parking, construction fencing, perimeter enclosure, security fencing, construction-related buildings, temporary worker accommodation facilities, welfare facilities, construction lighting, haulage roads and other buildings, machinery, apparatus, works and conveniences;
- (m) the provision of other works including pavement works, kerbing and paved areas works, signing, signals, gantries, road markings works, traffic management measures including temporary roads and such other works as are associated with the construction of the authorised development; and

- (n) such other works, working sites, storage areas and works of demolition, as may be necessary or expedient for the purposes of, or for purposes ancillary to, the construction of the authorised development.

## SCHEDULE 2 REQUIREMENTS

Article 5

### PART 1 REQUIREMENTS

#### Interpretation

1. In this Schedule—

“completion or completed” means the relevant parts of the authorised development are completed and fully open to traffic;

“contaminated land” has the same meaning as that term is given in section 78A of the Environmental Protection Act 1990(a);

“DMRB” means the Design Manual for Roads and Bridges, which accommodates all current standards, advice and other documents relating to the design, assessment and operation of trunk roads and motorways, or any equivalent replacement to the DMRB published;

“drainage strategy” means Appendix 13.2 of the environmental statement;

“EMP (Second Iteration)” means the second iteration of the environmental management plan produced in accordance with the DMRB, which is to be a refined version of the EMP (First Iteration) including more detailed versions of the outline plans contained or listed within the EMP (First Iteration) or any other plans as required;

“EMP (Third Iteration)” means the third iteration of the environmental management plan produced in accordance with the DMRB, which is a refined version of the EMP (Second Iteration) and which relates to the operational and maintenance phase of the authorised development;

“environmental masterplan” means the document certified as the environmental masterplan under article 50 (certification of documents, etc.);

“European protected species” has the same meaning as in regulations 42 (European protected species of animals) and 46 (European protected species of plants) of the Conservation of Habitats and Species Regulations 2017(b);

“lead local flood authority” has the same meaning as in the Flood and Water Management Act 2010;

“LEMP” means the landscape and ecology management plan which is Annex B.5 of the EMP (Second Iteration);

“the Manual of Contract Documents for Highway Works” means the document of that name published electronically by or on behalf of the strategic highway authority for England or any equivalent replacement published for that document;

“nationally protected species” means any species protected under the Wildlife and Countryside Act 1981(c);

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(a) 1990 c. 43. Section 78A was inserted by section 57 of the Environment Act 1995 (c. 25) and amended by section 86(2) of the Water Act 2003 (c. 37).

(b) S.I. 2017/1012.

(c) 1981 c. 69.

“REAC” means the Register of Environmental Actions and Commitments forming table 3.1 of the EMP (First Iteration).

### **Time limits**

2. The authorised development must commence no later than the expiration of 5 years beginning with the date that this Order comes into force.

### **Detailed design**

3.—(1) The authorised development must be designed in detail and carried out so that it is compatible with the preliminary scheme design shown on the engineering drawings and sections unless otherwise agreed in writing by the Secretary of State, following an independent Design Review and a report on its findings on the design of the bridges, underpasses and structures, the Applicant’s design response and the subsequent inclusion of any appropriate modifications to the engineering drawings and the final design, and consultation by the undertaker with the relevant planning authority on matters related to its functions, provided that the Secretary of State is satisfied that any amendments to the engineering drawings and sections showing departures from the preliminary scheme design would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.

(2) Where amended details are approved by the Secretary of State under sub-paragraph (1), those details are deemed to be substituted for the corresponding engineering drawings and sections and the undertaker must make those amended details available online for inspection by members of the public.

### **Environmental Management Plan**

4.—(1) No part of the authorised development is to commence until an EMP (Second Iteration) for that part, substantially in accordance with the EMP (First Iteration) has been submitted to and approved in writing by the Secretary of State, following consultation by the undertaker with the relevant planning authority, local highway authority, lead local flood authority and the Environment Agency to the extent that the content of the EMP (Second Iteration) relates to matters relevant to their functions.

(2) The EMP (Second Iteration) for any part of the authorised development must be written in accordance with ISO14001 and so far as is relevant to that part of the authorised development, must reflect the mitigation measures required by the REAC and set out in the Environmental Statement and must include as many of the following plans and strategies as are applicable to the part of the authorised development to which it relates—

- (a) Site waste management plan;
- (b) Materials management plan;
- (c) Soil management plan;
- (d) Construction noise and dust management plan;
- (e) Construction communication strategy;
- (f) Landscape and ecology management plan;
- (g) Temporary surface water drainage strategy;
- (h) Detailed heritage Written Scheme of Investigation;
- (i) INNS management plan;
- (j) Operational UXO Emergency Response Plan; and
- (k) Water monitoring and management plan.

(3) The relevant part of the authorised development must be constructed in accordance with the approved EMP (Second Iteration).



(4) On completion of construction of each part of the authorised development the EMP (Third Iteration) relating to that part must be submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority and the relevant local highway authority to the extent that the content of the EMP (Third Iteration) relates to matters relevant to their functions.

(5) The relevant part of the authorised development must be operated and maintained in accordance with the EMP (Third Iteration).

## **Landscaping**

**5.—**(1) The authorised development must be landscaped in accordance with a landscaping scheme which sets out details of all proposed hard and soft landscaping works and which has been submitted to and approved in writing by the Secretary of State, following an independent Design Review and a report on its findings for the landscaping scheme provision associated to the authorised development, the Applicant's subsequent design response including any appropriate modifications to the scheme, and consultation by the undertaker with the relevant planning authority on matters related to its functions.

(2) The landscaping scheme prepared under sub-paragraph (1) must reflect the mitigation measures set out in the REAC and be based on the environmental masterplan.

(3) The landscaping scheme prepared under sub-paragraph (1) must include details of—

- (a) location, number, species mix, size and planting density of any proposed planting;
- (b) cultivation, importing of materials and other operations to ensure plant establishment;
- (c) existing trees to be retained, with measures for their protection during the construction period;
- (d) proposed finished ground levels;
- (e) implementation timetables for all landscaping works; and
- (f) measures for the replacement, in the first available planting season, of any tree or shrub planted as part of the landscaping scheme that, within a minimum period of 5 years after the completion of the part of the authorised development to which the relevant landscaping scheme relates, dies, becomes seriously diseased or is seriously damaged, unless the LEMP specifies a longer replacement period; and
- (g) how the landscaping scheme addresses the guidance in paragraph 4.29 of the National Policy Statement for National Networks for the appearance of national network projects to demonstrate good design as far as possible.

(4) All landscaping works must be carried out to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other more suitable recognised codes of good practice provided these meet or exceed the appropriate British Standards.

## **Contaminated land and groundwater**

**6.—**(1) In the event that contaminated land, including groundwater, is found at any time when carrying out the authorised development which was not previously identified in the environmental statement, it must be reported as soon as reasonably practicable to the Secretary of State, the relevant planning authority and the Environment Agency, and the undertaker must complete a risk assessment of the contamination in consultation with the relevant planning authority and the Environment Agency.

(2) Where the risk assessment prepared in accordance with sub-paragraph (1) determines that remediation of the contaminated land is necessary, a written scheme and programme for the remedial measures to be taken to render the land fit for its intended purpose and to prevent any impacts on controlled waters must be submitted to and approved in writing by the Secretary of State, following consultation by the undertaker with the relevant planning authority on matters related to its function and the Environment Agency.

(3) Remediation must be carried out in accordance with the approved scheme.

### **Protected species**

7.—(1) No part of the authorised development is to commence until for that part, final preconstruction survey work has been carried out to establish whether European or nationally protected species are present on any of the land affected or likely to be affected by that part of the relevant works, or in any of the trees and shrubs to be lopped or felled as part of the relevant works.

(2) Following pre-construction survey work or at any time when carrying out the authorised development, where—

- (a) a protected species is shown to be present, or where there is a reasonable likelihood of it being present;
- (b) application of the relevant assessment methods used in the environmental statement show that a significant effect is likely to occur which was not previously identified in the environmental statement; and
- (c) that effect is not addressed by any prior approved scheme of protection and mitigation established in accordance with this paragraph,

the relevant parts of the relevant works must cease until a scheme of protection and mitigation measures has been submitted to and approved in writing by the Secretary of State.

(3) The undertaker must consult with Natural England on the scheme referred to in subparagraph (2) prior to submission to the Secretary of State for approval, except where a suitably qualified and experienced ecologist, holding where relevant and appropriate a licence relating to the species in question, determines that the relevant works do not require a protected species licence.

(4) The relevant works under sub-paragraph (2) must be carried out in accordance with the approved scheme, unless otherwise agreed by the Secretary of State after consultation by the undertaker with Natural England, and under any necessary licences.

### **Surface water drainage**

8.—(1) No part of the authorised development is to commence until for that part written details of the surface water drainage system, reflecting the drainage strategy and the mitigation measures set out in the REAC including means of pollution control, have been submitted to and approved in writing by the Secretary of State following consultation by the undertaker with the lead local flood authority and the Environment Agency on matters related to their function.

(2) The surface water drainage system must be constructed in accordance with the approved details, unless otherwise agreed in writing by the Secretary of State following consultation by the undertaker with the lead local flood authority and the Environment Agency on matters related to their function, provided that the Secretary of State is satisfied that any amendments to the approved details would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.

### **Archaeological remains**

9.—(1) No part of the authorised development is to commence until for that part a written scheme of investigation of areas of archaeological interest, reflecting the relevant mitigation measures set out in the REAC, has been submitted to and approved in writing by the Secretary of State, following consultation by the undertaker with the relevant planning authority, Norfolk County Council Historic Strategy and Advice Team and Historic England on matters related to their function.

(2) The authorised development must be carried out in accordance with the approved scheme referred to in sub-paragraph (1).

### **Traffic management**

**10.**—(1) No part of the authorised development comprising the construction, alteration or improvement of Work No. 24 is to commence until a traffic management plan substantially in accordance with the outline traffic management plan, for that part has been submitted to and approved in writing by the Secretary of State, following consultation by the undertaker with the relevant highway authority on matters related to its function.

(2) The authorised development must be constructed in accordance with the approved traffic management plan referred to in sub-paragraph (1).

### **Fencing**

**11.** Any permanent and temporary fencing and other means of enclosure for the authorised development must be constructed and installed in accordance with Manual of Contract Documents for Highway Works maintained by or on behalf for the undertaker except where any departures from that manual are agreed in writing by the Secretary of State in connection with the authorised development.

### **Approvals and amendments to approved details**

**12.** With respect to any requirement which requires the authorised development to be carried out in accordance with the details or schemes approved under this Schedule, the approved details or schemes are taken to include any amendments that may subsequently be approved in writing by the Secretary of State.

## **PART 2**

### **PROCEDURE FOR DISCHARGE OF REQUIREMENTS**

#### **Applications made under requirements**

**13.**—(1) Where an application has been made to the Secretary of State for any consent, agreement or approval required by a requirement (including consent, agreement or approval in respect of part of a requirement) included in this Order, the Secretary of State must give notice to the undertaker of the decision on the application within a period of 8 weeks beginning with—

- (a) the day immediately following that on which the application is received by the Secretary of State;
- (b) the day immediately following that on which further information has been supplied by the undertaker under paragraph 14 (further information); or
- (c) such longer period as may be agreed between the parties.

(2) Subject to sub-paragraph (3), in the event that the Secretary of State does not determine an application within the period set out in sub-paragraph (1), the Secretary of State is taken to have granted all parts of the application (without any condition or qualification) at the end of that period.

(3) Where—

- (a) an application has been made to the Secretary of State for any consent, agreement or approval required by a requirement included in this Order;
- (b) the Secretary of State does not determine such application within the period set out in sub-paragraph (1); and
- (c) the application is accompanied by a report from a body required to be consulted by the undertaker under the requirement that considers it likely that the subject matter of the application would give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement, the application is taken to have been refused by the Secretary of State at the end of that period.

### **Further information**

**14.**—(1) In relation to any part of an application made under this Schedule, the Secretary of State has the right to request such further information from the undertaker as is necessary to enable the Secretary of State to consider the application.

(2) In the event that the Secretary of State considers such further information to be necessary the Secretary of State must, within 21 business days of receipt of the application, notify the undertaker in writing specifying the further information required and (if applicable) to which part of the application it relates.

(3) In the event that the Secretary of State does not give such notification within that 21 day business period the Secretary of State is deemed to have sufficient information to consider the application and is not subsequently entitled to request further information without the prior agreement of the undertaker.

(4) Where further information is requested under this paragraph in relation to part only of an application, that part is treated as separate from the remainder of the application for the purposes of calculating the time periods referred to in paragraph 13 (applications made under requirements) and in this paragraph.

(5) In this paragraph, “business day” means a day other than Saturday or Sunday, which is not Christmas Day, Good Friday or a bank holiday under section 1 (bank holidays) of the Banking and Financial Dealings Act 1971(a).

### **Register of requirements**

**15.**—(1) The undertaker must, as soon as practicable following the making of this Order, establish and maintain in an electronic form suitable for inspection by members of the public a register of those requirements contained in Part 1 of this Schedule that provide for further approvals to be given by the Secretary of State.

(2) The register must set out in relation to each such requirement the status of the requirement, in terms of whether any approval to be given by the Secretary of State has been applied for or given, providing an electronic link to any document containing any approved details.

(3) The register must be maintained by the undertaker for a period of 3 years following completion of the authorised development.

### **Anticipatory steps towards compliance with any requirement**

**16.** If before the coming into force of this Order the undertaker or any other person has taken any steps that were intended to be steps towards compliance with any provision of Part 1 of this Schedule, those steps may be taken into account for the purpose of determining compliance with that provision if they would have been valid steps for that purpose had they been taken after this Order came into force.

### **Details of consultation**

**17.** In relation to any provision of this Schedule requiring details to be submitted to the Secretary of State for approval following consultation by the undertaker with another party, the undertaker must provide such other party with not less than 20 business days for any response to the consultation and thereafter the details submitted to the Secretary of State for approval must be accompanied by a summary report setting out the consultation undertaken by the undertaker to inform the details submitted and the undertaker’s response to that consultation.

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(a) 1970 c.80.

SCHEDULE 3

Articles 12, 13 and 19

CLASSIFICATIONS OF ROADS, ETC

PART 1

TRUNK ROADS

<i>(1)</i> Area	<i>(2)</i> Length of road
<b>The classification of roads plans – sheet 2</b>	
Hethersett; Ketteringham; Cringleford	New link Road between the A11 north bound and the A47 southbound A 1725 metre length of carriageway to be classified as part of the A47 Trunk Road from point K, 796 metres north east of the A11 junction with Station Lane in an easterly direction to point L (sheet 7).
<b>The classification of roads plans – sheet 6</b>	
Ketteringham	New northbound diverge slip road A 570 metre length of carriageway to be classified as part of the A47 Trunk Road from point I 162 metres north of the centreline of the existing Cantley Lane South overbridge in a north-westerly then south-westerly direction to point J.
Cringleford	New southbound merge slip road A 694 metre length of carriageway to be classified as part of the A47 Trunk Road from point M, 42 metres east of the centreline of the Thickthorn Junction overbridge in a south direction to point N (sheet 7).

PART 2

CLASSIFIED B ROADS

<i>(1)</i> Area	<i>(2)</i> Length of road
<b>The classification of roads plans – sheet 5</b>	
Hethersett	B1172 Norwich Road A 250 metre length of carriageway to be classified as part of the B1172 (including existing highway to be improved. From point D, 118 metres east from the centreline of its junction with the new Cantley Lane Link Road, in a westerly direction to point C.

PART 2A

CLASSIFIED C ROADS

<i>(1)</i>	<i>(2)</i>

<i>Area</i>	<i>Length of road</i>
<b>The classification of roads plans – sheet 1</b>	
Hethersett	Station Lane Junction (including existing highway to be improved) A 220 metre length of carriageway to be classified as C Road from point A, 60 metres north west of the junction with the A11 in a south easterly and then north easterly direction to point B.
<b>The classification of roads plans – sheet 3</b>	
Ketteringham	Cantley Lane South A 194 metre length of carriageway from point G, 105 metres south of the centre of the junction with Cantley Lane Link Road in a northerly direction to point H.
<b>The classification of roads plans – sheet 5</b>	
Hethersett; Ketteringham	Cantley Lane Link Road A 947 metre length of highway to be classified as C Road, from point E at its junction with the B1172, in a south easterly direction to point F (sheet 3).

## PART 3

### SPEED LIMITS

Note: where speed limits are indicated on the plans relating to this Part (the traffic regulation plans) but are not referenced in this schedule they indicate that national speed limits apply in accordance with either:

- (a) the national speed limit set out in Section 86 and Schedule 6 of the Road Traffic Regulation Act 1984 and the 70 miles per hour, 60 miles per hour and 50 miles per hour (Temporary Speed Limit) Order 1977 as varied by the 70 miles per hour, 60 miles per hour and 50 miles per hour (Temporary Speed Limit) (Variation) Order 1978 and continued indefinitely by Regulation 2 of the 70 Miles Per Hour, 60 Miles Per Hour and 50 Miles Per Hour (Temporary Speed Limit) (Continuation) Order 1978 (SI 1978/1548)(a); or
- (b) the provisions of the Road Traffic Regulation Act 1984 (which defines speed limits on ‘restricted roads’ by reference to street lighting),

and are not subject to this order. For details of the scheme lighting design, refer to the general arrangement plans.

<i>(1)</i> <i>Parish</i>	<i>(2)</i> <i>Road name, number and length</i>	<i>(3)</i> <i>Speed Limit</i>
<b>The traffic regulation plans – sheet 1</b>		
Hethersett	Station Lane approach to A11 From point A, 60 metres north west of the junction with the A11 in an south eastern and then north eastern direction to	50 miles per hour

- (a) SI 1978/1548. The Road Traffic Regulation Act 1984 and the 70 miles per hour, 60 miles per hour and 50 miles per hour (Temporary Speed Limit) Order 1977 and the 70 miles per hour, 60 miles per hour and 50 miles per hour (Temporary Speed Limit) (Variation) Order 1978 were not statutory instruments.

	point B a distance of 217 metres.	
<b>The traffic regulation plans – sheet 3</b>		
Ketteringham	Cantley Lane South From point G, a distance of 105 metres south of the centre of the junction with Cantley Lane Link Road in a northerly direction to point H, a distance of 134 metres.	40 miles per hour
Ketteringham	Cantley Lane South From point H, a distance of 30 metres north of the centre of the junction with Cantley Lane Link Road in a north easterly direction to point I (sheet 7), a distance of 62 metres.	20 miles per hour
Hethersett; Ketteringham; Cringleford	A11/A47 Connector Road From point J, a distance of 93 metres south west of the centreline of the Cantley Stream / A11 crossing in a northern direction to the Ward's Wood underpass and then in an eastern direction to the Cantley Lane underpass and then in a south eastern direction to point K (sheet 7), a distance of 1329 metres.	Removal of restricted road status 50 miles per hour
<b>The traffic regulation plans – sheet 4</b>		
Hethersett	B1172 From point C, 1101 metres west of the junction with Cantley Lane Link Road in an eastern direction to point D (sheet 5) a distance of 1217 metres.	40 miles per hour
<b>The traffic regulation plans – sheet 5</b>		
Hethersett	Cantley Lane Link Road From point E at the junction with the B1172, in a south easterly direction to point F (sheet 3) at the junction with Cantley Lane South, a distance of 947 metres.	40 miles per hour
<b>The traffic regulation plans – sheet 6</b>		
Hethersett; Ketteringham; Cringleford	A11 approach to Thickthorn junction From point L, 251 metres south west from the give way line with Thickthorn junction, in a north easterly direction to point M at Thickthorn junction, a distance of 251 metres.	Removal of restricted road status 40 miles per hour

Hethersett; Ketteringham; Cringleford	A47 north bound diverge From point O, 82 metres south of the centreline of the overbridge at Thickthorn junction in a north westerly direction then a south westerly direction to point N, a distance of 355 metres.	Removal of restricted road status 40 miles per hour
Hethersett; Ketteringham; Cringleford	A47 north bound diverge From point P, 161 metres south of the centreline of the overbridge at Thickthorn junction in a north westerly direction to point Q, a distance of 157 metres.	Removal of restricted road status
Hethersett; Ketteringham; Cringleford	A47 south bound merge From point S, 51 metres north east of the centreline of the A47 at Thickthorn junction in a south easterly direction to point R, a distance of 161 metres.	Removal of restricted road status

## PART 4

### FOOTPATHS, CYCLE TRACKS, FOOTWAYS AND BRIDLEWAYS

<i>(1)</i> <i>Parish</i>	<i>(2)</i> <i>Length of Footpath/Cycle track/Footway/Bridleway</i>
<b>The rights of way and access plans – sheet 3</b>	
Ketteringham	Reference CF3 to CF4 A cycle track on the west side of Cantley Lane Link Road from point CF3, 46 metres north westerly of the junction with Cantley Lane South in a southern direction to point CF4, a distance of 67 metres.
<b>The rights of way and access plans – sheet 5</b>	
Hethersett; Ketteringham	Reference CF1 to CF2 A cycle track on the east side of Cantley Lane Link Road from point CF1 at the junction with B1172 in a southerly and then south easterly direction to point CF2 (sheet 3), a distance of 1043 metres.
<b>The rights of way and access plans – sheet 7</b>	
Ketteringham; Cringleford	Reference CF5 to CF6 A bridleway from point CF5 at the junction with Cantley Lane South in an easterly direction via the proposed Cantley Lane footbridge to point CF6, a distance of 354 metres.



## PART 5

### TRAFFIC REGULATION MEASURES (CLEARWAYS AND PROHIBITIONS)

<i>(1)</i> <i>Parish</i>	<i>(2)</i> <i>Road name, number and length</i>	<i>(3)</i> <i>Measures</i>
<b>The traffic regulation plans – sheet 3</b>		
Hethersett; Ketteringham; Cringelford	New link Road between the A11 north bound and the A47 southbound From point J, 796m north east of the A11 junction with Station Lane in an easterly direction to point K (sheet 7) a distance of 1725 metres.	Proposed clearway
Hethersett; Ketteringham	Cantley Lane South From point G, a distance of 105 metres south of the centre of the junction with Cantley Lane Link Road in a north easterly direction to point I (sheet 7), a distance of 525 metres.	Proposed 7.5 Tonne weight limit except for loading
<b>The traffic regulation plans – sheet 5</b>		
Hethersett; Ketteringham	Cantley Lane Link Road From point E at the junction with the B1172, in a south easterly direction to point F (sheet 3) at the junction with Cantley Lane South, a distance of 947 metres.	Proposed 7.5 Tonne weight limit except for loading

## SCHEDULE 4

Article 17, 28 and 29

### PERMANENT STOPPING UP OF HIGHWAYS AND PRIVATE MEANS OF ACCESS & PROVISION OF NEW HIGHWAYS AND PRIVATE MEANS OF ACCESS

In relating this Schedule to the rights of way and access plans, the provisions described in this Schedule are shown on the rights of way and access plans in the following manner—

- (a) Existing highways are to be stopped up, as described in column (2) of Parts 1 and 2 of this Schedule, are shown by blue diagonal hatching (as shown in the key on the rights of way and access plans) over the extent of the area to be stopped up, which is described in column (3) of Parts 1 and 2 of this Schedule and given a reference label in a square box (a capital A followed by a number).
- (b) New highways which are to be substituted for a highway to be stopped up (or which are otherwise to be provided), as are included in column (4) of Part 2 of this Schedule, are shown by red honeycomb-hatching (for motorways and trunk roads), green cross hatching (for other classified roads and highways) pale green hatching (for cycle tracks) and green dashes (for public rights of way) (as shown in the key on the rights of way and access plans) and are given a reference label in a square (D for new highway to be substituted or provided and CF for public rights of way and cycle tracks in each case followed by a number) and will be a road unless the word ‘footpath’, ‘bridleway’, ‘footway’ or ‘cycle track’ appears beneath its reference letter in column (4) of Part 2 of this Schedule.

- (c) Private means of access to be stopped up, as described in column (2) of Parts 3 and 4 of this Schedule, are shown by solid lime green shading (as shown in the key on the rights of way and access plans) over the extent of stopping up described in column (3) of Parts 3 and 4 of this Schedule, and are given a reference label in a square (a capital B followed by a number).
- (d) New private means of access to be substituted for a private means of access to be stopped up (or which are otherwise to be provided), as are included in column (4) of Part 3 of this Schedule, are shown by red diagonal hatching (as shown in the key on the rights of way and access plans) and are given a reference label in a square (a capital C followed by a number).

## PART 1

### HIGHWAYS TO BE STOPPED UP FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Highway to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>
<b>The rights of way and access plans – sheet 3</b>		
Hethersett; Ketteringham	Reference A3 to A4 A11 slip road	Reference A3 to A4 From a point A3 495 metres south westerly of the give way line at Thickthorn Junction in a north easterly direction to point A4 (sheet 6), a distance of 224 metres.
<b>The rights of way and access plans – sheet 6</b>		
Hethersett; Ketteringham; Cringelford	Reference A5 to A6 Part of Cantley Lane South	Reference A5 to A6 From a point A5 314 metres south of the centreline of the overbridge at Thickthorn junction in a south easterly direction to point A6, a distance of 335 metres.

## PART 2

### HIGHWAYS TO BE STOPPED UP FOR WHICH A SUBSTITUTE IS TO BE PROVIDED AND NEW HIGHWAYS WHICH ARE OTHERWISE TO BE PROVIDED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Highway to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>New highway to be substituted/provided</i>
<b>The rights of way and access plans – sheet 1</b>			
Hethersett			Reference D1 to D2 Widening of carriageway from point D1 70 metres north west of the A11 Hethersett Bypass in a south easterly and then north easterly direction to point D2 on the A11 Hethersett Bypass, a

			distance of 140 metres.
<b>The rights of way and access plans – sheet 2</b>			
Hethersett			<p>Reference D11 to D12</p> <p>The A11/A47connector road from point D11 284 metres south west of the A11 Cantley Stream crossing</p> <p>(a) in a northerly direction to the Ward Wood's underpass where it passes underneath the A11; then</p> <p>(b) in an easterly direction to Cantley Lane underpass where it passes underneath the A47, then</p> <p>(c) in a south easterly direction to a point D12 (sheet 7) 5m north of the A47 Cantley Stream crossing on the A47 a distance of 1761 metres.</p>
<b>The rights of way and access plans – sheet 3</b>			
Hethersett; Ketteringham	Reference A1 to A2 Cantley Lane South	Reference A1 to A2 From a point A1 32 metres south of the existing property access in a northern direction to point A2, a distance of 169 metres.	Reference D9 to D10 Realignment of Cantley Lane South. To be substituted by a new length of highway from a point D9 104 metres south of the centreline of the junction with Cantley Lane Link Road in a northern direction to tie into point D10 on the existing Cantley Lane South, a distance of 187 metres.
Hethersett;			Reference D7 to D8

Ketteringham			A new length of highway between point D7 to point D8 on Cantley Lane South, a distance of 9 metres.
<b>The rights of way and access plans – sheet 5</b>			
Hethersett			Reference D3 to D4 Widening of B1172 Norwich Road New length of carriageway from point D3 175 metres west of the centre of the B1172 / Cantley Lane Link Road junction, in an easterly direction to point D4, a distance of 283 metres.
Hethersett			Reference D5 to D6 New Cantley Lane Link Road New length of carriageway from point D5 295 metres west of the centre of the B1172 McDonalds roundabout in a southerly direction and then a south westerly direction to point D6 (sheet 3) on Cantley Lane South, a distance of 106 metres.
<b>The rights of way and access plans – sheet 6</b>			
Hethersett; Ketteringham; Cringleford			Reference D13 to D14 A new segregated left turn lane from point D14 on the A47 in a north westerly direction towards Thickthorn junction and then in a south westerly direction to join the A11 at point D13, a distance of 424 metres.
Hethersett; Ketteringham; Cringleford			Reference D15 to D16 A new southbound merge slip road from point D15 at the Thickthorn junction in a south easterly direction to point D16 (sheet 7) on the A47, a distance of 692 metres.
Ketteringham;	Reference A8 to A10	Reference A8 to A10	Reference CF5 to CF6

Cringleford	Cringleford BR5 and bridleway (unnamed)	From a point A8 (sheet 7) at the base of the existing A47 footbridge in a northern direction to point A10, a distance of 174 metres.	(sheet 7) To be substituted for a length of bridleway from point CF5 on Cantley Lane South crossing the A47 over the proposed Cantley Lane footbridge to point CF 6 on Cantley Lane, a distance of 359 metres.
Ketteringham; Cringleford	Reference A11 to A12 Bridleway (unnamed)	Reference A11 to A12 From a point A11 at the A47 southbound merge slip road pegasus crossing in a south westerly direction to point A12, a distance of 92 metres.	Reference CF5 to CF6 (sheet 7) To be substituted for a length of bridleway from point CF5 on Cantley Lane South crossing the A47 over the proposed Cantley Lane footbridge to point CF6 on Cantley Lane, a distance of 359 metres.
Ketteringham; Cringleford	Reference A13 to A14 Bridleway (unnamed)	Reference A13 to A14 From a point A13 at the A47 northbound diverge slip road pegasus crossing in a south westerly and then south easterly direction to point A14, a distance of 156 metres.	Reference CF5 to CF6 (sheet 7) To be substituted for a length of bridleway from point CF5 on Cantley Lane South crossing the A47 over the proposed Cantley Lane footbridge to point CF 6 on Cantley Lane, a distance of 359 metres.
<b>The rights of way and access plans – sheet 7</b>			
Hethersett; Ketteringham; Cringleford	Reference A7 to A8 Cantley Lane	Reference A7 to A8 From a point A7 97 metres east of the existing footbridge in a westerly direction to point A8	Reference CF5 to CF6 (sheet 7) To be substituted for a length of bridleway from point CF5 on Cantley Lane South crossing the A47 over the proposed Cantley Lane footbridge to point CF 6 on Cantley Lane, a distance of 359 metres.
Cringleford	Reference A8 to A9 Cringleford FP4a	Reference A8 to A9 From a point A8 at the base of the existing footbridge crossing the A47 in a south westerly direction to a point A9, a distance of 75 metres	Reference CF5 to CF6 To be substituted for a length of bridleway from point CF5 on Cantley Lane South crossing the A47 over the proposed Cantley Lane footbridge to

			point CF6 on Cantley Lane, a distance of 359 metres.
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### PART 3

#### PRIVATE MEANS OF ACCESS TO BE STOPPED UP FOR WHICH A SUBSTITUTE IS TO BE PROVIDED AND NEW PRIVATE MEANS OF ACCESS WHICH ARE OTHERWISE TO BE PROVIDED

<i>(1) Area</i>	<i>(2) Private means of access to be stopped</i>	<i>(3) Extent of stopping up</i>	<i>(4) New private means of access to be substituted or provided</i>
<b>The rights of way and access plans – sheet 3</b>			
Ketteringham	Reference B1 to B2 Access to the properties on Cantley Lane South	Reference B1 to B2 A length from a point 53 metres north of the access to the property joining Cantley Lane South in a north westerly direction for a distance of 12 metres	Reference C11 to C12 Access to properties on Cantley Lane South to substituted by a new length of private means of access from a point 79 metres north of the access to the property joining Cantley Lane South, in a westerly direction for a distance of 38 metres.
Hethersett; Ketteringham	Reference B9 to B10 Access to the A11 underpass from Cantley Lane South	Reference B9 to B10 A length from a point 36 metres from the centreline from the proposed Cantley Stream culvert in a westerly direction then a south westerly direction for a distance of 407 metres.	Reference C7 to C8 Private means of access to the A11 underpass to be substituted by a new length of private means of access from a point C8 72 metres south of the centre of Cantley Lane Link Road junction with Cantley Lane South in a westerly direction to point C7, a distance of 368 metres.
Ketteringham			Reference C9 to C10 A new private access to an agricultural field from point C9 on Cantley Lane South to point C10, a distance of 20 metres.
Ketteringham			Reference C13 to C14 A new private access to a residential property from point C13 to a point C14 on

			Cantley Lane South, a distance of 29 metres.
Ketteringham			Reference C15 to C16 A new private access to a residential property from point C15 to point C16 on Cantley Lane South, a distance of 30 metres.
Ketteringham			Reference C19 to C20 A new private access to a residential property from point C19 to point C20 on Cantley Lane South, a distance of 4 metres.
Ketteringham			Reference C21 to C22 A new private access to a residential property from point C21 to point C22 on Cantley Lane South, a distance of 7 metres.
<b>The rights of way and access plans – sheet 5</b>			
Hethersett			Reference C1 to C2 A new private access to an agricultural field from point C1 on the proposed Cantley Lane Link Road to point C2, a distance of 9 metres.
Hethersett			Reference C3 to C4 A new private access to an agricultural field from point C3 to point C4 on the proposed Cantley Lane Link Road, a distance of 6 metres.
Hethersett			Reference C5 to C6 A new private access to a drainage basin from point C5 on the proposed Cantley Lane Link Road to point C6, a distance of 13 metres.
<b>The rights of way and access plans – sheet 7</b>			
Ketteringham			Reference C23 to C24 A new private access track to agricultural fields and a new drainage basin from point C23 50 metres south west of the

			existing footbridge in a south easterly direction to point C24, a distance of 136 metres.
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## PART 4

### PRIVATE MEANS OF ACCESS TO BE STOPPED UP FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

(1) <i>Area</i>	(2) <i>Private means of access to be stopped up</i>	(3) <i>Extent of stopping up</i>
<b>The rights of way and access plans – sheet 6</b>		
Ketteringham	Reference B3 to B4 Access to agricultural field	Reference B3 to B4 A private agricultural access from a point B3 77 metres west of the A11 Hethersett Bypass to point B4, a distance of 31 metres.
Ketteringham	B5 to B6 Access to agricultural field	Reference B5 to B6 A private agricultural access from a point B5 on Cantley Lane South to point B6, a distance of 5.5 metres.
Ketteringham	B7 to B8 Access to agricultural field	Reference B7 to B8 A private agricultural access from a point B7 on Cantley Lane South to point B8 for a distance of 5.5 metres.

## SCHEDULE 5

### LAND IN WHICH ONLY NEW RIGHTS ETC. MAY BE ACQUIRED

(1) <i>Plot reference number shown on land plans</i>	(2) <i>Purpose of which rights over land may be acquired</i>	(3) <i>Relevant part of the authorised development</i>
<b>Land Plan – Sheet 3</b>		
3/3b	Divert, install, underground, alter, retain, use, monitor and maintain and remove water pipelines, conduits and associated infrastructure Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers. Right to pass and repass with	Work Nos. 4, 11, 31 and 34



	<p>or without plant and vehicles and including access to highways.</p> <p>To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult.</p>	
3/3h	<p>Divert, install, underground, alter, retain, use, monitor and maintain and remove electricity cables including overhead electricity cables together with accesses to highways and associated infrastructure including marker posts and inspection chambers.</p> <p>Divert, install, underground, alter, retain, use, monitor and maintain and remove water and sewerage pipelines, conduits and associated infrastructure.</p> <p>Divert, install, underground, alter, retain, use, monitor and maintain and remove electronic communications cables, apparatus and associated infrastructure.</p> <p>Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers.</p> <p>Right to pass and repass with or without plant and vehicles and including access to highways.</p> <p>To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult.</p>	Work Nos. 14, 15, 37 and 38
3/3i	<p>Divert, install, underground, alter, retain, use, monitor and maintain and remove electricity cables including overhead electricity cables</p>	Work Nos. 22, 36, 37 and 38

	<p>together with accesses to highways and associated infrastructure including marker posts and inspection chambers. Divert, install, underground, alter, retain, use, monitor and maintain and remove water and sewerage pipelines, conduits and associated infrastructure.</p> <p>Divert, install, underground, alter, retain, use, monitor and maintain and remove electronic communications cables, apparatus and associated infrastructure.</p> <p>Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers.</p> <p>Right to pass and repass with or without plant and vehicles and including access to highways.</p> <p>To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult.</p>	
3/31	<p>Divert, install, underground, alter, retain, use, monitor and maintain and remove electricity cables including overhead electricity cables together with accesses to highways and associated infrastructure including marker posts and inspection chambers.</p> <p>Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers.</p> <p>Right to pass and repass with or without plant and vehicles and including access to</p>	Work Nos. 14, 15 and 38

	<p>highways. To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult.</p>	
3/7c	<p>Divert, install, underground, alter, retain, use, monitor and maintain and remove electricity cables including overhead electricity cables together with accesses to highways and associated infrastructure including marker posts and inspection chambers. Divert, install, underground, alter, retain, use, monitor and maintain and remove water pipelines, conduits and associated infrastructure. Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers. Right to pass and repass with or without plant and vehicles and including access to highways. To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult.</p>	Work No. 38 and 13
3/8f	<p>Divert, install, underground, alter, retain, use, monitor and maintain and remove electricity cables including overhead electricity cables together with accesses to highways and associated infrastructure including marker posts and inspection chambers. Divert, install, underground, alter, retain, use, monitor and maintain and remove gas mains and associated infrastructure.</p>	Work No. 38 and 13

	<p>Divert, install, underground, alter, retain, use, monitor and maintain and remove water and sewerage pipelines, conduits and associated infrastructure.</p> <p>Divert, install, underground, alter, retain, use, monitor and maintain and remove electronic communications cables, apparatus and associated infrastructure.</p> <p>Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers.</p> <p>Right to pass and repass with or without plant and vehicles and including access to highways.</p> <p>To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult.</p>	
3/9a	<p>Divert, install, underground, alter, retain, use, monitor and maintain and remove electricity cables including overhead electricity cables together with accesses to highways and associated infrastructure including marker posts and inspection chambers.</p> <p>Divert, install, underground, alter, retain, use, monitor and maintain and remove water and sewerage pipelines, conduits and associated infrastructure.</p> <p>Divert, install, underground, alter, retain, use, monitor and maintain and remove electronic communications cables, apparatus and associated infrastructure.</p> <p>Place, divert, alter, remove or maintain apparatus including mains, sewers, drains,</p>	Work Nos. 36, 37 and 38

	<p>soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers. Right to pass and repass with or without plant and vehicles and including access to highways.</p> <p>To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult.</p>	
<b>Land Plan – Sheet 6</b>		
6/3g	<p>Divert, install, underground, alter, retain, use, monitor and maintain and remove electricity cables including overhead electricity cables together with accesses to highways and associated infrastructure including marker posts and inspection chambers. Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers. Right to pass and repass with or without plant and vehicles and including access to highways.</p> <p>To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult.</p>	Work Nos. 22, 23 and 36
6/9b	<p>Divert, install, underground, alter, retain, use, monitor and maintain and remove electricity cables including overhead electricity cables together with accesses to highways and associated infrastructure including marker posts and inspection chambers.</p>	Work Nos. 21, 41 and 42

	<p>Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers. Right to pass and repass with or without plant and vehicles and including access to highways.</p> <p>To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult.</p>	
<b>Land Plan – Sheet 7</b>		
7/1a	<p>Divert, install, underground, alter, retain, use, monitor and maintain and remove electricity cables including overhead electricity cables together with accesses to highways and associated infrastructure including marker posts and inspection chambers. Divert, install, underground, alter, retain, use, monitor and maintain and remove gas mains and associated infrastructure.</p> <p>Divert, install, underground, alter, retain, use, monitor and maintain and remove water and sewerage pipelines, conduits and associated infrastructure.</p> <p>Divert, install, underground, alter, retain, use, monitor and maintain and remove electronic communications cables, apparatus and associated infrastructure.</p> <p>Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers.</p>	Work Nos. 6, 17 and 40

	<p>Right to pass and repass with or without plant and vehicles and including access to highways.</p> <p>To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult.</p>	
7/7b	<p>Divert, install, underground, alter, retain, use, monitor and maintain and remove electricity cables including overhead electricity cables together with accesses to highways and associated infrastructure including marker posts and inspection chambers.</p> <p>Divert, install, underground, alter, retain, use, monitor and maintain and remove gas mains and associated infrastructure.</p> <p>Divert, install, underground, alter, retain, use, monitor and maintain and remove water and sewerage pipelines, conduits and associated infrastructure.</p> <p>Divert, install, underground, alter, retain, use, monitor and maintain and remove electronic communications cables, apparatus and associated infrastructure.</p> <p>Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers.</p> <p>Right to pass and repass with or without plant and vehicles and including access to highways.</p> <p>To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made</p>	Work Nos. 18, 40, 41 and 42

	materially more difficult.	
7/7d	<p>Divert, install, underground, alter, retain, use, monitor and maintain and remove electricity cables including overhead electricity cables together with accesses to highways and associated infrastructure including marker posts and inspection chambers.</p> <p>Divert, install, underground, alter, retain, use, monitor and maintain and remove gas mains and associated infrastructure.</p> <p>Divert, install, underground, alter, retain, use, monitor and maintain and remove water and sewerage pipelines, conduits and associated infrastructure.</p> <p>Divert, install, underground, alter, retain, use, monitor and maintain and remove electronic communications cables, apparatus and associated infrastructure.</p> <p>Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers.</p> <p>Right to pass and repass with or without plant and vehicles and including access to highways.</p> <p>To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult.</p>	Work Nos. 32, 40, 42
7/8c	Divert, install, underground, alter, retain, use, monitor and maintain and remove electricity cables including overhead electricity cables together with accesses to highways and associated infrastructure including marker posts and inspection chambers.	Work No. 42



	<p>Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers. Right to pass and repass with or without plant and vehicles and including access to highways.</p> <p>To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult.</p>	
7/9a	<p>Divert, install, underground, alter, retain, use, monitor and maintain and remove electricity cables including overhead electricity cables together with accesses to highways and associated infrastructure including marker posts and inspection chambers. Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers. Right to pass and repass with or without plant and vehicles and including access to highways.</p> <p>To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult.</p>	Work No. 42
7/11b	<p>Divert, install, underground, alter, retain, use, monitor and maintain and remove electricity cables including overhead electricity cables together with accesses to highways and associated</p>	Work Nos. 6, 17 and 40

	<p>infrastructure including marker posts and inspection chambers. Divert, install, underground, alter, retain, use, monitor and maintain and remove gas mains and associated infrastructure.</p> <p>Divert, install, underground, alter, retain, use, monitor and maintain and remove water and sewerage pipelines, conduits and associated infrastructure.</p> <p>Divert, install, underground, alter, retain, use, monitor and maintain and remove electronic communications cables, apparatus and associated infrastructure.</p> <p>Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers.</p> <p>Right to pass and repass with or without plant and vehicles and including access to highways.</p> <p>To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult.</p>	
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## SCHEDULE 6

Article 27

### MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS

#### **Compensation enactments**

**1.** The enactments for the time being in force with respect to compensation for the compulsory purchase of land apply, with the necessary modifications as respects compensation, in the case of a compulsory acquisition under this Order of a right by the creation of a new right or imposition of a restrictive covenant as they apply in respect of compensation on the compulsory purchase of land and interests in land.

**2.—(1)** Without limitation on the scope of paragraph 1, the 1961 Act has effect subject to the modification set out in sub-paragraph (2).

(2) For section 5(1) (5A) (relevant valuation date) of the 1961 Act substitute—

“5.—(1) If—

- (a) the acquiring authority enters on land for the purposes of exercising a right in pursuance of a notice of entry under section 11(1) of the 1965 Act (as modified by paragraph 5(4) of Schedule 4 to the A47/A11 Thickthorn Junction Development Consent Order [XX] (“the A47/A11 Thickthorn Junction Order”));
- (b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A to the 1965 Act (as substituted by paragraph 5(7) of Schedule 4 to the A47/A11 Thickthorn Junction Order) to acquire an interest in the land; and
- (c) the acquiring authority enter on and take possession of that land,

the authority is deemed for the purposes of subsection (3)(a) to have entered on that land when it entered on that land for the purpose of exercising that right.”

3.—(1) Without limitation on the scope of paragraph 1, the Land Compensation Act 1973(a) has effect subject to the modifications set out in sub-paragraph (2).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 (measure of compensation in case of severance) of the 1965 Act as substituted by paragraph 5(3)—

- (a) for “land is acquired or taken from” substitute “a right or restrictive covenant over land is purchased from or imposed on”; and
- (b) for “acquired or taken from him” substitute “over which the right is exercisable or the restrictive covenant enforceable”.

#### **Application of Part 1 of the 1965 Act**

4. Part 1 of the 1965 Act, as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and modified by article 30 (modification of Part 1 of the 1965 Act)) to the acquisition of land under article 24 (compulsory acquisition of land), applies to the compulsory acquisition of a right by the creation of a new right, or to the imposition of a restrictive covenant under article 27(1) (compulsory acquisition of rights and imposition of restrictive covenants)—

- (a) with the modifications specified in paragraph 5; and
- (b) with such other modifications as may be necessary.

5.—(1) The modifications referred to in paragraph 4(a) are as follows.

(2) References in the 1965 Act to land are, in the appropriate contexts, to be read (according to the requirements of the particular context) as referring to, or as including references to—

- (a) the right acquired or to be acquired, or the restrictive covenant imposed or to be imposed; or
- (b) the land over which the right is or is to be exercisable, or the restriction is or is to be enforceable.

(3) For Section 7 (measure of compensation in case of severance) of the 1965 Act substitute—

“7. In assessing the compensation to be paid by the acquiring authority under this Act, regard must be had not only to the extent (if any) to which the value of the land over which the right is to be acquired or the restrictive covenant is to be imposed is depreciated by the acquisition of the right or the imposition of the restrictive covenant but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land

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(a) 1973 c. 80.

of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the Special Act.”

(4) The following provisions of the 1965 Act which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

- (a) section 9(4) (failure by owners to convey);
- (b) paragraph 10(3) of Schedule 1 (owners under incapacity);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

are modified so as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired or the restrictive covenant which is to be imposed is vested absolutely in the acquiring authority.

(5) Section 11(a) (powers of entry) of the 1965 Act is modified so as to secure that, where the acquiring authority has served notice to treat in respect of any right or restrictive covenant, as well as the notice of entry required by subsection (1) of that section (as it applies to a compulsory acquisition under article 24), it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant; and sections 11A(b) (powers of entry: further notices of entry), 11B(c) (counter-notice requiring possession to be taken on specified date), 12(d) (unauthorised entry) and 13(e) (refusal to give possession to acquiring authority) of the 1965 Act are modified correspondingly.

(6) Section 20(f) (tenants at will, etc.) of the 1965 Act applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right or the enforcement of the restrictive covenant in question.

(7) Section 22 (interests omitted from purchase) of the 1965 Act as modified by article 30 is also modified so as to enable the acquiring authority in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

(8) For Schedule 2A of the 1965 Act substitute—

## “SCHEDULE 2A COUNTER-NOTICE REQUIRING PURCHASE OF LAND NOT IN NOTICE TO TREAT

### Introduction

**1.—**(1) This Schedule applies where an undertaker serves a notice to treat in respect of a right over, or a restrictive covenant affecting, the whole or part of a house, building or factory and has not executed a general vesting declaration under section 4 of the 1981 Act

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- (a) 1965 c. 56. Section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), Section 103 of the Planning and Compulsory Purchase Act 2004 c. 5 and S.I. 2009/1307.
  - (b) 1956 c. 56. Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016 (c. 22).
  - (c) 1956 c. 56. Section 11B was inserted by section 187(2) of the Housing and Planning Act 2016 (c. 22).
  - (d) 1956 c. 56. Section 12 was amended by section 56(2) of, and part of Schedule 9, to the Courts Act 1971 (c. 23).
  - (e) 1956 c. 56. Section 13 was amended by sections 62(3), 139(4) to (9) and 146 of, and paragraphs 27 and 28 of Schedule 13 and part 3 of Schedule 23 to, the Tribunal, Courts and Enforcement Act 2007 (c. 15).
  - (f) 1956 c. 56. Section 20 was amended by paragraph 4 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34) and S.I. 2009/1307.

as applied by article 30 (application of the 1981 Act) of the A47/A11 Thickthorn Junction Development Consent Order [XX] in respect of the land to which the notice to treat relates.

(2) But see article 32 (acquisition of subsoil or airspace only) of the A47/A11 Thickthorn Junction Development Consent Order [XX] which excludes the acquisition of subsoil or airspace only from this Schedule.

2. In this Schedule, “house” includes any park or garden belonging to a house.

### **Counter-notice requiring purchase of land**

3. A person who is able to sell the house, building or factory (“the owner”) may serve a counter-notice requiring the acquiring authority to purchase the owner’s interest in the house, building or factory.

4. A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

### **Response to counter-notice**

5. On receiving a counter-notice, the undertaker must decide whether to—

- (a) withdraw the notice to treat,
- (b) accept the counter-notice, or
- (c) refer the counter-notice to the Upper Tribunal.

6. The undertaker must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).

7. If the undertaker decides to refer the counter-notice to the Upper Tribunal it must do so within the decision period.

8. If the undertaker does not serve notice of a decision within the decision period it is to be treated as if it had served notice of a decision to withdraw the notice to treat at the end of that period.

9. If the undertaker serves notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they are included the owner’s interest in the house, building or factory.

### **Determination by the Upper Tribunal**

10. On a referral under paragraph 7, the Upper Tribunal must determine whether the acquisition of the right or the imposition of the restrictive covenant would—

- (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or
- (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

11. In making the determination, the Upper Tribunal must take into account—

- (a) the effect of the acquisition of the right or the imposition of the covenant,
- (b) the use to be made of the right or covenant proposed to be acquired or imposed, and
- (c) if the right or covenant is proposed to be acquired or imposed for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

12. If the Upper Tribunal determines that the acquisition of the right or the imposition of the covenant would have either of the consequences described in paragraph 10, it must determine how much of the house, building or factory the acquiring authority ought to be required to take.

13. If the Upper Tribunal determines that the undertaker ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.

14.—(1) If the Upper Tribunal determines that the undertaker ought to be required to take some or all of the house, building or factory, the acquiring authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

(2) If the undertaker withdraws the notice to treat under this paragraph it must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawing of the notice.

15. Any dispute as to the compensation is to be determined by the Upper Tribunal.”

## SCHEDULE 7

Article 34

### LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

<i>(1)</i> <i>Location</i>	<i>(2)</i> <i>Plot Reference Number shown on land plans</i>	<i>(3)</i> <i>Purpose for which temporary possession may be taken</i>	<i>(4)</i> <i>Relevant part of the authorised development</i>
<b>Land Plans – Sheet 1</b>			
Norfolk County Council Parish of Hethersett	1/3b	Facilitate provision of and provide temporary storage, welfare facilities, laydown areas, access and working space for Station Lane junction improvements.	Work Nos. 29, 43
<b>Land Plans – Sheet 2</b>			
Norfolk County Council Parish of Hethersett	2/2a	Facilitate provision of and provide temporary storage, laydown areas, access and working space for drainage and A11 bridge extension structure.	Work No. 24
<b>Land Plans – Sheet 3</b>			
Norfolk County Council Parish of Hethersett	3/2b	Facilitate provision of and provide temporary storage, laydown areas, access and working space for drainage and A11 bridge extension structure.	Work Nos. 11, 24, 31 and 34
Norfolk County Council	3/3c	Right to pass and repass with or without	Work No. 12

Parish of Hethersett		plant and vehicles to access adjoining parcels permanently acquired by the undertaker.	
Norfolk County Council Parish of Hethersett	3/3e	Material storage and processing area.	Work Nos. 2, 20 and 30
Norfolk County Council Parish of Ketteringham	3/3g	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels	Work Nos. 14, 15, 37 and 38
Norfolk County Council Parish of Ketteringham	3/3j	East of A11 north of Cantley Wood	Work Nos. 4, 11, 24, 31 and 34
Norfolk County Council Parish of Hethersett	3/6a	Right to pass and repass with or without plant and vehicles and including access to highways.	Work Nos. 4, 11, 24, 31 and 34
Norfolk County Council Parish of Ketteringham	3/7b	Facilitate provision of and provide temporary storage, laydown areas, access and working space for drainage and A11 bridge extension structure.	Work Nos. 8, 13, 33 and 38
Norfolk County Council Parish of Ketteringham/ Norfolk County Council Parish of Keswick and Intwood	3/8a	Right to pass and repass with or without plant and vehicles to access adjoining parcels permanently acquired by the undertaker.	Work Nos. 16 and 37
Norfolk County Council Parish of Ketteringham	3/8e	To facilitate access the Cantley Stream area to erect temporary fencing, vegetation clearance and watervole relocation	Work Nos. 14, 37 and 38
Norfolk County Council Parish of Ketteringham	3/8g	Facilitate provision of and provide temporary storage, laydown areas, access and working space for improved residential access	Work Nos. 8, 13, 33 and 38
<b>Land Plans – Sheet 5</b>			
Norfolk County Council	5/2b	Right to pass and repass with or without	Work Nos. 1, 2 and 3

Parish of Ketteringham		plant and vehicles and including access to highways.	
Norfolk County Council Parish of Hethersett	5/2c	Right to pass and repass with or without plant and vehicles and including access to highways.	Work Nos. 1, 2 and 5
Norfolk County Council Parish of Hethersett	5/3b	Material storage and processing area.	Work Nos. 1, 2 and 3
Norfolk County Council Parish of Hethersett	5/5a	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels:	Work Nos. 1, 2 and 5
<b>Land Plans – Sheet 6</b>			
Norfolk County Council Parish of Ketteringham	6/3a	South of B1172 and west of the Cantley Lane Link Road	Work Nos. 19, 24, 30 and 36
Norfolk County Council Parish of Ketteringham	6/3f	Material storage and processing area.	Work Nos. 10, 21 and 41
Norfolk County Council Parish of Cringleford	6/9a	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels:	Work Nos. 10, 21 and 41
Norfolk County Council Parish of Ketteringham	6/10a	South of B1172 and east of the Cantley Lane Link Road	Work Nos. 10, 21 and 41
<b>Land Plans – Sheet 7</b>			
Norfolk County Council Parish of Ketteringham	7/1c	Material storage and processing area (access)	Work Nos. 6, 24 and 40
Norfolk County Council Parish of Ketteringham/ Norfolk County Council Parish of Keswick and Intwood	7/2a	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels:	Work No. 8
Norfolk County Council Parish of Ketteringham/ Norfolk County Council	7/6b	South of B1172 and west of the Cantley Lane Link Road	Work No. 8



Parish of Cringleford			
Norfolk County Council Parish of Ketteringham	7/6c	Right to pass and repass with or without plant and vehicles and including access to highways	Work Nos. 6, 24 and 42
Norfolk County Council Parish of Cringleford	7/7c	Material storage and processing area.	Work Nos. 23 and 42
Norfolk County Council Parish of Cringleford	7/7e	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels:	Work Nos. 32 and 42
Norfolk County Council Parish of Cringleford	7/8b	East of A11 north of Cantley Wood	Work Nos. 24, 32 and 42
Norfolk County Council Parish of Ketteringham	7/11a	Laydown areas and working width to support construction of new carriageway, footways, embankments, service diversions and drainage works on adjacent land parcels.	Work No. 8

## SCHEDULE 8

Article 39

### REMOVAL OF HEDGEROWS

#### PART 1

##### REMOVAL OF HEDGEROWS

<i>(1)</i> <i>Location of hedgerow</i>	<i>(2)</i> <i>Work to be carried out</i>	<i>(3)</i> <i>Relevant part of the authorised development</i>
H5 to H5 shown on sheet 3 of the Hedgerow Plans	Partial removal	Work No. 2
H8 to H8 shown on sheet 5 of the Hedgerow Plans	Partial removal	Work No. 1
H9 to H9 shown on sheet 5 of the Hedgerow Plans	Full removal	Work No. 1 and Work No. 2

#### PART 2

##### REMOVAL OF IMPORTANT HEDGEROWS

<i>(1)</i> <i>Location of hedgerow</i>	<i>(2)</i> <i>Work to be carried out</i>	<i>(3)</i> <i>Relevant part of the authorised development</i>
H6 to H6 shown on sheet 3 of	Partial removal and	Work No. 12

## SCHEDULE 9

Articles 36 and 49

## PROTECTIVE PROVISIONS

## PART 1

## FOR THE PROTECTION OF ELECTRICITY, GAS, WATER AND SEWAGE UNDERTAKERS

1. For the protection of the utility undertakers referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and the utility undertaker concerned.

2. In this Part of this Schedule—

“alternative apparatus” means alternative apparatus adequate to enable the utility undertaker in question to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means—

- (a) in the case of an electricity undertaker, electric lines or electrical plant (as defined in the Electricity Act 1989(a), belonging to or maintained by that utility undertaker;
- (b) in that case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by a gas transporter within the meaning of Part 1 of the Gas Act 1986(b) for the purposes of gas supply;
- (c) in the case of water undertaker, mains, pipes or other apparatus belonging to or maintained by that utility undertaker for the purposes of water supply; and
- (d) in the case of a sewerage undertaker—
  - (i) any drain or works vested in the utility undertaker under the Water Industry Act 1991(c); and
  - (ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) (adoption of sewers and disposal works) of that Act or an agreement to adopt made under section 104 (agreement to adopt sewers, drains or sewage disposal works at future date) of that Act(d),

and includes a sludge main, disposal main (within the meaning of section 219 (general interpretation) of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works,

and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“functions” includes powers and duties;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over or upon land;

- 
- (a) 1989 C. 29. The definition of “electricity plant” (in section 64) was amended by paragraphs 24 and 38(1) and (3) of Schedule 6 to the Utilities Act 2000 (c.27).
  - (b) 1986 c. 44. A new section 7 was substituted by section 5 of the Gas Act 1995 (c. 45), and was further amended by sections 3(2) and 76 of, and paragraphs 1 and 4 of Schedule 6, and Schedule 8 to the Utilities Act 2000 (c. 27), sections 1459(1) and (5) and 197(9) of, and part 1 of Schedule 23 to, the Energy Act 2004 (c. 20) and S.I. 2011/2704.
  - (c) 1991 c. 56.
  - (d) 1991 c. 56. Section 102(4) was amended by section 96(1)(1)(c) of the Water Act 2003 (c. 37). Section 104 was amended by sections 96(4) and 101(23) of, part 3 of Schedule 9 to, the Water Act 2003 and section 42(3) of the Flood and Water Management Act 2010 (c. 29).

“plan” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed; and

“utility undertaker” means—

- (a) any licence holder within the meaning of Part 1 of the Electricity Act 1989;
- (b) a gas transporter within the meaning of Part 1 of the Gas Act 1986;
- (c) a water undertaker within the meaning of the Water Industry Act 1991; and
- (d) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991,

for the area of the authorised development, and in relation to any apparatus, means the utility undertaker to whom it belongs or by whom it is maintained.

### **On street apparatus**

3. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and the utility undertaker are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

### **Apparatus in stopped up streets**

4.—(1) Where any street is stopped up under article 17 (permanent stopping up and restriction of use of streets and private means of access), any utility undertaker whose apparatus is in the street has the same powers and rights in respect of that apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to the utility undertaker legal easements reasonably satisfactory to the utility undertaker in respect of such apparatus and access to it, but nothing in this paragraph affects any right of the undertaker or of the utility undertaker to require the removal of that apparatus under paragraph 7 or the power of the undertaker to carry out works under paragraph 9.

(2) Regardless of the temporary stopping up or diversion of any highway under the powers conferred by article 16 (temporary alteration, diversion and restriction of use of streets), a utility undertaker is at liberty at all times to take all necessary access across any such stopped up highway and to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway.

### **Protective works to buildings**

5. The undertaker, in the case of the powers conferred by article 22 (protective work to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus.

### **Acquisition of land**

6. Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.

### **Removal of apparatus**

7.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or requires that the utility undertaker’s apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of a utility undertaker to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the utility undertaker in question in accordance with sub-paragraphs (2) to (6).

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to the utility undertaker in question 28 days' written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order a utility undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to the utility undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, the utility undertaker in question must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between the utility undertaker in question and the undertaker or in default of agreement settled by arbitration in accordance with article 52 (arbitration).

(5) The utility undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 52 (arbitration), and after the grant to the utility undertaker of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to the utility undertaker in question that the undertaker desires itself to execute any work, or part of any work in connection with the construction or removal of apparatus in any land of the undertaker, that work, instead of being executed by the utility undertaker, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the utility undertaker.

### **Facilities and rights for alternative apparatus**

**8.**—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to a utility undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights are to be granted upon such terms and conditions as may be agreed between the undertaker and the utility undertaker in question or in default of agreement settled by arbitration in accordance with article 52 (arbitration).

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to the utility undertaker in question than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to that utility undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

### **Retained apparatus**

**9.**—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 7(2), the undertaker must submit to the utility undertaker in question a plan of the works to be executed.

(2) Those works must be executed only in accordance with the plan submitted under subparagraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the utility undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the utility undertaker is entitled to watch and inspect the execution of those works.

(3) Any requirements made by a utility undertaker under sub-paragraph (2) are to be made within a period of 21 days beginning with the date on which a plan under sub-paragraph (1) is submitted to it.

(4) If a utility undertaker, in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 3 and 6 to 8 apply as if the removal of the apparatus had been required by the undertaker under paragraph 7(2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(6) The undertaker is not required to comply with sub-paragraph (5) in a case of emergency but in that case it must give to the utility undertaker in question notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (3) in so far as is reasonably practicable in the circumstances.

(7) In relation to works which will or may be situated on, over, under or within 10 metres measured in any direction of any electricity apparatus, or involve embankment works within 10 metres of any electricity apparatus, the plan to be submitted to the utility undertaker under subparagraph (1) must be detailed, include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which they are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal;
- (d) the position of all electricity apparatus; and
- (e) by way of detailed drawings, every alteration proposed to be made to such apparatus.

### **Expenses and costs**

**10.**—(1) Subject to the following provisions of this paragraph, the undertaker must repay to a utility undertaker all expenses reasonably incurred by that utility undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 7(2).

(2) The value of any apparatus removed under the provisions of this Part of this Schedule must be deducted from any sum payable under sub-paragraph , that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 52 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount

which apart from this sub-paragraph would be payable to the utility undertaker in question by virtue of sub-paragraph (1) must be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus must not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole must be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to a utility undertaker in respect of works by virtue of sub-paragraph (1), if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, is to be reduced by the amount which represents that benefit.

**11.—**(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works referred to in paragraphs 5 or 7(2) any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of a utility undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any utility undertaker, the undertaker must—

- (a) bear and pay the cost reasonably incurred by that utility undertaker in making good such damage or restoring the supply; and
- (b) make reasonable compensation to that utility undertaker for any other expenses, loss, damages, penalty or costs incurred by the utility undertaker,

by reason or in consequence of any such damage or interruption.

(2) The fact that any act or thing may have been done by a utility undertaker on behalf of the undertaker or in accordance with a plan approved by a utility undertaker or in accordance with any requirement of a utility undertaker or under its supervision does not, subject to sub-paragraph (3), excuse the undertaker from liability under the provisions of sub-paragraph (1).

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of a utility undertaker, its officers, servants, contractors or agents.

(4) A utility undertaker must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker and, if such consent is withheld, has the sole conduct of any settlement or compromise of any proceedings necessary to resist the claim or demand.

## **Cooperation**

**12.—**(1) Where in consequence of the proposed construction of any part of the authorised development, the undertaker or a utility undertaker requires the removal of apparatus under paragraph 7(2) or a utility undertaker makes requirements for the protection or alteration of apparatus under paragraph 9, the undertaker must use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of the utility undertaker's undertaking and each utility undertaker must use its best endeavours to co-operate with the undertaker for that purpose.

(2) Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and a utility undertaker in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

## PART 2

### FOR THE PROTECTION OF OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

**13.** For the protection of any operator, the following provisions have effect, unless otherwise agreed in writing between the undertaker and the operator.

**14.** In this Part of this Schedule—

“the 2003 Act” means the Communications Act 2003(a);

“electronic communications apparatus” has the same meaning as in the electronic communications code;

“the electronic communications code” has the same meaning as in Chapter 1 (electronic communications, networks and services) of Part 2 of the 2003 Act(b);

“electronic communications code network” means—

(a) so much of an electronic communications network or infrastructure system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 (application of the electronic communications code) of the 2003 Act; and

(b) an electronic communications network which the undertaker is providing or proposing to provide;

“electronic communications code operator” means a person in whose case the electronic communications code is applied by a direction under section 106 of the 2003 Act;

“infrastructure system” has the same meaning as in the electronic communications code and references to providing an infrastructure system are to be construed in accordance with paragraph 7(2) of that code; and

“operator” means the operator of an electronic communications code network.

**15.** The exercise of the powers conferred by article 36 (statutory undertakers) is subject to Part 10 (undertakers works affecting electronic communications apparatus) the electronic communications code in the 2003 Act.

**16.—**(1) Subject to sub-paragraphs (2) to (4), if as the result of the authorised development or its construction, or of any subsidence resulting from any of those works—

(a) any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works), or other property of an operator; or

(b) there is any interruption in the supply of the service provided by an operator,

the undertaker must bear and pay the cost reasonably incurred by the operator in making good such damage or restoring the supply and make reasonable compensation to that operator for any other expenses, loss, damages, penalty or costs incurred by it, by reason, or in consequence of, any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an operator, its officers, servants, contractors or agents.

(3) The operator must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand is to be made without the consent of the undertaker which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

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(a) See paragraph 5 of Schedule 3A (the electronic communications code) to the Communications Act 2003 (c.21). Schedule 3A was inserted by Schedule 1 to the Digital Economy Act 2017 (c. 30).

(b) See section 106 of the 2003 Act.

(4) Any difference arising between the undertaker and the operator under this Part of this Schedule must be referred to and settled by arbitration under article 52 (arbitration).

(5) This Part of this Schedule does not apply to—

- (a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act; or
- (b) any damages, or any interruptions, caused by electro-magnetic interference arising from the construction or use of the authorised development.

(6) Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and an operator in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

## PART 3

### FOR THE PROTECTION OF NATIONAL GRID AS ELECTRICITY AND GAS UNDERTAKER

#### Application

**17.**—(1) For the protection of National Grid as referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and National Grid.

(2) Subject to sub-paragraph (3) or to the extent otherwise agreed in writing between the undertaker and National Grid, where the benefit of this Order is transferred or granted to another person under article 10 (consent to transfer benefit of Order)—

- (a) any agreement of the type mentioned in sub-paragraph (1) has effect as if it had been made between National Grid and the transferee or grantee (as the case may be); and
- (b) written notice of the transfer or grant must be given to National Grid on or before the date of that transfer or grant.

(3) Sub-paragraph (2) does not apply where the benefit of the Order is transferred or granted to National Grid (but see paragraph 27(3)(b)).

#### Interpretation

**18.** In this Part of this Schedule—

“1991 Act” means the New Roads and Street Works Act 1991;

“alternative apparatus” means appropriate alternative apparatus to the reasonable satisfaction of National Grid to enable National Grid to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means any electric lines or electrical plant as defined in the Electricity Act 1989, belonging to or maintained by National Grid together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of National Grid for the purposes of transmission, distribution or supply and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

“authorised works” has the same meaning as is given to the term “authorised development” in article 2(1) of this Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Schedule;

“commence” and “commencement” in paragraph 25 and 27 of this Part of this Schedule includes any below ground surveys, monitoring, ground work operations or the receipt and erection of construction plant and equipment,



“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by National Grid (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“maintain” and “maintenance” includes the ability and right to do any of the following in relation to any apparatus or alternative apparatus of National Grid including construct, use, repair, alter, inspect, renew or remove the apparatus;

“National Grid” means National Grid Electricity Transmission Plc or any successor as a licence holder within the meaning of Part 1 of the Electricity Act ;

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

“specified works” means any of the authorised works or activities undertaken in association with the authorised works which:

- (a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under paragraph 23(2) or otherwise; or
- (b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 23(2) or otherwise.

19. Except for paragraphs 36 (*apparatus in stopped up streets*), 41 (*retained apparatus: protection*), 42 (*expenses*) and 43 (*indemnity*) of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of National Grid, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and National Grid are regulated by the provisions of Part 3 of the 1991 Act.

### **Apparatus of National Grid in stopped up streets**

20.—(1) Where any street is stopped up under article 17 (*permanent stopping up and restriction of use of streets and private means of access*), if National Grid has any apparatus in the street or accessed via that street National Grid has the same rights in respect of that apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to National Grid, or procure the granting to National Grid of, legal easements reasonably satisfactory to National Grid in respect of such apparatus and access to it prior to the stopping up of any such street but nothing in this paragraph affects any right of the undertaker or National Grid to require the removal of that apparatus under paragraph 23 or the power of the undertaker, subject to compliance with this subparagraph, to carry out works under paragraph 25.

(2) Notwithstanding the temporary alteration, diversion or restriction of any highway under the powers of article 16 (*temporary alteration, diversion, prohibition and restriction of use of streets*), National Grid will be at liberty at all times to take all necessary access across any such stopped up street and to execute and do all such works and things in, upon or under any such street as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the alteration, diversion or restriction was in that street.

### **Protective works to buildings**

21. The undertaker must exercise the powers conferred by article 22 (*protective work to buildings*) so as not to obstruct or render less convenient the access to any apparatus without the written consent of National Grid (such consent not to be unreasonably withheld)

### **Acquisition of land**

22.—(1) Regardless of any provision in this Order or anything shown on the land plans, the undertaker may not acquire any interest in land or apparatus or override any easement or other interest of National Grid otherwise than by agreement.

(2) As a condition of an agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised works (or in such other timeframe as may be agreed between National Grid and the undertaker) that is subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement or other legal or land interest of National Grid or affect the provisions of any enactment or agreement regulating the relations between National Grid and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as National Grid reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between National Grid and the undertaker acting reasonably and which must be no less favourable on the whole to National Grid unless otherwise agreed by National Grid, and it will be the responsibility of the undertaker to procure and secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.

(3) The undertaker and National Grid agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation or removal of apparatus (including but not limited to the payment of costs and expenses relating to such relocation or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by National Grid or other enactments relied upon by National Grid as of right or other use in relation to the apparatus, then the provisions in this Schedule prevail.

(4) Any agreement or consent granted by National Grid under paragraph 25 or any other paragraph of this Part of this Schedule, is not to be taken to constitute agreement under sub-paragraph (1).

### **Removal of apparatus**

23.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in or possesses temporarily any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of National Grid to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of National Grid in accordance with sub-paragraph (2) to (5).

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to National Grid advance written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order National Grid reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to National Grid to its reasonable satisfaction (taking into account paragraph 22(1)) the necessary facilities and rights—

- (a) for the construction of alternative apparatus in other land of, or secured by, the undertaker; and
- (b) subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed, National Grid must, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation does not extend to the requirement for National Grid to use its compulsory purchase powers to this end unless it elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between National Grid and the undertaker.

(5) National Grid must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the grant to National Grid of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

### **Facilities and rights for alternative apparatus**

**24.**—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for National Grid facilities and rights in land for the construction, use, maintenance and protection of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and National Grid and must be no less favourable on the whole to National Grid than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by National Grid.

(2) If the facilities and rights to be afforded by the undertaker under paragraph (1) above in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to National Grid than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the matter may be referred to arbitration in accordance with paragraph 31 (*Arbitration*) of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to National Grid as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

### **Retained apparatus: protection of electricity undertaker**

**25.**—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to National Grid a plan of the works to be executed and seek from National Grid details of the underground extent of their electricity tower foundations.

(2) In relation to works which will or may be situated on, over, under or within (i) 15 metres measured in any direction of any apparatus, or (ii) involve embankment works within 15 metres of any apparatus, the plan to be submitted to National Grid under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus;
- (f) any intended maintenance regimes; and
- (g) an assessment of risks of rise of earth issues.

(3) In relation to any works which will or may be situated on, over, under or within 10 metres of any part of the foundations of an electricity tower or between any two or more electricity towers, the plan to be submitted under sub-paragraph (1) must, in addition to the matters set out in sub-paragraph (2), include a method statement describing—

- (a) details of any cable trench design including route, dimensions, clearance to pylon foundations;
- (b) demonstration that pylon foundations will not be affected prior to, during and post construction;
- (c) details of load bearing capacities of trenches;
- (d) details of any cable installation methodology including access arrangements, jointing bays and backfill methodology;
- (e) a written management plan for high voltage hazard during construction and ongoing maintenance of any cable route;
- (f) written details of the operations and maintenance regime for any cable, including frequency and method of access;
- (g) assessment of earth rise potential if reasonably required by National Grid's engineers; and
- (h) evidence that trench bearing capacity is to be designed to support overhead line construction traffic of up to 26 tonnes in weight.

(4) The undertaker must not commence any works to which sub-paragraphs (2) or (3) apply until National Grid has given written approval of the plan so submitted.

(5) Any approval of National Grid required under sub-paragraphs (4)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (6) or (8); and,
- (b) must not be unreasonably withheld.

(6) In relation to any work to which sub-paragraphs (2) or (3) apply, National Grid may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage, for the provision of protective works or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(7) Works executed under sub-paragraphs (2) or (3) must be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub-paragraph (6), as approved or as amended from time to time by agreement between the undertaker and National Grid and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (6) or (8) by National Grid for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and National Grid will be entitled to watch and inspect the execution of those works.

(8) Where under sub-paragraph (6) National Grid requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to National Grid's satisfaction prior to the commencement of any specified works for which protective works are required and National Grid must give notice of its requirement for such works within 42 days of the date of submission of a plan pursuant to this paragraph (except in an emergency).

(9) If National Grid in accordance with sub-paragraphs (6) or (8) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 17 to 19 and 22 to 24 apply as if the removal of the apparatus had been required by the undertaker under paragraph 23(1).

(10) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the specified works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(11) The undertaker will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works but in that case it must give to National Grid notice as soon as is reasonably practicable and a plan of those works and must comply with sub-paragraphs (6), (7) and (8) insofar as is reasonably practicable in the circumstances.

(12) In sub-paragraph (11) “emergency works” means works whose execution at the time when they are executed is required in order to put an end to or to prevent the occurrence of circumstances then existing or imminent (or which the person responsible for the works believes on reasonable grounds to be existing or imminent) which are likely to cause danger to persons or property.

## **Expenses**

**26.**—(1) Subject to the following provisions of this paragraph, the undertaker must pay to National Grid within 30 days of receipt of an itemised invoice or claim from National Grid all charges, costs and expenses reasonably anticipated within the following three months or reasonably and properly incurred by National Grid in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid by National Grid in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by National Grid as a consequence of National Grid;
  - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 23(3); or
  - (ii) exercising any compulsory purchase powers in the Order transferred to or benefitting National Grid;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus, where no written diversion agreement is otherwise in place;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule.

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with paragraph 31 (*arbitration*) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to National Grid by virtue of sub-paragraph

(1) will be reduced by the amount of that excess save to the extent that it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) Any amount which apart from this sub-paragraph would be payable to National Grid in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on National Grid any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

## **Indemnity**

**27.—**(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any works authorised by this Part of this Schedule or in consequence of the construction, use, maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by him) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised works) or property of National Grid, or there is any interruption in any service provided, or in the supply of any goods, by National Grid, or National Grid becomes liable to pay any amount to any third party, the undertaker will—

- (a) bear and pay on demand accompanied by an invoice or claim from National Grid the cost reasonably and properly incurred by National Grid in making good such damage or restoring the supply; and
- (b) indemnify National Grid for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from National Grid, by reason or in consequence of any such damage or interruption or National Grid becoming liable to any third party as aforesaid other than arising from any default of National Grid.

(2) The fact that any act or thing may have been done by National Grid on behalf of the undertaker or in accordance with a plan approved by National Grid or in accordance with any requirement of National Grid or under its supervision will not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless National Grid fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker in respect of-

- (a) any damage or interruption to the extent that it is attributable to the neglect or default of National Grid, its officers, servants, contractors or agents;
- (b) any part of the authorised works carried out by National Grid in the exercise of any functions conferred by this Order pursuant to a grant or transfer under article 10 (consent to transfer benefit of Order).

(4) National Grid must give the undertaker reasonable notice of any such third party claim or demand and no settlement, admission of liability or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations.

(5) National Grid must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably and in the same manner as it would as if settling third party claims on its own behalf from its own funds.

(6) National Grid must use its reasonable endeavours to mitigate and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies where it is within National Grid's reasonable ability and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties which is outside of National Grid's control and if reasonably requested to do so by the undertaker National Grid must provide an explanation of how the claim has been minimised, where relevant.

### **Enactments and agreements**

**28.** Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and National Grid in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

### **Co-operation**

**29.—(1)** Where in consequence of the proposed construction of any part of the authorised works, the undertaker or National Grid requires the removal of apparatus under paragraph 23(1) or National Grid makes requirements for the protection or alteration of apparatus under paragraph 25, the undertaker must use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised works and taking into account the need to ensure the safe and efficient operation of National Grid's undertaking and National Grid must use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever the undertaker's or National Grid's consent, agreement or approval is required in relation to plans, documents or other information submitted under this schedule, or agreement is required to be reached between the parties under this schedule, it must not be unreasonably withheld or delayed.

### **Access**

**30.** If in consequence of the agreement reached in accordance with paragraph 22(1) or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable National Grid to maintain or use the apparatus no less effectively than was possible before such obstruction.

### **Arbitration**

**31.** Save for differences or disputes arising under paragraph 23(2), 23(4) and 24(1), any difference or dispute arising between the undertaker and National Grid under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and National Grid, be determined by arbitration in accordance with article 52 (*arbitration*).

### **Notices**

**32.** Notwithstanding article 51 (service of notices), any plans submitted to National Grid by the undertaker pursuant to paragraph 25 must be sent to <https://lsbud.co.uk/> and National Grid Plant Protection at [plantprotection@nationalgrid.com](mailto:plantprotection@nationalgrid.com) or such other address as National Grid may from time to time appoint instead for that purpose and notify to the undertaker in writing.

## PART 4

### FOR THE PROTECTION OF ANGLIAN WATER SERVICES LIMITED

#### Application

33. For the protection of Anglian Water, the following provisions have effect, unless otherwise agreed in writing between the undertaker and Anglian Water.

#### Interpretation

34. In this part of this Schedule –

“1991 Act” means the New Roads and Street Works Act 1991;

“alternative apparatus” means alternative apparatus adequate to enable Anglian Water to fulfil its statutory functions in a manner no less efficient than previously;

“Anglian Water” means Anglian Water Services Limited;

“apparatus” means—

- (a) works, mains, pipes or other apparatus belonging to or maintained by Anglian Water for the purposes of water supply and sewerage;
- (b) any drain or works vested in Anglian Water under The Water Industry Act 1991,
- (c) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) of that Act or an agreement to adopt made under section 104 of that Act; and
- (d) includes a sludge main, disposal main or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works, and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus

and for the purpose of this definition, where words are defined by section 219 of the Water Industry Act 1991 they shall be taken to have the same meaning.

“functions” includes powers and duties

“in” in a context referring to apparatus or alternative apparatus in land, includes a reference to apparatus or alternative apparatus under, over or upon land;

“plan” includes all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed.

#### On street apparatus

35. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and Anglian Water are regulated by the provisions of Part 3 of the 1991 Act.

#### Apparatus in stopped up streets

36.—(1) Where any street is stopped up under article 17 (permanent stopping up and restriction of use of streets and private means of access), where Anglian Water has apparatus in the street or accessed by virtue of that street, it has the same powers and rights in respect of that apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to Anglian Water legal easements reasonably satisfactory to Anglian Water in respect of such apparatus and access to it, but nothing in this paragraph affects any right of the undertaker or of Anglian Water to require the removal of that apparatus under paragraph 39 or the power of the undertaker to carry out works under paragraph 41.



(2) Regardless of the temporary stopping up or diversion of any highway under the powers conferred by article 16 (temporary alteration, diversion, prohibition and restriction of the use of streets), Anglian Water is at liberty at all times to take all necessary access across any such stopped up highway and to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway.

### **Protective works to buildings**

37. The undertaker, in the case of the powers conferred by article 22 (protective work to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus.

### **Acquisition of land**

38. Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.

### **Removal of apparatus**

39.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or requires that Anglian Water's apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of Anglian Water to maintain that apparatus in that land must not (without the prior written consent of Anglian Water) be extinguished, until:

- (a) alternative apparatus has been constructed and is in operation to the reasonable satisfaction of Anglian Water in accordance with sub-paragraphs (2) to (8); and
- (b) facilities and rights have been secured for that alternative apparatus in accordance with paragraph 25.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to Anglian Water 28 days' written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order an undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to Anglian Water the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed Anglian Water must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between Anglian Water and the undertaker or in default of agreement settled by arbitration in accordance with article 52 (arbitration).

(5) Anglian Water must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 52 (arbitration), and after the grant to Anglian Water of any such facilities and rights as are referred to in sub-paragraphs (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if Anglian Water gives notice in writing to the undertaker that it desires the undertaker to execute any work, or part of any work in connection with the construction or removal of apparatus in any land of the undertaker, or to the extent that Anglian Water fails to proceed with that work in accordance with sub-paragraph (5) or the undertaker and Anglian Water otherwise agree, that work, instead of being executed by Anglian Water, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of Anglian Water.

(7) Notice under sub-paragraph (6) that Anglian Water desires the undertaker to execute any work, or part of any work, must be given within 14 days of agreement under sub-paragraph (4) or, in default of agreement, within 14 days of the date of settlement by arbitration under sub-paragraph (4).

(8) If Anglian Water fails either reasonably to approve, or to provide reasons for its failure to approve along with an indication of what would be required to make acceptable, any proposed details relating to required removal works under sub-paragraph (2) within 28 days of receiving a notice of the required works from the undertaker, then such details are deemed to have been approved. For the avoidance of doubt, any such “deemed consent” does not extend to the actual undertaking of the removal works, which shall remain the sole responsibility of Anglian Water or its contractors.

(9) Whenever alternative apparatus is to be or is being substituted for existing apparatus, the undertaker shall, before taking or requiring any further step in such substitution works, use best endeavours to comply with Anglian Water’s reasonable requests for a reasonable period of time to enable Anglian Water to:

- (a) make network contingency arrangements; or
- (b) bring such matters as it may consider reasonably necessary to the attention of end users of the utility in question.

#### **Facilities and rights for alternative apparatus**

**40.**—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to a utility undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights are to be granted upon such terms and conditions as may be agreed between the undertaker and Anglian Water or in default of agreement settled by arbitration in accordance with article 52 (arbitration).

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to Anglian Water than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to Anglian Water as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

(3) Such facilities and rights as are set out in this paragraph are deemed to include any statutory permits granted to the undertaker in respect of the apparatus in question, whether under the Environmental Permitting Regulations 2010 or other legislation.

#### **Retained apparatus**

**41.**—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus (or any means of access to it) the removal of which has not been required by the undertaker under paragraph 39(2), the undertaker must submit to Anglian Water a plan of the works to be executed.

(2) Those works must be executed only in accordance with the plan submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by Anglian Water for the alteration or otherwise for the protection of the

apparatus, or for securing access to it, and Anglian Water is entitled to watch and inspect the execution of those works.

(3) Any requirements made by Anglian Water under sub-paragraph (2) must be made within a period of 21 days beginning with the date on which a plan under sub-paragraph (1) is submitted to it.

(4) If Anglian Water in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, sub-paragraphs (1) to (3) and (6) to (7) apply as if the removal of the apparatus had been required by the undertaker under paragraph 39(2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case must give to Anglian Water notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (3) in so far as is reasonably practicable in the circumstances and will keep the impact of those emergency works on Anglian Water's apparatus, on the operation of its water and sewerage network and on end-users of the services Anglian Water provides to a minimum.

(7) For the purposes of sub-paragraph (1), works are deemed to be in land near Anglian Water's apparatus (where it is a pipe) if those works fall within the following distances measured from the medial line of such apparatus:

- (a) 2.25 metres where the diameter of the pipe is less than 150 millimetres;
- (b) 3 metres where the diameter of the pipe is between 150 and 450 millimetres
- (c) 4.5 metres where the diameter of the pipe is between 451 and 750 millimetres; and
- (d) 6 metres where the diameter of the pipe exceeds 750 millimetres.

### **Expenses and costs**

**42.**—(1) Subject to the following provisions of this paragraph, the undertaker must repay to Anglian Water all expenses reasonably incurred by Anglian Water in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in this Part of the Schedule.

(2) There must be deducted from any sum payable under subparagraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated, and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 52 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to Anglian Water by virtue of sub-paragraph (1) must be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to Anglian Water in respect of works by virtue of sub-paragraph (1), if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on Anglian Water any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, is to be reduced by the amount which represents that benefit.

**43.—**(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works referred to in paragraphs 37 or 39(2), or by reason of any subsidence resulting from such development or works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of Anglian Water, or there is any interruption in any service provided, or in the supply of any goods, by Anglian Water, the undertaker must—

- (a) bear and pay the cost reasonably incurred by Anglian Water in making good such damage or restoring the supply; and
- (b) make reasonable compensation to Anglian Water for any other expenses, loss, damages, penalty or costs incurred by the undertaker, by reason or in consequence of any such damage or interruption.

(2) The fact that any act or thing may have been done by Anglian Water on behalf of the undertaker or in accordance with a plan approved by Anglian Water or in accordance with any requirement of Anglian Water or under its supervision does not, subject to sub-paragraph (3), excuse the undertaker from liability under the provisions of sub-paragraph (1) unless Anglian Water fails to carry out and execute the works properly with due care and attention and in a skilful and professional like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of Anglian Water, its officers, servants, contractors or agents.

(4) Anglian Water must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made, without the consent of the undertaker (such consent not to be unreasonably withheld or delayed) who, if withholding such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

## **Cooperation**

**44.** Where in consequence of the proposed construction of any of the authorised development, the undertaker or Anglian Water requires the removal of apparatus under paragraph 39(2) or Anglian Water makes requirements for the protection or alteration of apparatus under sub-paragraph (9), the undertaker must use all reasonable endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of Anglian Water's undertaking and Anglian Water must use all reasonable endeavours to co-operate with the undertaker for that purpose.

**45.** Where the undertaker identifies any apparatus which may belong to or be maintainable by Anglian Water but which does not appear on any statutory map kept for the purpose by Anglian Water, it shall inform Anglian Water of the existence and location of the apparatus as soon as reasonably practicable.

46. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Anglian Water in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

47. Any time period in which an action must be taken in this part of the Schedule may be amended by written agreement between the undertaker and Anglian Water.

## PART 5 FOR THE PROTECTION OF CADENT

### **Application**

48. For the protection of Cadent the following provisions will, unless otherwise agreed in writing between the undertaker and Cadent, have effect.

### **Interpretation**

49. In this Part of this Schedule—

“alternative apparatus” means appropriate alternative apparatus to the reasonable satisfaction of Cadent to enable Cadent to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means any gas mains, pipes, pressure governors, ventilators, cathodic protections, cables or other apparatus belonging to or maintained by Cadent for the purposes of Cadent’s undertaking together with any replacement apparatus and such other apparatus constructed pursuant to this Order that becomes operational apparatus of Cadent for the purposes of Cadent’s undertaking and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

“Cadent” means Cadent Gas Limited and includes its successors in title or any successor as a gas transporter within the meaning of Part 1 of the Gas Act 1986;

“Cadent’s undertaking” means the rights, duties and obligations of Cadent Gas Limited as a public gas transporter within the meaning of Section 7 of the Gas Act 1986 (as amended by the Gas Act 1995);

“commence” and “commencement” include any below ground surveys, monitoring, work operations, remedial work in respect of any contamination or other adverse ground condition, the receipt and erection of construction plant and equipment, and non-intrusive investigations for the purpose of assessing ground conditions;

“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

“facilities and rights” for construction and for maintenance include any appropriate working areas required to reasonably and safely undertake that construction or maintenance, and any necessary rights of access;

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by Cadent (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring

activities and the extent of ground subsidence which, if exceeded, requires the undertaker to submit for Cadent's approval a ground mitigation scheme;

"ground subsidence event" means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

"in" in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

"maintain" and "maintenance" have effect as if Cadent's existing apparatus was authorised development and as if the term maintain includes protect and use;

"plan" or "plans" include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

"rights" includes restrictive covenants and, in relation to decommissioned apparatus, the surrender of rights, release of liabilities and transfer of decommissioned apparatus; and

"specified works" means any of the authorised development or activities (including maintenance) undertaken in association with the authorised development which—

- (a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under sub-paragraph 53(2) or otherwise; or
- (b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under sub-paragraph 53(2) or otherwise.

### **On Street apparatus**

**50.**—(1) This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and Cadent are regulated by the provisions of Part 3 of the 1991 Act, except for—

- (a) paragraphs 51, 56, 57 and 58; and
- (b) where sub-paragraph (2) applies, paragraphs 54 and 55.

(2) This sub-paragraph applies where any apparatus is diverted from an alignment within the existing adopted public highway but not wholly replaced within the existing public highway, notwithstanding that any diversion may be carried out under the provisions of Part 3 of the 1991 Act.

(3) Paragraph 57 does not apply where the authorised development constitutes major highway works, major bridge works or major transport works for the purposes of Part 3 of the 1991 Act, but instead—

- (a) the allowable costs of the relocation works are to be determined in accordance with section 85 (sharing of cost of necessary measures) of that Act and any regulations for the time being having effect under that section; and
- (b) the allowable costs are to be borne by the undertaker and Cadent in such proportions as may be prescribed by any such regulations.

### **Apparatus of Cadent in stopped up streets**

**51.**—(1) Where any street is stopped up under article 17 (Permanent stopping up and restriction of use of streets and private means of access), if Cadent has any apparatus in the street or accessed via that street Cadent is entitled to the same rights in respect of such apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to Cadent, or procure the granting to Cadent of, legal easements reasonably satisfactory to Cadent in respect of such apparatus and access to it prior to the stopping up of any such street or highway, but nothing in this paragraph shall affect any right of the undertaker or of Cadent to require the removal of that apparatus under paragraph 53.

(2) Notwithstanding the temporary alteration, diversion or restriction of use of any street under the powers of article 16 (Temporary alteration, diversion, prohibition and restriction of use of streets), Cadent will be at liberty at all times to take all necessary access across any such street and to execute and do all such works and things in, upon or under any such street as it would have been entitled to do immediately before such temporary alteration, diversion or restriction of use in respect of any apparatus which at the time of the stopping up or diversion was in that street.

### **Protective works to buildings**

52. The undertaker must exercise the powers conferred by article 22 (protective work to buildings) so as not to obstruct or render less convenient the access to any apparatus without the written consent of Cadent (such consent not to be unreasonably withheld or delayed)

### **Acquisition of land**

53.—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not appropriate or acquire any interest in land or appropriate, acquire, extinguish, interfere with or override any easement or other interest in land of Cadent otherwise than by agreement.

(2) As a condition of agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised development (or in such other timeframe as may be agreed between Cadent and the undertaker) that is subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement or other legal or land interest of Cadent or affect the provisions of any enactment or agreement regulating the relations between Cadent and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as Cadent reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between Cadent and the undertaker acting reasonably and which must be no less favourable on the whole to Cadent unless otherwise agreed by Cadent, and it will be the responsibility of the undertaker to procure or secure the consent to and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised development.

(3) The undertaker and Cadent agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation or removal of apparatus, including but not limited to the payment of costs and expenses relating to such relocation or removal of apparatus and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by Cadent and other enactments relied upon by Cadent as of right or other use in relation to the apparatus, then the provisions in this Schedule prevail.

(4) Any agreement or consent granted by Cadent under paragraph 56 or any other paragraph of this Part of this Schedule, is not to be taken to constitute agreement under sub-paragraph (1).

(5) As a condition of an agreement under sub-paragraph (1) that involves de-commissioned apparatus being left in situ the undertaker must accept a surrender of any existing easement or other interest of Cadent in such decommissioned apparatus and release Cadent from all liabilities in respect of such de-commissioned apparatus from the date of such surrender.

(6) Where an undertaker acquires land which is subject to any Cadent right or interest (including, without limitation, easements and agreements relating to rights or other interests) and the provisions of paragraph 54 do not apply, the undertaker must, unless Cadent agrees otherwise—

- (a) retain any notice of Cadent's easement, right or other interest on the title to the relevant land when registering the undertaker's title to such acquired land; and
- (b) (where no such notice of Cadent's easement, right or other interest exists in relation to such acquired land or any such notice is registered only on the Land Charges Register) include (with its application to register title to the undertaker's interest in such acquired land at the Land Registry) a notice of Cadent's easement, right or other interest in relation to such acquired land.

## **Removal of apparatus**

**54.**—(1) If, in the exercise of the powers conferred by this Order, including pursuant to any agreement reached in accordance with paragraph 57, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be decommissioned or removed under this Part of this Schedule and any right of Cadent to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, is in operation, and the facilities and rights referred to in sub-paragraph (2) have been provided, to the reasonable satisfaction of Cadent and in accordance with sub-paragraphs (2) to (5) inclusive.

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to Cadent advance written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order Cadent reasonably needs to move or remove any of its apparatus) the undertaker must afford to Cadent to its satisfaction (taking into account paragraph (1)) the necessary facilities and rights—

- (a) for the construction of alternative apparatus; and
- (b) subsequently for the maintenance of that apparatus.

(3) If the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, Cadent must, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to assist the undertaker in obtaining the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation will not extend to the requirement for Cadent to use its compulsory purchase powers unless it (in its absolute discretion) elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between Cadent and the undertaker.

(5) Cadent must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the prior grant to Cadent of such facilities and rights as are referred to in sub-paragraph (2) or (3), then proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to decommission or remove any apparatus required by the undertaker to be decommissioned or removed under the provisions of this Part of this Schedule.

## **Facilities and rights for alternative apparatus**

**55.**—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for Cadent facilities and rights in land for the access to, construction and maintenance of alternative apparatus in substitution for apparatus to be decommissioned or removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and Cadent and must be no less favourable on the whole to Cadent than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed unless otherwise agreed by Cadent.

(2) If the facilities and rights to be afforded by the undertaker and agreed with Cadent under sub-paragraph (1) in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to Cadent than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed, then the terms and conditions to which those facilities and rights are subject may be referred to arbitration in accordance with paragraph 63 (arbitration) of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to Cadent as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.



## **Retained apparatus: protection of Cadent**

**56.**—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to Cadent a plan and, if reasonably required by Cadent, a ground monitoring scheme in respect of those works.

(2) The plan to be submitted to Cadent under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant etc.;
- (d) the position of all apparatus;
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and
- (f) any intended maintenance regimes.

(3) The undertaker must not commence any specified works until Cadent has given written approval of the plan so submitted (and the ground monitoring scheme if required).

(4) Any approval of Cadent given under sub-paragraph (3)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraph (5); and
- (b) must not be unreasonably withheld or delayed and Cadent must meaningfully engage with the undertaker within 28 days of the date of submission of the plan under sub-paragraph (1).

(5) Cadent may require such modifications to be made to the plan as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(6) Specified works must only be executed in accordance with—

- (a) the plan submitted under sub-paragraph (1) (and ground monitoring scheme if required), as approved or as amended from time to time by agreement between the undertaker and Cadent; and
- (b) all conditions imposed under sub-paragraph (4)(a), and Cadent will be entitled to watch and inspect the execution of those works.

(7) Where Cadent requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to Cadent's satisfaction prior to the commencement of any specified works (or any relevant part thereof) for which protective works are required prior to commencement.

(8) If Cadent, in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 47 to 49 and 52 to 54 apply as if the removal of the apparatus had been required by the undertaker under paragraph 53(2).

(9) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the specified works, a new plan (and ground monitoring scheme if required), instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan (and ground monitoring scheme if required).

(10) As soon as reasonably practicable after any ground subsidence event attributable to the authorised development (including such an event attributable to its maintenance)—

- (a) the undertaker must implement an appropriate ground mitigation scheme; and
- (b) Cadent retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 56.

(11) The undertaker is not required to comply with sub-paragraph (1) where it needs to carry out emergency works but in that case it must give to Cadent notice as soon as is reasonably practicable and a plan of those works and must comply with the conditions imposed under sub-paragraph (4)(a) insofar as is reasonably practicable in the circumstances.

(12) In this paragraph, “emergency works” means works whose execution at the time when they are executed is required in order to put an end to, or to prevent the occurrence of, circumstances then existing or imminent (or which the person responsible for the works believes on reasonable grounds to be existing or imminent) which are likely to cause danger to persons or property.

## **Expenses**

**57.—**(1) Subject to the following provisions of this paragraph, the undertaker must pay to Cadent on demand, all charges, costs and expenses reasonably anticipated or reasonably incurred by Cadent in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised development including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid by Cadent in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs (including professional fees) incurred by Cadent as a consequence of Cadent;
  - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 53(3) if it elects to do so; or
  - (ii) exercising any compulsory purchase powers under this Order transferred to or benefitting Cadent;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule;
- (g) any watching brief pursuant to sub-paragraph 56(6).

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated, and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with paragraph 46 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to Cadent by virtue of sub-paragraph (1) will be reduced by the amount

of that excess save to the extent that it is not possible in the circumstances (or it would be unlawful due to a statutory or regulatory change) to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to Cadent in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on Cadent any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.]

## **Indemnity**

**58.**—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works authorised by this Part of this Schedule (including without limitation relocation, diversion, decommissioning, construction and maintenance of apparatus or alternative apparatus) or in consequence of the construction, use, maintenance or failure of any of the authorised development (including works carried out under article 22 (protective work to buildings)) by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by the undertaker) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised development) or property of Cadent, or there is any interruption in any service provided, or in the supply of any goods, by Cadent, or Cadent becomes liable to pay any amount to any third party, the undertaker will—

- (a) bear and pay on demand accompanied by an invoice or claim from Cadent, the cost reasonably incurred by Cadent in making good such damage or restoring the supply; and
- (b) indemnify Cadent for any other expenses, loss, demands, proceedings, damages, claims, penalty, compensation or costs properly incurred by, paid by or recovered from Cadent, by reason or in consequence of any such damage or interruption or Cadent becoming liable to any third party as aforesaid other than arising from any default of Cadent.

(2) The fact that any act or thing may have been done by Cadent on behalf of the undertaker or in accordance with a plan approved by Cadent or in accordance with any requirement of Cadent or under its supervision including under any watching brief will not (unless sub-paragraph (3) applies) excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless Cadent fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker in respect of—

- (a) any damage or interruption to the extent that it is attributable to the neglect or default of Cadent, its officers, servants, contractors or agents; and
- (b) any part of the authorised development carried out by Cadent in the exercise of any functions conferred by this Order pursuant to a grant or transfer under article 10 (consent to transfer benefit of the Order).
- (c) any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working or business

interruption) arising from any such damage or interruption, which is not reasonably foreseeable at the commencement of the relevant works referred to in sub-paragraph (1)

(4) Cadent must give the undertaker reasonable notice of any such third party claim or demand and no settlement, admission of liability or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations.

### **Enactments and agreements**

**59.** Except where this Part of this Schedule provides otherwise, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Cadent in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

### **Co-operation**

**60.**—(1) Where in consequence of the proposed construction of any part of the authorised development, the undertaker or Cadent requires the removal of apparatus under paragraph 53(2) or Cadent makes requirements for the protection or alteration of apparatus under paragraph 55, the undertaker must use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of Cadent's undertaking and Cadent must use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever Cadent's consent, agreement or approval is required in relation to plans, documents or other information submitted by Cadent or the taking of action by Cadent, it must not be unreasonably withheld or delayed.

### **Access**

**61.** If in consequence of any agreement reached in accordance with paragraph 53(1) or the powers conferred by this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative rights and means of access to such apparatus as will enable Cadent to maintain or use the apparatus no less effectively than was possible before such obstruction.

### **Arbitration**

**62.** Save for differences or disputes arising under sub-paragraphs 53(2) and 53(4) any difference or dispute arising between the undertaker and Cadent under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and Cadent, be determined by arbitration in accordance with article 52 (arbitration).

### **Notices**

**63.** Notwithstanding article 51 (service of notices) any plans submitted to Cadent by the undertaker pursuant to sub-paragraph 55(1) must be sent via email to Cadent Gas Limited Plant Protection at [plantprotection@cadentgas.com](mailto:plantprotection@cadentgas.com) as well as via post to Plant Protection, Cadent Gas Limited, Brick Kiln Street, Hinckley, Leicestershire, LE10 0NA, or such other address as Cadent may from time to time appoint instead for that purpose and notify to the undertaker in writing.

## **PART 6**

### **FOR THE PROTECTION OF RAILWAY INTERESTS**

**64.** The provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between the undertaker and Network Rail and, in the case of paragraph 78 of this Part of this Schedule any other person on whom rights or obligations are conferred by that paragraph.

**65.** In this Part of this Schedule—

“asset protection agreement” means an agreement to regulate the construction and maintenance of the specified work in a form prescribed from time to time by Network Rail;

“construction” includes execution, placing, alteration and reconstruction and “construct” and “constructed” have corresponding meanings;

“the engineer” means an engineer appointed by Network Rail for the purposes of this Order;

“network licence” means the network licence, as the same is amended from time to time, granted to Network Rail Infrastructure Limited by the Secretary of State in exercise of their powers under section 8 (licences) of the Railways Act 1993;

“Network Rail” means Network Rail Infrastructure Limited (company number 02904587, whose registered office is at 1 Eversholt Street, London NW1 2DN) and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes, and for the purpose of this definition “associated company” means any company which is (within the meaning of section 1159 of the Companies Act 2006) the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited and any successor to Network Rail Infrastructure Limited’s railway undertaking;

“plans” includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of railway property;

“railway operational procedures” means procedures specified under any access agreement (as defined in the Railways Act 1993) or station lease;

“railway property” means any railway belonging to Network Rail and-

- (a) any station, land, works, apparatus and equipment belonging to Network Rail or connected with any such railway; and
- (b) any easement or other property interest held or used by Network Rail or a tenant or licensee of Network Rail for the purposes of such railway or works, apparatus or equipment;

“regulatory consents” means any consent or approval required under:

- (a) the Railways Act 1993;
- (b) the network licence; and/or
- (c) any other relevant statutory or regulatory provisions;

by either the Office of Rail and Road or the Secretary of State for Transport or any other competent body including change procedures and any other consents, approvals of any access or beneficiary that may be required in relation to the authorised development;

“specified work” means so much of any of the authorised development as is situated upon, across, under, over or within 15 metres of, or may in any way adversely affect, railway property.

**66.—**(1) Where under this Part of this Schedule Network Rail is required to give its consent or approval in respect of any matter, that consent or approval is subject to the condition that Network Rail complies with any relevant railway operational procedures and any obligations under its network licence or under statute.

(2) In so far as any specified work or the acquisition or use of railway property is or may be subject to railway operational procedures, Network Rail must—

- (a) co-operate with the undertaker with a view to avoiding undue delay and securing conformity as between any plans approved by the engineer and requirements emanating from those procedures; and

- (b) use their reasonable endeavours to avoid any conflict arising between the application of those procedures and the proper implementation of the authorised development pursuant to this Order.

**67.**—(1) The undertaker must not exercise the powers conferred by—

- (a) article 5 (development consent etc. granted by the Order);
- (b) article 6 (construction and maintenance of authorised development);
- (c) article 21 (discharge of water);
- (d) article 23 (authority to survey and investigate the land);
- (e) article 24 (compulsory acquisition of land);
- (f) article 27 (compulsory acquisition of rights and imposition of restrictive covenants);
- (g) article 32 (acquisition of subsoil or airspace only);
- (h) article 34 (temporary use of land for carrying out the authorised development);
- (i) article 35 (temporary use of land for maintaining the authorised development);
- (j) article 36 (statutory undertakers);
- (k) article 29 (private rights over land);
- (l) article 39 (felling or lopping of trees and removal of hedgerows);
- (m) article 40 (trees subject to tree preservation orders);
- (n) the powers conferred by section 11(3) (power of entry) of the 1965 Act;  
in respect of any railway property unless the exercise of such powers is with the consent of Network Rail.

(2) The undertaker must not in the exercise of the powers conferred by this Order prevent pedestrian or vehicular access to any railway property, unless preventing such access is with the consent of Network Rail.

(3) The undertaker must not exercise the powers conferred by sections 271 or 272 of the 1990 Act, article 36 (statutory undertakers), or article 29 (private rights over land), in relation to any right of access of Network Rail to railway property, but such right of access may be diverted with the consent of Network Rail.

(4) The undertaker must not under the powers of this Order acquire or use or acquire new rights over, or seek to impose any restrictive covenants over, any railway property, or extinguish any existing rights of Network Rail in respect of any third party property, except with the consent of Network Rail.

(5) Where Network Rail is asked to give its consent pursuant to this paragraph, such consent must not be unreasonably withheld but may be given subject to reasonable conditions.

(6) The undertaker must enter into an asset protection agreement prior to the carrying out of any specified work.

**68.**—(1) The undertaker must before commencing construction of any specified work supply to Network Rail proper and sufficient plans of that work for the reasonable approval of the engineer and the specified work must not be commenced except in accordance with such plans as have been approved in writing by the engineer or settled by arbitration.

(2) The approval of the engineer under sub-paragraph (1) must not be unreasonably withheld, and if by the end of the period of 14 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not intimated their disapproval of those plans and the grounds of such disapproval the undertaker may serve upon the engineer written notice requiring the engineer to intimate approval or disapproval within a further period of 14 days beginning with the date upon which the engineer receives written notice from the undertaker. If by the expiry of the further 14 days the engineer has not intimated approval or disapproval, the engineer shall be deemed to have approved the plans as submitted.

(3) When signifying their approval of the plans the engineer may specify any protective works (whether temporary or permanent) which in the engineer's opinion should be carried out before

the commencement of the construction of a specified work to ensure the safety or stability of railway property or the continuation of safe and efficient operation of the railways of Network Rail or the services of operators using the same (including any relocation de-commissioning and removal of works, apparatus and equipment necessitated by a specified work and the comfort and safety of passengers who may be affected by the specified works), and such protective works as may be reasonably necessary for those purposes must be constructed by Network Rail or by the undertaker, if Network Rail so desires, and such protective works must be carried out at the expense of the undertaker in either case without unnecessary delay and the undertaker must not commence the construction of the specified works until the engineer has notified the undertaker that the protective works have been completed to their reasonable satisfaction.

**69.**—(1) Any specified work and any protective works to be constructed by virtue of paragraph 68(3) must, when commenced, be constructed—

- (a) without unnecessary delay in accordance with the plans approved or deemed to have been approved or settled under paragraph 68(1);
- (b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer;
- (c) in such manner as to cause as little damage as is possible to railway property; and
- (d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe use of any railway of Network Rail or the traffic thereon and the use by passengers of railway property.

(2) If any damage to railway property or any such interference or obstruction shall be caused by the carrying out of, or in consequence of the construction of a specified work, the undertaker must, notwithstanding any such approval, make good such damage and must pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction.

(3) Nothing in this Part of this Schedule imposes any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligence of Network Rail or its servants, contractors or agents or any liability on Network Rail with respect of any damage, costs, expenses or loss attributable to the negligence of the undertaker or its servants, contractors or agents.

**70.** The undertaker must-

- (a) at all times afford reasonable facilities to the engineer for access to a specified work during its construction; and
- (b) supply the engineer with all such information as they may reasonably require with regard to a specified work or the method of constructing it.

**71.** Network Rail must at all times afford reasonable facilities to the undertaker and its agents for access to any works carried out by Network Rail under this Part of this Schedule during their construction and must supply the undertaker with such information as it may reasonably require with regard to such works or the method of constructing them.

**72.**—(1) If any permanent or temporary alterations or additions to railway property are reasonably necessary in consequence of the construction or completion of a specified work in order to ensure the safety of railway property or the continued safe operation of the railway of Network Rail, such alterations and additions may be carried out by Network Rail and if Network Rail gives to the undertaker 28 days' notice (or in the event of an emergency or safety critical issue such notice as is reasonable in the circumstances) of its intention to carry out such alterations or additions (which must be specified in the notice), the undertaker must pay to Network Rail the reasonable cost of those alterations or additions including, in respect of any such alterations and additions as are to be permanent, a capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by Network Rail in maintaining, working and, when necessary, renewing any such alterations or additions.

(2) The engineer must, in respect of the capitalised sums referred to in this paragraph and paragraph 73(a) provide such details of the formula by which those sums have been calculated as the undertaker may reasonably require.

(3) If the cost of maintaining, working or renewing railway property is reduced in consequence of any such alterations or additions a capitalised sum representing such saving must be set off against any sum payable by the undertaker to Network Rail under this paragraph.

**73.** The undertaker must repay to Network Rail all reasonable fees, costs, charges and expenses reasonably incurred by Network Rail—

- (a) in constructing any protective works under the provisions of paragraph 68(3) including, in respect of any permanent protective works, a capitalised sum representing the cost of maintaining and renewing those works;
- (b) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer of the construction of a specified work;
- (c) in respect of the employment or procurement of the services of any inspectors, signallers, watch-persons and other persons whom it shall be reasonably necessary to appoint for inspecting, signalling, watching and lighting railway property and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of a specified work;
- (d) in respect of any special traffic working resulting from any speed restrictions which may in the opinion of the engineer, require to be imposed by reason or in consequence of the construction or failure of a specified work or from the substitution or diversion of services which may be reasonably necessary for the same reason; and
- (e) in respect of any additional temporary lighting of railway property in the vicinity of the specified works, being lighting made reasonably necessary by reason or in consequence of the construction or failure of a specified work.

**74.—(1)** In this paragraph-

“EMI” means, subject to sub-paragraph (2), electromagnetic interference with Network Rail apparatus generated by the operation of the authorised development where such interference is of a level which adversely affects the safe operation of Network Rail’s apparatus; and

“Network Rail’s apparatus” means any lines, circuits, wires, apparatus or equipment (whether or not modified or installed as part of the authorised development) which are owned or used by Network Rail for the purpose of transmitting or receiving electrical energy or of radio, telegraphic, telephonic, electric, electronic or other like means of signalling or other communications.

(2) This paragraph applies to EMI only to the extent that such EMI is not attributable to any change to Network Rail’s apparatus carried out after approval of plans under paragraph 68(1) for the relevant part of the authorised development giving rise to EMI (unless the undertaker has been given notice in writing before the approval of those plans of the intention to make such change).

(3) Subject to sub-paragraph (5), the undertaker must in the design and construction of the authorised development take all measures necessary to prevent EMI and must establish with Network Rail (both parties acting reasonably) appropriate arrangements to verify their effectiveness.

(4) In order to facilitate the undertaker’s compliance with sub-paragraph (3)-

- (a) the undertaker must consult with Network Rail as early as reasonably practicable to identify all Network Rail’s apparatus which may be at risk of EMI, and thereafter must continue to consult with Network Rail (both before and after formal submission of plans under paragraph 68(1)) in order to identify all potential causes of EMI and the measures required to eliminate them;
- (b) Network Rail must make available to the undertaker all information in the possession of Network Rail reasonably requested by the undertaker in respect of Network Rail’s apparatus identified pursuant to sub-paragraph (a); and
- (c) Network Rail must allow the undertaker reasonable facilities for the inspection of Network Rail’s apparatus identified pursuant to sub-paragraph (a).



(5) In any case where it is established that EMI can only reasonably be prevented by modifications to Network Rail's apparatus, Network Rail must not withhold its consent unreasonably to modifications of Network Rail's apparatus, but the means of prevention and the method of their execution must be selected in the reasonable discretion of Network Rail, and in relation to such modifications paragraph 68(1) has effect subject to the sub-paragraph.

(6) Prior to the commencement of operation of the authorised development the undertaker shall test the use of the authorised development in a manner that shall first have been agreed with Network Rail and if, notwithstanding any measures adopted pursuant to sub-paragraph (3), the testing of the authorised development causes EMI then the undertaker must immediately upon receipt of notification by Network Rail of such EMI either in writing or communicated orally (such oral communication to be confirmed in writing as soon as reasonably practicable after it has been issued) forthwith cease to use (or procure the cessation of use of) the undertaker's apparatus causing such EMI until all measures necessary have been taken to remedy such EMI by way of modification to the source of such EMI or (in the circumstances, and subject to the consent, specified in sub-paragraph (5)) to Network Rail's apparatus.

(7) In the event of EMI having occurred –

- (a) the undertaker must afford reasonable facilities to Network Rail for access to the undertaker's apparatus in the investigation of such EMI;
- (b) Network Rail must afford reasonable facilities to the undertaker for access to Network Rail's apparatus in the investigation of such EMI;
- (c) Network Rail must make available to the undertaker any additional material information in its possession reasonably requested by the undertaker in respect of Network Rail's apparatus or such EMI; and

(8) Where Network Rail approves modifications to Network Rail's apparatus pursuant to sub-paragraphs (5) or (6)–

- (a) Network Rail must allow the undertaker reasonable facilities for the inspection of the relevant part of Network Rail's apparatus;
- (b) any modifications to Network Rail's apparatus approved pursuant to those sub-paragraphs must be carried out and completed by the undertaker in accordance with paragraph 69.

(9) To the extent that it would not otherwise do so, the indemnity in paragraph 78(1) applies to the costs and expenses reasonably incurred or losses suffered by Network Rail through the implementation of the provisions of this paragraph (including costs incurred in connection with the consideration of proposals, approval of plans, supervision and inspection of works and facilitating access to Network Rail's apparatus) or in consequence of any EMI to which sub-paragraph (6) applies.

(10) For the purpose of paragraph 73(a) any modifications to Network Rail's apparatus under this paragraph shall be deemed to be protective works referred to in that paragraph.

(11) In relation to any dispute arising under this paragraph the reference in article 52 (Arbitration) to the Institution of Civil Engineers shall be read as a reference to the Institution of Engineering and Technology.

**75.** If at any time after the completion of a specified work, not being a work vested in Network Rail, Network Rail gives notice to the undertaker informing it that the state of maintenance of any part of the specified work appears to be such as adversely affects the operation of railway property, the undertaker must, on receipt of such notice, take such steps as may be reasonably necessary to put that specified work in such state of maintenance as not adversely to affect railway property.

**76.** The undertaker must not provide any illumination or illuminated sign or signal on or in connection with a specified work in the vicinity of any railway belonging to Network Rail unless it has first consulted Network Rail and it must comply with Network Rail's reasonable requirements for preventing confusion between such illumination or illuminated sign or signal and

any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway.

**77.** Any additional expenses which Network Rail may reasonably incur in altering, reconstructing or maintaining railway property under any powers existing at the making of this Order by reason of the existence of a specified work must, provided that not less than 56 days' previous notice of the commencement of such alteration, reconstruction or maintenance has been given to the undertaker, be repaid by the undertaker to Network Rail.

**78.—(1)** The undertaker must pay to Network Rail all reasonable costs, charges, damages and expenses not otherwise provided for in this Part of this Schedule (subject to article 45 (no double recovery)) which may be occasioned to or reasonably incurred by Network Rail—

- (a) by reason of the construction, maintenance or operation of a specified work or the failure thereof; or
- (b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon a specified work;
- (c) by reason of any act or omission of the undertaker or any person in its employ or of its contractors or others whilst accessing to or egressing from the authorised development;
- (d) in respect of any damage caused to or additional maintenance required to, railway property or any such interference or obstruction or delay to the operation of the railway as a result of access to or egress from the authorised development by the undertaker or any person in its employ or of its contractors or others;
- (e) in respect of costs incurred by Network Rail in complying with any railway operational procedures or obtaining any regulatory consents which procedures are required to be followed or consents obtained to facilitate the carrying out or operation of the authorised development;

and the undertaker must indemnify and keep indemnified Network Rail from and against all claims and demands arising out of or in connection with a specified work or any such failure, act or omission: and the fact that any act or thing may have been done by Network Rail on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under the engineer's supervision shall not (if it was done without negligence on the part of Network Rail or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this sub-paragraph.

(2) Network Rail must –

- (a) give the undertaker reasonable written notice (and in any event not less than 7 days) of any such claims or demands
- (b) not make any settlement or compromise of such a claim or demand without the prior consent of the undertaker; and
- (c) take such steps as are within its control and are reasonable in the circumstances to mitigate any liabilities relating to such claims or demands.

(3) The sums payable by the undertaker under sub-paragraph (1) shall if relevant include a sum equivalent to the relevant costs to the extent such costs result from the actions or omissions of the undertaker.

(4) Subject to the terms of any agreement between Network Rail and a train operator regarding the timing or method of payment of the relevant costs in respect of that train operator, Network Rail must promptly pay to each train operator the amount of any sums which Network Rail receives under sub-paragraph (3) which relates to the relevant costs of that train operator.

(5) The obligation under sub-paragraph (3) to pay Network Rail the relevant costs shall, in the event of default, be enforceable directly by any train operator concerned to the extent that such sums would be payable to that operator pursuant to sub paragraph (4).

(6) In this paragraph—

“the relevant costs” means the costs, losses and expenses (including loss of revenue) reasonably incurred by each train operator as a consequence of any restriction of the use of

Network Rail’s railway network as a result of the construction, maintenance or failure of a specified work or any such act or omission as mentioned in subparagraph (1); and

“train operator” means any person who is authorised to act as the operator of a train by a licence under section 8 of the Railways Act 1993.

**79.** Network Rail must, on receipt of a request from the undertaker, from time to time provide the undertaker free of charge with written estimates of the costs, charges, expenses and other liabilities for which the undertaker is or will become liable under this Part of this Schedule (including the amount of the relevant costs mentioned in paragraph 78) and with such information as may reasonably enable the undertaker to assess the reasonableness of any such estimate or claim made or to be made pursuant to this Part of this Schedule (including any claim relating to those relevant costs).

**80.** In the assessment of any sums payable to Network Rail under this Part of this Schedule there must not be taken into account any increase in the sums claimed that is attributable to any action taken by or any agreement entered into by Network Rail if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining the payment of those sums by the undertaker under this Part of this Schedule or increasing the sums so payable.

**81.** The undertaker and Network Rail may, subject in the case of Network Rail to compliance with the terms of its network licence, enter into, and carry into effect, agreements for the transfer to the undertaker of—

- (a) any railway property shown on the works and land plans and described in the book of reference;
- (b) any lands, works or other property held in connection with any such railway property; and
- (c) any rights and obligations (whether or not statutory) of Network Rail relating to any railway property or any lands, works or other property referred to in this paragraph.

**82.** Nothing in this Order, or in any enactment incorporated with or applied by this Order, prejudices or affects the operation of Part I of the Railways Act 1993.

**83.** The undertaker must give written notice to Network Rail if any application is proposed to be made by the undertaker for the Secretary of State’s consent, under article 10 (consent to transfer benefit of Order) of this Order and any such notice must be given no later than 28 days before any such application is made and must describe or give (as appropriate)—

- (a) the nature of the application to be made;
- (b) the extent of the geographical area to which the application relates; and
- (c) the name and address of the person acting for the Secretary of State to whom the application is to be made.

**84.** The undertaker must no later than 28 days from the date that the plans submitted to and certified by the Secretary of State in accordance with article 50 (certification of documents, etc.) , provide a set of those plans to Network Rail in a format specified by Network Rail.

**85.** In relation to any dispute arising under this part of this Schedule (except for those disputes referred to in paragraph 74(11)) the provisions of article 52 (Arbitration) shall not apply and any such dispute, unless otherwise provided for, must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) to the President of the Institution of Civil Engineers.

## SCHEDULE 10

Articles 2 and 50

### DOCUMENTS TO BE CERTIFIED

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(1)	(2)	(3)
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<i>Document</i>	<i>Document Reference</i>	<i>Revision</i>
Book of Reference	TR010037/APP/4.3	Revision 3 [REP5-006]
Classification of roads plans	TR010037/APP/2.11	Revision 1 [AS-027]
EMP (First Iteration)	TR010037/APP/7.4	Revision 4 [REP8-007]
Engineering drawings and sections	TR010037/APP/2.7	Revision 0 [APP-010]
Environmental statement	TR010037/APP/6.1 – 6/3	Revision 0 [APP-038, APP-040 to APP-047, APP-049 to APP-049, APP-052, APP-055 to APP-092, APP-095 to APP-110, APP-112 to APP-116, APP-118 to APP-121] Revision 1 [REP3-006, REP3-009, REP4-008, REP4-010, REP4-012, REP4-014, REP4-016, REP8-004] Revision 2 [REP4-006, REP4-011]
General arrangement plans	TR010037/APP/2.2	Revision 1 [AS-019]
Hedgerow plans	TR010037/APP/2.12	Revision 1 [REP4-002]
Land plans	TR010037/APP/2.3	Revision 2 [AS-020]
Special category land plans	TR010037/APP/2.10	Revision 1 [AS-026]
Environmental masterplan	TR010037/APP/6.8	Revision 1 [AS-032]
Rights of way and access plans	TR010037/APP/2.5	Revision 1 [AS-022]
Traffic regulation plans	TR010037/APP/2.6	Revision 1 [AS-023]
Works plans	TR010037/APP/2.4	Revision 1 [AS-021]
Outline traffic management plan	TR010037/APP/7.5	Revision 2 [REP6-009]

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order authorises National Highways Limited to improve the A47/A11 Thickthorn junction in Norfolk and carry out all associated works.

The Order permits National Highways Limited to acquire, compulsorily or by agreement, land and rights in land and to use land for this purpose.

The Order also makes provision in connection with the maintenance of the authorised development.

A copy of the plans, engineering drawings and sections, book of reference and environmental statement mentioned in this Order and certified in accordance with article 50 (certification of plans, etc.) may be inspected free of charge during working hours at National Highways Limited, Bridge House, 1 Walnut Tree Close, Guildford, Surrey GU1 4LZ.

