

A428 Black Cat to Caxton Gibbet improvements

TR010044

Volume 9

9.108 Applicant's Comments on the ExA's proposed schedule
of changes to the dDCO

Planning Act 2008

Rule 8(1)(b)

The Infrastructure Planning (Examination Procedure)
Rules 2010

January 2022

Infrastructure Planning

Planning Act 2008

**The Infrastructure Planning
(Examination Procedure) Rules 2010**

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Development Consent Order 202[]

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proposed schedule of changes to the dDCO**

Regulation Number	Rule 8(1)(b)
Planning Inspectorate Scheme Reference	TR010044
Document Reference	TR010044/EXAM/9.108
Author	A428 Black Cat to Caxton Gibbet improvements Project Team, National Highways

Version	Date	Status of Version
Rev 1	25 January 2022	Deadline 9

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Appendix A – Q4.3.6.1 Statutory Undertaker Powers

1 Applicant's Response to comments on the ExA's proposed schedule of changes to the dDCO

- 1.1.1 This document has been prepared by the Applicant to set out its responses to comments on the ExA's proposed schedule of changes to the dDCO.
- 1.1.2 These can be found in **Table 1-1** below.

Table 1-1 Applicant's Response to comments on the ExA's proposed schedule of changes to the dDCO

No.	Directed to	Question
Q4.1	GENERAL AND OVERARCHING	
Q4.1.1	Contents	
Q4.1.1.1	Applicant	<p>Question:</p> <p>Applicant's confirmation of final review for D10</p> <p>a) Check internal references, statutory citations and references and legal footnotes and update as required.</p> <p>b) Review additions to the dDCO ensuring that the titles and numbering of all provisions remains consistent throughout and with the Table of Contents.</p> <p>c) Follow best practice in Planning Inspectorate Advice Notes 13 and 15 and (as relevant) guidance on statutory instrument drafting from the Office of the Parliamentary Counsel (June 2020). ExA notes Applicant's previous response [REP1-022, Appendix to Q.1.7.1.1].</p> <hr/> <p>Answer:</p> <p>The Applicant has checked internal references, statutory citations and references and legal footnotes; reviewed additions to the dDCO to ensure that the titles and numbering of all provisions remains consistent throughout and with the Table of Contents; and checked against Planning Inspectorate Advice Notes 13 and 15. The Applicant has updated the dDCO accordingly and this updated version has been submitted at deadline 9 [TR010044/APP/3.1v5].</p>
Q4.1.1.2	Local Authorities	<p>Question:</p> <p>Discharging requirements and conditions</p> <p>No amendments proposed with regards to the provision that the discharging authority for all requirements is the SoS, acknowledging that the SoS would consult with the relevant LA in relation to Requirements that would be of relevance to that LA [REP1-021] [REP1- 022] [REP3-007] [REP3-039] [REP5-015], subject to further comments if any, from other parties.</p>

No.	Directed to	Question
		<p>Answer: The Applicant notes this comment from the Examining Authority.</p>
Q4.2	PART 1 PRELIMINARY	
Q4.2.1	Article 1 Citation and commencement	
		<p>Question: No amendments proposed by the ExA at this stage.</p>
		<p>Answer: The Applicant notes this comment from the Examining Authority.</p>
Q4.2.2	Article 2 – Interpretation	
Q4.2.2.1	All Parties Applicant	<p>Question: Definition of commence and pre-commencement work ExA notes the proposed amendment to the definition of “<i>commence</i>”, the inclusion of a definition of “<i>pre-commencement work</i>”, and a pre-commencement plan [REP6-028] included in Schedule 10 of Documents to be Certified. No further amendments proposed by the ExA at this stage [REP1-022, Q1.7.2.1] [REP4-037, Q2.7.2.1] [REP1-051] [REP3-007] [REP4-056] [REP6-033]; awaiting responses to WQ3.</p> <p>Answer: The Applicant notes this comment from the Examining Authority. The Applicant notes that responses to written question 3.7.2.1 ‘Pre-commence and pre-commencement’ were provided by Bedford Borough Council, the Cambridgeshire Authorities and Central Bedfordshire Council. The Applicant has provided comments to these responses in the Applicant’s comments on other parties responses to the third round of written questions [TR010044/EXAM/9.107]. It should also be noted that the Applicant revised the Pre-</p>

No.	Directed to	Question
		commencement Plan [REP8-008] in response to comments received from the Cambridgeshire Authorities at Deadline 6 [REP6-061].
		<p>Question: Definition of maintain No amendments proposed by the ExA [REP1-022, Q1.7.2.2] [REP4-037, Q2.7.2.2].</p> <p>Answer: The Applicant notes this comment from the Examining Authority.</p>
Q4.2.2.2	Applicant	<p>Question: Definition of Secretary of State Include in the EM, the explanation and reference to the joint letter dated 30 July 2021 confirming that the SoS for Transport would be the sole decision maker for the Proposed Development, taking account of comments from SoS for BEIS [REP1-022, Q1.7.2.3].</p> <p>Answer: Paragraph 2.1.22 has been updated in the Explanatory Memorandum submitted at Deadline 9 [TR010044/APP/3.2v5] to clarify that the SoS for Transport would be the sole decision maker for the Proposed Development, taking account of comments from SoS for BEIS.</p>
		<p>Question: Article 2(4) and 2(5) No amendments proposed by the ExA [REP1-022, Q1.7.3.1] [REP4-037, Q2.7.3.1].</p> <p>Answer: The Applicant notes this comment from the Examining Authority.</p>

No.	Directed to	Question
Q4.2.2.3	All Parties	<p>Question:</p> <p>Definition of tree constraints plan</p> <p>Provide comment, if any. No amendments proposed by the ExA, subject to comments from other parties.</p> <p>Answer:</p> <p>The Applicant has no comments at this stage but reserves the right to comment on Deadline 9 responses made by interested parties at Deadline 10.</p>
Q4.2.2.4	Applicant All Parties	<p>Question:</p> <p>Definition of adjacent land</p> <p>ExA notes the Applicant's responses [REP1-022, Q1.7.3.3] [REP4-037, Q2.7.3.3] regarding the reasons for the necessity of the provision relating to land adjacent to order limits, as provided for under S120 of PA 2008. At this stage, the ExA remains unconvinced that powers so widely drawn would be reasonable for the purposes described by the Applicant.</p> <p>The ExA notes that the provision relating to "land within or adjacent to the Order limits" appears in Article 4 – Development consent etc. granted by the Order, to "adjacent land" appears in Article 22 – Protective work to buildings, and to "any land which is adjacent to, but outside the Order limits" appears in Article 23 – Authority to survey and investigate the land.</p> <p>a) The ExA proposes a definition for "land adjacent to the order limits" to be added to Article 2, in line with the wording provided by the Applicant based on the A303 Sparkford to Ilchester Dualling made DCO:</p> <p><i>"land adjacent to the Order limits" means that land which is necessary to carry out the development of the authorised development or ensure the safe construction of any section or part of the authorised development;</i></p> <p>b) ExA proposed related change of wording in Article 4 as follows:</p> <p><i>"4. – (2) Any enactment applying to land within or adjacent to the Order limits <u>or where reasonably necessary land adjacent to the Order limits</u> has effect subject to the provisions of this Order."</i></p> <p>c) ExA proposes related change of wording in Article 23. Additionally, the ExA proposes a further amendment to remove from Paragraph (1) the words "operation or maintenance" to tighten the scope of this provision to only the</p>

No.	Directed to	Question
		<p>construction period rather than for the life span of the Proposed Development. If the Applicant believes surveys would be required for operation and maintenance purposes then provide examples of the types of surveys and supporting justification.</p> <p><i>“23. – (1) The undertaker may for the purposes of the construction, operation or maintenance of the authorised development enter on— (a) any land shown within the Order limits; and (b) where reasonably necessary, any land which is adjacent to, but outside the Order limits, and—”</i></p> <p>d) Applicant, would similar change of wording be applicable to Article 22? Explain with reasons and provide suitable wordings.</p> <p>Also refer to Q4.3.1.1 and Q4.5.2.1</p> <p>Answer:</p> <p>The Applicant has made the following amendments in its updated dDCO submitted at deadline 9 [TR010044/APP/3.1v5]:</p> <p>New definition for "land adjacent to the order limits" added into Article 2:</p> <p><i>“land adjacent to the Order limits” means that any land outside but adjacent to the Order limits which is reasonably necessary to carry out the development of construct or maintain the authorised development or ensure the safe construction of any section or part of the authorised development;”</i></p> <p>Article 4 has been amended as follows:</p> <p><i>“4. – (2) Any enactment applying to land within or adjacent to the Order limits or to land adjacent to the Order limits has effect subject to the provisions of this Order.”</i></p> <p>Article 23 has been amended as follows:</p> <p><i>“23. – (1) The undertaker may for the purposes of this Order construction, operation or maintenance of the authorised development enter on— (a) any land shown within the Order limits; and (b) any land which is adjacent to, but outside the Order limits, and—”</i></p> <p>The Applicant provided further detail regarding its position on adjacent land in 'Applicant's Comments on Deadline 6 Submissions' [REP8-002] at response REP6-098a. In summary, this stated that the Applicant considers the scope of this power already sufficiently limited by the words 'reasonably necessary' and 'adjacent'; the inclusion of adjacent land in Article 23 of the dDCO has precedent in the Silvertown Tunnel Order, the M42 Junction 6 Order and the A14</p>

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		<p>Huntingdon Order; and the ExA on the M42 Junction 6 Order confirmed that it was "<i>satisfied that in principle, such articles are well precedented and are acceptable in the particular circumstances of this application</i>".</p> <p>The Applicant does not consider it appropriate nor safe to exclude the survey power on adjacent land for the operation and maintenance of the Scheme because instances may arise during maintenance where drainage or utility surveys are necessary. Recognising that the ExA have reservations regarding this article wording, the Applicant has updated the wording of article 23(1) to align more closely with the precedent of the made DCOs mentioned above by making references to the "<i>purposes of this Order</i>".</p> <p>Regarding Article 22, this power is designed to benefit third parties by protecting their buildings from the works being carried out under the Order. Therefore, it would be contrary to third party interests to restrict the scope of his article beyond that now proposed by the Applicant.</p>
Q4.2.3	Article 3 – Disapplication of legislative provisions	
Q4.2.3.1	Environment Agency Internal drainage boards Lead local flood authorities Natural England	<p>Question: Article 3 Disapplication of legislative provisions</p> <p>No amendments proposed by the ExA, subject to further comments if any, from other parties.</p> <p>Answer: The Applicant notes this comment from the Examining Authority.</p>
Q4.3	PART 2 PRINCIPAL POWERS	
Q4.3.1	Article 4 – Development consent etc. granted by the Order	
Q4.3.1.1	All Parties Applicant	<p>Question: Provision relating to land adjacent to Order Limits</p> <p>Refer to Q4.2.2.4 and Q4.5.2.1.</p> <p>Answer:</p>

No.	Directed to	Question
		Please refer to the Applicant's responses to Q4.2.2.4 and Q4.5.2.1 set out in this document.
Q4.3.2	Article 5 – Maintenance of authorised development	
Q4.3.2.1	Applicant Local Authorities	<p>Question: Article 5 – Maintenance of authorised development No amendments proposed by the ExA; however the ExA notes that discussions are currently ongoing with LAs and requests an update from Applicant. LAs may comment.</p> <p>Answer: The Applicant notes that no amendments are proposed by the ExA. In terms of ongoing discussions, maintenance boundary drawings were issued to the LA's on 23 December 2021 for review and comment. The LAs were chased for responses on 18 January 2022. To date no comments have been received although Cambridgeshire County Council have confirmed that the drawings are being reviewed. Discussions are ongoing and a further update will be provided at Deadline 10.</p>
Q4.3.3	Article 6 – Application of the 1990 Act	
		<p>Question: No amendments proposed by the ExA.</p> <p>Answer: The Applicant notes this comment from the Examining Authority.</p>
Q4.3.4	Article 7 – Planning permission	
		<p>Question: No amendments proposed by the ExA.</p> <p>Answer:</p>

No.	Directed to	Question
		The Applicant notes this comment from the Examining Authority.
Q4.3.5	Article 9 – Limits of deviation	
Q4.3.5.1	All Parties Applicant	<p>Question:</p> <p>Article 9 – Limits of deviation</p> <ul style="list-style-type: none"> a) No amendments proposed by the ExA; however the ExA notes that discussions are currently on-going with the Cambridgeshire Councils and requests an update from Applicant. Cambridgeshire Councils may comment. b) Applicant, justify why such wide limits of deviation are necessary as shown on the updated streets, rights of way and access plans [REP4-003]. The ExA notes your response that it is not your intention to make wholesale changes to the public rights of way network [REP6-034]; and currently consider this to be all the more reason to provide justification for the widely drawn limits of deviation. c) Applicant, what would be required to identify specific limits of deviation for the rights of way in the manner that has been proposed for the utilities [APP-009, Sheet 2C]? d) Cambridgeshire Councils, are there changes in the wording of this Article that could provide the controls that you seek with respect to the matters raised in questions b) and c) above, relating to widely drawn limits of deviation for public rights of way. e) The ExA is persuaded by the Applicant's case that it is unnecessary for the LHA to have a separate approval role in relation to any proposal to extend the limits of deviation, given that LHAs would be consulted by the SoS during decision-making. Cambridgeshire Councils, what additional benefit or controls do you believe would be embedded in the provision by adding a separate approvals process from the LHA? <p>Answer:</p> <ul style="list-style-type: none"> a) The Applicant is aware that the Cambridgeshire Authorities have reviewed the updated Streets, Rights of Way and Access Plans [REP8-003] and that they still consider the limits of deviation to be too wide. In light of this, the Applicant has refined as far as practicable the public rights of way (PRoW) limits of deviation on the Streets, Rights of Way and Access Plans submitted at Deadline 9 [TR010044/APP/2.6 v4] based on the current detailed design, such that a degree of flexibility is maintained should the highway for which the PRoW follows move within the limits of deviation shown on the Works Plans.

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		<p>b) At Deadline 4, the Applicant proposed limits of deviation for Public Rights of Way (PRoW) on the Streets, Rights of Way and Access Plans [REP4-003] that were congruent with those shown on the Works Plans and curtailed to the extents of permanent land acquisition on the Land Plans. The Applicant cannot propose highway rights outside of this permanent acquisition as it is necessary to be able to dedicate the freehold of the land. Many of the new and improved PRoW as shown on the Streets, Rights of Way and Access Plans are adjacent to roads, cross the new dual carriageway or are shared with accommodation tracks; so if these works move within the limits of deviation so too must the corresponding PRoW. To propose different limits of deviation for the Streets, Rights of Way and Access Plans to those shown on the Works Plans would potentially limit the ability to move the work itself, or prevent, for example, a public right of way being moved to follow an accommodation track which has also been moved. The Applicant is restricted from undertaking wholesale changes by Requirement 12 (Detailed Design) where the Scheme must accord with the preliminary scheme design shown in the General Arrangement Plans and the principles in the Environmental Masterplan [TR010044/APP/6.2]. The Applicant's position is that Requirement 12 coupled with the approximate lengths of the public rights of way, shown in Schedule 2 of the draft DCO, provide sufficient certainty that any PRoW provided will be suitably located.</p> <p>c) Notwithstanding the Applicant's comments at paragraph (b) above, in light of Cambridgeshire Council's further comments, the Applicant has made further updates to the Streets, Rights of Way and Access Plans [TR010044/APP/2.6 v4] (submitted at Deadline 9) which reduces the PRoW limits of deviation so they are localised to the relevant PRoW whilst maintaining sufficient flexibility for the PRoW to follow the corresponding work should this be moved within the limits of deviation for that work. The Applicant considers this strikes a balance between providing the certainty requested by the Cambridgeshire County Council whilst allowing sufficient flexibility to properly deliver the Scheme.</p> <p>d) This question is not addressed to the Applicant, and the Applicant has no comments on it at this stage.</p> <p>e) This question is not addressed to the Applicant, and the Applicant has no comments on it at this stage.</p>
Q4.3.6	Article 11 – Consent to transfer benefit of Order	
Q4.3.6.1	Applicant National Grid Gas Plc Cadent Gas Limited EXOLUM Pipeline	<p>Question:</p> <p>Article 11 – Consent to transfer of Order</p> <p>a) The ExA requests each of the bodies in Paragraph (5) to provide evidenced statements to demonstrate that they have the ability to deliver the works that could be transferred to them as stated in Paragraph (5). Applicant may</p>

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	System Ltd AWG Group Limited South Staffordshire Water PLC UK Power Networks (Operations) Limited Openreach Limited Virgin Media Limited Vodafone Limited	<p>comment.</p> <p>b) Alongside, Applicant to provide detailed justification for each of the bodies in Paragraph (5) to explain why the transfer of the benefit of the Order is acceptable without SoS consent.</p> <p>c) ExA notes Applicant's response [REP1-022, Q1.7.3.9], and the provision in Paragraph (3) where the liability for the payment of compensation remains with the undertaker, where the benefits or rights transferred are exercised by a statutory undertaker or an owner occupier of land pursuant to Article 28(2). The ExA is not convinced by the widely drawn powers and proposes that Article 11 should exclude the transfer of the liability for the payment of compensation to any party (including the 9 statutory bodies in Paragraph 5) without the consent of the SoS. To achieve this, the ExA proposes including an additional Paragraph explicitly stating the exclusions, and making related changes to wording in Paragraphs 3, 4, 5 and any others. Applicant to provide suitable wording to dDCO and relevant changes to EM.</p> <p>d) Should the Applicant disagree with d), the Applicant and the 9 named bodies in Paragraph (5) to provide justification for permitting the transfer of CA powers, including the liability for the payment of compensation to each of the bodies in Paragraph (5). This justification must also include evidence (or, to the extent that it has already been provided, identify) that each of the bodies have the requisite funds to meet any CA costs. Applicant and the 9 bodies in Paragraph (5), provide confirmation that each of the bodies in Paragraph (5) would be covered by Paragraph (3) and the liability to meet the CA costs would remain with the undertaker where CA powers were transferred.</p> <p>Answer:</p> <p>a) This is to be responded to by each of the bodies listed. However, the Applicant would note that each of the bodies identified in article 11(5) is a statutory undertaker and licence holder with associated duties to install or maintain a safe supply in relation to their relevant licence and apparatus/ equipment. Accordingly, each of the bodies has been judged as fit and proper to undertake the corresponding works identified in article 11(5), and would normally undertake their own diversions and installations in the course of their usual operations. In addition, and by virtue of their relevant statutory rights, each body listed is also an 'undertaker' entitled to carry out installation, inspection or ongoing maintenance of their relevant apparatus/equipment within a 'street' for the purposes of section 48(5) of the New Roads and Street Works Act 1991. As a statutory undertaker, each of the bodies is also authorised to make a compulsory purchase order for the purposes of its undertaking.</p> <p>b) As explained above, the bodies identified in article 11(5) are statutory undertakers who have already been granted statutory powers to carry out the relevant works in the usual course of their operations. For this reason, it is</p>

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		<p>already accepted that these bodies are fit and proper, and have the necessary authority (subject to securing any planning permission or landowner consents where relevant), to undertake the corresponding works proposed (as listed in article 11(5)). The works referred to for each statutory undertaker in article 11(5) are those where it is anticipated that the statutory undertaker may itself carry out the necessary diversion works to its own apparatus/equipment (subject to securing development consent). It is, therefore, considered more transparent to list the undertakers in this article. It would serve no useful purpose for the Secretary of State to separately duplicate their approval to undertake the relevant works for the purposes of the Scheme. To the extent that it assists the ExA, a schedule has been prepared which lists the statutory undertaker, the relevant work number and corresponding work, the statutory basis of the undertaker to be entitled to carry out those works and the source of the undertaker's powers to make a compulsory purchase order. This is attached at Appendix A.</p> <p>c) The Applicant's intention is that where powers of compulsory acquisition are transferred in accordance with article 11(4), to either the parties referred to article 11(4) or the bodies listed in article 11(5), the compensation liability will remain with the Applicant and the Funding Statement [APP-031] has been submitted on this basis. This is expressly set out in article 11(3) which states that "<i>where those benefits or rights are exercised by a statutory undertaker or by an owner or occupier of land pursuant to paragraph (2) of article 28 (compulsory acquisition of rights and imposition of restrictive covenants) of this Order, in which case liability for the payment of compensation remains with the undertaker</i>". As the bodies listed in article 11(5) are statutory undertakers and powers of compulsory acquisition would be transferred to them pursuant to article 28(2) and in accordance with article 11(4), compensation liabilities would also remain with the Applicant in that case.</p> <p>The reason why there is a separate list of bodies in article 11(5) is because the article allows these named bodies to be transferred powers to undertake their respective works under the DCO as well as powers of compulsory acquisition under article 11(4).</p> <p>Accordingly, in any event where the Secretary of State's consent is not required, liability for payment of compensation remains with the Applicant. This includes the nine statutory undertakers listed in article 11(5) because all those bodies listed are statutory undertakers. However, to add clarity in this regard, article 11(3) of the dDCO submitted at Deadline 9 has been updated as follows:</p> <p><i>"(3) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker, save that where those benefits or rights are exercised by a statutory undertaker (which for the purposes of this article includes any entity listed in paragraph (5)) or by an owner or occupier of land pursuant to paragraph (2) of article 28 (compulsory acquisition of rights and imposition</i></p>

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		<p><i>of restrictive covenants) of this Order, in which case liability for the payment of compensation remains with the undertaker.”</i></p> <p>d) The Applicant does not consider that liability for compensation payments would transfer to any of the bodies listed in article 11(5) on the current drafting of the article. In all cases under this article, save where the Secretary of State's consent is expressly sought, the liability for compensation claims under the powers of compulsory acquisition will rest with the Applicant and the Funding Statement [APP-031] has been provided on this basis. To clarify this, the wording in article 11(3) has been amended (as referred to in paragraph (c) above) and the Explanatory Memorandum submitted at Deadline 9 [TR010044/APP/3.2v5] has been updated accordingly.</p>
Q4.4	PART 3 STREETS	
Q4.4.1	Article 13 – Construction and maintenance of new, altered or diverted streets and other structures	
Q4.4.1.1	Applicant Local Highway Authorities	<p>Question:</p> <p>Article 13 – Construction and maintenance of new, altered or diverted streets and other structures</p> <p>The ExA notes the Applicant's proposed time-table for reaching agreement with LHAs [REP6-033] and the Overview of handover process for de-trunked assets and local highways [REP4- 039] and remains dissatisfied with the progress that would be expected at this this stage in the Examination or the assurance needed that agreement would be reached before the close of the Examination.</p> <p>a) As such and to cover the eventuality that agreement is not reached between parties before the close of the Examination, the ExA proposes tightening the wording of both Articles 13 and 14 to ensure that there are adequate controls for LHA to assess the quality and purpose of the assets that they inherit:</p> <ul style="list-style-type: none"> • Paragraph (1) – delete the word “reasonable” before satisfaction • Paragraph (2) – delete the word “reasonable” before satisfaction • Paragraph (3) – delete the word “reasonable” before satisfaction • Paragraph (10) – delete the word “reasonable” before satisfaction <p>b) Additionally, the ExA proposes adding additional wording in the dDCO and corresponding explanation in the EM to secure:</p>

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		<ul style="list-style-type: none"> • The definition of De-Trunking Handover Plan and De-trunked Road Standards, in Article 2; and • Paragraph to be included in Article 14 to include the scope and content of the De-Trunking Handover Plan and De-trunked Road Standards, and the process and timing of approvals. <p>c) LHAs and Applicant to provide suitable wording for b).</p> <p>Answer:</p> <p>a) It is fundamental for a local authority to exercise its powers and duties in a manner consistent with public law principles. This means that a local authority cannot act outside of its powers, cannot act irrationally, cannot act unfairly and cannot abuse the powers entrusted to it. If it does so, a local authority's decisions are challengeable by way of judicial review. In short, it is a fundamental public law principle for a local authority to act reasonably and it is entirely inappropriate, therefore, for the ExA to suggest that a local authority should act in any other way.</p> <p>Indeed, there has been no suggestion by the Cambridgeshire Authorities that they should not be required to act reasonably in exercising their powers and duties, including in reaching any assessment of the standard required to be met for either a new local road (under article 13) or a road to be de-trunked (under article 14). In the Cambridgeshire Authorities most recently submitted amendments to the dDCO [TR010044/APP/3.1v5], there is a clear acknowledgement that powers should be exercised reasonably, and an intention on the part of the Cambridgeshire Authorities to do so.</p> <p>The Applicant, and the Scheme, is funded through the Department for Transport, via the taxpayer. The taxpayer should not be required to meet the costs of delivering new or altered local roads (under article 13) or de-trunked roads (under article 14) to a standard which cannot 'reasonably' be justified by the local authority.</p> <p>The Applicant is not aware of any precedent where an ExA has recommended, or the Secretary of State has accepted, that a local authority is not required to act reasonably in exercising its public law duties and powers, or where such a suggestion has been carried through to the drafting of a development consent order. Indeed, this approach would be inconsistent with the well-known principles relating to 'Wednesbury unreasonableness' laid down in <i>Associated Provincial Picture Houses v. Wednesbury Corporation</i> [1948] 1 KB 223.</p> <p>Whilst the Applicant notes that the ExA is dissatisfied with the progress made on the draft legal agreement, and that no assurance has been given that agreement will be reached by the parties before the close of the examination, this is in no way the fault of the Applicant. A draft of the legal agreement was first shared by the Applicant with the Cambridgeshire Authorities on 11 June 2021, prior to the Preliminary Meeting, and the Applicant has been endeavouring to make as much progress as possible with the Cambridgeshire Authorities</p>

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		<p>since this date. However, it is a 'voluntary' agreement and the Applicant should not be unduly penalised because, at no fault of the Applicant, agreement has not been reached. The delay is not due to lack of engagement or effort by either party, but is a consequence of differing positions and the need to progress more of the detailed design for the Scheme to provide the Cambridgeshire Authorities with the comfort they seek. As has already been explained by the Applicant, the detailed design for the Scheme is already at an advanced stage for a project of this nature and the Applicant is continuing to develop the detailed design and address the concerns of the Cambridgeshire Authorities as far as is reasonably possible.</p> <p>Finally, the ExA's stated purpose of ensuring that there are adequate controls for LHAs to assess the quality and purpose of the assets that they inherit can be achieved through alternative means, without the deletion of the word 'reasonable', which strike a fairer balance for the parties and do not compromise the ongoing voluntary negotiations or unduly penalise the Applicant for the lack of agreement reached to date (see the Applicant's response to (b) and (c) below). The DCO in and of itself includes the provisions necessary for providing local highway authorities with the assurance they need regarding de-trunked and local roads. The purpose of the legal agreement is to confirm the particular procedural arrangements on which the Applicant and the local highway authority in question will comply with the DCO provisions. The Applicant is therefore firmly of the view that the word 'reasonable' should remain in article 13 and should not be deleted.</p> <p>b) Article 13 deals predominantly with the construction of new or altered roads and article 14 deals with the de-trunking of existing roads currently within the Strategic Road Network. The Applicant understands from the ExA's question that the ExA is considering including a definition for a handover plan and standards to be reached in the case of both new roads (article 13) and de-trunked roads (article 14), together with inclusion of a process in each article to give effect to the handover of these assets, including the timing for the handover.</p> <p>The Applicant has been engaged in further discussions with the Cambridgeshire Authorities on the process for certification and adoption of new roads by the Cambridgeshire Authorities which is based on the process that has been followed for new roads in respect of the A14 scheme. At Deadline 8 the Cambridgeshire Authorities provided a marked up copy of the dDCO [REP8-028] to reflect the certification process which has, in practice, been used for the A14 scheme, albeit this is not reflected in the made development consent order for the A14 scheme.</p> <p>Given that this reflects the intended approach between the parties, the Applicant has no objection to including this within the dDCO albeit it is not considered strictly necessary to do so as the A14 scheme has shown. These amendments have been incorporated in the dDCO submitted at Deadline 9 [TR010044/APP/3.1v5]. This certification process:</p> <ul style="list-style-type: none"> • Gives the local highway authority (LHA) control over the assets to be adopted, by requiring completion to

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		<p>their reasonable satisfaction.</p> <ul style="list-style-type: none"> • Seals with the timing for adoption, by providing that adoption will only occur at the point the certification is given by the LHA. • Provides certainty as to the boundary of the assets to be adopted by the LHA. • Clarifies that the LHA will be responsible for its maintenance from the issue of the LHA's certificate. <p>The original paragraph (3) of article 13 has also been deleted (as proposed by the Cambridgeshire Authorities) given that the public rights of way will be highways for the purpose of article 13, and therefore follow the same certification process set out in article 13 at paragraphs (1) and (2). However, it should be noted that the amendments to new paragraph (3), previously paragraph (4), have not been accepted given that this would be inconsistent with article 14 and any determination by the Secretary of State to agree to the de-trunking proposed by the Applicant following consultation with the relevant LHAs.</p> <p>Given that the Applicant has agreed to the amendments relating to certification at article 13 proposed by the Cambridgeshire Authorities, it is considered that this adequately deals with the ExA's request for amendments in relation to the process, timing and approval of the handover for new or altered highways. It is not considered appropriate to provide a definition of 'design standards' or the precise 'handover plan' because this needs to be sufficiently flexible to deal with matters specific to the detailed design of this Scheme and therefore should be a matter which is left to the Applicant and the Cambridgeshire Authorities to agree in due course, subject only to the Cambridgeshire Authorities acting reasonably as explained in the response to (a) above. However, and entirely without prejudice to the Applicant's position, if the ExA still consider that definitions for this are required, a suggested approach is set out below.</p> <p>c) Without prejudice to the Applicant's response to (b) above, suggested definitions for 'handover plan' and 'design standards' (consistent with those proposed in response to Q4.4.2.1 below) are set out below as well as a control mechanism for the handover process which could be incorporated as a new paragraph to article 13 or as a requirement within Schedule 2 of the dDCO if preferred.</p> <p>New definitions for article 2 (or Schedule 2 if appropriate):</p> <p>"handover plan" means a plan for the handover of assets by the undertaker to the relevant highway authority</p> <p>"design standards" means the standards of design which the assets to be handed over by the undertaker to the relevant highway authority must meet</p>

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		<p>New article 13(12):</p> <p>"(12) Prior to the issue of a certificate under paragraphs (1) or (2), a handover plan and design standards for highways (other than a special road or trunk road) constructed, altered or diverted must be submitted by the undertaker for the Secretary of State's approval following consultation with the relevant highway authority. The undertaker must handover the highways (other than a special or trunk road) constructed, altered or diverted to the relevant highway authority in accordance with the handover plan and design standards so approved unless otherwise agreed in writing with the Secretary of State."</p>
Q4.4.2	Article 14 – Classification of roads, etc.	
Q4.4.2.1	Applicant Local Highway Authorities	<p>Question:</p> <p>Article 14 – Classification of roads, etc</p> <p>Further to comments in Q4.4.2.1, the ExA proposes related amendments to include the scope and content of the De-Trunking Handover Plan and De-trunked Road Standards, and the process and timing of approvals. LHAs and Applicant to provide suitable wording.</p> <hr/> <p>Answer:</p> <p>Please see the Applicant's response to Q4.4.1.1(b) above, which applies equally to the highways to be de-trunked.</p> <p>In addition, the Cambridgeshire Authorities have at Deadline 8 suggested proposed amendments to article 14 of the dDCO [REP8-028] which, subject to some minor modifications, have been largely incorporated in the dDCO by the Applicant at Deadline 9 [TR010044/APP/3.1v5]. Paragraph (9) still provides that the Applicant can only determine the de-trunking date with the consent of the Secretary of State following consultation with the local highway authority, but now provides further clarity that consultation with the LHAs must include matters relating to:</p> <ul style="list-style-type: none"> • the de-trunking date; and • whether the highway to be de-trunked is of a satisfactory standard for use as a local highway. <p>Separately, the Cambridgeshire Authorities amendments to paragraph (7) of article 14 have also been accepted with a minor modification to make it clear that, unless otherwise agreed with the relevant highway authority, the PRoWs are to be constructed and open for use from the date the last of the roads in Parts 1 to 3 of Schedule 3 is completed and open for traffic (unless earlier if required to replace a PRoW stopped up under article 18(2)).</p>

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		<p>The Applicant considers that the further amendments to paragraph (9) give greater opportunity for the LHAs to make representations to the Secretary of State on any concerns as the quality of the de-trunked assets to be inherited by them, to the extent this is not already agreed with the Applicant. It should also be remembered that the assets to be de-trunked are already in-existence and there will be a limit to the design standards which can be met retrospectively. In the event that certain aspects can be 'retro-fitted' to meet the LHA's preferred design standards, the need for this should be balanced with the additional, publicly incurred costs to provide it, and the Secretary of State will be best placed to determine the appropriateness of the LHA's requests given the specific circumstances arising for the de-trunked road in question.</p> <p>Without prejudice to the Applicant's response here and to Q4.4.1.1(b) above, suggested definitions for 'handover plan' and 'design standards' (consistent with the definitions suggested above) are set out below as well as a control mechanism for the handover process which could be incorporated as a new paragraph to article 14 or as a requirement within Schedule 2 of the dDCO if preferred.</p> <p>New definitions for article 2 (or Schedule 2 if appropriate):</p> <p style="padding-left: 40px;">"handover plan" means a plan for the handover of assets by the undertaker to the relevant highway authority</p> <p style="padding-left: 40px;">"design standards" means the standards of design which the assets to be handed over by the undertaker to the relevant highway authority must meet</p> <p>New article 14(18):</p> <p style="padding-left: 40px;">"(18) Prior to making a determination under paragraph (8), a handover plan and design standards for the roads described in Part 8 (roads to be de-trunked) of Schedule 3 must be submitted by the undertaker for the Secretary of State's approval following consultation with the relevant highway authority. The undertaker must handover the roads described in Part 8 (roads to be de-trunked) of Schedule 3 to the relevant highway authority in accordance with the handover plan and design standards so approved unless otherwise agreed in writing with the Secretary of State."</p>
Q4.4.3	Article 15 – Power to alter layout etc. of streets	
		<p>Question:</p> <p>No amendments proposed by the ExA at this stage.</p>

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		<p>Answer: The Applicant notes this comment from the Examining Authority.</p>
Q4.5	PART 4 SUPPLEMENTAL POWERS	
Q4.5.1	Article 22 – Protective work to buildings	
		<p>Question: Notice period The ExA has not seen any evidence that 14 days' notice would be insufficient to serve notice on the owners and occupiers of relevant building under this Article, and does not propose any changes at this stage.</p> <p>Answer: The Applicant notes this comment from the Examining Authority.</p>
Q4.5.2	Article 23 – Authority to survey and investigate the land	
Q4.5.2.1	All Parties Applicant	<p>Question: Provision relating to land adjacent to but outside the Order limits Also refer to Q4.2.2.4 and Q4.3.1.1. The ExA notes the Applicant's response [REP6-033, Action 4] and requests the Applicant to provide a list of potential surveys that may be undertaken using this power.</p> <p>Answer: In response to Action Point 14 'Provide further details of what 'adjacent' might mean in Article 23. Provide examples of most likely reasons and the most intrusive reason to seek access for survey, in particular if the access could be sought on lands where landowners are not in the Book of Reference and therefore they have not been consulted for the Proposed Development. Without prejudice, what further controls could be introduced with respect to 'adjacent' in Article 23?' from Issue Specific Hearing 3 [EV-043] the Applicant provided an example list of non-intrusive and</p>

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		<p>intrusive surveys that may be undertaken on land adjacent to the Order Limits. Please refer to Appendix B of the Applicant response to actions arising from Issue Specific Hearing 3 [REP3-020].</p> <p>In response to Action Point 4 '<i>Consider whether specific surveys could be referred to in terms of the meaning of access required to adjacent land</i>' from Issue Specific Hearing 6 [EV-093], the Applicant was unable to refer to specific surveys. The reason being that these surveys may include environmental surveys and species that need to be surveyed which are not known at this stage.</p> <p>To assist the Examining Authority the Applicant has reproduced the list, set out as a response to Action Point 14 of ISH3, below and indicated whether it is anticipated that the survey will be undertaken in either the construction or operation/maintenance stage.</p>				
		Survey Type	Scope	Distance from Order Limits	Construction	Operation / Maintenance
		Example Non-Intrusive Surveys				
		Topographic surveys	In particular of water courses, ditches, headwalls and culvert.	Up to 100m from the Order Limits	Yes, maybe required	Not required
		Structural Condition surveys	Buildings and other structures (including fences) adjacent to the works to record their condition prior to any works being undertaken within the Order Limits and as required during the carrying out of the works for the authorised development,	Up to 100m from the Order Limits	Yes, maybe required	Yes, maybe required

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			should any potential issue be reported.			
		Drainage network surveys	Pipes and chambers, generally carried out by inspection or using CCTV equipment to view and record the condition of pipe networks.	Up to 150m from the Order Limits	Yes, maybe required	Yes, maybe required
		Noise and Dust monitoring	Where required on land that was not publicly accessible.	Limited to 250m from the Order Limits	Yes, maybe required	Not required
		Bats		Up to 100m from the Order Limits	Yes, maybe required	Not required
		Newts		Up to 250m from the Order Limits	Yes, maybe required	Not required
		Badgers	Badger sett surveys	Up to 250m from the Order Limits	Yes, maybe required	Not required
		Birds	Most bird surveys will occur within the Order Limits, roost surveys for the Red Kite and Hobby, for example, have a 500m buffer zone.	Up to 500m from the Order Limits	Yes, maybe required	Not required

No.	Directed to	Question				
		Otters and Water Voles	Surveys may be able to be conducted using the PROW routes along the Great Ouse.		Yes, maybe required	Not required
		Intrusive surveys				
		Additional boreholes to monitor water quality and groundwater levels:	Survey would involve a tripod type rig deployed at a location and a small heras fence compound (10m x 10m) established.	Up to 250m from the Order Limits	Yes, maybe required	Yes, maybe required
		<p>Question:</p> <p>Notice Period</p> <p>The ExA is not persuaded that 14 days' notice would be insufficient to notify persons with an interest in the land affected by the provision in this Article, and does not propose any changes at this stage.</p> <p>Answer:</p> <p>The Applicant notes this comment from the Examining Authority.</p>				
Q4.6	PART 5 – POWER OF ACQUISITION					
Q4.6.1	Article 25 – Compulsory acquisition of land					
Q4.6.1.1	Applicant	<p>Question:</p> <p>Confirm if the drafting change proposed at CAH1 [REP3-021, 9a] has been completed, and identify where with EL</p>				

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		<p>reference.</p> <p>Answer:</p> <p>On reflection, the Applicant is satisfied that the drafting as already proposed at article 30(1) and (2) (private rights over land) makes clear that the Applicant is seeking the power to clear the title of all private rights in respect of both land to be acquired compulsorily under article 25 and land subject to the compulsory acquisition of rights or the imposition of restrictive covenants (in so far as their continuance would be inconsistent with the exercise of the right or burden under article 28). There is no need to further amend article 25 (compulsory acquisition of land), or to draft a new article, as this is already provided for in article 30.</p>
Q4.6.2	Article 28 – Compulsory acquisition of rights and imposition of restrictive covenants	
Q4.6.2.1	Applicant	<p>Question:</p> <p>Article 28 – Compulsory acquisition of rights and imposition of restrictive covenants</p> <p>The ExA notes your justification [REP1-022, Q1.7.3.20, Q1.7.3.28] [REP3-021, 9b, 9c] for the wide power in Article 28(1), which is so the undertaker may be able to reduce the extent of permanent acquisition and rely on rights instead. The ExA is not convinced that this justification is sufficient for imposing such a wide power in relation to restrictive covenants.</p> <p>a) As such, the ExA proposes including the following wording in Article 28:</p> <p><i>“The power to impose restrictive covenants under paragraph (1) is exercisable only in respect of plots specified in column (1) of Schedule 5”</i></p> <p>b) Alternatively, the Applicant may provide further justification permitting the creation of undefined restrictive covenants over all of the order land.</p> <p>Answer:</p> <p>a) The Applicant does not consider that the change proposed to Article 28 is necessary for the reasons given below.</p> <p>b) The Applicant notes that the detailed design for the project has not yet been completed. As a result, for those plots which do not appear in Schedules 5 (Land in which only new rights and restrictive covenants etc. may be</p>

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		<p>acquired) or Schedule 7 (Land of which temporary possession may be taken), the Applicant currently has to seek the worst-case option from a compulsory acquisition perspective of seeking to acquire the freehold interest to ensure deliverability of the project. However, should it be possible in fact on completion of the detailed design work, to allow construction, operation and maintenance of the project without acquiring the freehold interest, and instead acquiring a lesser interest of only rights over a particular plot of land, including the imposition of restrictive covenants to allow for the protection of for example utility diversions, this must be desirable from the perspective of minimising the impact of the project on landowners. Compensation would still be payable to landowners for the acquisition of rights and the imposition of restrictive covenants, but this would be at less cost to the public purse than the acquisition of the freehold interest which would prevent future use by the landowner.</p>
Q4.6.3	Article 40 – Temporary use of land for carrying out the authorised development	
Q4.6.3.1	Applicant	<p>Question:</p> <p>Article 40 – Temporary use of land for carrying out the authorised development</p> <p>The ExA remains concerned that the interaction between Articles 28 and 40 could permit the creation of undefined new rights and imposition of undefined restrictive covenants in the land listed in Schedule 7 which is described as being land for TP. There is no clarity at this stage on the new rights that could be sought. As such, the ExA is also not convinced that appropriate consultation has taken place on the creation of new undefined rights. Consequently, it would not be possible to determine whether or not there is a justified case for the acquisition of such rights [REP1-022, Q1.7.3.29].</p> <p>a) The ExA notes that the Applicant [REP 1-022, 1.7.3.28, 1.7.3.29] would not seek to create new rights in the land listed in Schedule 7 as being for TP unless that land is also in Schedule 5. The ExA is not clear from the Applicant's case [REP3-021, 9b, 9c] if there are plots that appear in both Schedule 5 and Schedule 7. Applicant to confirm, and provide a list of cross over plots; that is plots that appear in both Schedule 5 and Schedule 7 where temporary possession plots could then also be subject to acquiring permanent rights. If there are cross over plots, then Applicant to confirm how the cross over plots have been colour coded in the Land Plans.</p> <p>b) In any event, the Applicant confirmed in its response that they would not create undefined new rights in the land listed in Schedule 7 and that the only CA that would be permitted in this land is the CA of new rights listed in Schedule 5 [REP1-022, Q1.7.3.29]. The ExA does not consider that the Applicant's current drafting achieves this intention. Subject to the Applicant's response to a), and if there are no cross over plots between Schedules 5 and 7, the ExA proposes the deletion of Paragraph 40(9)(a):</p>

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		<p><i>“The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i) except that the undertaker is not to be precluded from—</i></p> <p>(a) acquiring new rights over any part of that land under article 28 (compulsory acquisition of rights and imposition of restrictive covenants); or</p> <p>(b) acquiring any part of the subsoil of or airspace over (or rights in the subsoil of or airspace over) that land under article 38 (acquisition of subsoil or airspace only).”</p> <p>c) Alternatively, if in response to a), the Applicant confirms that there are cross over plots then the ExA proposes including the following drafting:</p> <p><i>“The undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i) except that the undertaker is not to be precluded from—</i></p> <p><i>(a) acquiring new rights or imposing restrictive covenant over any part of that land under article 28 (compulsory acquisition of rights and imposition of restrictive covenants) to the extent that such land is listed in column (1) of Schedule 5; or</i></p> <p><i>(b) acquiring any part of the subsoil of or airspace over (or rights in the subsoil of or airspace over) that land under article 38 (acquisition of subsoil or airspace only).”</i></p> <p>Answer:</p> <p>a) There are ‘crossover’ plots which are subject to both temporary possession and the acquisition of permanent rights and imposition of restrictive covenants. These have been coloured in blue on the Land Plans [REP4-002], and identified in the key as subject to ‘temporary possession and acquisition of new rights’.</p> <p>The list of crossover plots are:</p> <ul style="list-style-type: none"> • 1/8n, 1/8p, 1/8t, 1/9c, 1/9d, 1/9f, 1/10a, 1/10f, 1/10j, 1/10m, 1/21d, 1/16g, 1/23a, 1/23h, 1/23n, 1/32b, 1/36a, 1/40c, 1/42a, 1/43b, 1/43f, 1/46c (Land Plan Sheet 1). • 2/3c, 2/8a, 2/8d, 2/12b, 2/12c, 2/14b, 2/15a, 2/16b, 2/17a, 2/18a, 2/20a, 2/20b, 2/20d, 2/24e, 2/27a, 2/28a, 2/29a, 2/30a, 2/31a, 2/33a, 2/34a, 2/35a, 2/36a, 2/37a, 2/37b, 2/38a, 2/38b, 2/38c (Land Plan Sheet 2). • 3/1b, 3/3b, 3/7b, 3/7d, 3/8b, 3/8d, 3/10c, 3/10e, 3/10j (Land Plan Sheet 3). • 4/1b, 4/1d, 4/1g, 4/1h, 4/1j, 4/1k, 4/1m, 4/2c, 4/2g, 4/3d (Land Plan Sheet 4).

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		<ul style="list-style-type: none"> • 5/1a, 5/1c, 5/2b, 5/2e, 5/2g, 5/2i (Land Plan Sheet 5). • 6/2b, 6/2d, 6/2f, 6/2j, 6.2n, 6/3b, 6/6a, 6/8b (Land Plan Sheet 6). • 8/5g (Land Plan Sheet 8). • 9/6c, 9/6f, 9/7f, 9/7j, 9/8a (Land Plan Sheet 9). • 11/4e (Land Plan Sheet 11). • 12/6a, 12/6d, 12/6e, 12/6h, 12/6k (Land Plan Sheet 12). • 13/2c, 13/3a, 13/4a, 13/4b, 13/4c, 13/4e, 13/5a, 13/6b, 3/14c, 13/14d, 13/14f, 13/14g, (Land Plan Sheet 13). • 14/2c, 14/2d, 14/5c, 14/6b, 14/8d, 14/8e, 14/11c, 14/11d, 14/15c, 14/17a, 14/19a, 14/19b, 14/20a, 14/21b, 14/21e (Land Plan Sheet 14). • 15/3b, 15/4a, 15/5a (Land Plan Sheet 15). <p>b) Albeit this wording was proposed in the event that there are no 'crossover' plots, the Applicant considers that adopting the amendment proposed in (b) would be the most appropriate mechanism to add clarity within the drafting of the DCO. Accordingly, the Applicant has deleted paragraph (9)(b) from Article 40. There are no plots identified in Schedule 5 that also appear in Schedule 7. Accordingly, none of the land identified in Article 40(1)(a)(i) (Schedule 7) could have compulsory acquisition rights acquired over it as those are plots just subject to temporary possession. c)The Applicant <i>has elected to make the amendment proposed in (b) and accordingly does not consider it appropriate to implement this amendment.</i></p>
Q4.6.3.2	Applicant All Parties	<p>Question:</p> <p>Notice Period</p> <p>NFU has consistently made the case on behalf of its members that before entering on and taking temporary possession of land under this article the undertaker must serve notice of a minimum of 28 days, as opposed to 14 days provided for [RR-074] [REP1-084] [REP3- 050] [REP4-071] [REP6-098]. While the NFU has not provided specific cases of individual members who might benefit from the 28 days' notice period for specific reasons, the ExA is persuaded by the argument 14 days would not be adequate preparatory period for landowners to adjust farming operations, organise livestock and other activities prior to the undertaker taking temporary possession. Conversely, the ExA notes the Applicant's case that 28 days' notice period could effect the construction programme and that in</p>

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		<p>practice the notice given to landowners would likely be longer than 14 days anyway [REP4-037, WQ2.7.3.10, WQ2.7.3.11]. Alongside, the Applicant also states that increasing the notice period would not impact on the viability of the Proposed Development as a whole [REP6-039]. As such the ExA proposes increasing the notice period in Article 40(2) to 28 days.</p> <p>Answer:</p> <p>The Applicant has provided further detail regarding its position on adjacent land in 'Applicant's Comments on Deadline 6 Submissions' [REP8-010] at response REP6-098b. In summary, there will be ongoing engagement with landowners and therefore, while only 14 days' formal notice is required, landowners will be made aware of the approximate timeframe for the notice to be served significantly in advance of service of the notice to allow them time to plan and accommodate. Therefore, landowners will be aware if a notice is likely to be served at any particular time and can make arrangements with those individuals managing their operations if they anticipate being away during this period.</p> <p>A close working relationship through a dedicated Agricultural liaison Officer and support team will ensure agricultural stakeholders are regularly and meaningfully updated. Additionally, and as set out in 'Applicant's Comments on Deadline 6 Submissions' [REP8-010] response to REP6-098a, the Applicant understands that crop rotations are planned many months in advance of crops being planted, usually on a three or four year rotation, and therefore, an additional notice time period is likely to hold minimal impact. With regards livestock, the Applicant notes that presently only a singular parcel of 0.773 hectares is in use for sheep grazing across the entire Scheme.</p> <p>As noted in the EXA's comments, the Applicant has expressed concerns regarding potential impacts to the construction programme of increasing the formal notice periods. The flexibility requested is necessary to prevent delays to the overall programme which can have a significant effect on scheme costs and have subsequent impacts on agricultural stakeholders and road users. Increasing the notice period to 28 days reduces the Applicants ability to accommodate any changes requested by stakeholders.</p> <p>The Applicant maintains its position that a 14 day notice period is suitable and so has maintained this in the dDCO submitted at deadline 9 [TR01044/APP/3.1v5].</p>
Q4.7	PART 6 MISCELLANEOUS AND GENERAL	
Q4.7.1	Article 55 – Traffic regulation	
		Question:

No.	Directed to	Question
		<p>Article 55 – Traffic regulation</p> <p>No further amendments proposed by the ExA.</p> <p>Answer:</p> <p>The Applicant notes this comment from the Examining Authority.</p>
Q4.7.2	Article 58 – Works in the River Great Ouse	
Q4.7.2.1	Environment Agency Applicant	<p>Question:</p> <p>Article 58 – Works in the River Great Ouse</p> <p>No further amendments proposed by the ExA, subject to comments from EA.</p> <p>Answer:</p> <p>The Applicant notes this comment from the Examining Authority.</p>
Q4.8	SCHEDULE 2 – REQUIREMENTS	
Q4.8.1	PART 1 – REQUIREMENTS	
Q4.8.1.1	Applicant	<p>Question:</p> <p>Interpretation</p> <p>There has been detailed input from parties on the First iteration EMP during Examination, across wide ranging environmental effects of the Proposed Development and management of mitigation measures. The ExA believes that this certified document should be secured in the dDCO to provide greater certainty to all parties than is afforded with the term “<i>substantially in accordance with</i>”. As such the ExA proposes deleting the word “<i>substantially</i>” from the definition of “<i>Second Iteration EMP</i>” and “<i>Third Iteration EMP</i>”.</p> <p>Answer:</p>

No.	Directed to	Question
		<p>The Applicant has sought to provide the ExA, and third parties, with a significant amount of detailed information on the mitigation measures to be put in place as part of the proposed development by preparing and certifying under the DCO the First Iteration EMP [TR010044/APP/6.8v3]. However, the Applicant strongly disagrees with the amendment proposed by the ExA for the following reasons:</p> <ol style="list-style-type: none"> 1. Use of the term "<i>substantially in accordance with</i>" has a high volume of precedent in previously made DCOs for SRN schemes. For example: <ol style="list-style-type: none"> a. The A19/A1058 Coast Road (Junction Improvement) Development Consent Order 2016. b. The M4 Motorway (Junctions 3 to 12) (Smart Motorway) Development Consent Order 2016. c. The M20 Junction 10a Development Consent Order 2017. d. The A19/A184 Testos Junction Alteration Development Consent Order 2018. e. The A303 Sparkford to Ilchester Dualling Development Consent Order 2021. f. The A30 Chiverton to Carland Cross Development Consent Order 2020. g. The A63 (Castle Street Improvement, Hull) Development Consent Order 2020. h. The A19 Downhill Lane Junction Development Consent Order 2020. i. The A1 Birtley to Coal House Development Consent Order 2021. j. The A585 Windy Harbour to Skippool Highway Development Consent Order 2020. <p>all use this term.</p> 2. Where the term 'substantially in accordance with' has not been used, this is often because more flexible wording is used such as: <ol style="list-style-type: none"> a. The A556 (Knutsford to Bowdon Improvement) Development Consent Order 2014 requires the CEMP to 'reflect' the mitigation and compensation measures included in the environmental statement; and b. The A160/A180 (Port of Immingham Improvement) Development Consent Order 2015 requires the CEMP to 'reflect' the mitigation and compensation measures included in chapters 6 to 15 of the environmental statement. 3. This is perhaps unsurprising given that the wording of these previous DCOs and the Applicant's proposed wording recognises that, in practice, it is not possible to confirm the precise details of the First Iteration EMP at this point in

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		<p>time. By using the word "substantially", the Applicant is not seeking the ability to step outside of the principles or the spirit of the First Iteration EMP; however, it must be recognised that the individual plans included in the First Iteration EMP have been submitted as 'outline plans' (as explained in the definition of the First Iteration EMP contained in the dDCO) which necessarily means that these plans will be further developed and that the detailed plans will therefore, by definition, not accord exactly with those contained in the First Iteration EMP, but are required to be '<i>substantially in accordance with</i>' them.</p> <p>4. Throughout the course of the examination, further detail has been included in the First Iteration EMP to address comments from interested parties, such that the First Iteration EMP is now more developed than would normally be anticipated at this point in time. However, given that the detailed design of the Scheme is not yet complete, the Applicant does require a degree of flexibility to address detailed design matters and to ensure that the Applicant's ability to improve or innovate through the Second and Third Iteration EMPs is not restricted.</p> <p>5. Requirements 3 and 4 of the dDCO provide that the Second and Third Iteration EMPs respectively will be consulted upon and must be approved by the Secretary of State. This is a tried and tested control mechanism for interested parties and the Secretary of State to ensure that the subsequent versions of the EMP continue to properly mitigate and manage all environmental effects anticipated, such that the additional certainty proposed by the ExA is not necessary.</p> <p>For all of the above reasons, the Applicant can see no reasonable justification for deleting reference to '<i>substantially</i>' as has been proposed. However, in the event that the Examining Authority recommends the deletion of the word "substantially" as proposed and this is accepted by the Secretary of State, the Applicant reserves its right to submit an alternative First Iteration EMP for certification which would remove those elements that are not certain and therefore cannot be fixed at the point of certification.</p>
Q4.8.1.2	Applicant	<p>Question:</p> <p>Requirement 6 - Landscaping</p> <p>Replace the word "<i>reflect</i>" with "<i>in accordance with</i>" in Paragraph 2 for the same reasons in Q4.8.1.1.</p> <p>Answer:</p> <p>The Applicant disagrees with the ExA's proposed modification to Requirement 6(2).</p> <p>The landscaping measures presented on the Environmental Masterplan [TR010044/APP/6.2] are illustrative and set out the broad principles for the form, location, function and objectives of all hard landscaping and planting to be</p>

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		<p>implemented as part of the Scheme design. The words “must reflect” are included to ensure that individual landscaping schemes (and associated planting specifications) developed at the detailed design stage align with these principles as a minimum. This wording mirrors similar Requirements concerning landscaping found in the following made Orders:</p> <ul style="list-style-type: none"> a) The A556 (Knutsford to Bowdon Improvement) Development Consent Order 2014. b) The A160/A180 (Port of Immingham Improvement) Development Consent Order 2015. c) The A14 Cambridge to Huntingdon Improvement Scheme Development Consent Order 2016. d) The M4 Motorway (Junctions 3 to 12) (Smart Motorway) Development Consent Order 2016. e) The A19/A184 Testos Junction Alteration Development Consent Order 2018. f) The A63 (Castle Street Improvement, Hull) Development Consent Order 2020. g) The A19 Downhill Lane Junction Development Consent Order 2020. h) The M42 Junction 6 Development Consent Order 2020. i) The A585 Windy Harbour to Skipool Highway Development Consent Order 2020. <p>Where the term 'reflect' has not been used, this is often because more flexible wording is used, for example, the A19/A1058 Coast Road (Junction Improvement) Development Consent Order 2016 uses the term 'based on' instead of 'reflect'.</p> <p>The Applicant believes that the ExA's proposed replacement could prove restrictive at detailed design stage and may stymie opportunities for the Principal Contractor to make minor design adjustments and/or deliver enhancements within the landscaping scheme post-consent.</p> <p>The Applicant would be prepared to accept a modified version of Requirement 6(2), as follows, which would still allow flexibility to deliver beneficial design modifications, in a similar way to that explained in the Applicant's response to Q4.8.1.1 above:</p> <p><i>(2) The landscaping scheme for each part must reflect be substantially in accordance with the applicable mitigation measures for landscaping set out in the First Iteration EMP and the landscaping principles set out in the environmental masterplan.</i></p>

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Q4.8.1.3	Applicant	<p>Question:</p> <p>Requirement 11 – Traffic management</p> <p>The ExA proposes deleting the word “<i>substantially</i>” from R11(1) for the same reasons in Q4.8.1.1.</p> <hr/> <p>Answer:</p> <p>As is explained above in the Applicant's response to Q4.8.1.1, the Applicant strongly disagrees with the amendment proposed by the ExA for the following reasons:</p> <ol style="list-style-type: none"> 1. Use of the term "substantially in accordance with" has a high volume of precedent in previously made DCOs for SRN schemes. For example: <ol style="list-style-type: none"> a) The M4 Motorway (Junctions 3 to 12) (Smart Motorway) Development Consent Order 2016. b) The M20 Junction 10a Development Consent Order 2017. c) The A303 Sparkford to Ilchester Dualling Development Consent Order 2021. d) The A30 Chiverton to Carland Cross Development Consent Order 2020. <p>In fact, the Applicant has found no National Highways precedent where, in instances that DCOs have certified an OCTMP, the stricter form of 'in accordance' has been used without a reference to 'substantially'. Other DCOs do not have an "outline construction traffic management plan" for the traffic management plan to be based on.</p> 2. This is perhaps unsurprising given that the wording of these previous DCOs and the Applicant's proposed wording recognises that, in practice, it is not possible to confirm the precise details of the OCTMP at this point in time. By using the word "substantially", the Applicant is not seeking the ability to step outside of the principles or the spirit of the OCTMP. 3. Throughout the course of the examination, further detail has been included in the OCTMP to address comments from interested parties, such that the OCTMP is now more developed than would normally be anticipated at this point in time. However, given that the detailed design of the Scheme is not yet complete, the Applicant does require a degree of flexibility to address detailed design matters and to ensure that the Applicant's ability to improve or innovate is not restricted. The ability to add innovation into the Traffic Management Plan has the

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		<p>potential to provide cost and programme efficiencies for the scheme and reduce impacts on the local highway network and local communities.</p> <p>4. Requirement 11 of the dDCO provides that the traffic management plan will be consulted upon and must be approved by the Secretary of State. This is a tried and tested control mechanism for interested parties and the Secretary of State to ensure that the traffic management plan continues to properly mitigate and manage all environmental effects anticipated, such that the additional certainty proposed by the ExA is not necessary.</p> <p>For all of the above reasons, the Applicant can see no reasonable justification for deleting reference to 'substantially' as has been proposed. The Applicant has already gone above and beyond many previous DCOs by providing a significant amount of detailed information on the measures to be put in place as part of the construction of the proposed development by preparing and certifying under the DCO the OCTMP. However, in the event that the Examining Authority recommends the deletion of the word "substantially" as proposed and this is accepted by the Secretary of State, the Applicant reserves its right to submit an alternative OCTMP for certification which would remove those elements that are not certain and therefore cannot be fixed at the point of certification.</p>
Q4.8.1.4	Applicant	<p>Question:</p> <p>Requirement 12 – Detailed Design</p> <p>The ExA believes that scheme design approach and design principles [REP3-014] is a high level document that provides overarching principles to guide detailed design outcomes of the Proposed Development. On the basis of the content in the document currently in the Examination, the ExA also believes that the application of the approach and principles embodied in this document to deliver design outcomes that meet the policy requirements in NPS NN (Paragraphs 4.29, 4.30, 4.31, 4.33) and the NPPF (Chapter 12) would be a matter of interpretation. As such, the ExA believes that the application of the approach and principles embodied in this document to specific sites and structures along the route should be subject to scrutiny by relevant parties, such as the LAs and Statutory bodies and landowners. While the ExA can see the Applicant's position that the document would not be updated post consent, it remains unconvinced about the extremely limited engagement on detailed design and application of the approach and principles embodied in this document post consent [REP6-037]. Subject to responses to WQ3, the ExA is minded to propose additional provision relating to the detailed design development process post consent, should consent be granted. Applicant and LAs to provide suggested wording.</p> <p>Answer:</p>

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		<p>The Applicant has engaged and formally consulted with local authorities and key stakeholders during the design development phase and as part of the DCO process. The Applicant has taken due consideration of comments made by key stakeholders across design elements integrating both technical functionality and good design with regards to impact of the Scheme in the proposed location. This has influenced the final route alignment, vertical alignment, sizing and massing of structures, environmental mitigation, landscaping, non-motorised users and Public Right of Way routes as reflected in the nature and responses provided to questions raised during the examination process.</p> <p>The Applicant has made local authorities and key stakeholders aware of design proposals and ensured that they have visibility of the key design issues which have been identified during consultation as those which may impact or influence their interests.</p> <p>The operation and maintainability of detailed design elements are driven by standards that promote safe environments for both road workers and users, as well as minimising potential delays or closures associated with maintenance and repairs, which in turn will reduce potential impacts to road users and local communities during operation. The design that has been consulted on for this Scheme is significantly more mature than that typically submitted as preliminary design and is well represented within the documentation submitted as part of this DCO application and evidenced in the engineering drawings, environmental statement and Scheme Design Approach and Design Principals [TR010044/EXAM/9.26v3].</p> <p>The design, such as form of structures, local roads and other elements has been developed around the constraints of the final alignment and to meet operational needs, such as safety, maintainability and performance, as well as integrating environmental mitigation and, where possible, environmental enhancement. Detailed elements such as signs, gantries, vehicle restraints and lighting are governed by design standards that take into account road user requirements in terms of providing information key to their journey and safety without over-whelming them, so as to prevent distractions or physical hazards and minimise the risk of incidents. Whilst, the Applicant's overriding consideration for detailed design must be safety and functionality, every effort has been made to take on board comments received during the examination process on the scheme design approach and design principles [TR010044/EXAM/9.26v3].</p> <p>The Applicant does not consider that any further formal consultation will add any true value to stakeholders in terms of their influence of the final design because stakeholders have been presented with information throughout the DCO process. However, it would significantly impair the ability and efficiency of the Applicant in developing a detailed design that meets design standards that ensure the performance and safety of the final design throughout life cycle of the Scheme. Coupled with this is the significant construction time delay that would be incurred as a result of any delay to the detailed design process. Months of delays to the design process can result in a year of delay for construction,</p>

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		<p>for example, due to seasonal constrains on work operations. The Applicant needs to ensure detailed design development adheres to the appropriate standards and provides a beneficial scheme without undue cost to the taxpayer. The cost to the public purse as a result of a requirement for consultation post-consent, which would lead to a significant delay to the programme, would be substantial.</p> <p>As is set out in Appendix B to the Applicant's response to actions arising from Issue Specific Hearing 5 [REP6-031], where such post-consent consultation requirement has been included in other made DCOs, this is often as a result of specific circumstances associated with that development which necessitated such consultation. A number of those previous made DCOs where consultation is included by virtue of a requirement had not progressed the detailed design or the scheme design approach and design principles [TR010044/EXAM/9.26v3] to such an advanced extent or level of maturity that this Scheme has.</p> <p>Without prejudice to the Applicant's position set out above, in response to the ExA's request for requirement wording which secures that an adequate standard of detailed design engagement will be carried out by the Applicant, the Applicant proposes that the following additional wording (as shown in red) could be added to Requirement 12 of the DCO. The drafting is intentionally worded to ensure that detailed design can progress in advance of a determination on the DCO Application to ensure that the programme for delivery of the Scheme will not be delayed and the cost of the Scheme will not, therefore, be unnecessarily increased. As detailed design is progressing now and will be substantially completed before the DCO Application is determined. Therefore, it is essential that any requirement imposed allows for engagement to progress now and in tandem with the ongoing detailed design process. This wording also includes a definition for "relevant stakeholders" relevant to those matters of detailed design identified in the scheme design approach and design principles [TR010044/EXAM/9.26v3].</p> <p>Detailed design</p> <p>12.—</p> <p><i>(1) The detailed design for the authorised development must accord with:</i></p> <p><i>(a) the preliminary scheme design shown on the works plans, the general arrangement plans and the engineering section drawings;</i></p> <p><i>(b) the principles set out in the environmental masterplan; and</i></p> <p><i>(c) the design principles set out in the scheme design approach and design principles</i></p> <p><i>unless otherwise agreed in writing by the Secretary of State following consultation with the relevant local authority on matters related to their functions, provided that the Secretary of State is satisfied that any amendments would not give</i></p>

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		<p><i>rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.</i></p> <p><i>(2) Where amended details are approved by the Secretary of State under paragraph (1), those details are deemed to be substituted for the corresponding plans or sections and the undertaker must make those amended details available in electronic form for inspection by members of the public.</i></p> <p><i>(3) Before commencement of development, the undertaker must submit to the Secretary of State for approval a report demonstrating that the undertaker has engaged with relevant stakeholders on how detailed design has been refined in accordance with the scheme design approach and design principles.</i></p> <p>New definition: <i>"relevant stakeholders" means relevant local authorities and relevant statutory environmental bodies;</i></p>
Q4.8.1.5	Applicant Historic England	<p>Question:</p> <p>Requirement 16 – Brook Cottages</p> <p>Subject to responses to WQ3 regarding the on-going conversation with HistE, the ExA is minded to propose additional provisions relating to the demolition and potential reconstruction of Grade II listed Brook Cottages, including greater clarity in terms of specific and detailed reasons that would prevent reconstruction and timescale and mechanism for demolition and reconstruction, if considered appropriate.</p> <p>Answer:</p> <p>Wording has been updated in the dDCO submitted at Deadline 9 [TR01044/APP/3.1v5] to reflect the modified Requirement 16 on Brook Cottages submitted in draft form at Deadline 8 [REP8-017] and as agreed between the Applicant, Historic England and Bedford Borough Council in the Joint Position Statement [REP8-017]. This updated requirement provides greater clarity on the process of dismantling and, if necessary, the potential reconstruction of Brook Cottages. As can be seen from the flowchart appended to the Brook Cottages Joint Position Statement submitted by the Applicant at Deadline 8 [REP8-017], this updated requirement sets out a process through which the soft strip is carried out in accordance with the Brook Cottages Heritage Strategy [REP8-021] (a certified document under the Order); Historic England, in consultation with Bedford Borough Council then advise if the historic fabric is suitable for relocation; the Applicant would dismantle the fabric in accordance with the method confirmed by Historic England; and then the details regarding reconstruction are subject to approval by the Secretary of State. Such details</p>

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		include, appropriate future use, a suitable receptor, transportation method, schedule of works and timetable for reconstruction.
Q4.8.1.6	Applicant	<p>Question:</p> <p>Requirement 18 – Noise Mitigation</p> <p>In the ES [APP-080, Paragraph 11.10.2] the Applicant explains that noise surveys would be undertaken to ensure that measures, such as low noise surfacing materials were installed as required. However, little further detail is provided of such monitoring. In addition to responses to WQ3, the Applicant to propose additional wording for Requirement 18 or an additional section in the First Iteration EMP [REP6-008, Annex B, B3] to secure operational noise monitoring described in the ES [APP-080, Paragraph 11.10.2] so as to ensure that intended noise mitigation measures would achieve their desired outcome, should consent be granted.</p> <p>Answer:</p> <p>As set out in the Applicant's response to Q3.16.2.1 [REP8-014], the Applicant has provided additional wording in the First Iteration EMP [TR01044/APP/6.8v3] submitted at Deadline 9, to secure operational noise monitoring to ensure that the intended noise mitigation measures would achieve their desired outcome.</p> <p>The monitoring proposed in the First Iteration EMP is in accordance with Section 4.2 of the Design Manual for Roads and Bridges (DMRB) LA 111 Noise and Vibration, which requires the monitoring of significant environmental effects to include:</p> <ol style="list-style-type: none"> 1) Ensuring mitigation measures included with the project design are incorporated with the as-built project. Where they are not included, ensuring resultant noise levels, taking account of any additional mitigation installed but not included in the assessed design, are no higher than set out in the project assessment. 2) Ensuring specifications of noise mitigation measures, including barriers and low noise surfaces, meet design specifications. <p>The additional wording identifies the noise specification requirements which low noise surfacing materials must meet. The Principal Contractor will be required to demonstrate that the surfacing material procured for the Scheme meets these noise specification requirements. This will be through the provision of a Highways Agency Product Approval Scheme (HAPAS) certificate to be provided by the Principal Contractor to the Applicant prior to the Scheme opening, Although testing of the noise performance of the 'as installed' surface is not carried out during construction, other test</p>

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		<p>results such as for surface regularity and surface texture, as well as laying/compaction records, will provide evidence that the surface has been installed in accordance with the specification.</p> <p>The additional wording also identifies the extent and height of noise bunding specified at Roxton Road and Potton Road which are required to mitigate the noise impacts along these sections of route and the requirement for a site survey prior to Scheme opening to confirm the measures have been installed in accordance with the project design.</p>
Q4.8.1.7	Applicant	<p>Question:</p> <p>New Requirement</p> <p>Throughout the Examination, LHAs have consistently raised concern regarding potential unanticipated traffic effects on the local road network during operational phases of the Proposed Development and the likelihood of either the Applicant or the LHA being able to mitigate such effects in a timely manner [REP6-060] [EV-069]. Whilst the ExA accepts that such potential effects are largely unknown at this stage, it remains concerned that there is a possibility that the Proposed Development could affect the local network and indeed the LHAs' ability to deliver their statutory Network Management Duty, as defined in S16 of the Traffic Management Act, 2004. In that regard, the ExA finds that the current traffic monitoring methodology being proposed by the Applicant is neither robust, nor secured through the dDCO [TR010044/APP/3.1v5]. Therefore, subject to responses to WQ3, the ExA is minded to propose a Requirement relating to quantitative Traffic Monitoring and Mitigation for the Proposed Development's operational phase, should consent be granted. Applicant to provide suggested wording, including definitions if relevant. LHAs have provided wording for such a Requirement [REP6-074], which the Applicant may consider.</p> <p>Answer:</p> <p>Following comments from the local highway authorities and the ExA, the Applicant has carried out further assessment using selected links available within the strategic model and identified the locations at which there is a potential risk of a notable increase in traffic flows on the local network. This level of assessment goes beyond the standard approach taken by National Highways on other Schemes and what is strictly required by policy. The Applicant has identified five locations on the local road network to monitor changes resulting from the Scheme once the Scheme opens to traffic. Please see National Highways Statement on Operational Phase Monitoring' [TR010044/EXAM/9.116] for further detail.</p> <p>The Applicant proposes to include the following Requirement in the dDCO as a new Requirement 22:</p> <p><i>Local traffic monitoring</i></p>

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		<p>22. —(1) Before any part of the authorised development is open for traffic, the undertaker must submit written details of an operational traffic monitoring scheme for approval to the Secretary of State following consultation with the relevant local highway authority for the following locations:</p> <ul style="list-style-type: none"> (a) Great North Road, between A428 and Nelson Road; (b) Cambridge Road, between Station Road and A428; (c) Park Street East, Dry Drayton; (d) Brook Lane, Coton; and (e) St Neots Road, Sandy. <p>(2) The operational traffic impact monitoring scheme must include—</p> <ul style="list-style-type: none"> (a) a survey to assess baseline traffic levels at the locations listed in sub-paragraph (1)(a) to (e); (b) an operational traffic survey at the locations listed in sub-paragraph (1)(a) to (e) within the first year and fifth year following the date on which the authorised development is fully completed and open for traffic to assess the changes in traffic from the baseline; (c) the methodology to be used to collect the required data; (d) the periods over which operational traffic is to be monitored; and (e) proposals for the submission of the survey data collected and an interpretative report to be provided to the relevant local highway authority. <p>(3) The scheme approved under sub-paragraph (1) must be implemented by the undertaker unless otherwise agreed in writing with the Secretary of State.</p>

Appendix A – Q4.3.6.1 Statutory Undertaker Powers

Statutory Undertaker	Work No.	Description	Basis of Statutory Right	Compulsory purchase powers
National Grid Gas plc	41	Work No. 41 – the diversion of an underground gas pipeline as shown on sheet 3 of the works plans.	Holder of a gas transporter licence under section 7 of the Gas Act 1986 and with a duty to maintain an efficient and economical system for the conveyance of gas under section 9 of the Gas Act 1986.	Section 9, section 19 and Schedule 3 of the Gas Act 1986.
Cadent Gas Limited	51	Work No. 51 – the diversion of an underground gas pipeline as shown on sheet 4 of the works plans.	Holder of a gas transporter licence under section 7 of the Gas Act 1986 and with a duty to maintain an efficient and economical system for the conveyance of gas under section 9 of the Gas Act 1986.	Section 9, section 19 and Schedule 3 of the Gas Act 1986.
Exolum Pipeline System	38	Work No. 38 – the diversion of an underground oil pipeline as shown on sheet 3 of the works plans.	Exolum (formerly CLH Pipeline System) has the right to retain, maintain and use pipe-line apparatus in land within the Order Limits pursuant to Part 4 of the Energy Act 2013 and in accordance with the Pipe-lines Act 1962.	Section 11 of the Pipe-lines Act 1962.

Statutory Undertaker	Work No.	Description	Basis of Statutory Right	Compulsory purchase powers
AWG Group Limited	19, 28, 44, 60, 61a, 61b, 62 and 66	Work Nos. 19, 28, 44, 60, 61, 62 and 66 – the diversion of underground water pipelines as shown on sheets 1, 1B, 2, 2B, 3, 5, 6, and 6A of the works plans.	<p>Anglian Water Services Limited are appointed as a water and sewerage undertaker under section 6 of the Water Resources Act 1991. Anglian Water Services Limited are a subsidiary of AWG Group Limited.</p> <p>AWG Group Limited therefore has a general duty under section 37 of the Water Industry Act 1991 to maintain water supply systems. Undertakers' powers are outlined in Part 6 of the Act.</p>	Section 155 of the Water Industry Act 1991.
South Staffordshire Water plc	100, 103, and 107	Work No. 100, 103 and 107 – the diversion of underground water pipelines as shown on sheets 13, 13B, 14 and 14A of the works plans.	<p>South Staffordshire Water plc are appointed as a water and sewerage undertaker under section 6 of the Water Resources Act 1991.</p> <p>South Staffordshire Water plc has a general duty under section 37 of the Water Industry Act 1991 to maintain water supply system. Undertakers' powers are outlined in Part 6 of the Act.</p>	Section 155 of the Water Industry Act 1991.

Statutory Undertaker	Work No.	Description	Basis of Statutory Right	Compulsory purchase powers
UK Power Networks (Operations) Limited	6, 8, 27, 32, 47, 49, 52, 56, 58, 63, 67, 69, 69A, 69B, 82, 99 and 110	<p>Work No. 6, 27, 32, 47, 49, 52, 56, 58, 63, 67, 69, 69A, 69B, 82, 99 – the diversion of an underground electricity cable as shown on sheets 1, 1A, 2, 2A, 3, 4, 5, 6, 6C, 9, 13, and 13B of the works plans.</p> <p>Work No. 8, 110 – the diversion and undergrounding of an overhead electricity line as shown on sheets 1, 1A, 14, 14A and 15 of the works plans of the works plans.</p>	UK Power Networks (Operations) Limited holds a licence under section 6 of the Electricity Act 1989. Sections 9 and 10 of the Act outline the duties and powers of licence holders.	Section 10 and Schedule 3 of Electricity Act 1989.
Openreach Limited	9, 20, 42, 65, 81, 90, 96, 97, 104 and 104a	<p>Work No. 9, 20, 42, 65, 81, 90, 96, 97, 104 and 104a – the diversion of underground communication cables as shown on sheets 1, 1C, 2, 3, 5, 6, 6B, 8, 9, 11, 12, 13, 13A, 14, 14B of the works plans.</p>	Openreach Limited is an 'operator' for the purposes of the Communications Act 2003. They hold powers under the Electronic Communications Code (Schedule 3A of the Communications Act 2003) including in relation to installing, maintaining, altering and repairing electronic communications apparatus.	Schedule 4 of the Communications Act 2003.
Virgin Media Limited	42, 81, 97, 104 and 104b	<p>Work No. 42, 81, 97, 104 and 104b – the diversion of underground communication cables as shown on sheet 3, 8, 9, 12, 13, 13A, 14 and 14B of the works plans.</p>	Virgin Media Limited is an 'operator' for the purposes of the Communications Act 2003. They hold powers under the Electronic Communications Code (Schedule 3A of the Communications Act 2003) including in relation to installing, maintaining, altering and	Schedule 4 of the Communications Act 2003.

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Statutory Undertaker	Work No.	Description	Basis of Statutory Right	Compulsory purchase powers
			repairing electronic communications apparatus.	
Vodafone Limited	42, 81, 97 and 104	Work No. 42, 81, 97, 104 and 104b – the diversion of underground communication cables as shown on sheet 3, 8, 9, 12, 13, 13A, 14 and 14B of the works plans.	Vodafone Limited is an 'operator' for the purposes of the Communications Act 2003. They hold powers under the Electronic Communications Code (Schedule 3A of the Communications Act 2003) including in relation to installing, maintaining, altering and repairing electronic communications apparatus.	Schedule 4 of the Communications Act 2003.