



Department
for Transport

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National Highways
Woodlands
Manton Lane
Bedford
MK41 7LW

Dear Sir/Madam,

Planning Act 2008
Application for the Proposed A47 Wansford to Sutton Development
Consent Order

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

- The report dated 11 October 2022 (“the Report”) of the Examining Authority (“ExA”), comprised of Robert Jackson BA MPhil DMS MRTPI MCMi who conducted an Examination into the application made by National Highways (“the Applicant”) for the A47 Wansford to Sutton Development Consent Order (“the Application”) under section 37 of the Planning Act 2008 as amended (“the 2008 Act”);
- The responses to the further consultations undertaken by the Secretary of State following the close of the Examination in respect of the Application; and
- Late representations received by the Secretary of State following the close of the Examination.

2. The Application was accepted for Examination on 2 August 2021. The Examination began on 12 January 2022 and was completed on 11 July 2022. The Examination was conducted based on written and oral submissions submitted to the ExA and by a series of hearings. The ExA also undertook an access required site inspection and two unaccompanied site inspections [ER 1.4.12 - ER 1.4.14].

3. The Development Consent Order (“the Order”) as applied for would grant development consent for a dual carriageway road between Wansford and the western extent of the existing dual carriageway at Sutton within the unitary authority area of Peterborough City Council (“PCC”). The elements comprising the scheme (collectively referred to as “the Proposed Development”) are:

- approximately 2.6 kilometres (km) of new dual carriageway including the construction of two new underpasses;
- a new free-flow link road connecting the existing A1 southbound carriageway to the new A47 eastbound carriageway;
- a new link road from the Wansford eastern roundabout to provide access to Sacrewell Farm, the petrol filling station and the Anglian Water pumping station;
- closure of the existing access to Sacrewell Farm with a new underpass connecting to the farm from the link road provided;
- a new slip road from the new A47 westbound carriageway also providing access to the petrol filling station;
- a link road from the new A47 Sutton Heath roundabout, linking into Sutton Heath Road and Langley Bush Road;
- new junction arrangements for access to Sutton Heath Road and Langley Bush Road;
- closure of the existing accesses to the A47 from Sutton Heath Road, Sutton Drift and Upton Road;
- new passing places and limited widening along Upton Drift;
- new walking and cycling routes, including a new underpass at the disused railway;
- revised access to the properties facing the A1, north of Windgate Way;
- installation of boundary fencing, safety barriers and signage;
- new drainage systems including:
 - two new outfalls to River Nene;
 - a new outfall to Wittering Brook;
 - extension of the A1 culvert on Mill Stream;
 - realignment of the A47 Wansford Sluice;
 - drainage ditch interceptors; and
 - new attenuation basins, with pollution control devices, to control discharges to local watercourses;
- River Nene compensatory flood storage area;
- works to alter or divert utilities infrastructure such as electricity lines, water pipelines and telecommunications lines;
- temporary compounds, material storage areas and vehicle parking required during construction; and
- environmental mitigation measures.

4. During the Examination, the ExA accepted three change requests to the Proposed Development. The changes sought were to allow for:

- 1) the realignment of the new link road from the A47 Wansford eastern roundabout to the new A47 off-bound slip to the north by approximately 14m. The Applicant indicated that this would reduce construction phasing requirements associated with utility diversions [ER 2.3.7];
- 2) the realignment of the access to Sacrewell Farm so that, while the terminus points would remain constant, rather than being on a north-south alignment with an east-west section at the northern end, to the north of the Sacrewell underpass the line would be northeast-southwest. There would be an associated change regarding a field entrance. The Applicant indicated this was to avoid Anglian Water assets and to improve visibility at the access to Sacrewell Farm [ER 2.3.8]; and
- 3) the shortening of the cycle route at the eastern end of the Proposed Development by deleting a section of cycle track on the northern frontage of Peterborough Road. This would, according to the Applicant, avoid the need for cyclists to leave Peterborough Road at the Nene Way junction. However, sections of footway would be provided on both the northern and southern frontages of Peterborough Road [ER 2.3.9].

5. The ExA concluded that the second of these three changes represented a material change due to the effect on land interests but concluded that overall, none of these changes either individually or cumulatively resulted in a change to the Proposed Development to the extent that a new application was required [ER 2.3.10]. The ExA therefore accepted all three changes into the Examination. The Secretary of State agrees with the ExA that these changes should be accepted as part of the Proposed Development.

6. Published alongside this letter on the Planning Inspectorate website is a copy of the ExA's Report of Findings and Conclusions and Recommendation to the Secretary of State ("the Report"). All "ER" references are to the specified paragraph in the Report. Paragraph numbers in the Report are quoted in the form "ER x.xx.xx" as appropriate. References to "requirements" are to those in Schedule 2 to the Order as the ExA recommended at Appendix E to the Report ("the rDCO").

7. This decision was delegated by the Secretary of State to the Minister of State for Transport, Huw Merriman. While this decision has not been taken by the Secretary of State, by law, it must be issued in the name of the Secretary of State. All references to the Secretary of State are therefore to the Minister of State on behalf of the Secretary of State.

SUMMARY OF EXA'S RECOMMENDATION

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

- Legal and Policy Context
- The Planning Issues

- The principle and consideration of alternatives to the Proposed Development
- Traffic and Transport
- Socio-Economic matters
- Cultural Heritage
- Biodiversity
- Air Quality and Emissions
- Geology, Geotechnical Risk and Soils
- The Water Environment and Flood Risk
- Noise and Vibration
- Landscape and Visual Effects
- Habitats Regulations Assessment
- Compulsory Acquisition and related matters
- Draft Development Consent Order and related matters.

9. For the reasons set out in the Report, the ExA recommended that the Secretary of State should not make an Order granting development consent for the Proposed Development [ER 19.3.1]. However, the ExA recommended that should the Secretary of State consider that substantive works to the Proposed Development on the Wansford west roundabout (“WWR”) be excluded, the Order should be granted in the form set out in Appendix E of the Report subject to the following outstanding matters being resolved [ER 19.3.2]:

- obtaining Crown consent from the Secretary of State for Levelling Up, Housing and Communities for the compulsory acquisition of plot 1/5a and the temporary possession with imposition of rights on plot 1/6a as shown on the Crown Land Plans;
- clarity in respect of land plot 3/2g;
- ensuring the Book of Reference is corrected;
- ensuring no significant adverse effect on bats through clarification that Natural England would be willing to grant a bat licence;
- considering any implications of the Net Zero Case; and
- considering any implications from the latest ground investigations as this may have implications for clarifying the extent of emissions and for funding decisions.

10. The Secretary of State is satisfied that all matters listed above have been resolved, as described below.

SUMMARY OF SECRETARY OF STATE’S DECISION

11. **The Secretary of State has decided under section 114 of the 2008 Act to make with modifications an Order granting development consent for the**

proposals in this Application. The letter is the statement of reasons for the Secretary of State's decision for the purposes of section 116 of the 2008 Act and regulation 31(2) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 ("the 2017 Regulations").

SUMMARY OF SECRETARY OF STATE'S CONSIDERATION

12. The Secretary of State's consideration of the Report, responses to his consultations of 28 October 2022, 12 December 2022, 10 January 2023, 19 January 2023 and 27 January 2023 and 6 February 2023, representations received after the close of Examination and all other material considerations are set out in the following paragraphs. Where consultation responses are not otherwise mentioned in this letter, it is the Secretary of State's view that these representations do not raise any new issues that were not considered by the ExA and do not give rise to an alternative conclusion or decision on the Order.

13. Where not otherwise stated in this letter, the Secretary of State can be taken to agree with the findings, conclusions and recommendations as set out in the Report and the reasons given for the Secretary of State's decision are those given by the ExA in support of the conclusions and recommendations.

14. The Secretary of State is content that the Proposed Development is a National Significant Infrastructure Project in accordance with section 14(1)(h) and section 22(1) to (3) of the 2008 Act for the reasons set out at ER 1.1.5, and that section 104(2) of the 2008 Act has effect in relation to the Proposed Development. In determining this Application, the Secretary of State must therefore have regard to any relevant National Policy Statements ("NPS"), and Local Impact Report ("LIR") submitted, any matters prescribed in relation to development of the description to which the Application relates, and any other matters the Secretary of State considers to be both important and relevant to the decision [ER 3.1.1]. Under section 104(3) of the 2008 Act, the Secretary of State must decide this Application in accordance with any relevant NPS which in this case is the National Policy Statement for National Networks ("NPSNN"), subject to any of the exceptions in section 104(4) to (8) of the 2008 Act applying [ER 3.1.2].

15. The Secretary of State does not consider any of the exceptions apply to this case. The Secretary of State has also had regard to the environmental information associated with this scheme as defined in regulation 3(1) of the 2017 Regulations. In making the decision, the Secretary of State has complied with all applicable legal duties and has not taken account of any matters which are not relevant to the decision.

16. With regard to the NPSNN, in a Ministerial Statement issued on 22 July 2021, the Secretary of State advised that a review of the NPSNN would begin later in 2021. This review is expected to be completed during 2023. While the review is undertaken, the NPSNN remains relevant government policy and has effect for the purposes of the 2008 Act. The NPSNN will, therefore, continue to provide a proper basis on which the Planning Inspectorate can examine, and the Secretary of State can make decisions on, applications for development consent.

17. The Secretary of State has had regard to the LIR prepared by Peterborough City Council [ER 1.4.32] and its Peterborough Local Plan [ER 3.10]. The Secretary of State also notes the ExA's assessment, set out in section 3 of the Report, regarding

European Law and related UK Regulations, other relevant legal provisions, previous Development Consent Orders, transboundary effects and other relevant policy statements and agrees these are matters to be considered in deciding this Application.

Principle of the Proposed Development

Need for the Development

18. The Secretary of State notes that the need for an upgrading of the A47 between the Nene Way roundabout and the A1 has been identified by the Applicant (under its former title, Highways England) since 2015 as part of the A47/ A12 Corridor Feasibility Study and the A47 Wansford to Sutton Dualling was included in Road Investment Strategy 1 (“RIS1”) in 2014 [ER 2.4.1 and ER 16.4.5].

19. The Applicant considered the A47 to be an important route for both commuter and longer distance traffic between Yarmouth on the east coast and the A1, connecting Norwich and Peterborough [ER 2.2.2], and the ExA sets out the Applicant’s objectives for the Proposed Development at ER 2.2.3, namely: supporting economic growth; making a safer network; providing a more free-flowing network; and creating an accessible and integrated network. The Applicant stated that as approximately half of the A47 between the A1 and Peterborough is single carriageway, this acts as a bottleneck, resulting in congestion and leading to longer journey times and a poor safety record. The Applicant considered this could be addressed by making the whole length of the A47 between Wansford and Peterborough a dual carriageway [ER 2.2.5 and ER 6.3.3].

20. The Secretary of State notes that the Proposed Development is part of a package of proposals for the A47 corridor as identified in RIS1 and RIS2 with the aim of achieving a modern standard dual carriageway whose benefits, according to the Applicant, are creating appropriate capacity to cope with peak demand and growth in the vicinity, improving traffic flow, reducing journey times and increasing route safety and resilience [ER 5.2.2].

21. Paragraph 2.2 of the NPSNN identifies a critical need to improve the national networks to address road congestion. Paragraphs 2.12 to 2.14 of the NPSNN highlight the importance of the strategic road network in providing critical links between areas, enabling safe and reliable journeys and the movement of goods in support of national and regional economies. The ExA noted that there was little objection to the principle of the Proposed Development and the Secretary of State agrees that it complies with the overall principles of the NPSNN [ER 5.2.3] and that the need for the Proposed Development has been established. There is a presumption in favour of granting development consent for national network Nationally Significant Infrastructure Projects (“NSIP”) that fall within infrastructure established in the NPSNN and the Secretary of State agrees with the ExA that the Proposed Development represents such a scheme [ER 16.4.6].

The Scope of the Development

22. The Secretary of State notes that during the Examination, concerns were raised regarding the ability of the Proposed Development to meet its objectives [ER 5.3.1 and ER 5.3.3]. However, aside from an objection from Climate Emergency Planning and Policy (“CEPP”) regarding carbon emissions, no party objected to the construction of a dual carriageway between the A1 junction and existing dual carriageway to the east

of the Nene Way roundabout. Concerns were, however, raised by Interested Parties (“IPs”) regarding the location of the route and details of design [ER 5.3.2] and regarding the WWR [ER 5.3.4 - ER 5.3.5] and these concerns primarily focused on the view that substantive works to the roundabout are required for the reasons summarised in ER 5.3.5.

23. The ExA’s recommendation that consent be refused is dependent on whether the Secretary of State considers that the works at WWR and effects on traffic here are within the scope of the Proposed Development. The Secretary of State notes that the only works on WWR in the Application as applied for is for a new cycle crossing on the western side of the WWR as part of the Proposed Development’s overall route strategy to improve safety and reliability. The Secretary of State notes that the ExA considered that there were deficiencies in the Applicant’s traffic modelling which meant expected improvements to traffic overall would not be realised at the WWR. The ExA considered that should the Secretary of State agree that the effects on WWR are in scope of the Proposed Development [ER 5.5.4], the Secretary of State should refuse consent on the basis that further works are required to address these effects. This would mean that the Applicant’s scheme objectives set out in paragraph 19 above would not be met.

24. Alternatively, the ExA recommended that should the Secretary of State agree with the Applicant that substantive works on the WWR fall outside of the scope of the Proposed Development [ER 5.3.6 and 5.5.3], then all proposed works on WWR should be removed. Therefore with the insertion of the ExA’s recommended provision for an NMU route across the A1 overbridge together with the deletion of the cycle crossing proposed by the Applicant detailed in Works 12 of the rDCO (works on WWR), the ExA considered that the expected benefits would outweigh the potential harm that might arise as a result of the Proposed Development [ER 5.5.5].

25. The Secretary of State agrees that it is for the Applicant to put forward the application it considers best meets the relevant legal, policy and guidance tests [ER 5.6.1]. While the Secretary of State has considered that the Proposed Development will not address existing problems at WWR and that there could be further impacts that may occur as a result of the Proposed Development on WWR, he is of the view that additional substantial works such as suggested by WPC and other IPs during the examination fall outside of the scope of the Application. The Secretary of State considers that the Proposed Development would not however prevent works to the roundabout being taken forward as part of a separate scheme in future. He notes that the Applicant’s Transport Assessment states that the existing issues at this roundabout will be raised with NH’s Operations Team for consideration as a future improvement project during the identification and prioritisation process for future road periods [ER 6.3.16]. This is also confirmed in the Statement of Common Ground (“SoCG”) between the Applicant and WPC [REP8-021]. In addition, the Secretary of State disagrees with the ExA that the cycle crossing within Work 12 needs to be removed for consent to be granted. This is because the cycle crossing, which was proposed at WWR in the Application as submitted, has been included as part of the Proposed Development’s scheme objectives [ER 2.2.4] to improve safety and reliability. The Secretary of State’s assessment of the Applicant’s traffic modelling and impacts that may arise at this roundabout, consideration of the NMU route over the A1

overbridge and the Secretary of State's consideration of the benefits and harm to the Proposed Development as applied for is set out below.

Consideration of Alternatives

26. The Secretary of State notes that the Applicant's overall approach is set out in Chapter 3 of the Environmental Statement ("the ES"). The Applicant considered three alternative routes, as described in ER 5.4.4 to 5.4.6. Route 2 was chosen as the preferred route following an options consultation in March and April 2017 as it was said to have significant advantages in terms of environmental impacts when compared to Option 3 and would have less impact during construction when compared to Option 1 [ER 5.4.7]. Further modifications and refinements to this route were made subsequently [ER 5.4.9 - ER 5.4.11].

27. The Secretary of State notes that concerns were raised regarding the route of the Proposed Development in the vicinity of the Scheduled Monument¹ and regarding the consultation in relation to the proposed closure of Main Road, Upton [ER 5.4.15].

28. Wansford Parish Council's ("WPC") concerns regarding the route of the Proposed Development are set out at ER 5.4.16 and in their late representations. WPC considers the route should run further to the north and bisect the Scheduled Monument; a view supported by Sutton Parish Council ("SPC") [ER 5.4.17]. The ExA considered the judgment in *R (on the application of the Save Stonehenge World Heritage Site Ltd) v Secretary of State for Transport* [2020] EWHC 2161 (Admin) and summarised it as holding that proper consideration should be given to alternatives that are neither vague or inchoate, particularly where it is agreed that there would be some harm to a scheduled monument which then needs to be balanced [ER 5.5.6]. The ExA considered that the Applicant applied the wrong test when deciding the route of the main line [ER 5.5.7]. The Secretary of State notes that the route through the Scheduled Monument (i.e., Option 3) was rejected by the Applicant because it could not demonstrate a "wholly exceptional" case for progressing with this option [ER 5.5.8] and that the ExA requested further evidence regarding the decision-making process on the basis that NPSNN paragraph 5.131 suggests that the "wholly exceptional" test applies when there would be substantial harm [ER 5.5.9]. The ExA considered the Applicant's response to be unconvincing and concluded there would be less than substantial harm if the main line was routed through the Scheduled Monument [ER 5.5.10]. However, whilst the ExA considered that the assessment of alternatives was flawed as it did not properly consider another potentially viable route [ER 5.5.13], overall, it concluded that routing the main line through the Scheduled Monument would result in less than substantial harm but at a greater level than the less than substantial harm that would be caused by the Proposed Development as submitted [ER 5.5.14]. The ExA concluded that since the Proposed Development would result in less harm to heritage assets than Option 3, the most appropriate option was chosen for this part of the Proposed Development [ER 5.5.15]. The ExA also concluded that while the identification of options near the Scheduled Monument was flawed, had it been taken on a correct basis the same solution would have been chosen [ER 5.6.2]. The Secretary of State is satisfied with this conclusion but disagrees that the judgment in *R (on the application of the Save Stonehenge World Heritage Site Ltd) v Secretary of*

¹ The Scheduled Monument's official designation is: "Cropmark site of a barrow cemetery and a quadrilateral ditched enclosure, together with pits and a pit alignment, approximately 837m south-east of Sacrewell Farmhouse (1006796)". [ER 2.1.10; footnote 15].

State for Transport [2020] EWHC 2161 (Admin) is relevant to this case given it was made clear that the Stonehenge site and the circumstances of that Proposed Development were “wholly exceptional”. This is not the case with this Proposed Development.

29. The Secretary of State notes that the decision to relocate the eastern Nene Way roundabout to the west was made late in the process [ER 5.5.16] with the ExA concluding that residents and businesses in Upton were not engaged as effectively as they should have been [ER 5.6.3]. He further notes the steps taken by the Applicant [ER 5.5.17 - ER 5.5.18], and that it is a matter of judgement whether an amendment to a scheme during its gestation represents a fundamental change which means that the programme should revert to an earlier stage or alternatively, that it continues, provided that prejudice does not occur [ER 5.5.19]. The Secretary of State agrees with the ExA that, on balance, the Applicant’s approach was reasonable, as prejudice was avoided by the statutory consultation which took place as part of the Examination. The residents and business of Upton were able to make representations regarding the proposed closure of Main Road/Upton Road which the Secretary of State agrees he has been able to consider as part of the decision-making process [ER 5.5.20].

30. In accordance with paragraph 4.26 of the NPSNN, the Secretary of State notes that the Applicant has included within the ES an outline of the main alternatives studied and provided an indication of the main reasons for choice of the preferred route, taking into account the environmental effects. The Secretary of State further notes that in accordance with paragraph 4.27 of the NPSNN, the ExA was satisfied that the Proposed Development has been subject to a full options appraisal in achieving its status within RIS2 and that a proportionate consideration of alternatives was undertaken as part of the investment decision making process [ER 5.6.5]. The Secretary of State concurs with this conclusion.

The Secretary of State’s Conclusion on the Principle of the Proposed Development

31. As mentioned above, the need for upgrading the A47 between the Nene Way roundabout and the A1 has been identified since 2014 [ER 16.4.5] and the ExA considers the Proposed Development represents a scheme for which there is such a presumption [ER 16.4.6].

32. Like the ExA, the Secretary of State agrees that the Proposed Development would make an important contribution to the improvement and enhancement of part of the strategic road network meeting the key objectives of the NPSNN and local planning policy and would support economic growth by improving journey times and reliability, making a safer and more free-flowing network. The Secretary of State notes the ExA considers this finding only applies east of the Wansford east roundabout and to the traffic travelling south on the A1 and then travelling east. The Secretary of State further notes the ExA’s considers, subject to the provision of an NMU route on the A1 overbridge, the Proposed Development would create a more accessible and integrated network [ER 16.5.6].

33. The Secretary of State notes it is not in dispute that the single carriageway section of the A47 east of the Wansford east roundabout and the location of the Nene Way roundabout would be enhanced in traffic terms by the Proposed Development, which would provide a more resilient highway, reduce the number of junctions and be likely to improve highway safety and reduce accidents. The Secretary of State further

notes that, as a dual carriageway, it would allow for easier and safer overtaking of slower moving traffic and thus reduce driver frustration [ER 6.5.2].

34. The Secretary of State further notes the provision of the free-flowing link road between the A1 southbound and the A47 eastbound would improve congestion on the Wansford east roundabout as it would remove traffic associated with this manoeuvre [ER 6.5.3].

35. Overall, the Secretary of State considers that the Proposed Development complies with the NPSNN and agrees with the ExA that the benefits of the Proposed Development should be given substantial weight [ER 6.5.4].

Traffic and Transport

36. The ExA's consideration, findings and conclusions on Traffic and Transport is set out in section 6 of the Report. The ExA noted the following areas of dispute raised by IPs during the Examination:

- The appropriateness of the traffic modelling and Transport Assessment in relation to impacts from operation on the WWRt [ER 6.3.13 – 6.3.24];
- Whether the proposed Non-Motorised Users (“NMU”) routes would address the needs of cyclists and pedestrians [ER 6.3.25 – 6.3.47]; and
- The impact on the routes to and from Upton [ER 6.3.48 – 6.3.55].

37. The Secretary of State also notes that the ExA considered several transport matters not in dispute, as described in ER 6.5.73 to 6.5.75.

Wansford west roundabout

38. The Secretary of State is aware that the WWR is a non-signalised controlled roundabout with:

- eastern and western arms to the A47;
- a southern arm providing access to the main part of the village of Wansford; and
- a northern arm providing the on and off slip roads to the A1 northbound [ER 2.1.7].

39. The Secretary of State notes that the only substantive change to this roundabout proposed by the Applicant is for a dedicated at-grade cycle crossing at the western side of the roundabout [ER 2.2.10].

40. The ExA considered that there were the following existing traffic issues at this roundabout:

- traffic preventing access from the west by movements from the eastern and southern arms travelling across this line; and
- traffic ‘backing up’ across the existing A47 overbridge from the Wansford east roundabout [ER 6.4.8].

41. The Secretary of State notes that the Applicant prepared a strategic model of traffic movement across the A47 corridor between Wansford and Peterborough, referred to as the Wansford Traffic Model (“WTM”). In addition to the WTM, the

Applicant prepared a local micro-simulation model of traffic, referred to as the VISSIM model, to model traffic in the A47 single carriageway section and the village of Wansford [ER 6.3.5].

42. The Applicant's modelling shows that without the Proposed Development the Wansford east roundabout will be at over capacity, but the Applicant indicates that the Proposed Development would provide the required capacity improvements to allow for forecasted traffic growth on the A47/ A1 junction as well as along the A47 along this section [ER 6.3.6]. With the Proposed Development it concluded that in respect of the westbound direction on the WWR, there would be some time savings in the AM peak but only minimal time savings in the PM peak due to the constraints of the roundabout and Wansford bridge [ER 6.3.14]. The Applicant's modelling also showed that by 2040, although there would be a reduction in traffic on the A47 eastbound approach arms and old North Road (northbound arms), delays would remain on the westbound and southbound arms of the roundabout [ER 6.3.19].

43. The ExA records that there was no dispute regarding the WTM modelling [ER 6.5.6], but concerns were raised regarding the VISSIM model. The ExA notes that WPC raised concerns about VISSIM as it showed traffic on Old North Road (northbound) decreasing. The Secretary of State notes that WPC's concerns are set out in detail in their representation dated February 2022 [ER 6.4.7]. The Secretary of State also notes that WPC acknowledge the existing operational capacity issues at paragraph 3.2 of this representation. The ExA also records that WPC's concerns relate to the VISSIM model being based on an equilibrium model [ER 6.4.9] which is considered further below. The Secretary of State is aware that WPC's suggested solution to the issues at this roundabout is for a signalised junction utilising 'intelligent' traffic signals which would allow for different flows throughout the day [ER 6.4.12].

44. The ExA recorded that SPC also raised concerns regarding the lack of proposals at WWR [ER 6.3.20], and that SPC was of the view that the VISSIM model underestimates the levels of traffic that would be on Langley Bush Road [ER 6.4.15]. The Secretary of State is aware both WPC and SPC maintained concerns regarding the impact of the Proposed Development on this roundabout in their signed SoCG with the Applicant [REP8-021 and REP8-022].

45. The VISSIM model is based on the Wardrop Equilibrium model which, put simply, relies on the notion that in congested conditions users of a transport network will select a route that minimises time [ER 6.5.6]. The ExA considered VISSIM was flawed for two reasons:

- it assumes road users will know the conditions on the road network before the start of their journey so that they are able to choose the most efficient route, but conditions change not only on a regular pattern but dynamically; and
- it also assumes that all routes are equally safe. [ER 6.5.8]

46. The ExA concluded that the VISSIM model underestimates the traffic that will travel from the Old North Road onto the roundabout based on the following assumptions:

- *"...it could be argued that it is more rational to use a route which is more congested, and thus take longer to pass through the area, if it is perceived to be safer and the user less likely to be involved in an accident."* [ER 6.5.10];

- *“...at the Peterborough Road/ A1 junction the two slip roads on and off the A1 are effectively non-existent. Having driven out of this junction on the A1 in the USI, I can fully understand local users, who know the junction, considering it not to be safe, and preferring to use the Wansford west roundabout. The VISSIM model, of course, assumes that the Peterborough Road/ A1 junction would be used when it was more cost effective than the Wansford west roundabout.” [ER 6.5.12]; and*
- *“That the accident record for the Peterborough Road/ A1 junction is not poor (see data in Annex D ‘A1 Northbound Weaving Collision Analysis’ of the Applicant’s Further Response to Actions from Hearings – Annexes [REP5-021]) is, in my opinion, likely to be an adjunct of local behaviour of preferring not to use it.” [ER 6.5.13].*

47. The Secretary of State notes that during the Examination, in response to the concerns raised by WPC, the Applicant undertook a sensitivity test of the roundabout and surrounding local areas. The sensitivity test was conducted at a higher level under the WTM rather than the VISSIM model [ER 6.5.20] and was submitted as the ‘Wansford Traffic Model Calibration and Peterborough Road Sensitivity Test Technical Note’ in Annex C in the Applicant’s deadline 5 response titled ‘Applicant’s Further Response to Actions from Hearings’. [ER 6.5.15]. The sensitivity test concluded that in the event of the closure of Peterborough Road in the eastbound direction at the A1 junction, road users would use two alternative routes onto the A1 (via Old North Road and the WWR to the north and via London Road to the south) and concluded that the largest changes would be in the AM peak, where there are already the longest delays for eastbound traffic on the A47 [ER 6.5.16]. The sensitivity test concluded that without the Proposed Development and access to the A1 via Peterborough Road, there is expected to be a 50 - 150 increase in passenger car units on Old North Road in the AM peak, and in the PM peak an increase of up to 60 passenger car units. The sensitivity test found that the increase in the traffic will primarily be a result of an increase in northbound traffic accessing the roundabout, but that the future year traffic levels stay below the base year scenario in both the AM and PM peaks. As well as at the annual average daily traffic level. The sensitivity test showed that with the Proposed Development, traffic is expected to increase by around 100 passenger car units in the AM peak, and in the PM peak it is expected to increase by about 80 [REP5-021].

48. The ExA considered that the sensitivity test underestimates the traffic that might occur at the WWR as a result of the Proposed Development because it overestimates the number of road users traveling south [ER 6.5.17]. The ExA considered it is unlikely that road users would head south across Wansford Bridge to then travel back north on the A1 via the London Road junction because:

- *“...Wansford Bridge is essentially single carriageway as traffic is required to wait at either end for that on the bridge to pass, resulting in delay”; and*
- *“...most users would find travelling south to then travel north counterintuitive. Therefore, I consider that users within Wansford are more likely to travel initially north utilising the Wansford west roundabout.” [ER 6.5.17].*

49. The ExA therefore concluded that the VISSIM model does not sufficiently take into account the nature of the Peterborough Road/ A1 junction, the restrictions at the Wansford bridge and human behaviour based on alternative routes [ER 6.5.19]. The

ExA noted that the Applicant concluded that not using the Peterborough Road/A1 junction would have a negligible impact on the overall operation of the scheme but considered that because the sensitivity test was modelled using the WTM rather than the VISSIM model, it is less robust and therefore afforded it lesser weight [ER G.20].

50. The Secretary of State notes that the Applicant's transport assessment utilised two highway models as described above: The Secretary of State understands the WTM was developed in line with the Department for Transport's ("the Department") Transport Appraisal Guidance and that it was calibrated to represent a 2015 base year. The Secretary of State is also aware that the VISSIM model was derived from the WTM via an interface which considered the local observed 2019 traffic count data and was then validated to represent 2019 traffic conditions to assess the model's robustness, and to ensure it provides a suitable platform for evaluating the Proposed Development's forecast year impacts [REP4-008]. The Secretary of State also notes that the VISSIM base year model achieved the Department's required validation criteria. The Secretary of State is satisfied that both the WTM and VISSIM models are fit for assessing operational modelling. The Secretary of State also notes that the sensitivity test conducted by the Applicant, which was based on the WTM, took into account WPC's concerns regarding the forecasted decrease in traffic using the Old North Road and traffic increase on Peterborough Road. While the Secretary of State notes the views of the ExA, WPC and SPC on the sufficiency of the modelling, he is not persuaded by the argument that the Applicant's modelling is deficient. The Secretary of State acknowledges that while the modelling concludes that by 2040 there would be an increase in delays on two arms of the roundabout, there would be improvements on the A47 eastbound and the Old North Road (northbound) arms [ER 6.3.18]. However, he is content that allowing the Proposed Development would not prevent further schemes coming forward in the future to address the existing problems and any further traffic impacts that may materialise on parts of the roundabout as a result of the Proposed Development.

Non-Motorised Users ('NMU') Routes

51. The Secretary of State notes that the Proposed Development aims to improve connectivity for NMUs through the provision of both new and realigned shared use paths and will provide a cohesive east-west route between Wansford and Sutton for NMUs to provide a safer route between communities. The NMU proposals are summarised at ER 6.3.26 - 6.3.27.

- **A1 Underpass**

52. The Secretary of State notes that to the west of the Application site there would be no changes to the Public Rights of Way ('PRoW') network and the route under the A1 would remain [ER 6.3.27]. The ExA records that representations were made to the effect that while pedestrians can walk under the A1 and up the steep slope to Peterborough Road in Wansford [ER 6.3.28], the extreme western end is very steep and not suitable for many cyclists or for those with disabilities [ER 6.3.29]. The Secretary of State notes that the ExA concluded that the nature of this slope has a negative impact on those with the characteristics of age (both young and old) and pregnancy and maternity [ER 17.13.10].

53. The Secretary of State is aware that an Equality Impact Assessment ("EqIA") was submitted in support of the Application, and that this EqIA was updated during the

Examination in response to the ExA's written questions and request for information issued on 18 January 2021. The Secretary of State notes that the EqIA confirms that all footway, pavement, and related infrastructure including the NMU underpass have been designed to Design Manual for Roads and Bridges ("DMRB") standard which includes suitable access for disabled people. The Secretary of State also notes that the Transport Assessment sets out that surveys were carried out between 7am and 7pm for seven consecutive days between Saturday 26 May and Friday 1 June 2018 using CCTV video cameras at 12 locations in the vicinity of the Proposed Development (paragraphs 5.1.19 – 5.1.40 and Figure 5-7 Transport Assessment – [REP4-008]). The surveys were conducted in generally dry and bright weather conditions and as such, the Applicant concluded that the usage information collected is representative of typical weekday and weekend NMU activity in the area. The Transport Assessment also confirmed that while there was a wide variance in the number of pedestrians, cyclists and horse riders at each of the survey sites with over 3,000 user movements observed over the 7-day survey period, no movements were observed at any time throughout the survey for users classed as 'Pedestrian & Buggy' or 'Wheelchair'.

54. While the Secretary of State agrees with the ExA that the nature of the slope is less than ideal [ER 6.5.48], he does not agree that because of it the Proposed Development would result in severance for cyclists or equestrians, or adverse effects on those with the protected characteristics of age, disability or pregnancy or maternity. This is because although the Secretary of State agrees that while the current provision is less than ideal, the Proposed Development does not worsen the current position.

- Permissive Paths and NMU Severance

55. The Secretary of State is aware that there are currently no separate facilities for NMUs from the point where Sutton Drift joins the A47 to point SU3 in the Rights of Way and Access Plan ("SU3"). The Secretary of State notes that various footpaths between Sutton and Wansford are available to pedestrians. However, these footpaths encroach into the floodplain of the River Nene which means that they are not always accessible, and other NMUs cannot use the footpaths and are required to share the A47 carriage way with other users [ER 6.5.39].

56. The ExA recorded that the Proposed Development would provide a new cycle way separate from the A47 from the Nene Way junction with Peterborough Road to the south of the existing Nene Way roundabout, to beyond the proposed access to Sacrewell Farm on the southern link road at point SU3 [ER 6.3.26]. The Secretary of State notes that from point SU3 there would be no changes to the PRow network and the existing permissive route under the A1 would remain [ER 6.3.27]. The ExA concluded that the Proposed Development would make a substantial improvement for NMUs for the majority of the length of the Proposed Development [ER 6.5.53]. However, in respect of the western length of the PRow network, the ExA concluded that the permissive nature of the route under the A1 means that adequate provision has not been made for NMUs as there is potential for severance if permission for the public to use the A1 underpass is withdrawn. The Secretary of State notes the consideration given by the ExA to the meaning of the term severance at ER 6.1.2. The ExA also recorded that while the Applicant maintains that it is a permitted bridleway, the rights of way section of the PCC website indicates it is a permitted footpath [ER 6.3.27] and would therefore only be available to pedestrians. The ExA therefore

considered that the proposed PRow network as applied for could only be afforded moderate beneficial weight [ER 6.5.55]. To address the issue of severance, the ExA recommended the inclusion of a requirement for a cycle way over the A1 overbridge ("Option 1a"). The ExA considered that this would mitigate to a greater degree the issue of severance [ER 6.5.56].

57. The Applicant's position is summarised at paragraph 6.3.41 of the Report as being:

- there is no severance due to the permissive route which is being used by cyclists and equestrians as well as footpath users;
- the Proposed Development will not change matters;
- if the landowner were to withdraw permission for use of the route and it were found that there were no higher rights of way, this does not make the matter materially worse than the current situation;
- in any event there is no evidence that the rights would be withdrawn; and
- it is not reasonable or appropriate for public money to be spent in addressing a theoretical severance issue which does not currently arise.

58. As set out above, the Secretary of State is aware that the Applicant has attempted to identify the relevant landowner but was unsuccessful [REP4-018]. The Secretary of State also notes that the landowner of the eastern end of the permissive routes indicated that this permissive route had existed for at least 32 years [ER 6.3.31]. During the Examination [REP4-018], the Applicant also confirmed there was evidence of the use of the permissive route by cyclists, and that the British Horse Society had informed them that there was current and historic use of the route by equestrians which is expected to continue in the future. As set out in the Traffic and Transport section above, the Applicant considered options for improving the underpass including Option 1a, which was considered too costly, but did not identify any solution it considered reasonable.

59. The Secretary of State notes that the route under the A1 appears to have been utilised by cyclists and equestrians as well as pedestrians for a significant time and that there is nothing to indicate that any restrictions have been placed on its use. The Secretary of State agrees with the Applicant that the Proposed Development would not change the current position. The Secretary of State also agrees that, for the reasons given by the Applicant [REP5-021] it appears highly unlikely that action would be taken by the landowner to withdraw permissive rights for the use of the route [ER 6.3.31], and that this strongly suggests that the route would remain available to NMUs in the future. In reaching this conclusion, the Secretary of State notes the permissive route has been used for more than 32 years and that the failure of a landlord to identify themselves either during the Examination process or when the route was recently upgraded means that it is extremely unlikely that any person with a right to withdraw permission would be found [ER 6.3.31]. The Secretary of State therefore concludes that the potential for severance from point SU3 on the western arm of the NMU route is remote.

Impact on routes to and from Upton

60. The village of Upton is located 1.3km north of the Nene Way roundabout and consists of a small residential hamlet of fewer than 30 properties and two farming businesses located on the edge of the village. The Proposed Development will result in the closure of the Main Road/Upton Road and the Nene Way roundabout to which this road connects.

61. The Secretary of State notes that the Proposed Development would increase distances that both vehicle and PRoW users would have to travel to get to locations from Upton [ER 6.5.67]. This is expected to increase distances of approximately 1km for residents in Upton with the greatest additional distance being over 3.6km in relation to Lower Lodge Farm. The ExA considered that increased travel distances could result in a modal shift towards motor vehicles and make a material difference to residents and businesses [ER 6.5.68]. Notwithstanding that the number of vehicle movements associated with properties in Upton would be small in comparison to the number of users on the A47, the ExA concluded that the Proposed Development would result in severance for the community of Upton [ER 6.5.69] and considered that this carries significant weight against the Proposed Development [ER 6.5.72].

62. The Proposed Development would result in the closure of the Nene Way roundabout and Upton Road south of Lower Lodge Farm/Ermine Street to all traffic including pedestrians. Vehicular access to Upton would be provided through the new Sutton Heath roundabout via a new straight link road into Sutton Heath Road and Langley Bush Road. The Secretary of State notes that the Applicant has included works to allow for the resurfacing, limited widening and passing places on the length of Upton Drift, [ER 2.2.7 - 2.2.8]. The Secretary of State has considered the concerns raised by the local community in Upton summarised at ER 7.3.11. The Secretary of State agrees with the ExA that the limited number of residents and businesses affected by the Proposed Development does not mean that this issue should not be seen as highly important to them [ER 7.5.2]. The Secretary of State considers that while the Proposed Development will provide alternative access to the A47 via the Upton Drift Road and the new link that will connect the relocated Sutton Heath Road and the Langley Bush Road to the new A47 Sutton Heath Roundabout [ER 6.5.60], the increase in travel distances from the village of Upton does weigh against the Proposed Development. However, the Secretary of State agrees with the Applicant that these distances do not result in a material severance of the community in Upton from the A47 [ER 7.3.13] and therefore disagrees with the ExA that this weighs significantly against the Proposed Development [ER 6.5.72]. This is considered further in the planning balance section below.

The Secretary of State's Conclusion on Traffic and Transport

63. The Secretary of State disagrees with the ExA's conclusions on the sufficiency of the Applicant's VISSIM modelling and considers that it does not underestimate the traffic that would occur at WWR as a result of the Proposed Development. In reaching his conclusion on this matter, the Secretary of State has also taken into account the SoCG agreed between the Applicant and PCC, the local highway authority responsible for the day-to-day management and operation of the local road network, and notes

that there were no matters relating to the WWR listed as outstanding. Given this conclusion and noting the view of the ExA at ER 6.5.35, the Secretary of State is not minded to adopt the potential additional requirement considered and dismissed by the ExA [18.5.2]. In addition, the Secretary of State has retained the cycle crossing at the WWR to ensure the scheme objective of a safe and integrated network for NMUs.

64. While the Secretary of State agrees that the A1 underpass may be suboptimal due to the nature of the slope, for the reasons given above he does not agree that this leads to severance or results in adverse effects for those with the protected characteristics of age, disability or pregnancy and maternity. This is considered further in the Public Sector Equality Duty section below and, for the reasons set out in that section, the Secretary of State has decided not to include the ExA's recommended provision for an NMU route across the A1 overbridge. Also, for the reasons set out above, the Secretary of State disagrees that the permissive route and the nature of the A1 underpass will lead to severance of the PRoW network at point SU3. The Secretary of State agrees with the ExA that the longer travelling distances from Upton does weigh against the Proposed Development but does not agree that the increase in travel distance leads to a material severance of the community of Upton. This is considered further in the planning balance section below.

Socio-Economic Matters

Community Severance

65. The Secretary of State notes the concerns expressed by various parties regarding the severance of the community of Upton due to the proposed closure of the direct road between Upton and the A47 and increased distance to the villages of Sutton, Castor and Ailsworth [ER 7.3.11, ER 7.4.4 – ER 7.4.6] and acknowledges the further impact which would be caused by the downgrading of part of Sutton Drift to a cycle-track [ER 7.3.14]. While the number of residents and business affected would be limited, the Secretary of State agrees with the ExA that this does not minimise its importance [ER 7.5.2]. However, the Secretary of State disagrees with the weight afforded by the ExA because he does not consider that the further journey distances result in a material severance and therefore considers this carries minor weight against the granting of the Proposed Development [ER 7.5.3] and has considered this further in the planning balance section below.

Non-Motorised Users

66. The Secretary of State notes that although both SPC and PCC supported the Proposed Development overall [ER 6.4.1 and 6.4.13], they both raised concerns regarding the loss of connectivity between Upton and Sutton, Castor and Ailsworth [ER 7.4.1, and 7.4.2] with PCC suggesting that appropriate mitigation to negate adverse impacts on Upton was important [ER 7.4.1]. While the Applicant acknowledged it was investigating utilising Designated Funds to enhance NMU connectivity and various options for mitigation were suggested during the Examination [ER 7.4.2 and 7.5.4], it stated that this was not part of the Application and no route had been determined [ER 7.5.5]. The Secretary of State considers that the longer travel

distances to and from Upton for NMUs also weighs against the Proposed Development but disagrees with the ExA that this would result in material severance between Upton and communities to the south of the A47 [ER 7.5.7]. As set out elsewhere in this letter the Secretary of State considers that this carries minor weight against the Proposed Development.

Agricultural Holdings

67. The Secretary of State acknowledges the objections raised by Mr David Longfoot [ER 7.4.6]. Noting that Mr Longfoot's address is in Upton, and he would therefore be subject to approximately 1.7km additional journey to reach the remainder of his holding in Castor which would add to the cost of the business, the ExA concluded that the harm identified should be 'minor adverse' as opposed to having a 'non-significant effect' [ER 7.5.10]. The Secretary of State agrees with this conclusion and with the Applicant's assessment of effects for the remainder of the holdings set out in Chapter 12 of the ES and like the ExA, concurs that the Proposed Development would have a moderately harmful effect on agricultural holdings [ER 7.5.11, ER 7.6.1] which weighs against the Proposed Development [ER 16.4.18].

Other Matters

68. The Secretary of State notes that although the Proposed Development would cause the demolition of a single dwelling, contrary to the NPPF aim of boosting housing, the dwelling has not been occupied since 2019 [ER 7.3.28] and, like the ExA the Secretary of State is content that the benefits outweigh the harm [ER 7.5.12]. The Proposed Development would also cause parts of the curtilages of four dwellings to be removed [ER 7.3.30]. However, the Secretary of State agrees with the ExA that this would not result in the dwellings having insufficient private amenity space and that this would not affect their living conditions or privacy [ER 7.5.13].

The Secretary of State's conclusion on Socio-Economic Matters

69. The Secretary of State has considered the physical obstruction created by the Proposed Development between Upton and the villages to the south as part of the Traffic and Transport section above and concluded that while the longer travel distances carry minor weight against the Proposed Development, it would not lead to the material severance of the community of Upton. The impact of this has been taken into account in the Traffic and Transport section above. The Secretary of state agrees that there would be moderate weight against the Proposed Development as a result of agricultural landholdings, and that the benefits of the scheme outweigh the harm that would result from the loss of an uninhabited dwelling and the curtilage of four dwellings. For these reasons, the Secretary of State therefore concludes that, overall, socio-economic benefits weigh in favour of the Proposed Development and has considered this further in the planning balance section below.

Cultural Heritage

70. The ExA's findings and conclusions on the impact of the Proposed Development on heritage assets are found in chapter 8 of the Report. The ExA records that the Applicant identified twelve key assets with the potential to experience significant effects due to the Proposed Development as listed at ER 8.3.13 and ER 8.3.14. The Secretary of State notes that, in addition, the Applicant identified 256 non-designated heritage assets [ER 8.3.15] and 138 parcels of Historic Landscape Characterisation landscape types which the Applicant considered to be of negligible value aside from the waterway and Ancient Woodland type which were assessed as being of low value [ER 8.3.16].

Cropmark site of a barrow cemetery and a quadrilateral ditched enclosure together with pits and pit alignment, approximately 837m south-east of Sacrewell Farmhouse ("Scheduled Monument")

71. The Proposed Development would follow the monument's southern boundary for 110m from east to west and encroach into the south-eastern corner of the Scheduled Monument by a triangular area of 27m² [ER 8.3.26]. The Applicant concluded that this would have a slight adverse impact in relation to permanent construction effects, because the magnitude of effects would be reduced due to the likely nature of the potential remains as agreed with Historic England ("HE") and PCC [ER 8.3.33]. The Secretary of State notes the background to the designation and historic significance of the Scheduled Monument [ER 8.3.23 - ER 8.3.25].

72. The Secretary of State notes that aside from the field being differently coloured during periods of dry weather, there are no ground marks to suggest that it is of particular archaeological or historic importance [ER 8.5.2] and the main evidence concerning the archaeology of the Scheduled Monument derives from the Headland Report from 2017, as the Geophysical Survey Report does not cover this area, although it does state that large quantities of visible Roman shards are on the surface of Toll Bar Field [ER 8.5.3].

73. The Secretary of State notes that the significance of the Scheduled Monument is in dispute with different suggestions put forward for the purpose of the seven rings [ER 8.5.5 - ER 8.5.7], but that the dispute is only capable of resolution through excavation of the field [ER 8.5.5]. Considering that the evidence put forward by WPC from field walks undertaken in the 1970s and 1980s demonstrates that the vast majority of pottery is in the centre of the Scheduled Monument, the Secretary of State agrees with the ExA that less weight should be given to the comment in the Geophysical Survey Report about the large quantities of Roman shards because that report does not identify their locations and because WPC's document [REP2-071] shows no Roman evidence in the southern part of the Scheduled Monument [ER 8.5.8].

74. The ExA concluded that deep ploughing of the site until at least the early 1980s, as confirmed by Mr Grange and Mr Robert Reid [ER 8.4.18], and the introduction of field drains, has diminished the significance of the Scheduled Monument [ER 8.5.9] and that its significance was attributable to the interconnection of several features in close proximity which seem to show the sequential nature of occupation of the sites, given that it is on higher ground between two waterways, the River Nene and Wittering Brook [ER 8.5.10]. Additionally, the ExA considered that the six northerly ring features

appeared to share a connection, and the fact that the southern ring was a double ring indicated that it derives from a different period which demonstrated the importance of the site over time [ER 8.5.11]. The Secretary of State has no reason to disagree.

75. The Secretary of State agrees with the ExA that a scheduled monument is of the highest importance nationally and great weight should be given to its conservation [ER 8.5.12]. Although the Proposed Development would intrude on the Scheduled Monument, it is noted that a significant proportion of this encroachment would fall within an area of 'magnetic disturbance' which the Headland Report indicates "is of no archaeological interest" and that there is no technical evidence to dispute this [ER 8.5.13]. Accordingly, noting the agreement of HE regarding the assessment of effects, the Secretary of State concurs with the ExA that whilst the Proposed Development would encroach into the Scheduled Monument, this would be limited and in an area with limited, if any, archaeological importance and would therefore be at the lower end of less than substantial harm for an asset of this importance [ER 8.5.14].

76. The Secretary of State notes that both WPC and SPC proposed an alternative route between the separate southern ring circle and other features [ER 8.4.23], which would effectively bifurcate the Scheduled Monument [ER 8.5.16]. The ExA noted this proposal would cause direct harm to the Scheduled Monument, and that both the Applicant and HE were of the view that such harm would be substantial [ER 8.5.16]. The Secretary of States notes that the ExA took into account the guidance set out in the PPG on where the line is drawn between substantial and less than substantial harm [ER 8.5.17], and concluded that while the alternative route would avoid the known features within the site and physically preserve the seven ring features and quadrilateral enclosure, the insertion of a dual carriage way would intrude on the overall asset leading to less than substantial harm, and in the middle of the range of such harm [ER 8.5.18]. The ExA considered the setting of the Scheduled Monument and concluded it would be adversely affected, representing less than substantial harm because it would not seriously affect any of the key elements of the Scheduled Monument [ER 8.5.19]. The Secretary of State agrees with the ExA that the alternative route proposed by WPC and SPC would result in a slightly higher degree of harm in comparison with the Proposed Development because it would have a greater effect on the rural setting, but it would result in lesser harm elsewhere due to the enhancement of the relationship between the Scheduled Monument and the River Nene due to the loss of intervening highway infrastructure [ER 8.5.19].

Sacrewell Farmhouse and Mill

77. The Secretary of State notes the Applicant's and ExA's observations regarding the significance and setting of the Grade II listed Sacrewell Farmhouse and Grade II* listed Sacrewell Mill, Millhouse and Stables [ER 8.3.34 - ER 8.3.36 and ER 8.5.20 - ER 8.5.21], and further notes that the Applicant considers the assets to have a high level of heritage value [ER 8.3.38] and that harm could be caused to the setting of these heritage assets [ER 8.3.39 and ER 8.3.41], but that this would be mitigated by landscaping [ER 8.3.40].

78. The ExA considered the Proposed Development would bring noise and traffic closer to the Mill, slightly increasing noise levels and causing significant visual intrusion during the first few years of operation, although these effects would be partially mitigated over time as the landscaping matures [ER 8.5.22]. Additionally, the ExA noted that the proposed drainage ponds to the west of the mill would negatively

affect the setting of the mill and concluded that harm would be caused as the proposed new ponds would not relate well to the more formal setting of the mill [ER 8.5.23].

79. Overall, the Secretary of State agrees with the ExA that in accordance with the NPSNN, there would be less than substantial harm to the settings of the Sacrewell Farmhouse and Mill, which would be more significant for the mill due to its distance from the Proposed Development and higher importance of its Grade II*, listing and that there would be moderate harm to the mill and limited harm for the farmhouse [ER 8.5.24].

Model Farmhouse and Wall

80. The significance of the Grade II Model Farmhouse and separate Grade II listed wall is set out at ER 8.3.53 - 8.3.54 and 8.5.25. Although the Secretary of State notes that neither of these designated assets should be directly affected by the Proposed Development, he notes that their proximity to the works could lead to harm, principally through damage by accidental striking or vibration [ER 8.5.26]. Like the ExA, the Secretary of State is satisfied that the full survey and construction risk assessment would ensure that appropriate preventative measures are in place to avoid damage and preserve the setting of the wall and Farmhouse [ER 8.5.27].

Conservation Areas and listed buildings therein

Sutton

81. The Secretary of State notes that the Sutton Conservation Area was designated in 1979 [ER 8.3.42] and that its significance relates to its position as a river crossing and its link to nearby villages [ER 8.5.28]. It includes 11 listed buildings (one Grade I and 10 Grade II listed buildings) [ER 8.3.43] and the Applicant considered it has a medium heritage value with the elements of the asset's setting making a large contribution to its value [ER 8.3.47]. The Applicant's assessment of the Proposed Development's effects on the Conservation Area are summarised at ER 8.3.49 - 8.3.52.

82. The ExA concluded that the closure of Sutton Drift would result in some harm to the setting of the Conservation Area due to the loss of the historical route to the village from the north to all traffic. Its retention as a cycle route would allow users to continue to appreciate the historical approach and the ExA considered there would be less than substantial harm to the setting [ER 8.5.29]. The Secretary of State agrees with this conclusion and, like the ExA, is satisfied that the Proposed Development would not result in any harm to any of the listed buildings within the Sutton Conservation Area [ER 8.5.30].

Stibbington

83. The Secretary of State notes that the Stibbington Conservation Area contains various Grade I, Grade II and Grade II* listed buildings as set out at ER 8.3.60 - ER 8.3.61, and that the Applicant considered that it had a moderate heritage value [ER 8.3.63]. The Applicant's assessment of the Proposed Development's effects on the Conservation Area are set out at ER 8.3.64 - ER 8.3.65.

84. The Secretary of State notes that, during construction and in the early years of operation, the Proposed Development would be seen from within the Stibbington Conservation Area [ER 8.5.32] and that as the Conservation Area relates to the river

to the north, the setting is affected by the landscape to and beyond the river [ER 8.5.31]. Whilst the Secretary of State notes that landscaping along the southern side of the Proposed Development would provide a degree of mitigation as it matured, it would remove the views of the ridge to the north of the River Nene and cause harm to the setting of the Conservation Area. The ExA concluded that consequently, the harm caused would be the lower end of less than substantial harm to the significance of the Conservation Area and the Secretary of State sees no reason to disagree [ER 8.5.32]. Additionally, like the ExA, the Secretary of State is satisfied that the settings of the listed buildings within this Conservation Area would be preserved [ER 8.5.33].

Other Settlements

85. Like the ExA, the Secretary of State is satisfied that there would be no adverse effect on the other Conservation Areas in the area [ER 8.5.34].

Non-Designated Heritage Assets

Wansford Road Railway Station and the Wansford to Stamford Railways Line

86. The Secretary of State notes each building set out at ER 8.3.67 is considered to be a non-designated heritage asset in its own right, together with the bridge over the former railway line [ER 8.3.68] and the 8.5 mile stretch of the railway line from Stamford East Station to Wansford Station [ER 8.3.69 - ER 8.3.70]. The significance of these assets is set out at ER 8.5.35, 8.5.37 and 8.5.38, and it is noted that the quality of the individual buildings varies [ER 8.5.36]. The Secretary of State notes that the Proposed Development would result in the demolition of the station building and the removal of the gate and gate piers [ER 8.5.39]. The ExA considered that the Proposed Development would cause the permanent loss of these assets and the complete loss of their significance, concluding that there would be substantial harm to all and that the recording proposed by the Applicant at ER 8.3.78, does not change the degree of harm. The Secretary of State agrees with this conclusion [ER 8.5.39].

87. Regarding the linesman's hut, the Secretary of State notes inconsistencies in the Report: ER 8.3.76 confirms that it would not be demolished and ER 8.3.79 also states that there is potential for the linesman's hut to be retained and this would be the subject of detailed design; whereas at ER 8.5.39 the ExA assumes it will be demolished and deals with the harm based on this assertion. The Secretary of State notes that the ExA acknowledges this error as recorded in the errata sheet and states that proposed the linesman's hut will be retained. In addition, whilst it is noted that the Applicant's intention in respect of the station platform is unclear [ER 8.5.40] as it appears that part of the platform would be outside the area proposed for the embankment and part within, the Secretary of State agrees with the ExA that regardless of the linesman's hut being retained and whether the whole or part of the platform would be lost, for the reasons stated in ER 8.5.40, the Proposed Development would result in substantial harm to them and their setting [ER 8.6.3].

88. The Secretary of State agrees with the ExA's reasoning in respect of the bridge [ER 8.5.41], railway line [ER 8.5.42] and Heath House [ER 8.5.43] and concurs that the Proposed Development would cause less than substantial harm to each of these non-designated heritage assets.

89. The Secretary of State notes that building materials resulting from demolition will be made available for the purposes of historic building restoration and reclamation

but that although secured in the Record of Environmental Actions and Commitments (“REAC”), no alternative location is confirmed. The Secretary of State agrees with the ExA that this cannot count as mitigation and does not change the harms as identified above [ER 8.5.44]. The fact that a site has been identified and provision under Designated Funds secured does not change this conclusion as the location is some distance from the Application site [ER 8.5.45].

Mile Marker

90. The Secretary of State notes that since the Mile Marker was not originally identified as an asset, no assessment of its significance was initially made; however, arrangements were subsequently made for its removal, care and relocation [ER 8.3.39 and ER 8.5.46]. HE indicated that the Mile Marker should be considered a non-designated heritage asset [ER 8.4.17] and the ExA agreed [ER 8.5.46], concluding that whilst the marker would be less visible to those travelling on the opposite carriageway, the intrinsic relationship of the mile marker to the road would remain and this would therefore result in less than substantial harm [ER 8.5.47]. The Secretary of State agrees with this conclusion.

Royal Observer Corps Bunker

91. The Secretary of State notes the setting of this bunker [ER 8.3.86] and that its significance relates to its history, being considered to be of group value with other Defence of Britain assets in the region [ER 8.3.87]. The Applicant considered that the bunker was of medium value and with the use of appropriate fencing, physical harm to it would be avoided and there would be no change of effect on the bunker from permanent construction effects which would be neutral [ER 8.3.88]. The Secretary of State notes that the ExA disagrees with the Applicant’s assessment, as the Proposed Development would remove the access road to the west and disconnect the bunker from it. The Secretary of State agrees with the ExA that the bunker’s setting would be affected but, as the main relationship would remain with the east-west line of the A47 and new access to Sacrewell Farm, is content that the setting of the bunker would be preserved [ER 8.5.49].

Archaeology

92. The Secretary of State notes that as a full archaeological survey has not been undertaken there is no certainty regarding the extent and significance of any archaeology affected [ER 8.5.50]. However, the Secretary of State notes there is adequate information and appropriate mitigation in place to ensure that any such archaeology is properly considered [ER 8.6.3] and agrees with the ExA that, absent the Scheduled Monument site, any archaeology is unlikely to be of high worth [ER 8.5.50]. The Secretary of State also concurs with the ExA that there has been a proportionate analysis in accordance with paragraph 5.127 of the NPSNN [ER 8.5.50] and is satisfied that Requirement 10 (archaeological remains) would ensure that a full and appropriate archaeological investigation would take place [ER 8.5.51] and that any finds are properly recorded, reported and appropriately archived [ER 8.5.52]. Overall, like the ExA, the Secretary of State is satisfied that the Proposed Development makes adequate provision for the investigation and recording of any archaeology within the Application site [ER 8.5.53].

The Secretary of State's Conclusions on Cultural Heritage

93. The Secretary of State is mindful that great weight should be attributed to the conservation of any heritage asset and that substantial harm to or loss of designated assets of the highest significance, including Scheduled Monuments and grade I and II* Listed Buildings should be wholly exceptional, in accordance with paragraph 5.131 of the NPSNN and paragraph 199 of the NPPF. Likewise, great weight and importance should be given to any harm to a heritage asset in the overall planning balance [ER 8.6.2]. This is dealt with below in the Planning Balance section. Overall, the Secretary of State agrees with the harm attributed by the ExA to designated and non-designated heritage assets as set out at ER 8.6.3 and is satisfied that the Proposed Development would, subject to the balancing exercise below, comply with the NPSNN, Local Plan Policy LP19 and Huntingdonshire Local Plan Policy LP 34 [ER 8.6.4].

Biodiversity (other than European Sites)

94. The Secretary of State is aware that the Applicant and the ExA considered a range of impacts to ecological receptors including:

- 10 nationally designated sites (Wansford Pasture Site of Special Scientific Interest ("SSSI"), West Abbot's and Leigh Woods SSSI, Old Sulehay Forest SSSI, Castor Haglands SSSI & National Nature Reserve ("NNR"), Castor Flood Meadows SSSI, Southorpe Roughs SSSI, Southorpe Paddock SSSI, Bedford Purlieus SSSI & NNR, Sutton Heath and Bog SSSI and Nene Washes SSSI),
- 31 County Wildlife Sites ("CWS"),
- 6 Ancient Woodlands (consisting of 11 parcels),
- 1 Local Geological Site,
- 7 Wildlife Trust Reserves and Local Wildlife Sites and
- 7 Potential (Local) Wildlife Sites [ER 9.3.20 and 9.3.23].

95. The ExA's consideration of the above, other ecological receptors and representations made by IPs is found at ER 9.3 and 9.4. The main issues considered by the ExA are potential effects on:

- Sutton Heath and Bog SSSI;
- Veteran tree T20;
- Bats;
- Great crested newt;
- Three CWS; and
- The biodiversity net gain calculation [ER 9.51]

Sutton Heath and Bog SSSI

96. The Report quotes from paragraphs 5.25 and 5.26 of the NPSNN, which relate to biodiversity and ecological conservation and set out how an applicant should demonstrate how significant harm to biodiversity will be avoided and how the Secretary of State should ensure appropriate weight is attached to designated sites,

protected species, habitats and other species of principal importance for the conservation of biodiversity [ER 9.2.1-9.2.2].

97. The Secretary of State notes that the Applicant has concluded that there may be indirect impacts through the pollution of habitats from the effect of air quality and surface water run-off, water level or drainage changes, sedimentation and accidental spillages on Sutton Heath and Bog SSSI [ER 9.3.30]. The Secretary of State acknowledges the Applicant's proposal to use best practice techniques in the Environmental Management Plan ("EMP") and to implement a construction phase drainage system which will mitigate potential surface water pollution [ER 9.3.31]. The Secretary of States notes the Applicant considers it is not possible to mitigate any operational effects of the Proposed Development, particularly in relation to air pollution [ER 9.3.32]. The Applicant has concluded that there would be a temporary 'moderate adverse' effect during construction on Sutton Heath and Bog SSSI but in operation the Proposed Development would result in 'no change' leading to a 'neutral' effect [ER 9.3.33].

98. The Secretary of State notes that Natural England ("NE") confirmed that the hydrological connection between the affected area and the designated feature provides an additional pathway for pollutants, but NE's view is that this is unlikely to be sufficient to cause an adverse effect on the SSSI [ER 9.5.9].

99. NE had concerns regarding the nitrogen deposition within the SSSI and it is exceeding the 1% critical load threshold. The Applicant's response is that while parts of the SSSI are within 40m of the main line of the Proposed Development, and thus subject to air quality effects, there are no qualifying species for which the SSSI is designated in this area and consequently there would be no harm to the SSSI. Rather, this area is largely deciduous woodland [ER 9.5.6]. The Secretary of State notes the discussions undertaken during the Examination and that NE provided detail to conclude that the habitat that would be impacted by the increase in nitrogen deposition over 1% critical load threshold was not a designated feature of the SSSI [REP5-031]. The Secretary of State notes and agrees with the ExA that there is sufficient separation between the qualifying features and the main line for the Proposed Development not to adversely affect the overall integrity of the SSSI from additional nutrients caused by air pollution; and furthermore, that the changes to the road layout at Sutton Heath Road between the existing A47 and the junction with Langley Bush Road is likely to result in a reduction in pollution as vehicles are diverted [ER 9.5.10]. The Secretary of State agrees with the overall conclusion that, rather than any adverse effect, there may be a 'minor benefit' to the SSSI from the Proposed Development [ER 9.5.11].

Veteran Tree T20

100. Paragraph 5.32 of the NPSNN sets out that the Secretary of State should not grant consent for any 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 the development in that location clearly outweighs the loss or deterioration of such trees. Where such trees would be affected by a proposed development, the applicant should set out proposals for their conservation or, where loss is unavoidable, the reasons for this [ER 9.2.3]. As far as mitigation is concerned paragraph 5.36 of the NPSNN indicates "applicants should include appropriate mitigation measures as an integral part of their proposed development" [ER 9.2.4].

101. Paragraph 180 of the NPPF states that development resulting in the loss of veteran trees should be refused, unless there are wholly exceptional reasons, and a suitable compensation strategy exists. Footnote 63 gives examples of wholly exceptional circumstances including NSIPs where the public benefit would clearly outweigh the loss or deterioration of habitat [ER 9.2.7].

102. The Secretary of State notes the discussions during the Examination regarding the loss of T20, a potential veteran oak tree, which would be an inevitable consequence of the Proposed Development [ER 9.3.44 and 9.5.13]. He also agrees with the ExA that it is more than reasonable to treat the tree as veteran [ER 9.5.16]. The ExA considers that while no specific replacement trees have been identified to compensate for the loss, the overall quantity of planting provides sufficient 'headroom' to ensure proper compensation [ER 9.3.47 and 9.5.18]. The Secretary of State agrees with the ExA that the loss of T20 would weigh against the Proposed Development [ER 16.4.29]. The Secretary of State has considered impacts on T20 in line with 5.32 of the NPSNN in the Planning Balance section below.

Effect on Bats

103. The Secretary of State notes that bat survey work has been completed by the Applicant [ER 9.3.79 – 9.3.82] and that without bat mitigation there would be a major adverse effect on bats during both construction and operation phases [ER 9.3.86]. With mitigation the Applicant believes that there would be a 'neutral' residual effect in operation [ER 9.3.86] and a 'minor adverse' construction effect due to the time lag between the operations and the delivery of the mitigation. It is only when the planting has matured that the higher flight path from the woodland at Station House would be such that it would encourage bats to fly above traffic reducing casualties [ER 9.3.87]. It was common ground that a licence from NE would be required prior to commencement of the Proposed Development [ER 9.5.19].

104. At the end of the examination a Letter of no Impediment ("LONI") for bats was outstanding and the Secretary of State followed the recommendation of the ExA to request an update from NE regarding the status of the LONI [ER 16.4.30]. The Secretary of State consulted NE and the Applicant in respect of bats on the 28 October 2022, 12 December 2022 and 10, 19 and 27 January 2023.

105. NE's response dated 27 January 2023 enclosed a copy of the LONI issued to the Applicant on 23 January 2023. The LONI included advice to the Applicant on various areas of the method statement that will need to be addressed before a licence application is formally submitted to NE. The Secretary of State notes that following NE's assessment of the resubmitted draft application documents, NE confirmed that, on the basis of the information and proposals provided, it saw no impediment to a licence being issued should the Order be granted. The Secretary of State is satisfied that on the basis of information provided, the necessary bat licences from NE will be forthcoming.

Effects on Great Crested Newts

106. The Secretary of State notes that ecological survey constraints are set out in the ExA's Report, and notes in particular that the Great Crested Newt ("GCNs") survey could not be undertaken in 2020 due to the pandemic and the Applicant has undertaken its analysis of this on a precautionary basis [ER 9.3.14]. The Secretary of State notes the Applicant's response to the Rule 17 letter of 6 July 2022 [PD-019]

querying the latest position on the shadow application in respect of GCNs. The Applicant responded that further surveys have concluded that GCN are absent from the site and surrounding area of the Proposed Development [REP11-001]. The Applicant therefore concluded that no licence is required from NE and did not apply for a LONI [ER 9.5.24]. On 10 January 2023, the Secretary of State requested that the Applicant provide the 2022 GCN survey data to provide evidence that shows GCNs are absent from the site and surrounding area of the Proposed Development. On 17 January 2023, the Applicant submitted the requested data. The Secretary of State is satisfied with the information provided and notes that NE in its consultation response of 26 January 2023 is satisfied that the Applicants survey concludes that great crested newts are unlikely to be present on site.

Effects on the three Country Wildlife Sites

107. The Secretary of State notes the impact of the Proposed Development on Sutton Meadows North, Sutton Meadows South and South Dismantled Railway CWS. The ExA records that without mitigation there would be direct impact on the first two sites through land-take and indirect impacts on all three from surface water run-off, sedimentation, water level changes and air pollution gradually degrading habitats [ER 9.3.34]. To mitigate the effects the Applicant proposes utilising best practice techniques secured in the EMP and the implementation of a construction phase drainage system. To compensate for the partial loss (approximately 1.2ha) of the Sutton Meadows North CWS a new area (approximately 2.6ha) of restored species rich grassland/ wildflower meadow would be established and managed [ER 9.3.35]. Trees lost within Sutton Meadow North and Sutton Dismantled Railway CWS would be compensated and further enhancement planting would be undertaken. Specific construction techniques would be used to maintain the existing seedbank which would be set out in the EMP [ER 9.3.36].

108. The Secretary of State notes the Applicant's consultation response dated 3 February 2023 addressing concerns raised by IPs in relation to ongoing work on drainage design and impact on CWS. The Secretary of State further notes the response from Wansford Parish Council dated 9 February 2023. The Secretary of State accepts that the Applicant has assessed the impact on the CWS on a worst-case scenario basis, notes its assessment that the changes are not expected to give rise to any materially new or materially different environmental effects in comparison with those reported in the ES and that the EMP, secured by requirement 4, which requires consultation with consultees including NE and Environment Agency prior to commencement of the authorised development, will secure sufficient mitigation.

109. The Secretary of State notes that the Applicant concluded that the mitigation would lead to a 'minor beneficial' effect during construction, but the ExA considers this would only be the case by the end of the construction period since in the meantime the works would have to take place involving the loss of resource [ER 9.5.31].

Biodiversity Net Gain

110. The Secretary of State notes NE's recommendation that version 3.0 of the Defra Biodiversity Metric should be used to quantify Biodiversity Net Gain [ER 9.4.16]. The Secretary of State agrees with the ExA that mandatory biodiversity net gain is not yet a requirement for NSIPs [ER 9.5.27] and that although the most recent model was

not used to undertake the analysis (Metric version 2.0 was used), the Secretary of State is satisfied that the Proposed Development would result in a Biodiversity Net Gain in relation to habitat units (38.4%) and hedgerow units (69.05%) [ER 9.5.28], and this should be given moderate weight in favour of the Proposed Development [ER 9.5.29].

The Secretary of State's Conclusions on Biodiversity

111. The Secretary of State agrees with the ExA's conclusion that the Proposed Development would not result in a significant adverse effect on SSSIs, and that while there would be direct and indirect effect on local designated sites during the construction period, by the end of that period the harm would have been fully mitigated [ER 16.4.28]. With regard to the veteran tree T20, he also agrees that while no specific replacement trees have been identified to compensate for its loss, the overall Environmental Masterplan and associated documents provide sufficient 'headroom' to ensure proper compensation [ER 16.4.29]

112. The Secretary of State notes that the Applicant provided copies of letters of no impediment secured from NE with regards to badgers [ER 9.4.12] and water voles [ER 9.4.13], and that NE is satisfied with the mitigation measures set out for reptiles [ER 9.4.15], wintering and breeding birds, including barn owls [ER 9.4.14], and otters [ER 9.4.11]. The Secretary of State is satisfied that the Applicant has assessed the Proposed Development for the potential impact on great crested newts and that no further supporting information is required, and that there is no indication the necessary bat licences will not be granted by NE

113. The Secretary of State notes that measures to avoid or reduce the ecological effects and to maximise benefits are secured via the REAC in the EMP which are secured through Requirement 4 (environmental management plan) in the Order [ER 9.3.18 – ER 9.3.19]. The Secretary of State agrees with the ExA that appropriate mitigation has been secured in the Order to ensure that there is appropriate protection for protected species of international, national and local level [ER 16.4.31].

Air Quality and Emissions

Air Quality

114. The Secretary of State notes that the Proposed Development would cause a deterioration in air quality for 14 of the 22 receptor locations chosen, an improvement at 7 locations and no change at one location [ER 10.3.32]. While the Secretary of State notes that it is unclear what this means in terms of numbers of people affected [ER 10.5.1], like the ExA, he is satisfied that there would not be any exceedance of limit values for NO₂ and that the Proposed Development would not have a significant adverse effect on human population health in respect of NO₂ [ER 10.5.2].

115. The effect of emissions on the Sutton Heath and Bog SSSI have been dealt with in the biodiversity section.

116. The Secretary of State notes the SoCG between the Applicant and NE, in which NE agreed with the Applicant that there was no species sensitive to nitrogen deposition within the southern extent of the SSSI [ER 10.4.5] and further notes that NE did not put forward any information to demonstrate that the air quality effects of the

Proposed Development on the ecological receptors [i.e. those listed at ER 10.3.28] had been incorrectly modelled [ER 10.5.3].

117. The Secretary of State notes the concerns raised in relation to air quality [ER 10.4.6 – ER 10.4.14], particularly in relation to what quantum of particulates is considered acceptable. Whilst acknowledging the evidence put forward by the UK Health Security Agency (“UKHSA”) [ER 10.4.10] and their reference to the new guidelines from the World Health Organisation for Particulate Matter (“PM”) 2.5 [ER 10.4.11], the Secretary of State notes that since the conclusion of the Examination, these guidelines have not been incorporated into any regulatory or policy framework [ER 10.5.4] and so gives them limited weight. The Secretary of State also notes that the Environmental Targets (Fine Particulate Matter) (England) Regulations 2023 were made on 30 January 2023 and came into effect on 31 January 2023. This introduces an annual mean concentration target of $10\mu\text{g}/\text{m}^3$ and a population exposure reduction target of at least 35% to be achieved by the end of 2040. Government policy on how the 2040 target will be achieved is still emerging and the Secretary of State notes that the Limit Values in the Air Quality Standards Regulations 2010 remain in force and are the most relevant limit for the purposes of this decision. As set out in paragraph 3.8 NPSNN, the impact on air quality of road development needs to be seen in the context of reductions in emissions over time and as a result of current and future policies therefore he ascribes neutral weight to the 2040 target.

118. The UKHSA raised concerns that the scoping out of PM 2.5 should have been supported by reliable data, modelling and predictions and have been sensitivity tested, for the reasons stated by the UKHSA at ER 10.4.9. The ExA was satisfied that all particulates categorised as PM_{2.5} will be part of those categorised as PM₁₀ and therefore, as the total PM_{2.5} and PM₁₀ figures combined are lower than the Limit Value for PM_{2.5}, there would be a sufficient margin of error to ensure compliance with this Limit Value. The Secretary notes the UKHSA’s view of the modelling but also that it did not indicate that the results provided by the Applicant were likely to be materially inaccurate [ER 10.5.6 - 10.5.7]. For the Proposed Development, the highest PM₁₀/PM_{2.5} figure is $18.87\ \mu/\text{m}^3$ which is materially lower than the PM 2.5 Limit Value of $25\ \mu/\text{m}^3$ set out in the Air Quality Standards Regulations 2010. Like the ExA, the Secretary of State is satisfied that the annual mean concentrations set out in the Limit Values recognise that different sized particulates have different effects and the fact that they will derive from different sources is immaterial [ER 10.5.6].

119. The Secretary of State notes that the Applicant selected 2025 for the worst-case modelling assessment for the reasons set out at ER 10.3.41. Like the ExA, the Secretary of State agrees that the choice of a particular year for the purpose of analysis is a matter of professional judgement and agrees that it was reasonable to use the opening year of 2025 [ER 10.5.9].

120. Although the Secretary of State notes that concerns were raised regarding the absence of effects of the Proposed Development on Upton [ER 10.4.8], he agrees with the ExA that for the reasons stated in ER 10.5.10, specific modelling is unnecessary.

121. Regarding dust during construction, the Secretary of State agrees with the ExA that dust emissions can be resolved through operation of an EMP secured through the

Order [ER 10.6.1] and accordingly, that there would be no significant harmful effects [ER 10.5.11].

122. Overall, the Secretary of State accepts the ExA's conclusion that while the Proposed Development would improve air quality at 7 receptor locations and there would be no change at 1 location, because there would be a deterioration of air quality at 14 locations this should be given negative weight in the overall balance [ER 10.5.8].

Carbon Emissions

123. Section 104 of the 2008 Act states that the Secretary of State must decide an application for a national networks NSIP in accordance with the NPSNN unless he is satisfied that one or more of the following applies: doing so would lead to him being in breach of any duty imposed on him by or under any enactment; doing so would be unlawful by virtue of any enactment; the adverse impact of the Proposed Development would outweigh its benefits; or doing so would lead to the UK being in breach of its international obligations.

124. The UK's international obligations include its obligations under the Paris Agreement [ER 10.5.12], which was ratified by the UK Government in 2016, after the NPSNN was designated in 2014. In addition, the Climate Change Act 2008 (2050 Target Amendment) Order 2019 gave effect to a legally binding target for the Government to cut net carbon emissions to zero by 2050 against the 1990 baseline (the '2050 target'). The Climate Change Act requires five-yearly carbon budgets to be set 12 years in advance so as to meet the 2050 target. Six carbon budgets have been adopted. The time periods covering the third ("3CB"), fourth ("4CB"), fifth ("5CB") and sixth ('6CB') carbon budgets are 2018-2022, 2023-2027, 2028-2032 and 2033-2037 respectively. Achieving net zero will require future greenhouse gas ("GHG") emissions to be aligned with these and any future new or revised carbon budgets that may be set out by Government to achieve the 2050 target. Compliance with the Climate Change Act 2008 (as amended) would provide a route towards compliance with the Paris Agreement.

125. The Secretary of State notes the main sections of the Applicant's Application documents that are relevant to climate change matters, as updated during the Examination, are those set out in ER 10.3.43. The Applicant's assessment of GHG emissions (assessed as carbon dioxide equivalent emissions and referred to here as carbon emissions) with regard to construction and operational effects of the Proposed Development is included in Chapter 14 of its ES with revised data in relation to construction emissions included within the Applicant's consultation response dated 17 January 2023 and further reflected in its response of 3 February 2023.

126. The Secretary of State considers that the majority of operational emissions related to the scheme result from vehicle usage and that the Government's Transport Decarbonisation Plan includes a range of non-planning policies which will help to reduce carbon emissions over the transport network as a whole over time (including policies to decarbonise vehicles and radically reduce vehicle emissions) and help to ensure that carbon reduction commitments are met [ER 10.2.17]. Beyond transport, Government's wider policies around net zero such as the Net Zero Strategy published by Government in October 2021 sets out policies and proposals to decarbonise all

sectors of the UK economy to meet the 2050 target. The Secretary of State is aware that this strategy has been legally challenged and consideration of this is set out at below.

127. The Secretary of State notes that concerns were raised about the effects of the Proposed Development on climate change/carbon emissions as summarised at ER 10.4.15 – ER 10.4.17 which included that the assessment of cumulative climate change effects / carbon emissions was inadequate, did not comply with 2017 regulations and that there was a lack of assessment of carbon emissions on a local and regional scale. These concerns were further emphasised by CEPP in responses submitted to the Secretary of State after the close of Examination in response to consultations. The Secretary of State also notes that CEPP submitted representations during the examination which are summarised at ER 10.4.5 - 10.4.18.

128. With regard to local and regional assessment of carbon emissions and compliance with the Institute of Environmental Management & Assessment (“IEMA”) 2022 guidance Assessing Greenhouse Gas Emissions and Evaluating their Significance (“the IEMA Guidance”), the Secretary of State notes that this is a guidance document only and that the 2017 Regulations and NPSNN which are legislation and policy respectively do not specify a requirement for local and regional carbon assessments. Whilst the ExA accepted that the IEMA guidance indicates that analysis should be undertaken at the smallest possible geographical area, it concluded that there was no legislation or policy which indicated that carbon emissions should be assessed at anything other than national level and the Secretary of State concurs with this conclusion [ER 10.5.15]. The Secretary of State also notes that no local or regional target was identified by any party in the Examination.

129. With regard to what should be included in an assessment of cumulative climate change effects, the Secretary of State notes that the Applicant maintained, relying on the decision in High Court judgment delivered in R (Transport Action Network Ltd.) v Secretary of State for Transport and Highways England [2021] EWHC 2095, that the Climate Change Act 2008 does not impose a legal duty to set carbon budgets on a smaller than national scale and there is no legal requirement to assess the impact of the Proposed Development against the total carbon emissions from RIS1 or RIS2. The Applicant further argued that a net increase in emissions from a particular policy or project is managed within the Government’s overall strategy for meeting carbon budgets [ER 10.3.65-10.3.66]. The ExA considered that the RIS documents are essentially high-level strategy documents which have not been assessed for carbon emissions and therefore their effect on meeting the UK’s carbon emission obligations. As outlined by the ExA, the Secretary of State considers that as there is no single prescribed approach to assessing the cumulative impacts of carbon emissions, there are a number of ways such an assessment can acceptably be undertaken and that this does not necessarily need to be done at RIS level [ER 10.5.17] or at a local or regional level (see above).

130. The Applicant’s overall approach to assessing cumulative effects is set out at ER 10.5.18. Whilst the Secretary of State notes that some IPs consider that this approach should include all relevant developments in the area, he agrees with the ExA

regarding the need for certainty to allow assessments to be undertaken and that the Applicant's approach is both reasonable and proportionate [ER 10.5.18].

131. Like the ExA, the Secretary of State agrees that there are no geographical boundaries against which to judge significance [ER 10.5.14] as unlike other environmental topics, there is only a single receptor impacted by carbon (the atmosphere) and it is a global one. The Secretary of State considers that as carbon budgets and the 2050 target relate to the whole of the UK economy and society and are legally binding, they reflect what the UK's impact will be on this receptor as they set out what carbon levels can reasonably be expected to occur in the future (because they represent a legal limit on what can be emitted). It is therefore considered that these legally binding budgets provide a reasonable reference point for considering the effects of carbon from the Proposed Development and that these legally binding budgets are relevant to a consideration of cumulative effects in that they represent the limit of the emissions that are permitted within each carbon budget period from a range of sectors including transport. The Secretary of State therefore agrees with the ExA that the Applicant's approach which takes account of these carbon budgets for the purposes of the Applicant's cumulative assessment is reasonable and proportionate.

132. With regard to what is considered to be a significant impact, the Secretary of State agrees with the ExA that there is no set significance for carbon [ER 10.5.19]. Assessing significance is a matter of professional judgment. The Proposed Development will result in an increase in carbon emissions and the Secretary of State considers that, as set out in NPSNN paragraph 5.18, it is necessary to continue to evaluate whether (amongst other things) the increase in carbon emissions resulting from the Proposed Development would have a material impact on the ability of Government to meet its carbon reduction targets. The Secretary of State considers this aligns with the approach to significance set out in the IEMA guidance. The Secretary of State, like the ExA considers that the approach set out in the NPSNN continues to be relevant in the light of international and domestic obligations related to reducing carbon emissions that have been introduced since the NPSNN was designated [ER 10.5.19].

133. The ExA considered that analysis of the Proposed Development's impact on carbon should be undertaken based on the difference between the Proposed Development happening and not happening and there is nothing to indicate that if the Proposed Development was not built, that the existing road network would not continue to be utilised [ER 10.5.15]. The Secretary of State considers this approach to be appropriate as it demonstrates: the baseline carbon levels at present and in the future if the Proposed Development was not to proceed, taking account of other developments where there is an appropriate level of certainty they will proceed; the total amount of carbon resulting from the Proposed Development and the baseline as well as the difference between the two. An assessment of the latter against the legally binding cumulative carbon budgets allows the Secretary of State to consider how significant an impact the Proposed Development will have on carbon by considering if it will impact Government's ability to meet its legally binding targets.

134. With regard to the methodology used, the Secretary of State notes that instead of using version 11 of the Emissions Factor Toolkit published during the Examination,

the Applicant used its own model [ER 10.5.20]. Although no representations were made that the use of the Applicant's own modelling would make a material difference to the Proposed Development, the ExA queried this with the Applicant who stated that it expects the models to give similar, if not identical results because the models will have utilised different mixes or vehicles and fuel types [ER 10.5.21]. The Secretary of State has no reason to disagree with the ExA who had no reason to take a different view towards the overall approach [ER 10.5.22].

135. The Secretary of State notes that some IPs have argued that the Applicant has failed to carry out a cumulative assessment of carbon emissions at all and that, accordingly, the ES is deficient. The Secretary of State does not agree that the ES is deficient in this regard. The ES provides information on cumulative effects, through its presentation of data on the 'Do Minimum' and 'Do Something' scenario and carbon budgets, and the Secretary of State considers there is sufficient information to consider whether any effects, including cumulative effects, are significant and to reach a reasoned conclusion on any significant effects.

136. The Secretary of State notes that the ExA highlighted that the Applicant concluded that the Proposed Development's carbon emissions would represent approximately 0.0078% of the UK's fourth, fifth and sixth Carbon Budgets [ER 10.3.58 ER 10.5.31] and the ExA's analysis of this [ER 10.5.32-10.5.35.]. The Secretary of State notes that there is an error in the Applicant's ES and that this is reflected in the ExA's Report and that the figure should be 0.00078%. This was confirmed by the Applicant in its response of 3 February 2023 to the Secretary of State's consultation letter of 27 January 2023. The ExA set out concern that this figure relates to the whole of the net estimated construction and operational emissions for the 60-year operational lifetime of the Proposed Development (2025 to 2084) divided by total budgets for CB4, CB5 and CB6 (2023 to 2037) and was therefore not comparing equivalent timeframes and had concerns about the implications of this as set out in ER 10.5.33-10.5.35. The Secretary of State notes the 0.00078% figure (updated by the Applicant to 0.00083% in its response of 3 February 2023) reflects the total emissions resulting from the Proposed Development across CB4, CB5 and CB6 as a percentage of the total carbon budgets for that same period. The Secretary considers that an approach that sums up all the carbon emissions over the carbon budget periods and sets them out as a percentage of the total carbon budgets for that period, does not clearly illustrate the effects of carbon resulting from the Proposed Development given each carbon budget is different and decreasing. Instead, the Secretary of State considers that he should consider the impact of the Proposed Development against each carbon budget and form a view as to whether it will impact government's ability to meet each of these budgets. Consideration of this is set out below.

137. Following concerns raised by the ExA regarding deficiencies in the Applicant's modelling of carbon emissions during construction which the ExA considered were likely to have been underestimated [ER 10.5.24 and 10.5.30] along with similar concerns raised by CEPP in its letter dated 17 January 2023, the Secretary of State issued a consultation letter dated 10 January 2023, requesting that the Applicant provide a worst-case estimate for all construction emissions beyond those relating to site clearance, earthworks, and drainage as provided for in Chapter 14 of the ES [ER 10.5.26]. In its response dated 17 January 2023, the Applicant provided a revised

baseline for construction emissions which it stated is 'worst case' and set out that work has been undertaken to mitigate and reduce emissions from this baseline. This assessment has resulted in a 2,319 tCO₂e increase in construction emissions from the previous Stage 3 baseline assessment of 19,823 tCO₂e. The Secretary of State notes that construction is due to take place during CB4 and that therefore no other change to any of the other carbon budget periods was presented. The Applicant stated that the increased construction emission is unlikely to affect the conclusion reached in chapter 14 of the ES and is unlikely to have a material impact on the government's ability to meet its carbon reduction targets given that the overall construction emissions as a percentage of CB4 will still represent a very small percentage of the carbon emissions allowed for [ER 10.5.35]. The Secretary of State invited comments on the updated carbon information provided by the Applicant.–Following queries around whether this fully reflected the carbon impacts, the Secretary of State invited the Applicant to respond to these comments and the Applicant confirmed in their response of 3 February 2023 that the updated figures set out in their letter of 17 January 2023 reflected a reasonable worst-case scenario for the Proposed Development. While this response was also challenged by Wansford Parish Council, no evidence has been provided to suggest this does not reflect a worst-case scenario.

138. The revised figure provided by the Applicant suggests that the impact of the Proposed Development on CB4 will increase from 0.00124% (as set out in the Applicant's ES) to 0.00136% (rounded up by the Applicant in their response of 3 February 2023 to 0.0014%). The contribution to CB5 and CB6 remains unchanged to that set out in the Applicant's ES, amounting to a contribution of 0.00038% and 0.00058% to CB5 and CB6 respectively. Using the revised figures for construction together with the operational emissions for the Proposed Development, the overall contribution to any carbon budget would be a maximum of 0.0014%. The Secretary of State does not consider these emissions to be significant effects and does not consider that they will have any material impact on the Government's ability to meet its carbon budgets.

139. The Secretary of State notes the concerns raised by the ExA with regard to emissions released during maintenance but agrees with the ExA that due to the decarbonisation of vehicles, including construction vehicles, this is unlikely to be material [ER 10.5.29].

140. The Secretary of State considers that the majority of emissions resulting from the scheme are operational ones from vehicle usage and that the Government's Transport Decarbonisation Plan ("the TDP") includes a range of non-planning policies which will help to reduce carbon emissions over the transport network as a whole over time (including policies to decarbonise vehicles and radically reduce vehicle emissions) and will help to ensure that carbon reduction commitments are met [ER 10.2.17]. The TDP recognises that the government's policy of investment in the strategic road network will continue. Beyond transport, Government's wider policies around net zero such as 'The Net Zero Strategy: Build Back Greener' ("Net Zero Strategy"), published in October 2021 which sets out policies and proposals to decarbonise all sectors of the UK economy to meet the 2050 target. The Secretary of State acknowledges that there has been a successful challenge to the Net Zero Strategy and the ExA's recommendation that the Secretary of State considers any implications of this for this

decision [ER 16.4.38]. The Secretary of State notes that the Net Zero Strategy has not been quashed and remains government policy. A new report is required to be produced in accordance with the order made by the Court as a result of that successful challenge. As things stand, the Secretary of State has no reason to consider that the Proposed Development will hinder delivery of either the TDP or Net Zero Strategy (whether in its current form or any future updated form). The Secretary of State notes the concern raised by CEPP with regard to reliance on the success of these policies [ER 10.4.17]. However, the Secretary of State considers that he can still give weight to them, particularly because achieving net zero is a legal obligation and the Government is therefore obliged to bring forward policies to achieve it. In any event the Secretary of State considers that it is outside the scope of this decision for him to address concerns about the adequacy or otherwise of these policies.

141. Overall, the Secretary of State considers that the information provided by the Applicant on the impact of the Proposed Development on carbon emissions (including the cumulative effects of carbon emissions from the Proposed Development with other existing and/or approved projects in relation to construction and operation in light of the carbon budgets) is proportionate and reasonable and is sufficient to assess the effect of the Proposed Development on climate matters. The Secretary of State is satisfied that the assessment reflects information that the Applicant can reasonably be required to compile having regard to current knowledge and in light of the information about the national carbon budgets and that it enables the impacts of carbon to be understood and fully accounted for in the decision-making process.

142. In any event, the Secretary of State has also considered the alternative approach set out by IPs (as summarised in ExA 10.5.18) and the contention that the Applicant's approach does not consider cumulative effects, but only the solus effects of the Proposed Development. The Secretary of State notes that it is not clear from the IPs' responses how exactly they propose that a different cumulative assessment should be carried out for the Proposed Development in practice. No specific additional schemes have been suggested as relevant to the sort of different cumulative assessment that is being suggested and instead there is a focus on all development in the area that forms part of the transport modelling. The Secretary of State considers that a local or regional approach to assessing cumulative effects carries a risk of being arbitrary and uncertain because, as noted above, the effects of carbon emissions are not limited to one geographical area, and it is not clear what limits to the area are being proposed or the projects that are being suggested for inclusion or the reason for them. The IMEA guidance notes that one of the limitations of a sub-national assessment is that its results may not be very meaningful. The approach adopted by the Applicant, to look at the effects of the Proposed Scheme on a national scale having regard to the carbon budgets which set out the legal limits of emissions that the Government has set for those periods, avoids this risk and is also considered to be consistent with the relevant legal and policy tests. However, if one follows the alternative approach being suggested and considers the combined emissions from the Proposed Development and those emissions that would occur from development in the Do Minimum scenario (as set out in the Applicant's Do Something Scenario), the Secretary of State considers that these combined emissions would not have a material impact on the Government's ability to meet any of its carbon reduction targets and are not significant. The

combined emissions would represent 0.237% of the emissions in the fourth carbon budget period, 0.433% in the fifth carbon budget period and 0.748% in the sixth carbon budget period. The Secretary of State does not consider the revised additional emissions from construction or maintenance materially alters these conclusions. For the avoidance of doubt, the Secretary of State does not consider this type of assessment is required to understand the cumulative impacts of the Proposed Development for the reasons set out above. This exercise illustrates that this type of assessment does not produce more meaningful results as it simply identifies the impact of development from the area affected by that development against national carbon budgets. However, the Secretary of State reaches the same conclusion that the emissions identified by this sort of assessment are not significant and will not materially impact the government's ability to meet its carbon reduction targets.

143. The Secretary of State is content that the Applicant has adequately assessed the likely significant effects of the Proposed Development on climate and its cumulative impacts on climate taking account of both construction and operation as required by the 2017 Regulations and this information has been taken into consideration when assessing whether development consent should be granted. The Secretary of State is aware that all emissions contribute to climate change. Whilst the Proposed Development will result in an increase in carbon emissions, as set out above, Government is legally required to meet the carbon budgets which provide a pathway to net zero and like the ExA, the Secretary of State considers that the Proposed Development is consistent with existing and emerging national policies designed to achieve the UK's trajectory towards net zero [ER 10.5.37].

144. The Secretary of State therefore agrees with the ExA that it can reasonably be concluded that the Proposed Development will not result in emissions that would prejudice meeting the UK Government's international obligations under the Paris Agreement [ER 10.5.39]. The Secretary of State therefore considers the Proposed Development's effect on climate change would be minor adverse and not significant and this assessment aligns with section 6.3 and Figure 5 of the IEMA guidance.

145. The Secretary of State agrees with the ExA that as the Proposed Development would result in an overall increase of emissions and there is a need to reduce emissions, this weighs against the Order being made. The ExA ascribes this moderate negative weight in the planning balance. However, the Secretary of State considers that due to the likelihood of the Government's legally binding targets decreasing carbon emissions over the lifetime of the Proposed Development, limited weight should be attached to this harm. in the planning balance [ER 10.5.40].

The Secretary of State's Conclusions on Air Quality and Emissions

146. The Secretary of State is satisfied that the Proposed Development would not lead to a significant air quality impact, nor would it have a material impact on the ability of the Government to meet its carbon reduction target. Accordingly, the Secretary of State is satisfied the Proposed Development would comply with the NPSNN [ER 10.6.2] and Local Plan Policy LP13 as an air quality assessment has been provided near to a nationally designated site. The Secretary of State agrees with the ExA that even with the measures secured in the Order and associated documents, the

Proposed Policy would not comply with Policy LP17 as there would be a deterioration of air quality affecting existing occupiers [ER 10.6.3].

Geology, Geotechnical Risk and Soils

147. The Secretary of State notes that Chapter 9 of the ES (as updated) deals with Geology and Soils, as supplemented by a ground investigation report [ER 11.3.1] and further notes the relevant policy considerations [ER 11.2.1 - 11.2.11]

Best and Most Versatile Agricultural Land (“BMV land”)

148. The Secretary of State notes that Grade 2 and 3a land (which represents the BMV land) makes up approximately 49.5% of the land which would be affected by the Proposed Development [ER 11.3.2] and that there would be a very large adverse effect from the permanent loss of 11.0ha of Grade 2 BMV land, moderate adverse effects from the temporary loss of Grade 2 BMV land, slight adverse effects from the temporary loss of Grade 3a, with the remaining agricultural Grade 3b land considered to result in moderate adverse effects in respect of the land permanently lost and minor adverse effects for that lost temporarily [ER 11.3.3]. The Secretary of State notes that the Proposed Development would affect 19.1ha of land permanently which weighs against the Proposed Development but agrees with the ExA that this loss of resource is an inevitable consequence of the location of the Proposed Development [ER 11.5.1]. With the addition of the Soil Management Plan to ensure proper soil management secured by Requirement 4 (environmental management plan) mitigating the loss [ER 11.5.2], the Secretary of State agrees with the ExA that the Applicant has minimised the effect BMV land within the constraints of the Application site [ER 11.6.2] and that the loss of BMV land is of moderate weight against the Proposed Development [ER 11.5.3].

Minerals and Waste

149. In accordance with the DMRB LA 100, the Applicant undertook an assessment of material assets and waste as outlined in Chapter 10 of the ES [ER 11.3.4], which took into account the matters set out at ER 11.3.5 - ER 11.3.10. The potential impacts of the Proposed Development during construction are set out at ER 11.3.11 and the proposed mitigation outlined at ER 11.3.13 - ER 11.3.14, with it being noted that the Applicant did not consider that there would be any significant effects in relation to minerals and waste from the operation of the Proposed Development [ER 11.3.12]. The Secretary of State agrees with the ExA that there would be slight adverse effects from the Proposed Development but due to the nature of the Proposed Development, these effects cannot be avoided. The Secretary of State is satisfied that the best practice measures, as secured through the Order, would ensure the minimisation of construction materials and waste and that any harm arising in this respect would be limited [ER 11.5.5].

150. The Secretary of State notes that Cambridgeshire County Council (“CCC”) asked to be consulted on the Site Waste Management Plan (“SWMP”) [ER 11.4.4] and this was not secured in the proposed Order. For the reason outlined by the ExA at ER 11.5.6 and CCC’s role in the wider area [ER 11.6.1], the Secretary of State agrees with the ExA’s recommendation that CCC be added to the bodies listed in Requirement 4 that are to be consulted on the EMP, which includes the SWMP [ER 11.5.6 and ER 11.6.1].

Land Stability

151. The Secretary of State notes the concerns regarding the stability of the land both during the Examination, in late representations and in responses to the Secretary of State's consultations during the decision-making stage. These representations focussed on ground conditions and impact on the River Nene [ER 11.5.7], particularly in relation to the section between the A47 Wansford East roundabout and Wittering Brook [ER 11.4.6 - ER 11.4.12].

152. During the Examination, the Applicant indicated that further ground investigation works were ongoing [ER 11.5.11]. The ExA suggested that the Secretary of State may wish to seek confirmation from the Applicant of the results and any implications of the latest ground investigations [ER 11.5.13] in relation to carbon emissions [ER 16.5.21] and funding [ER 16.5.22]. In his consultation letter dated 28 October 2022, the Secretary of State asked the Applicant to confirm the outcome of the ground investigation work and any implications the results may have. In its response dated 11 November 2022, the Applicant stated that supplementary intrusive groundwork investigations concluded on 25 May 2022 and the materials encountered were broadly consistent with those encountered within the ground investigation in 2018 and therefore the foundation solutions were unlikely to change. The Applicant did, however, state that the presence of sheer surfaces within the Whitby Mudstone was recorded, something which was highlighted as a risk at the preliminary design stage, and that the impact of this would likely result in the adoption of appropriate mitigation measures which it stated can be incorporated within the Order.

153. While noting the concerns raised by WPC in their letter dated 4 December 2022, the Secretary of State notes that policy does not prevent the construction of development on land with stability issues [ER 11.5.14]. Taking into account the fact that the Applicant commissioned a ground investigation report, sought appropriate professional advice and set out potential mitigation measures which ensure that the detailed design and construction of the Proposed Development would be appropriate and robust and are secured in Requirement 3 (detailed design) [ER 11.5.15], the Secretary of State is satisfied that the Proposed Development has been appropriately assessed and not subject to undue risk. The Secretary of State agrees with the ExA that this is a neutral matter within the overall planning balance [ER 11.5.16].

The Secretary of State's Conclusions on Geology, Geotechnical Risk and Soils

154. Overall, the Secretary of State agrees with the ExA that, taking into account mitigation, moderate harm would result from the permanent loss of 19.1ha of BMV, that there would be limited harm through the utilisation of minerals and the disposal of waste, and is content that appropriate consideration has been given to ground conditions [ER 11.6.1]. Further, he agrees with the ExA that as the Applicant had had regard to expert advice in respect of a site where landslides are known and minimised the effect on BMV land within the constraints of the site, that the Proposed Development complies with the NPSNN [ER 11.6.2] and the relevant Local Plan policy for the reasons set out at ER 11.6.3. However, since the Proposed Development would result in the loss of resource, it would not comply with the Waste Local Plan [ER 11.6.3].

Water Environment and Flood Risk

155. The Secretary of State notes the ExA's assessment of the policy framework relating to the water environment set out in ER 12.2.1–12.2.15, the case for the Applicant at ER 12.3.1 – 12.3.90 and the position of IPs at ER 12.4.1 – 12.4.8. The main issues considered by the ExA at Examination included:

- whether the Proposed Development would result in increased flood risk;
- whether the A1 Mill Stream culvert extension and the A47 Wansford Sluice replacement would be appropriate in terms of flood risk, ecology and biodiversity;
- whether the drainage strategy is appropriate; and
- whether the Proposed Development would be compliant with the Water Framework Directive (“WFD”) [ER 12.5.1].

156. The Secretary of State notes there were no outstanding areas of dispute in respect of drainage and the water environment at the end of the Examination [ER 12.5.1] and that the Environment Agency (“EA”) and PCC as the Lead Local Flood Authorities (“LLFA”) were content with the overall proposals subject to the quantum of flood compensation works being secured through the Order and additional elements of detailed design being agreed [ER 12.5.3].

Flood Risk including culvert design

157. The Secretary of State notes that the majority of the Proposed Development lies within Flood Zone 1 [ER 12.3.35], crosses three sections of Flood Zones 2 and 3 where the A1 crosses Mill Stream, where the A47 crosses Wittering Brook and to the west of Wittering Brook crossing [ER 12.3.36]. The land surrounding the River Nene has been identified as being within Flood Zone 3b and that around Mill Stream and Wittering Brook as within Flood Zone 3a [ER 12.3.37]. The Secretary of State notes that due to the end points of the Proposed Development, any direct line would pass through the higher flood risk areas related to Wittering Brook and, depending on the exact line chosen, there may be effects relating to the higher flood risk associated with River Nene and Mill Stream [ER 12.5.8]. Like the ExA, the Secretary of State acknowledges that paragraph 5.102 of the NPSNN states the nature of linear infrastructure means there are cases where infrastructure is being provided between two points which are not in a flood risk area, however, the most viable route passes through a flood risk area [ER 12.5.7].

158. In relation to the encroachment into the area of flood risk surrounding the River Nene, the Applicant was satisfied that this was necessary to minimise works in the area of the Scheduled Monument (as considered in the Cultural Heritage section above) and, like the ExA, the Secretary of State has no reason to disagree [ER 12.5.10]. The Secretary of State is also content with the ExA's conclusion in respect of Mill Stream [ER 12.5.11] and agrees with the ExA that the Proposed Development passes the sequential test outlined in paragraph 5.105 NPSNN, subject to the exception test [ER 12.5.12].

159. Paragraph 5.108 of the NPSNN sets out the two requirements to satisfy the exception test [ER 12.5.12]. The Secretary of State agrees with the ExA that the Proposed Development provides sustainability benefits to the community that

outweigh flood risk (these benefits include the need for the infrastructure), satisfying the first requirement.

160. Regarding the second requirement that the Flood Risk Assessment demonstrates that the project will be safe for its lifetime without increasing flood risk elsewhere (and, where possible, will reduce flood risk overall), the Secretary of State agrees with the ExA that in relation to Mill Stream, the extension to the culvert would have no effect on flow rates throughout the overall culvert. The Secretary of State considers that although this extension would cause some loss of habitat, the creation of ponds to the east would result in an overall net gain, reducing flood risk and enhancing biodiversity notwithstanding the effect on the setting of Sacrewell Mill [ER 12.5.13].

161. In relation to Wittering Brook, where a new culvert is proposed [ER 12.5.14], although the Secretary of States notes the issues regarding the design of the crossing [ER 12.5.15 -12.5.20] and that the proposed culvert would result in an increased depth of water in the event of a flood, the Secretary of State agrees with the ExA the proposals are appropriate and would not materially increase flood risk [ER 12.5.21].

162. The Secretary of State notes that the EA was satisfied with the proposed embankment at the River Nene outlined at ER 12.5.22, subject to the inclusion of Requirement 9 (flood compensatory storage) in the Order [ER 12.5.21]. While the Secretary of State notes the discussions regarding whether the increased compensatory area would reduce the amount of time the PRow between Wansford and Sutton would be useable, like the ExA, he is satisfied that as the existing routes travel through Flood Zone 3, there would be no effect on the amount of time that route would be impassable [ER 12.5.23]. Noting that the EA considers the hydraulic modelling is fit for purpose [ER12.4.3] and, subject to the inclusion of Requirement 9, has no objection to the Proposed Development [ER 12.4.4], the Secretary of State agrees with the ExA that the Proposed Development makes appropriate provision in respect of flood risk and, for the reasons set out above, meets the exception test [ER 12 5.24].

Drainage Strategy

163. The overall drainage strategy is set out in the drainage strategy report as summarised at ER 12.5.25 - ER 12.5.26 and it is noted that, where possible, the Applicant is seeking to utilise existing drainage systems [ER 12.5.28]. The Applicant is of the view that the combination of drains and ditches as outlined at ER 12.5.27 provides a sufficient level of mitigation against pollution risk, which has not been disputed, and that the mitigation measures summarised at ER 12.5.29 would ensure that any outfalls would not add to pollution. Although it is noted that the use of filter drains would result in discharges to groundwater, the Secretary of State notes that the Applicant concluded that groundwater mounding was unlikely due to the highly permeable nature of the underlying Lincolnshire Limestone Formation and river terrace deposits and that the overall capacities have been sized to allow for climate change [ER 12.5.30]. Overall, the ExA was satisfied that the Applicant's drainage strategy was appropriate and would mitigate the risks of both flooding and pollution [ER 12.5.31]. The Secretary of State is content with the ExA's conclusion.

Water Framework Directive

164. The Secretary of State notes that the site lies in the Anglian River Basin District and that the Applicant has assessed the two surface water and three groundwater bodies set out at ER 12.3.87 [ER 12.5.33]. The Applicant concluded that there would be no significant adverse effects from the Proposed Development during construction or operation. However, monitoring of both surface and groundwater would be required to ensure this and this would be secured through the Order [ER 12.3.90]. This has been agreed with the EA and PCC as the LLFA [ER 12.5.34]. Both the ExA and LLFA were satisfied with the assessment and that the Proposed Development would be WFD compliant [ER 12.4.5 and 12.5.35] and the Secretary of State is satisfied with this conclusion.

The Secretary of State's Conclusions on Water Environment and Flood Risk

165. The Secretary of State notes that during the Examination, the UKHSA raised concerns regarding the lack of submission of the ground investigation report. It was also concerned about the consistency between the ES chapters relating to Geology and Soils and Road Drainage and the Water Environment relating to groundwater and surface water abstractions and the impact on public health [ER 12.4.7]. Noting that the Applicant acknowledged the UKHSA's criticisms and submitted revised and additional documents to which the UKHSA made no further comment [ER 12.5.5], like the ExA, the Secretary of State is satisfied that the additional documentation resolves the issues raised by the UKHSA and does not represent an impediment to the granting of the Order [ER 12.5.6].

166. Overall, the Secretary of State agrees with the ExA's conclusions set out at ER 12.6.1, and that Water Environment and Flood Risk should carry neutral weight in the planning balance. Like the ExA, the Secretary of State is also satisfied that the Proposed Development would comply with the NPSNN in that the proposals to mitigate adverse effects on the water environment utilising Sustainable Drainage Systems where appropriate, and that it is compliant with Local Plan Policies LP24, LP28 and LP32 [ER 12.6.2].

Noise and Vibration

General Approach and Analysis

167. Chapter 11 of the ES addresses noise and vibration [ER 13.3.1]. The Secretary of State notes that some elements of the Applicant's assessment were undertaken in accordance with DMRB LA 111 and that some elements were subsequently amended to take into account the revision to the LA 111 in 2020 [ER 13.3.2].

168. The Secretary of State notes that PCC was content with the baseline monitoring results and satisfied that the ES appropriately assesses the effects of the Proposed Development on noise and vibration [ER 13.5.1]. Considering that no significant or technical analysis has been submitted which would present a rational or robust challenge to the Applicant's data, the Secretary of State is satisfied that the noise modelling is verified by the baseline monitoring, and this demonstrates an appropriate and reasonable degree of confidence in respect of the modelling output [ER 13.5.2].

169. As discussed in the Transport and Traffic section, the Secretary of State disagrees with the ExA's conclusions that the traffic assessment in respect of the

WWR underestimates the quantum of traffic travelling north from Wansford. However, irrespective of the quantum of traffic, the Secretary of State agrees with the ExA's that traffic approaching the roundabout would not have a material effect on the noise profile in this location [ER 13.5.3].

Construction

170. The Secretary of State notes that during the daytime, the Applicant assessed that four dwellings at 6 to 12 Great North Road would be affected to a major extent during two phases of the construction works, with Sacrewell Farm and Country Centre and the Model Farm at Upton being affected to a moderate extent when work in that vicinity would take place [ER 13.3.17 and ER 13.5.5]. The ExA concluded that it would not be possible to avoid these effects and so mitigation in the form of noise barriers would be necessary, which would be secured in the Order and would be the subject of consultation with PCC. The Secretary of State concurs with this conclusion [ER 13.5.6].

171. During evenings and weekends the Secretary of State notes that a large number of properties as set out at ER 13.3.18 would experience either major or moderate adverse effects and that the Applicant states that until a contractor is appointed there is uncertainty regarding the duration of the work and whether they would exceed the periods set out at ER 13.3.9 so as to result in a significant effect. The Applicant has therefore proceeded on a precautionary basis and assumed the periods would be exceeded [ER 13.3.19]. The Secretary of State notes that PCC recommended an application under s61 of the Control of Pollution Act 1974 for prior consent for works on the construction site once the schedule of works is finalised [ER 13.4.2] together with further detailed construction noise and vibration assessment as set out at ER 13.4.3. The Applicant agreed that a s61 application, or less formal means, would be made. The Secretary of State agrees with the ExA that these measures satisfactorily minimise the effect on sensitive receptors during the construction period [ER 13.5.10].

172. The ExA also considered that the draft Order submitted by the Applicant included provision in ex-Article 47 to allow for appeals against either a notice under s60 of the Control of Pollution Act 1974 (control of noise on construction sites) or for situations where a PCC does not give consent or grants consent subject to conditions and recommended that the article be omitted [ER 13.5.9 and ER 18.4.40 – 18.4.44]. The Secretary of State agrees with the ExA's recommendation and that the measures in the rDCO satisfactorily minimise the effect on sensitive receptors during the construction period [ER 13.5.10].

173. The Applicant concluded that there were several properties which could be affected by construction vibration as outlined at 3. In addition, Deep Springs would experience minor vibration levels [ER 13.3.55, Table 1 and REP2-014, Table 11-14]. The Secretary of State agrees with the ExA that given the nature of the work required these effects would be unavoidable and the measures proposed in respect of mitigation are the best practicable to ensure that there would be no significant effect [ER 13.5.7].

Operation

174. The Secretary of State notes that the Applicant identified a total of 382 noise sensitive receptors including the 33 non-residential receptors as set out at ER 13.3.27

with the number of receptors affected by the operation of the Proposed Development differing between daytime and night-time [ER 13.5.11]. The Secretary of State notes that certain receptors, particularly PROWs were not assessed for night-time effects and the ExA considered this reasonable [ER 13.5.11]. The Secretary of State has no reason to disagree.

175. The Secretary of State notes from Table 11-18 in Chapter 11 of the ES that during daytime operation, the Proposed Development would cause 281 dwellings and 22 non-residential receptors to experience an increase in noise levels of less than 3.0dB which is assessed as negligible and that a further 44 dwellings and 3 non-residential receptors would be subjected to less than 3.0db and therefore a similarly negligible reduction in noise levels [ER 13.5.13]. At night, 261 dwellings and one non-residential receptor would be subject to an increase of noise levels of less than 3.0dB with 39 dwellings and one non-residential receptor subject to a 3.0db decrease and these impacts would again be negligible [ER 13.5.14].

176. The Secretary of State notes that the Applicant's assessment concludes that on opening of the Proposed Development, 33 dwellings (4 located in Wansford and 29 in Sutton) and four non-residential sensitive receptors would experience a minor adverse impact [ER 13.3.34], but that in the Future Year scenario, no residential dwellings would experience major, moderate or minor adverse or beneficial effects. However, the Secretary of State notes that two non-residential receptors, the Wansford Hereward Way Permissive 3 and Wansford Footpath 4 [ER 13.3.32] would experience a major adverse impact on opening, with the effect on Wansford Footpath 4 reducing to a moderate adverse impact on the Future Year Scenario [ER 13.3.35 ER 13.5.16]. The Secretary of State agrees with the ExA that as users of the Wansford Hereward Way Permissive 3 would be provided with a separate route and would not have to cross the A47 at grade, the increase in noise level attributable to the Proposed Development is acceptable [ER 13.5.17].

The Secretary of State's Conclusions on Noise and Vibration

177. Overall, like the ExA, the Secretary of State is satisfied that, as far as possible, the Proposed Development would not cause significant adverse impacts on health and quality of life, would mitigate and minimise adverse effects where avoidance is not possible and would contribute towards improvements in health and quality of life through the effective management and control of noise and vibration. Accordingly, the Secretary of State concurs with the ExA that the Proposed Development would comply with paragraphs 5.195 of the NPSNN, paragraph 185 of the NPPF and the Noise Policy Statement for England [ER 13.5.18] and Local Plan Policy LP17 because although there would be an adverse effect from noise and vibration, its impact would not be unacceptable [ER 13.6.3].

178. The Secretary of State agrees with the ExA's overall conclusions as outlined at ER 3.6.1, that the increase in noise and vibration levels have been considered and mitigated and minimised as far as possible and that while there are some outstanding significant adverse effects on a small number of non-residential receptors, given the location, this should be given moderate negative weight in the planning balance [ER 13.6.2].

Landscape and Visual Effects

Effects on Landscape

179. The main effects of the Proposed Development in relation to landscape and visual effects are set out at paragraph 7.8.1 of Chapter 7 of the ES [ER 14.3.14].

180. The Secretary of State agrees with the ExA that that the Nassaburgh Limestone Plateau Landscape Character Area (“LCA”) and the Nene Valley LCA would be the only LCAs affected for the reasons set out at ER 14.5.2. Despite the lack of explanation from the Applicant regarding how it formed its conclusion regarding the extent of the Nene Valley LCA [ER 14.5.3], like the ExA, the Secretary of State is satisfied that the part of the Nene Valley LCA that falls to the south of the River Nene can be adequately understood from the documentation outlined at ER 14.5.3 [ER 14.5.4].

181. The Secretary of State notes the Applicant’s acknowledgement that, during construction, the effect on the landscape would be significant. The effects on the Nene Valley LCA would be large adverse and there would be both a moderate adverse change to, and effect on, the Nassaburgh Limestone Plateau LCA [ER 14.3.18]. The Secretary of State notes that presently, the Wansford east roundabout is highly visible from the south, east and north with lighting at night emphasising its presence which means that the roundabout and traffic on the existing A47 degrades the parts of the Nene Valley LCA lying to the south of the River Nene and the Nassaburgh Limestone Plateau LCA that lies to the north of the A47 [ER 14.5.6]. Accordingly, the Secretary of State concurs with the ExA that, during construction, the Proposed Development would have a large adverse effect on the whole of the Nene Valley LCA [ER 14.5.7].

182. At year one of operation, the Applicant concluded that the effects on the landscape character of both the Nene Valley LCA and Nassaburgh Limestone Plateau LCA would be moderate adverse, reducing to slight adverse by year 15, due to the proximity of the Proposed Development to the River Nene and the removal of vegetation with replacement planting providing mitigation as it matures [ER 14.3.25]. The Secretary of State agrees with the ExA that, on opening, as there would be little mitigation from landscaping, there would be large adverse effects on the Nene Valley LCA and on the Nassaburgh Plateau LCA as a whole because once the construction compound is removed, the free flow slip road and vehicles on it would become particularly intrusive [ER 14.5.9]. Like the ExA, the Secretary of State attributes more weight to the adverse overall effect on the landscape during construction and at year one than the Applicant and finds these effects would be significant [ER 14.5.11], but as landscaping matures, the effects on landscape would be mitigated and he is therefore satisfied that, by year 15, only slight adverse effects would remain [ER 14.5.10].

Visual effects

183. The Secretary of State notes the Applicant’s assessment of visual effects as summarised at ER 14.3.19 - 14.3.24] and noting that there was no disagreement from IPs as to the effect of the Proposed Development on visual receptors, with the exception of the assessment of effects on users of the Sacrewell Farm visitor centre, agrees with the ExA that the Applicant’s assessments are reasonable [ER 14.5.16].

184. With regard to the assessment of the effects for users of Sacrewell Farm visitor centre, the Secretary of State agrees with the ExA that as the construction of the compound and link road would be particularly intrusive into views across a wide arc

from south to northwest, this would create a greater magnitude of change than that ascribed to it by the Applicant, and it should therefore be considered as having a major adverse effect [ER 14.5.15].

185. Regarding the residential receptor of Sutton Lodge, the Secretary of State notes there would be major adverse significant effects during construction [ER 14.5.17] but that the Applicant is of the view that upon opening, most of the larger visual effects would cease [ER 14.5.18]. Like the ExA, the Secretary of State considers this underestimates the effect of the Proposed Development even with initial landscaping [ER 14.5.18]. At the western end, where the land slopes more steeply down to the River Nene and Wittering Brook, the effects on receptors would be marked and the effect of the construction works on the slope north of the River Nene would be significant and would continue beyond the opening of the Proposed Development [ER 14.5.19]. Noting that the landscape at the eastern end of the Application site is predominantly flat, the Secretary of State agrees with the ExA that provided the vegetation screen to the north of the existing A47 is maintained, the Proposed Development would not be particularly intrusive to visual receptors after construction has ceased [ER 14.5.20] and that once the landscaping matures, the Secretary of State finds the Applicant's assessment of effects to be reasonable [ER 14.5.21].

Trees

186. The Secretary of State notes the concerns raised regarding the effect of the Proposed Development on trees [ER 14.4.1 - 14.4.3] and notes that all but one of the trees (T18) mentioned by PCC in its representations are to be retained [ER 14.5.22]. The tree which would be lost is noted to be an oak tree categorised as a tree of high quality with an expected life span of at least 40 years [ER 14.5.22]. However, given the location of the tree and the fact that the highway embankments would fall within the root protection area of the tree, the Secretary of State agrees with the ExA that the felling of this tree is unavoidable [ER 14.5.23].

Entrance to Sacrewell Farm

187. The Secretary of State notes the concerns raised by the William Scott Abbott Trust regarding the impact of the design to the entrance of Sacrewell Farm, which will have an effect on landscape and visual receptors [ER 14.4.4] and that the Applicant indicated that it had agreed design principles with the Trust [ER 14.5.24]. The Secretary of State concurs with the ExA that due to the importance of this tourist facility, the William Scott Abbott Trust should be consulted as part of the detailed design process [ER 14.5.25] and has amended the Order (Requirement 3 (detailed design)) to reflect this [ER 14.5.26].

The Secretary of State's Conclusions on Landscape and Visual Effects

188. Overall, the Secretary of State agrees with the ExA's conclusions on landscape and visual effects as summarised at ER 14.6.1, and that the Proposed Development has been carefully designed to minimise harm and therefore complies with the NPSNN [ER 14.6.2] and Local Plan Policies LP16 and 17. However, as it would not bring landscape benefits and would harm landscape character, the Secretary of State agrees with the ExA that it would not comply with Local Plan Policies LP24 and LP27 [ER14.6.3].

Good Design

189. The Secretary of State notes that the ExA considered whether the Application considers the dimensions of good design [ER 16.4.68 - 16.4.72]. While the ExA concluded that the proposals set out in the Environmental Masterplan would ensure well-designed landscaping [ER 16.4.71], the ExA's overall conclusion was that the Proposed Development does not follow good design principles because it fails to meet its objective of providing a more free-flowing network, deal with the issue of connectivity of NMUs and the severance of the community in Upton [ER 16.4.72].

The Secretary of State's Conclusion on Good Design

190. The Secretary of State does not agree that it is appropriate to reconsider the question of whether the Proposed Development will result in a more free-flowing network or the impacts on NMUs and the community in Upton as an element of good design. Those elements are considered in other sections of the Report, taken into account in this letter above and within the planning balance below. The Secretary of State does not consider it appropriate to account for them a second time as an element of good design. The Secretary of State is therefore satisfied that overall, the Proposed Development does achieve good design principles.

Habitats Regulations Assessment

191. Under regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) ('the Habitats Regulations'), the Secretary of State, as the competent authority, is required to consider whether the Proposed Development (which is a project for the purposes of the Habitats Regulations) would be likely, either alone or in combination with other plans and projects, to have a significant effect on a European site. The purpose of the likely significant effects test is to identify the need for an 'appropriate assessment' and the activities, sites or plans and projects to be included for further consideration in any appropriate assessment [ER 15.2.1].

192. The Applicant submitted and revised at deadlines 3 and 5 its Report to Inform Habitats Regulations Assessment, referred to within the ExA's Report as 'No Significant Effects Report' ("NSER") [REP5-010] [ER 15.1.5]. As set out in the NSER [REP5-010] the Applicant has used the screening guidance set out in the DMRB LA115 to identify international sites likely to be affected.

193. The Secretary of State notes that the Proposed Development is not directly connected with or necessary to the management of a European site [ER 15.1.10]. The following sites were screened into the Applicant's assessment: Nene Washes Special Protection Area ("SPA"), Nene Washes Special Areas of Conservation ("SAC") and Nene Washes Ramsar site [ER 15.2.2, Table 14] and the potential effect pathways are summarised at 15.2.6 of the ExA's Report.

194. The Secretary of State notes the discussions that occurred during the Examination regarding a potential hydrological pathway from the Proposed Development to Rutland Water SPA and Ramsar site and that during the Examination, this site was added to the Applicant's NSER [ER 15.1.15, 15.2.16 – 15.2.21].

195. The Secretary of State notes the Applicant's conclusion of no Likely Significant Effect alone on the European sites considered and that this was not disputed by IPs [ER 15.2.23].

196. The Secretary of State notes that the Applicant addressed the potential for in combination effects and is aware that no major projects had been identified within a 2km zone of influence or land allocated for development within the relevant Local Plans [ER 15.2.25].

197. There is agreement between NE and the Applicant that a likely significant effect to these sites can be ruled out both alone and in combination with other plans or projects [ER 15.2.27-15.2.28].

198. The Secretary of State agrees with the ExA's Habitats Regulation Assessment conclusions [15.3.1 – 15.3.3 and 15.4.1] that there would be no likely significant effects of the Proposed Development on any European sites or their qualifying features. No mitigation relevant to Habitats Regulation Assessment has been proposed and none is required. The Secretary of State is satisfied that the Proposed Development can proceed without the need for an Appropriate Assessment.

The Secretary of State's Conclusions on European Sites and HRA

199. The Secretary of State concurs with the Applicant and the ExA that there would be no likely significant effects arising from the Proposed Development, either alone or in combination with other plans or projects, on Nene Washes SPA/SAC/Ramsar site and Rutland Water SPA/Ramsar site. In the light of this, the Secretary of State also agrees with the Applicant, NE, and the ExA that no European site is required to be considered and taken forward to Appropriate Assessment.

Planning Balance

200. The ExA considered that the following matters weigh in favour of the Proposed Development:

- Benefits from a decrease in congestion, improved journey times, and enhanced highway safety carry significant weight in favour of the Proposed Development; [ER 16.4.10]
- Benefits to motorised traffic carry moderate beneficial weight [ER16.4.12]. However, for the reasons set out in the Traffic and Transport section above, the Secretary of State considers that the Proposed Development would result in a more 'free-flowing' network west of the Wansford east roundabout and that these benefits therefore carry substantial weight in favour of the Proposed Development.
- Economic and social benefits from improved connectivity both regionally and in the immediate vicinity of the Proposed Development including improved reliability of journeys; Socio-economic impacts weigh significantly in the favour of the Proposed Development [ER 16.4.10].
- A Biodiversity Net Gain weighs moderately in favour of the Proposed Development [ER 16.4.32,16.4.32]

201. The ExA concluded that the following matters weigh neutrally in the planning balance for the Proposed Development:

- Water Environment and Flood Risk [ER 16.4.45].
- Land Stability [ER 11.5.16]. As identified above, the Secretary of State continues to agree with this assessment following the provision of the 2022 supplementary ground investigation report by the Applicant.
- Habitats Regulations Matters [ER 16.4.57].

202. The following are considerations that the ExA has weighed against the Proposed Development [ER 19.2.7]:

- Severance of the community in Upton and socio-economic impacts: as set out in this letter above. Whilst the Secretary of State agrees with the ExA that the longer distances for travel to and from the community of Upton weighs against the Proposed Development, he does not agree that the additional travel distance results in a material severance of the community. For the reasons given the Secretary of State considers that this carries minor weight in the planning balance.
- Loss of BMV Land: as mentioned in the Geology Geotechnical Risk and Soil section of this letter, the Proposed Development would affect 19.1ha of BMV land. Like the ExA, the Secretary of State is satisfied that the soil management provisions included within the Order minimises such loss [ER 11.5.2 - 11.5.3 and 16.4.39]. The Secretary of State agrees that this carries moderate weight against the Proposed Development.
- Heritage Assets: as set out in the Cultural Heritage section above, the Proposed Development would result in less than substantial harm to designated heritage assets, substantial harm to Wansford Road Railway Station, linesman's hut, gate and gate piers and platform, and less than substantial harm to other non-designated heritage assets [ER 16.4.20 and 16.5.1]. The Secretary of State agrees with the ExA that the need for and the expected benefits from the Proposed Development would outweigh the harm the ExA identified for both designated and undesignated heritage assets [ER 16.5.1 - 16.5.2].
- Loss of a veteran tree: as set out in the Biodiversity section of this letter, while no specific replacement trees have been identified to compensate for the loss of a veteran tree, the Secretary of State agrees with the ExA that the overall Environmental Masterplan and associated provisions will ensure proper compensation [ER 16.4.29], The Secretary of State therefore considers that this matter carries minor weight against the Proposed Development.
- Air Quality and Emissions: as set out in the relevant section above, the Secretary of State is satisfied that the Proposed Development would not have a significant air quality impact or have a material impact on the ability of the Government to meet its carbon reduction target. However, as the Proposed Development will result in an overall increase of emissions, the Secretary of State considers that this carries limited weight against the Proposed Development. [ER 10.5.8, 10.6 and 16.4.36 – 16.4.37]
- Noise and vibration: the Secretary of State agrees with the ExA that impacts from noise and vibration will be minimised and mitigated as far as possible, but that there will be significant adverse effects on a small number of non-

residential receptors [ER 13.6.2 and 16.4.47]. The Secretary of State has afforded this minor weight against the granting of the Proposed Development.

- Landscape and Visual impacts: as set out in the Landscape and Visual Effects section, the Secretary of State agrees that the Applicant's mitigation and tree planting measures are necessary, reasonable and appropriate [ER 16.4.55]. The Secretary of State considers that as the impacts on both landscape and visual receptors would reduce to only slight adverse effect by Year 15 [ER 16.4.52, 14.5.11, 14.6.1 and 16.4.56], and has concluded that this carries minor weight against the Proposed Development.

The Secretary of State's Conclusions on Planning Balance

203. As set out in paragraphs 18 – 21 above, the Secretary of State is satisfied that there is a need for the Proposed Development and that this need should be afforded substantial weight given the contribution it would make to meeting the need set out in the NPSNN to deliver national networks that meet the country's long term needs as part of a wider transport system. The Secretary of State also attaches substantial weight to the following benefits that are expected as a result of the Proposed Development: decrease in congestion and improved journey times; enhanced highway safety; and economic and social benefits from improved connectivity both regionally and in the immediate vicinity of the Proposed Development including improved reliability of journeys. Having carefully weighed these benefits of the Proposed Development against the adverse effects of the Proposed Development, the Secretary of State is of the view that the potential negative impacts do not outweigh the need for the Proposed Development.

COMPULSORY ACQUISITION

204. The Secretary of State notes the purposes for which Compulsory Acquisition ("CA") and Temporary Possession ("TP") of land are required are set out in the Statement of Reasons and the Book of Reference and, in general terms, at paragraph 17.4 of the Report. The Secretary of State accepts the description of the legislative requirements and national guidance as set out by the ExA at ER 17.5

Legislative Requirements

205. Section 122 of the 2008 Act provides that an order granting development consent may include provision authorising the CA of land only if the land is required for the development to which the development consent relates or is required to facilitate or is incidental to that development or is replacement land to be given in exchange [ER 17.5.2] and there is a compelling case in the public interest for the land to be acquired compulsorily [ER 17.5.3]. The ExA was satisfied that the statutory tests in section 122 are met [ER 17.9.30, ER 17.9.38 and ER 17.10.3]. The Secretary of State has considered the CA powers sought by the Applicant and agrees with the ExA's conclusions for the reasons given by the ExA.

206. Section 123 of the 2008 Act sets out that one of three procedural conditions must be met by an application, namely: 1) the application includes a request for CA to be authorised; 2) all persons with an interest in the land consent to the inclusion of the provision; and 3) the prescribed procedure is followed in relation to the land [ER

17.5.4]. The ExA was satisfied that the condition 1) above is met because the Application includes a request for CA [ER 17.5.5]. The Secretary of State notes that in all cases relating to individual objections and issues, that CA, TP with permanent rights and TP is justified to enable implementation of the Proposed Development and a compelling case in the public interest has been made [ER 17.14.1]. The Secretary of State agrees with the ExA's conclusions.

207. Section 127 of the 2008 Act has provisions in relation to CA of land or rights over Statutory Undertakers' ("SU") land. If a SU had made a representation that has not been withdrawn before the end of the Examination, then CA may only be authorised if the land can be purchased and not replaced without serious detriment to the carrying on of the undertaking, or if purchased, it can be replaced by other land belonging to, or available for acquisition by, the undertakers without serious detriment to the carrying on of the undertaking (section 127(2) and (3)) [ER 17.58.8]. Section 127 also makes provision about the circumstances in which the CA or a right over SU land by the creation of a new right over land. The Secretary of State has considered SUs that may be affected by the Proposed Development in paragraphs below.

Discrepancies between the Book of Reference ("BoR") and Compulsory Acquisition Schedule ("CAS")

208. The ExA noted several discrepancies when comparing the CAS with the BoR [ER 17.8.2] as discussed at ER 17.8.3 to ER 17.8.22. Noting that the BoR is the definitive record of land subject to compulsory acquisition, like the ExA, the Secretary of State is satisfied that the errors listed in the CAS as outlined at ER 17.8.16 would not prejudice any party and notes the revised Book of Reference provided by the Applicant dated 26 January 2023. Regarding the errors in the BoR, the Secretary of State agrees with the ExA that Plots 5/5a and 5/6i should not be included in Part 3 [ER 17.8.17].

209. In respect of Plot 3/2g, in their response dated 11 November 2022 to the Secretary of State's consultation letter dated 28 October 2022, Anglian Water Services Limited ("Anglian Water") confirmed that it had an interest in this plot and understood that regardless of whether the Applicant purchased Plot 3/2g by agreement or via a general vesting declaration, its existing rights would be retained. Accordingly, and noting the reassurance the Applicant has provided to Anglian Water regarding the measures to ensure the protection of its pipelines as outlined in Anglian Water's consultation response dated 11 November 2022, the Secretary of State is satisfied that Anglian Water has not been prejudiced by the failure to identify its interest in Plot 3/2g and so this would not be an impediment to the granting of the Order. The Secretary of State also notes the protective provisions included in Part 3 of Schedule 9 to the Order for the protection of Anglian Water.

Crown Land

210. The Secretary of State notes that at the end of the Examination, Crown consent had not been obtained for the temporary possession and permanent acquisition of rights in plot 1/5a and the permanent acquisition of all interests and rights in plot 1/6a [ER 17.9.6] for the reasons set out at ER 17.9.7 to ER 17.9.9. In the absence of agreement from the Secretary of State for Levelling Up, Housing and Communities ("the Secretary of State for DLUHC"), the ExA recommended that consent for the

Order should be withheld. On 17 January 2023, DLUHC provided the necessary consent.

Category 1 Objectors

211. The Secretary of State notes the ExA's consideration of individual objections at ER 17.9.12 – 17.9.30 and agrees with its reasoning and conclusions.

Category 1 and 2 Objector

212. The ExA identified Anglian Water as a SU and the Secretary of State agrees with the ExA's reasoning and conclusions as set out at ER 17.9.32 - 17.9.38.

Category 2 interest

213. The ExA noted that four other SU with category 2 interests were identified in the CAS [ER 17.9.39], none of whom made a representation to the Examination. Like the ExA, the Secretary of State is content that these interests are dealt with by the Protective Provisions set out in the Order [ER 17.9.40].

Land to which no objection has been received

214. The ExA noted that a number of category 1 landowners whose land would be subject to CA, TP with permanent rights or TP have not raised any objections to the Proposed Development [ER 17.9.41]. These landholders include some public bodies like PCC, which has indicated its general support for the Proposed Development [ER 17.9.42]. There are also a number of other landholders who have not sent any correspondence [ER 17.9.43]. The Secretary of State is satisfied that the land is required for the development to which the development consent would relate or is required to facilitate or is incidental to the Proposed Development, and there is a compelling case in the public interest for the land to be acquired compulsorily and for the land sought to be acquired for TP whether or not with permanent rights after, including those with category 3 interests [ER 17.9.44].

The Secretary of State's Conclusion on Compulsory Acquisition

215. The Secretary of State notes that the ExA recommended that the Order be refused for the reasons set out in the Report, and therefore concluded that without an approved development, there is no need to interfere with land rights and consequently no compelling case in the public interest for the acquisition of the land sought [ER 17.10.2 & 19.2.12]. For the reasons set out at above in this letter, the Secretary of State disagrees with the ExA and is of the view that the Order should be granted. Accordingly, he is satisfied that there is an approved development and that the land is required for the development to which the development consent would relate or is required to facilitate or is incidental to that development. The Secretary of State is satisfied that there is a compelling case in the public interest for the land to be acquired compulsorily and for the land sought to be acquired for TP whether or not with permanent rights thereafter, including those with category 3 interests [ER 17.9.44], and the public interest outweighs the private loss that would be suffered by those whose land would be affected.

Funding

216. The *Guidance related to procedures for the compulsory acquisition of land* requires that an application for a development consent order is accompanied by a statement setting out how both the acquisition of land and the implementation of a development would be funded and how funding would be available in a timely fashion within the time limits for implementation set by the development consent order. A Funding Statement was submitted with the Application and examined by the ExA. The ExA noted that the Funding Statement provides an estimate of the costs required to deliver the Proposed Development including the cost of any compensation payments resulting through the exercise of compulsory acquisition powers [ER 17.7.7]. The ExA also noted that that the funding for the project was first agreed in RIS1 in 2014 and was also included in the RIS2 2020 – 2025 period [ER 17.7.8].

217. As set out in this letter above, during the Examination the Applicant indicated that further ground investigation works were ongoing. The Secretary of State consulted the Applicant on the outcome of the supplementary ground investigation report and its consideration of any implications the results might have on the Proposed Development including any impacts on costs. In its letter dated 17 January 2023, the Applicant stated that, as confirmed in the Funding Statement submitted in support of the Application, the estimate for the scheme already includes allowances for funding risk. The Applicant stated that since the geotechnical mitigation proposals are still being designed and developed it cannot confirm or provide details regarding any funding change to the construction budget. However, the Applicant confirmed that any increased costs would be accommodated within the existing risk allowance for the scheme. The Applicant also stated that, in the unlikely event that the costs exceed the provisions for risk, and a funding shortfall is subsequently identified, it will be addressed via a change control process.

The Secretary of State's Conclusions on Funding

218. The Proposed Development would be fully funded by the Department, and it is not dependent on funding contributions from any other parties. The Secretary of State agrees with the ExA that there are adequate funds to cover CA and TP compensation and that no additional or special steps are required to secure or guarantee these funds [ER 17.11.3]

LATE REPRESENTATIONS AND CONSULTATION RESPONSES

219. Following the close of the Examination, the Secretary of State received responses to his consultation questions that were outside of the questions posed and correspondence on the Application. The Secretary of State has treated the correspondence has been treated as late representations and has published them as such alongside this letter on the Planning Inspectorate website.

220. Unless addressed above, the Secretary of State considers that these late representations and responses to his consultation questions outside of the questions posed do not raise any new issues that are material to the decision on the Proposed Development. As such, the Secretary of State is satisfied that there is not any new evidence or matter of fact in these late representations that need to be referred again

to IPs under Rule 19(3) of the Infrastructure Planning (Examination Procedure) Rules 2010 before proceeding to a decision on the Application.

GENERAL CONSIDERATIONS

Public Sector Equality Duty

221. The Equality Act 2010 established the public sector equality duty, which requires public authorities to have due regard in the exercise of their functions to the need to eliminate unlawful discrimination, harassment and victimisation and any other conduct prohibited under the Act; advance equality of opportunity between people who share a protected characteristic and those who do not; and foster good relations between people who share a protected characteristic and those who do not in respect of the following “protected characteristics”: age; gender; gender reassignment; disability; marriage and civil partnerships; pregnancy and maternity; religion and belief; and race.

222. The Secretary of State agrees with the ExA that there would be no positive or negative effects for those with protected characteristics of sex, religion or belief, race, sexual orientation, gender reassignment, and marriage and civil partnership as a result of the Proposed Development [ER 17.13.7]. However, as set out in paragraphs 52 - 54 above, the ExA concluded that the nature of the slope at the western extent of the Wansford Nene Way and the junction with Peterborough Road close to the junction with the A1 currently has a negative impact on those with the protected characteristics of age (both young and old), disability and pregnancy and maternity [ER 17.13.8 - 17.13.10]. The Secretary of State notes that the ExA recommended a separate crossing of the A1 overbridge to address this [ER 17.13.12 & 19.2.18].

223. The Secretary of State is aware that the Applicant considered whether it would be possible to retrofit or introduce new improvements to the A1 underpass to improve accessibility and provide further connectivity for NMU users and highlighted the following two issues:

- 1) The ownership of the land under the A1 underpass is unknown. The Applicant considers that it is unlikely that the landowner of the A1 underpass will come forward to assert their rights, and that in such circumstances, although it would not be impossible, it would be difficult to compulsorily purchase the land which would be necessary to deliver those improvements.
- 2) Improving the area under the A1 underpass to an appropriate standard would also require the acquisition of residential property to allow working and turning room. The Applicant concluded that on balance, as the Proposed Development would have no impact on the existing A1 underpass, it would not be reasonable or appropriate to seek to acquire land in order to improve it.

224. In respect of the NMU route across the A1 overbridge recommended by the ExA, the Applicant considered that the cost of providing this solution would be disproportionate to the number of NMUs likely to benefit from its inclusion [ER 16.2.2].

225. The Secretary of State notes that the Applicant’s Equality Impact Assessment concluded that there would be neutral impact on those with the protected characteristics of age, disability and pregnancy and maternity. The Secretary of State also notes that all footway, pavement and related infrastructure including the

underpass have been designed to DMRB standard which includes suitable access for those with disabilities.

226. The Secretary of State accepts that the nature of the existing slope at the A1 underpass may be less than ideal for NMUs. However, he is satisfied that the Applicant has appropriately considered and not been able to identify reasonable or appropriate measures to improve the nature of the slope or introduce new improvements as part of this scheme.

227. The Secretary of State is therefore satisfied that the public sector equality duty has been complied with and that due regard has been given to the matters set out in section 149(1) of the Equality Act 2010 in accordance with section 149(3) to (5): the need to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic or persons who do not.

Natural Environment and Rural Communities Act 2006

228. The Secretary of State, in accordance with the duty in section 40(1) of the Natural Environment and Rural Communities Act 2006 has to consider what action he can properly take, consistently with the proper exercise of his functions, to further the general biodiversity objective and, in accordance with regulation 7 of the Decisions Regulations, have regard to conserving biodiversity and in particular to the United Nations Environmental Programme on Biological Diversity of 1992. He has had regard to both of these when deciding on whether to grant development consent. The Secretary of State notes that the ExA has had regard to the 2006 Act and biodiversity duty in the relevant sections of the Report [ER 3.4.6] but did so with regard to the section 40(1) duty prior to it being amended by section 102(3) of the Environment Act 2021. In reaching a decision to grant development consent, the Secretary of State has had due regard to conserving biodiversity.

DRAFT DEVELOPMENT CONSENT ORDER AND RELATED MATTERS

229. The Secretary of State has made a number of minor textual amendments to the rDCO in the interests of clarity, consistency and precision. Further to the textual amendments the Secretary of State also makes the following modifications:

- In the preamble, paragraph 16 of Schedule 5 to the 2008 Act has been cited as the Proposed Development includes the diversion of watercourses [ER 12.3.70];
- in article 2(1) (interpretation):
 - the definitions of “Anglian Water” and “NGED” have been inserted to avoid duplicating definitions in article 10 and Parts 3 and 6 of Schedule 9, which have consequently been omitted;
 - the definition of “business day” has been moved to paragraph 15 of Part 2 of Schedule 1, which is the only place in the Order where it is used

- the definition of “completion or completed” has been moved to paragraph 1 of Part 1 of Schedule 2;
- the definitions of “hedgerow” and “important hedgerow” have been moved to article 39;
- the definition of “land adjacent to the Order limits” has been moved to article 5, which is the only place in the Order where it is used; and
- the definition of “maintain” has been amended to improve clarity regarding the scope of such works where they differ from those reported in the environmental statement;
- in article 8(2) (limits of deviation), “or maintaining” has been omitted as there is no explanation given in the Applicant’s Explanatory Memorandum (“the EM”) of why it may be necessary to deviate during maintenance works;
- in article 11 (application of the 1991 Act):
 - paragraph (7)(c) has been modified, as no justification is provided in the EM for such broad disapplication of the 1991 Act, rather than disapplying only in respect of “maintenance works which are street works”; and
 - paragraph (8) has been omitted as the Secretary of state is not aware of, nor does the EM reference, any lane rental scheme being proposed in the vicinity of the Proposed Development;
- in articles:
 - 14 (power to alter layout etc. of streets),
 - 16 (temporary stopping up and restriction of use of streets),
 - 21 (discharge of water),
 - 23 (authority to survey and investigate land), and
 - 39 (felling or lopping of trees and removal of hedgerows),

paragraphs have been inserted requiring the Applicant to include in an application to the relevant authority to which a deeming provision applies, notification that the application will be deemed as being consented to if the authority does not notify the Applicant of its decision before the end of the relevant specified period, and the specified period has been modified to 28 days, as the Secretary of State is content that 28 days provides sufficient time and is not persuaded by the reason proposed for a 42 day period [ER 18.4.14 – 18.4.15];

- in article 16 (temporary stopping up and restriction of use of streets) the title is amended (and references throughout the Order amended accordingly) to follow precedent, as the Secretary of State is not persuaded that references to “temporary stopping up”, a longstanding (see, for example, section 261 of the Town and Country Planning Act 1990) and well-understood term, need to be replaced;
- in article 21 (discharge of water), paragraph (7) has been omitted and paragraph (9) inserted to follow the drafting of the precedents cited in the EM and because there is no indication that the Applicant wished to deviate from these and default to the definition of “public sewer or drain” from the Water Resources Act 1991;
- in articles:
 - 26(1)(a) (time limit for exercise of authority to acquire land compulsorily); and

- 32(3)(a) (acquisition of subsoil or airspace only),
precedented text is added to make it clear that Part 1 of the Compulsory Purchase Act 1965 should be read as being modified by article 30 (modification of Part 1 of the 1965 Act);
- article 27(5) (compulsory acquisition of rights and imposition of restrictive covenants) is omitted as no justification is provided in the EM for its inclusion;
- in article 30(2) (modification of Part 1 of the 1965 Act), the numbering and modified text are corrected and the drafting simplified, with the two sub-paragraphs modifying section 4A(1) of the Compulsory Purchase Act 1965 being combined in paragraph (2).
- in article 31 (application of the 1981 Act), the drafting is simplified, with the two sub-paragraphs in each of paragraphs (6) and (7) being combined;
- in articles 33 (rights over or under streets) and 40 (trees subject to tree preservation orders), “as if it were a dispute” is inserted to improve clarity and follow the approach used in other articles;
- in article 38(4) (recovery of costs of new connections), “article” has been substituted for “paragraph”;
- in article 39 (felling or lopping of trees and removal of hedgerows) the reference to the revoked Conservation of Habitats and Species Regulations 2010 is replaced with the current legislation;
- in article 43(1) (defence to proceedings in respect of statutory nuisance) the Secretary of State, noting the lack of justification in the EM and that the precedents cited in it only refer to section 79(1)(g) (noise emitted from premises so as to be prejudicial to health or a nuisance) of the Environmental Protection Act 1990, is not persuaded that a need for the inclusion of subsection (1)(d) (dust), (ga) (noise emitted from or caused by a vehicle, machinery or equipment in a street) or (fb) (artificial light from premises) of that Act has been demonstrated;
- in article 45 (set off for enhancement in value of retained land), the text following the comma in paragraph (2)(b) has been amended to form a tailpiece;
- in article 47 (certification of documents, public register, etc.), paragraphs (4)(b) to (6) have been moved to Part 2 of Schedule 2, which is the customary location in highways DCOs for such provisions;
- in article 51 (removal of human remains):
 - “must” is substituted for “is to” in paragraph (8) to follow standard drafting practice;
 - ex-paragraph (17) is divided into paragraphs (17) and (18) to simplify the drafting; and
 - a precedented definition of “the specified land” is inserted as paragraph (19) to avoid there being an undefined term;
- in Schedule 1 (authorised development), the words “and a new cycle crossing point” have been reinstated in Works No. 12 given the Secretary of State’s conclusions with regard to non-motorised users routes and the WWR;
- in Part 1 of Schedule 2 (requirements):

- in paragraphs 3(1) and (2), 4(1), 5(1) and 11(1), the requirement to consult one or both of SPC and WPC is omitted, as the Secretary of State is not persuaded by the reasons given for including this provision [ER 18.4.10 – 18.4.13] and considers that the views of those Authorities can be adequately communicated through PCC;
- in paragraphs 4(1) and 11(1), the word “substantially” has been reinstated as the Secretary of State considers its omission is an inappropriate fettering of his discretion;
- in paragraph 12, a reference to the Manual of Contract Documents for Highway Works is substituted for that to the EMP (First Iteration), as there is no reference to standards applicable to fencing in the latter document;
- ex-paragraph 13 is omitted given the Secretary of State’s conclusions in respect of non-motorised users routes and the WWR; and
- the final part of paragraph 13(3)(c) is converted to a tailpiece, in line with precedent;
- in Schedule 6 (modification of compensation and compulsory purchase enactments for creation of new rights and imposition of restrictive covenants), the reference in paragraph 2(2) to “section 5(1)(5A)” is corrected to “section 5A(5A)” and the reference in the inserted section 5A(5A)(b) to “paragraph 5(7) of Schedule 4” is corrected to “paragraph 5(8) of Schedule 6”;
- in Schedule 9 (protective provisions):
 - in Part 3 (for the protection of Anglian Water), paragraph 26(3) is corrected so that it refers to the Environmental Permitting (England and Wales) Regulations 2016;
 - Part 4 (for the protection of NGG as gas undertaker) is amended throughout to refer to NGG (as defined in article 2(1)); and
 - Part 5 (for the protection of NGED as electricity undertaker) is amended throughout to refer to NGED (as defined in article 2(1)) following the change of name from Western Power Distribution (East Midlands) Limited to National Grid Distribution (East Midlands) Limited, as outlined in the Applicant’s letter dated 21 December 2022;
- in part 2 of Schedule 10 (documents etc. to be certified), the document reference for the Detrunking Plans is corrected.

SECRETARY OF STATE’S OVERALL CONCLUSION AND DECISION

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

CHALLENGE TO DECISION

231. The circumstances in which the Secretary of State's decision may be challenged are set out in Annex A of this letter.

PUBLICITY FOR THE DECISION

232. The Secretary of State's decision on this Application is being publicised as required by section 116 of the 2008 Act and regulation 31 of the 2017 Regulations.

Yours faithfully,

Natasha Kopala

ANNEX A

LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS

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

The A47 Wansford to Sutton Development Consent Order 2022 (as made) is being published on the Planning Inspectorate website at the following address:

<https://infrastructure.planninginspectorate.gov.uk/projects/eastern/a47-wansford-to-sutton/>

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