

Application by National Highways (formerly Highways England) for A417 – Missing Link
The Examining Authority’s further written questions and requests for information (ExQ2)
Issued on 17 March 2022

The following table sets out the Examining Authority’s (ExA’s) further written questions (ExQ2). Responses are due by **Deadline 6** in the Examination Timetable, which is **Wednesday 30 March 2022 at 11.59pm**.

As per ExQ1, the list of questions is set out in a topic-based framework, which is generally based on the ExA’s Initial Assessment of Principal Issues provided as [Annex C to the ExA’s Rule 6 letter](#).

Questions have arisen from previous answers, representations, meetings and Hearings and the answers provided will contribute to the ExA’s examination and assessment of the application against relevant policy.

Column 1 of the table provides a unique reference number for each question. This starts with a topic code, then a ‘2’ (for ExQ2), followed by a section number (for that topic), and finally an individual question number. When answering a question, or in any future representations, please quote this unique reference number. The section numbers carry through from ExQ1, but as not all topics have questions in ExQ2, some numbering in the table below is no longer sequential in this respect. Column 2 indicates the party (or parties) that the question is directed to. The ExA requests that all named parties answer all questions directed at them, providing either a clear and suitably substantive response, or reasons why the question cannot be answered or is not relevant to them. This does not preclude an answer being provided by any other party, if that party believes they have information on that specific topic or point that would be useful to the Examination.

Where a question has been or will imminently and definitely be fully answered in a Statement of Common Ground or other submission, then a detailed cross-reference to the relevant document and section or paragraph will suffice.

If you are answering a limited number of questions, responses in a letter format are appropriate. If you are answering several or many questions, it will assist the ExA if you use a table based on that used below. An editable version of this table in Microsoft Word is available from the Planning Inspectorate. Please email your request to the case team at a417missinglink@planninginspectorate.gov.uk and include ‘Editable ExQ2 Table’ in the subject line of your email.

Abbreviations used

Art	<i>Article</i>	NMU	<i>Non-Motorised User</i>
ALA 1981	<i>Acquisition of Land Act 1981</i>	NH	<i>National Highways</i>
AP	<i>Affected Party</i>	NE	<i>Natural England</i>
BoR	<i>Book of Reference</i>	NPPF	<i>National Planning Policy Framework</i>
BMV	<i>Best and Most Versatile Land</i>	NSIP	<i>Nationally Significant Infrastructure Project</i>
CA	<i>Compulsory Acquisition</i>	NPSNN	<i>National Policy Statement for National Networks</i>
CDC	<i>Cotswold District Council</i>	NT	<i>National Trust</i>
dDCO	<i>draft DCO</i>	PA2008	<i>Planning Act 2008 (as amended)</i>
EA	<i>Environment Agency</i>	PRoW	<i>Public Right of Way</i>
EM	<i>Explanatory Memorandum</i>	R	<i>Requirement</i>
ES	<i>Environmental Statement</i>	SI	<i>Statutory Instrument</i>
ExA	<i>Examining authority</i>	TBC	<i>Tewkesbury Borough Council</i>
GCC	<i>Gloucestershire County Council</i>	SoS	<i>Secretary of State</i>
GWT	<i>Gloucestershire Wildlife Trust</i>	TP	<i>Temporary Possession</i>
HE	<i>Historic England</i>	WCH	<i>Walker, Cyclist, Horserider</i>
LIR	<i>Local Impact Report</i>		
LPA	<i>Local Planning Authority</i>		

The Examination Library

References in these questions set out in square brackets (eg [APP-010]) are to documents catalogued in the [Examination Library](#). The Examination Library will be updated as the examination progresses.

ExQ2	Question to:	Question:	Response:
2.1.	Miscellaneous and General		
2.1.1.	Applicant	<p>Bristol Airport You will have seen Bristol Airport expansion has recently been granted consent. Does this have any implications for the traffic modelling in the context of the A417 Missing Link?</p>	
2.1.2.	Applicant	<p>Clarification At paragraph 5.2.6 of the Case for the Scheme [APP-417] it states the scheme is in the medium category based on the DFT's Value for Money Framework having identified an initial BCR of 1.49 and an adjusted BCR of 2.51. However, the value for money categories in the DFT's Framework include 'low' having a BCR between 1 and 1.5, 'Medium' between 1.5 and 2 and 'High' between 2 and 4. Please clarify</p> <ul style="list-style-type: none"> a) why you concluded it is within the medium category, and b) what effect the most up to date Carbon Values have on the GHG sensitivity test in the Combined Modelling and Appraisal report, section 15.3 [APP-422]? 	
2.2.	Air Quality and Emissions		
2.2.1.	Joint Councils	Carbon emissions	

ExQ2	Question to:	Question:	Response:
		The ExA note the content in the Statement of Common Ground with the Applicant [REP3-005]. You heard the matter of carbon emissions being debated at ISH2. Do you have any remaining concerns about the Applicant's approach, methodology, assessment or conclusions with regards to the scheme's predicted carbon emissions both during construction and operation? If so, what are they and how do they relate to the NPSNN?	
2.2.2.	Environment Agency, Natural England, National Trust, GWT, Cotswolds Conservation Board	Carbon emissions Do any of the named organisations have any comments they wish to make with regards to the Applicant's assessments and forecasts of carbon emissions, with direct reference to the NPSNN?	
2.2.3.	Applicant	Carbon emissions Explain why you consider a carbon budget (for any period) is the sum total of carbon emissions across all sectors as opposed to being <u>a cap</u> that the sum total of carbon emissions across all sectors cannot go above?	
2.2.4.	Applicant	Other sought Development Consent Orders (DCO) Other DCOs have been referenced in the Examination (for example, A38 Derby Junctions, M54-M6 link Road, M25 Junctions	

ExQ2	Question to:	Question:	Response:
		10 and 28). National Highways provided a response to the Secretary of State's questioning on carbon emissions for all those other schemes. The SoS invited comments from Interested Parties (IP) on those respective projects by 4 March 2022. Are there any additional points, having regard to National Highways' responses on those schemes and having seen those responses, that you feel are important or relevant for the current Examination into the A417 Missing Link?	
2.2.5.	Applicant	<p>Register of Environmental Actions and Commitments (REAC)</p> <p>Reference AQ13 in the REAC provides for Air Quality monitoring to be undertaken at National Star but does not specify any thresholds or actions/ commitments to be undertaken should those thresholds be breached. Can the Applicant explain how monitoring by itself could provide mitigation and how any such mitigation would be secured?</p>	
2.3.	Biodiversity, Ecology and Natural Environment (including Habitats Regulations Assessment (HRA))		

ExQ2	Question to:	Question:	Response:
2.3.1.	Applicant, Natural England, GWT	<p>Interface between Byways Open to All Traffic (BOAT) and improved Public Rights of Way with nature objectives</p> <p>a) How have improvements to connectivity for path users been assessed with regards to their impact on biodiversity and essential mitigation provision?</p> <p>b) Would any increased usage, combined with alternate methods of access and travel, on the improved or altered rights of way conflict or hinder the delivery of essential mitigation objectives (for example, noise and disturbance upon new wildlife areas)?</p>	
2.3.2.	Applicant	<p>Beech trees at Shab Hill</p> <p>At CAH1, Mr Mendel raised the potential for a copse of beech trees at Shab Hill Farm to be of an age close to the category of ancient woodland. Is the Applicant able to confirm the exact position on this and comment upon whether any ancient woodland 'indicator species' are present, such as what was described at Emma's Grove?</p>	
2.3.3.	Applicant	<p>Biodiversity Net Gain</p> <p>The Applicant has suggested that it is seeking to investigate further opportunities to improve the Biodiversity Net Gain score with</p>	

ExQ2	Question to:	Question:	Response:
		neighbouring landowners and through other off-site measures. Can the Applicant set these out in detail, identify the locations and confirm how they would be secured? If through s253 agreements, see 2.4.12 below. If additional agreements, what progress has been made? Will these be completed within the Examination and to what extent should the ExA have regard to these in the decision-making process?	
2.3.4.	Applicant	<p>Biodiversity Net Gain</p> <p>The ExA notes from the Statement of Commonality that agreement has been reached between the Applicant and the Joint Councils that Biodiversity Net Gain would be assured with schemes and incentives outside of the DCO process.</p> <ul style="list-style-type: none"> a) Has any other Interested Party been made aware of these schemes? b) How much weight can the ExA give to such out-of-process agreements, considering that the ES is categoric in the extent of biodiversity net loss? 	
2.3.5.	Applicant	<p>Environmental compensation</p> <p>Tufa compensation is proposed and suggested that it would require agreements outside of the DCO boundary with landowners. How would</p>	

ExQ2	Question to:	Question:	Response:
		this be secured? Is it necessary mitigation? To what extent can this be taken into account in the decision-making process?	
2.3.6.	GWT, Natural England, National Trust, Joint Councils	<p>Position statement</p> <p>Produce a detailed position statement setting out the respective positions regarding the potential effects of increased recreational pressure upon the Crickley Hill and Barrow Wake units of SSSI. Each party's views on the likelihood of increased recreational pressure and the areas this would be experienced should be clear, alongside views on potential mitigations setting out areas of agreement and disagreement accordingly. Include, where necessary, references to the NPSNN and any disputes with the Applicant's position set out at Deadline 5 [REP5-008]. Since this is an 'operation effect' please confirm what, if any, concerns remain about construction effects either as a separate statement or chapter in your response.</p>	
2.3.7.	GWT	<p>Imperative Reasons of Overriding Public Interest (IROPI)</p> <p>Given the substantive disputes between GWT and the Applicant, as reported in the Statement of Common Ground, where does</p>	

ExQ2	Question to:	Question:	Response:
		GWT stand with regards to consideration of IROPI?	
2.3.8.	Applicant	<p>Essential mitigation</p> <p>It has been raised by both Alison Besterman and Stephen Mendel that land subject to Compulsory Acquisition powers in order to deliver essential mitigation (calcareous grassland) is already in a grassland state, with some under environmental stewardship. Can the Applicant address the following:</p> <ol style="list-style-type: none"> a) Confirm what the Applicant knows of the stewardship programmes in place on the land. b) Explain what specifically the Applicant would have to do with the condition of the land to change it into calcareous grassland. c) Set out what benefits or enhancements the change to calcareous grassland would have over and above retention of the current grassland state. d) It was said in relation to calcareous grassland provision at Alexander and Angell that, if such grassland could not be provided there, wildflower grassland would be provided to mitigate losses at Shab Hill (Appendix A [REP3-010]). Are 	

ExQ2	Question to:	Question:	Response:
		<p>any of those losses requiring mitigation directly arising from the proposed change from wildflower grassland to calcareous grassland at Shab Hill Farm?</p> <p>e) Explain how the Applicant's overall and longer-term management of the grassland, whether under s253 agreements or not, would represent betterment over the existing stewardship programmes.</p>	
2.3.9.	Applicant	<p>Overbridges In the representation from Carol Gilbert [REP3-031] the efficacy of the establishment of hedges and habitat on the crossings is questioned with regard the likelihood of the bridges being used by large machinery and vehicles. The balance between human and natural environments is also a concern of bridge design for a consortium of IPs [REP5-011]. What is your response?</p>	
2.3.10.	Natural England, National Trust, GWT	<p>Watercourses Are there any remaining concerns regarding the Applicant's approach towards aquatic wildlife or the management of habitats within watercourses?</p>	
2.3.11.	Applicant	Bus shelter	

ExQ2	Question to:	Question:	Response:
		<p>Cowley and Birdlip Parish Council (C&BPC) contend, contrary to NH's previous comments [REP3-011], that it has a substantial and material interest in the bus shelter. This shelter is promoted as mitigation/ compensation for the effects on bats as an artificial roost to address the cumulative loss of bat roosting features (BD38 in REAC). What is the Applicant's position and how can the ExA be satisfied that the mitigation/ compensation will be secured? Reference has been made by C&BPC to alternative provision or compensation through Compulsory Acquisition. Would this be necessary, and would it require a change request?</p>	
2.3.12.	Applicant	<p>Recreational pressure on SSSI In [REP4-051] NT notes that it would support post-construction monitoring of recreational impacts on the SSSI with measures being put in place to address any such material increase should it occur. Is the Applicant prepared to secure such monitoring and mitigation and if so how can this best be secured?</p>	
2.3.13.	NE	<p>HRA Matrices Can NE confirm that they agree with the information and conclusions provided in the updated Screening and Integrity matrices for</p>	

ExQ2	Question to:	Question:	Response:
		the Severn Estuary Ramsar as provided by the Applicant [REP3-015] .	
2.4.	Compulsory Acquisition, Temporary Possession and Other Land or Rights Considerations		
2.4.1.	David and Lisa Field	<p>Western land</p> <p>a) In your representation you reference the '<i>western land</i>' adjacent to Cirencester Road. You've stated that the land should be returned to you and all trees upon it cut. Can you elaborate to the ExA why, if the land were to be returned, all trees should be cut given the environmental sensitivities of the locality and surrounding area?</p> <p>b) Would there be middle ground in that National Highways could retain landscaping rights, if there was agreement for proper and accountable maintenance?</p>	
2.4.2.	Applicant	<p>Layby location</p> <p>During CAH1 [EV-023] [EV-027] it was stated that the Fields are impacted by essential mitigation only and not impacted by the layby in terms of Compulsory Acquisition.</p> <p>a) Can this be clarified, as plot 1/3d is proposed to be acquired from the Fields and the Statement of Reasons at</p>	

ExQ2	Question to:	Question:	Response:
		<p>Deadline 4 [REP4-020] describes this as being for the layby?</p> <p>b) How does the Applicant balance the compelling public interest in acquiring the land, the length or type of layby being provided, and the interference with rights?</p> <p>c) The Deadline 5 submission [REP5-007] suggests that the layby may either be an emergency area only layby or may be removed altogether. How does the Applicant intend to reflect this in Schedule 1 Work no.1(d) of the dDCO?</p>	
2.4.3.	The National Trust	<p>Farm Business Tenancies</p> <p>a) Can you explain fully the nature of the Farm Business Tenancies that the trust owns and operates within the Order limits and what rights are currently enjoyed over it?</p> <p>b) Are any of those Farm Business Tenancies on land that is deemed BMV?</p> <p>c) Which plots in the BoR are implicated by this and could the landholdings you have tenancies on continue to operate viably if any or all of those plots were to be used by the Applicant in the manner proposed?</p>	

ExQ2	Question to:	Question:	Response:
2.4.4.	The National Trust	<p>Crickley Hill facilities</p> <ul style="list-style-type: none"> a) Can you provide an indication of the annual turnover and revenue for the visitor café and car park at the Crickley Hill site? b) Broadly, in which months is the greatest revenue to be earned? c) Could the construction programme be revised/ accommodated so that access to the Crickley Hill site could be sustained during the most profitable seasons? d) At Deadline 5 [REP5-005] it is stated that agreement has been reached to keep access to the country park open at all times. Would the construction programme be affected by this and/ or would additional traffic management measures need to be implemented on Leckhampton Hill to achieve the continuous access? 	
2.4.5.	All APs that deem such provision relevant to their land holding	<p>Environmental stewardship</p> <p>At CAH1 and ISH2 a number of APs alluded to their land, which is subject of Compulsory Acquisition, being currently maintained and managed for the benefit of the environment or under specific environmental stewardship</p>	

ExQ2	Question to:	Question:	Response:
		schemes. Please provide details of how land is currently managed for environmental purposes and why it is felt that the Applicant's proposals would neither add to nor enhance the current management processes. Also set out the longevity of any such stewardships and if the land is secured in perpetuity for wildlife.	
2.4.6.	Joint Councils	<p>Ullenwood Cricket Club</p> <p>a) With reference to the Statement of Common Ground and the apparent acceptance by GCC of land being acquired by the Applicant, have any comments been received from the Cricket Club?</p> <p>b) Would the recreational facility be unavailable at any time to the club or the public during the construction phase of the development?</p>	
2.4.7.	Applicant	<p>Essential mitigation</p> <p>Following on from question 2.3.8 above regarding land already managed for environmental purposes, do you consider that the status of those plots within those stewardships has any effect on the case for Compulsory Acquisition?</p>	
2.4.8.	Applicant	<p>Compulsory Acquisition Schedule (document 8.9 [REP1-014])</p>	

ExQ2	Question to:	Question:	Response:
		Can the Applicant confirm that the interests of owners in the CA Schedule are correct? All are specified as ' <i>part 1 (Category 1 – owners)</i> ' but there appears to be examples where plots are identified with two owners eg Plot 2/32 where Medlock and Mendel both include this plot in the list of interest. It is noted in the BoR that Medlock is a category 2 interest in respect of this plot. Could you explain the discrepancy or amend, and ensure there are no other occurrences?	
2.4.9.	Applicant	Bus stop Cowley and Birdlip Parish Council has stated [REP4-040] that it has had a material interest in a bus shelter for over 70 years and has maintained it at its own expense. How do you respond and would rights need to be acquired?	
2.4.10.	Applicant	Quarry Please provide a detailed response in respect of the Additional Submission from Carter Jonas LLP on behalf of Hanson Quarry Products Europe Limited [AS-063], and set out what matters are outstanding between the parties, what work is being done to resolve those matters and whether agreement will be reached prior to the end of the Examination.	
2.4.11.	Applicant	National Trust land	

ExQ2	Question to:	Question:	Response:
		<p>In the Statement of Commonality [REP5-005] Appendix G is a Draft Statement of Common Ground with the National Trust and Appendix B of that document is '<i>National trust's Landowner Position Statement</i>'. Within that document on a number of occasions it is stated that '<i>... provisions are to be documented in a separate agreement with National Highways</i>'. Can you confirm:</p> <ul style="list-style-type: none"> a) the status this document will have; b) will it be submitted into the Examination; c) will it be concluded before the conclusion of the Examination; and d) if it is not to be submitted or concluded, how will the matters it is to cover be secured in the DCO and what weight can the intention be given? 	
2.4.12.	Applicant	<p>Section 253 agreements</p> <ul style="list-style-type: none"> a) Can the Applicant set out what s253 agreements are currently being negotiated, with which parties and in respect of what land and for what purposes? And provide an update/assessment of the likelihood of whether these will be concluded by the close of the Examination. 	

ExQ2	Question to:	Question:	Response:
		<ul style="list-style-type: none"> b) What confidence can the ExA have that s253 agreements would be entered into post-Examination? c) Should these appear in the '<i>Consents and Agreements Position Statement</i>'? d) Do you consider the obtaining or negotiation of s253 agreements to be an impediment to the delivery of the project? e) What is the fallback position if landowners do not agree to s253 terms? f) It was stated at Deadline 3 [REP3-009] that in the event of non-compliance with a s253 agreement by a landowner, that National Highways can enforce as if there had been a breach of contractual terms. What happens if the landowner considers that National Highways has not complied with the agreement? 	
2.5.	Draft Development Consent Order (DCO) [REP4-014]		
2.5.1.	Applicant	<p>Alterations to Application Within the Deadline 5 submissions there is reference to:</p> <ul style="list-style-type: none"> a) amended Book of Reference to reflect parish council interests; b) provision of a bat barn and cooling tower for bat habitat enhancement; 	

ExQ2	Question to:	Question:	Response:
		<p>c) abandoning the type A layby at plot 1/3d altogether for either an emergency area or no lay-by at all; and</p> <p>d) potential future Temporary Possession on Hanson land if it was deemed there was no need for permanent acquisition.</p> <p>Do these items, either individually or cumulatively, give rise to any changes to the Application for which development consent is sought?</p> <p>Can you confirm how each will be addressed in the Application documentation?</p>	
2.5.2.	Applicant	<p>National Air Traffic Services (NATS)</p> <p>What control measures are proposed to address NATS' request for some control over the construction methodology around the raised portion of Shab Hill to ensure there is no interference with its communications systems?</p>	
2.5.3.	Applicant, Environment Agency	<p>Article 3</p> <p>Article 3 (a), (b) and (c) seek the disapplication of certain statutory provisions which relate to matters controlled by the EA and which are prescribed consents. In its Deadline 4 submissions [REP4-047] the EA provided an update on the disapplication of these matters and noted that it still had</p>	

ExQ2	Question to:	Question:	Response:
		reservations about agreeing to these matters being disapplied. Can the parties provide a position on this matter for Deadline 6 with the appropriate amendment to the dDCO to be provided if required?	
2.5.4.	Applicant	<p>Article 8 – Limits of deviation Can the Applicant confirm that no National Trust land that is held inalienably, other than that presently identified in the Book of Reference, would be potentially required (including within the limits of deviation), and therefore all land within the DCO boundary and within the limits of deviation does not affect any other inalienably held National Trust land?</p>	
2.5.5.	Applicant	<p>Article 13(4)(b) Should a date/ trigger point be inserted for service of a 'notice' to confirm that de-trunking has been completed?</p>	
2.5.6.	Applicant	<p>Article 14 Should a date/ trigger point be inserted for service of a 'notice' to confirm that the undertaker has 'determined'?</p>	
2.5.7.	Natural England	<p>Article 20 Following the Applicant's intention to disapply s55(2), are you satisfied that all the necessary material, reports and legal processes would be</p>	

ExQ2	Question to:	Question:	Response:
		in place, if the DCO was made, to vary the route of the National Trail? If not, why not?	
2.5.8.	Applicant, Natural England	<p>Article 20 Can the Applicant and Natural England provide, either jointly or individually, the following items:</p> <ul style="list-style-type: none"> a) Evidence that the landowners/ occupiers affected by the diversion have been fully consulted, as it is not wholly clear from the Cotswold Way National Trail Diversion Report that this has been undertaken. b) Confirmation of how the continued engagement of Natural England and the Cotswold Way Trail Partnership would be facilitated and secured, along with any evidence of such engagement to date. c) Evidence that DEFRA has been contacted and are content with the proposed approach to this matter. 	
2.5.9.	Joint Councils	<p>Article 20 You have stated that more detail is required within the National Trail Diversion Report.</p> <ul style="list-style-type: none"> a) Given the Applicant's description at Deadline 3 [REP3-012], is this still your position and, if so, what detail do you 	

ExQ2	Question to:	Question:	Response:
		<p>consider needs to be before the Examination?</p> <p>b) If that detail were not forthcoming, how would you advise the ExA treat this matter in its recommendation?</p> <p>c) Would additional wording need to be included in Article 20 or an additional requirement added to meet your concerns?</p> <p>d) If so, what is your suggested wording?</p>	
2.5.10.	Applicant	<p>Article 39 Special Category Land Can the Applicant respond to National Trust's concern at page 23 of [REP1-098] that this Article may need to be amended when it is determined how National Trust's parcels of land will vest in National Highways.</p>	
2.5.11.	Applicant	<p>Section 28E (H, G) PINS advice note 11 states: '<i>Natural England's advice should be sought by developers prior to them carrying out works on or affecting a SSSI and in the case of owners and occupiers there is a requirement to notify and gain consent, prior to carrying out, or allowing to be carried out, works on or affecting a SSSI.</i>' In light of this, can the Applicant:</p> <p>a) provide its views on the non-compliance with Advice Note 11 that would arise</p>	

ExQ2	Question to:	Question:	Response:
		<p>from disapplying the aforementioned sections of WCA 1981;</p> <p>b) explain how, in view of the disapplication, future SSSIs within the Order limits could and would be implicated;</p> <p>c) explain how the impact of continued works within or adjacent to any new SSSIs would be considered, mitigated and legally secured at the DCO consenting stage; and</p> <p>d) confirm whether there any other forms of resolution to this matter that the Applicant considers important and relevant, other than complete inclusion of the disapplication in Article 3 of the dDCO?</p>	
2.5.12.	Natural England	<p>Section 28E (H, G)</p> <p>a) What are NE's comments in relation to the Applicant's Legal Note on the Disapplication of S28E and H of the WCA1981 contained at Appendix A of the Summary of the Applicants Oral Submissions at Issue Specific Hearing 1 (ISH1) [REP3-009]?</p>	

ExQ2	Question to:	Question:	Response:
		<p>b) What are NE's comments regarding the supplementary statements made by the Applicant on this matter in [REP5-008]?</p> <p>c) Given that any new SSSIs (or potential new SSSIs) within the Order limits are likely only to become established and designated post-construction of the development, what concerns are there regarding potential works within those future SSSIs that are associated with the operation or maintenance of the Proposed Development?</p> <p>d) The Applicant has proposed measure BD63 in the Environmental Management Plan. Would this give Natural England confidence of a consultative and iterative approach to SSSI development should section 28E be disapplied, or if not, why not?</p> <p>e) Other than complete removal of the disapplication from Article 3 of the dDCO, are there any other forms of resolution to this matter that Natural England considers important and relevant?</p>	
2.5.13.	Historic England, Joint Councils,	Requirement 9	Historic England (HE) is currently not in agreement with the Applicant as to the

ExQ2	Question to:	Question:	Response:
	Cotswolds Conservation Board	The Applicant has made changes to the wording of Requirement 9 to include specific reference to the OWSI and DAMS and included a definition of these and identified these as certified documents. Are the parties satisfied that these amendments address the concerns previously raised?	<p>wording of Requirement 9 and are therefore not satisfied that the current amendments address the concerns previously raised. HE and the Applicant remain in discussion about this.</p> <p>The Applicant, within Requirement 9, refers to a "scheme for the investigation and mitigation of areas of archaeological interest". The reference to a "scheme for the investigation and mitigation of areas of archaeological interest" appears to be a separate document in addition to the DAMS/OWSI. HE cannot agree to and is not clear as to why this is needed, when the DAMS/OWSI is to be a certified document. HE is concerned that by referring to a document which is additional to the DAMS/OWSI, that the DAMS/OWSI will not be followed or implemented.</p> <p>In addition, the use of the word 'reflecting' the DAMS/OWSI within Requirement 9(1) is also not agreed with the Applicant and cannot be accepted by HE as it is not a definitive enough term</p>

ExQ2	Question to:	Question:	Response:
			<p>and should be worded 'in accordance with the DAMS/OWSI'.</p> <p>The wording which HE requires to address these concerns is the following (words required to be added in italics):</p> <p>Archaeology</p> <p>9. —(1) No part of the authorised development is to commence until for that part <i>site-specific written schemes</i> of investigation for each area and each phase (evaluation or detailed excavation or watching brief), has been prepared <i>in accordance with the DAMS/OWSI and in consultation with the relevant planning authority and the local highway authority, agreed with the County Archaeologist in consultation with Historic England and submitted to and approved in writing by the Secretary of State.</i></p> <p>(2) The authorised development must be carried out in accordance with <i>the DAMS/OWSI and site-specific written schemes of investigation referred to in subparagraph (1)</i> unless otherwise agreed in writing by the Secretary of State.</p> <p>(3) A programme of archaeological reporting, post excavation and publication required as part of the <i>DAMS/OWSI and site-specific written schemes of</i></p>

ExQ2	Question to:	Question:	Response:
			<p>investigation referred to in sub-paragraph (1) must be agreed with the County Archaeologist in consultation with Historic England and implemented within a timescale agreed with the County Archaeologist and deposited with the Historic Environment Record of the relevant planning authority within two years of the date of completion of the authorised development or such other period as may be agreed in writing by the relevant planning authority.</p> <p>(4) Any archaeological remains not previously identified which are revealed when carrying out the authorised development must be—</p> <ul style="list-style-type: none"> (a) retained in situ and reported to the County Archaeologist as soon as reasonably practicable; and (b) subject to appropriate mitigation as set out in <i>the DAMS/OWSI</i> and mitigation agreed with the County Archaeologist. <p>(5) No construction operations are to take place within 10 metres of the remains referred to in sub-paragraph (4) for a period of 14 days from the date the remains are reported to the County Archaeologist under sub-paragraph (4) unless otherwise agreed in writing by the Secretary of State.</p> <p>(6) Prior to commencement of the authorised development, suitable resources and provisions for long term storage of the archaeological archive will be agreed with the County Archaeologist.</p>

ExQ2	Question to:	Question:	Response:
2.5.14.	Applicant	<p>Requirement 11 The Joint Councils [REP3-018] have proposed limiting R11 to solely relate to the carriageway, with a separate requirement for designs of crossings. Will that be a change you are willing or going to make? Following Issue Specific Hearing 4, it is understood that the Applicant is proposing to provide additional plans/ drawings which may require changes to R11 or additional requirements and this may impact on how you respond to this question.</p>	
2.5.15.	Applicant	<p>Requirements 3 and 13 Is there a duplication of process in respect of noise mitigation? A Noise and Vibration Management Plan is said to be secured by commitment GP5 Management Plans in the EMP [APP-317]. This is also reflected by commitment NV3, which provides that the plan must include the management and monitoring measures detailed in Section 4.3 EMP (construction) Management Plans of ES Appendix 2.1 EMP. However, Requirement 13 seems to require separate submissions for noise mitigation. Explain?</p>	
2.5.16.	Applicant	<p>National Trail diversion Given the Applicant's stated intention to alter Article 3 to include the disapplication of s55 of</p>	

ExQ2	Question to:	Question:	Response:
		the National Parks and Access to the Countryside Act 1949 and changes to Article 20 [REP3-012], please ensure that any consequential changes to reflect this position in the Explanatory Memorandum, Cotswold Way National Trail Diversion Report and any other documents are made when the dDCO is submitted.	
2.5.17.	Environment Agency	<p>Protective Provisions</p> <p>In its Deadline 4 submissions on the dDCO, the EA confirmed that it raises no objection in principle to the Protective Provisions for the EA in the dDCO. However, the EA noted it had not sought a detailed review from its legal team and understood that the Provisions followed standard wording used elsewhere on other projects. It is for the EA to determine the appropriateness of its responses to the dDCO. At present the wording in the dDCO has not been questioned or challenged and therefore the ExA are of the view that there are no outstanding issues with these provisions as currently drafted. If the EA wishes to make any comments on the drafting of the provisions, it should do so by Deadline 6.</p>	
2.6.	Geology and Soils		

ExQ2	Question to:	Question:	Response:
2.6.1.	No further questions	The action points from ISH4 should be answered at Deadline 6 accordingly.	
2.7.	Heritage		
2.7.1.	Applicant, HE, Joint Councils	Archaeological investigation Is the current method to secure the DAMS/OWSI sufficiently robust? Some parties have suggested changes to the dDCO Requirement 9 to which the Applicant has responded by making changes to Requirement 9 in the latest draft of the DCO [REP4-014]. Do these changes address the previous concerns?	Please see the response to question 2.5.13.
2.7.2.	Applicant, HE, CCB, Joint Councils	Archaeological investigation If significant undiscovered remains are revealed, what are the consequences for the scheme and what are the remedies? Are they sufficiently clear and appropriately secured? Are all parties happy with these?	The current and next version of the DAM/OWSI makes provision for these types of finds. Areas of high archaeological potential are being dealt with pre-construction. The DAMS/OWSI (as per sections 2.5.3 and 3.3) makes provision for any finds made during construction. Historic England is therefore satisfied with this approach as it is secured by way of the DAMS/OWSI.
2.7.3.	Applicant, HE, Joint Councils	Archaeological investigation It has been suggested that ongoing geophysical and geotechnical surveys would be fed into consultees; has any further work been	Historic England met with NH's Environmental Team on 22 March 2022 to discuss the areas to be excavated prior to construction. Further

ExQ2	Question to:	Question:	Response:
		<p>done and are there any results to update? At the hearings it was suggested this may happen, potentially, after the Examination is concluded; are there any further details on when these are to take place? Are the parties happy with this approach?</p>	<p>Geophysical works had been undertaken and print outs of the initial surveys were provided at the meeting (which provided interesting results which fed into these discussions). When the results have been properly processed, it is intended that NH will provide copies to GCC and HE. HE expects this will be within the next few weeks.</p> <p>A verbal update on the Geotechnical monitoring was provided at this meeting, which reflected that little progress on this work has been done so far and there is no report or written summary yet available.</p> <p>It was agreed between those present at the meeting that a more detailed geoarchaeological process will be included in the next version of the DAMS/OWSI. This will ensure that areas identified as being of geoarchaeological potential are investigated as part of the pre-construction works. This will be with input from HE's science adviser and GCC.</p>

ExQ2	Question to:	Question:	Response:
			HE is satisfied with this approach and expects to see this reflected in the next version of the DAMS/OWSI.
2.7.4.	Applicant, HE, Joint Councils	<p>Archaeological investigation In respect of the Roman settlement at Cowley Junction, have parties agreed the appropriate mitigation measures, recording, etc? Is this adequately addressed/ secured in the appropriate Requirement (3 or 9) and details of the DAMS/ OWSI, or do these need further amending?</p>	<p>Historic England agree with the Applicant on the appropriate mitigation measures, recording, etc to be provided at Cowley Junction. In respect of Requirement 9, please see the response to question 2.5.13 above.</p>
2.7.5.	Applicant	<p>Emma's Grove What does 'selective vegetation clearance' mean in the Environmental Management Plan and how is such clearance dependent upon landowner agreement when Historic England require full clearance to preserve the heritage asset?</p>	
2.7.6.	Applicant, HE	<p>Emma's Grove Emma's Grove ancient monument is subject to Temporary Possession to enable selective vegetation clearance. HE has suggested this should be more extensive and is concerned about long-term maintenance. How would ongoing maintenance of the cleared area be secured? Is this being progressed? Will any</p>	<p>Historic England have provided NH with a summary of the works it expects to see undertaken at Emma's Grove barrows to be able to remove this ancient monument from the Heritage at Risk Register. This summary was provided through the SoCG provided via an e-mail of 4 March 2022. The below points were</p>

ExQ2	Question to:	Question:	Response:
		<p>necessary agreement be completed by the close of the Examination?</p>	<p>accepted and added by NH to the SoCG (with the exception of Point 9).</p> <p>Stages of works needed to remove barrows from At Risk Register:</p> <ol style="list-style-type: none"> 1. clear scrub vegetation 2. Assess damage caused by burrowing animals, if any 3. Burrowing animals if rabbits, remove from site and block up entrances 4. If Badgers seek advice from ecologist and look to exclude them from the area. 5. Assess trees within the scheduled area 6. Remove all trees that are within the earthworks and which are causing damage 7. If burrowing animal damage is extensive then more extreme measures will be needed to prevent them returning. This would involve meshing the barrows, but before that can happen the site would need to have a geophysical survey as the meshing would interfere with this. 8. reseed if needed with locally sourced grassland species. 9. manage the regrowth over a number of years to ensure the grass establishes and the woody growth does not return. <p>HE has been assured by the Applicant that the maintenance and management</p>

ExQ2	Question to:	Question:	Response:
			<p>of Emma's Grove will be agreed with HE prior to works starting.</p> <p>The current version of the DAMS/OWSI and EMP CH6, BD21 and GPA8 covers this work. However, HE remains this is not properly secured as there is not enough detail within the EMP to cover the works required.</p> <p>HE requires the 9 stages listed above to be included within either the EMP or the DAMS/OWSI to secure NH's commitment to removing the barrows from the Heritage at Risk Register.</p> <p>HE awaits the next version of the DAMS/OWSI to see if the above concerns have been addressed and the nine stages listed above properly secured.</p>
2.7.7.	Applicant, Historic England, Joint Councils	<p>Cowley Conservation Area</p> <p>ES Chapter 6 defines the Conservation Area of Cowley as being largely the setting to Cowley Manor (paragraphs 6.10.3 and 6.10.5), which is said to be unaffected as it is screened from the Proposed Development.</p> <p>a) Is this a fair representation or assessment of the Conservation Area?</p> <p>b) The representation from Petra Vogel [REP3-061] suggests that the fields that</p>	<p>Section 58 of Historic England's Advice Note 1: Conservation Area Appraisal, Designation and Management, outlines how the setting of Conservation Areas can contribute to their significance.</p> <p>Whilst HE advise that the setting of Cowley Conservation Area is distinctly rural and contributes positively to its character and significance, it does not</p>

ExQ2	Question to:	Question:	Response:
		<p>surround the settlement are part of the historic character of the village. Is there merit in this?</p> <p>c) What effect, if any, does additional traffic travelling through the village (noise, disturbance etc) have on the character or setting of the Conservation Area?</p>	<p>consider that, due to distance, topography and screening that the proposed development would have an impact upon that setting, in terms of how the Conservation Area is experienced.</p> <p>The agricultural land that surrounds Cowley is acknowledged to contribute to the setting of the Conservation Area and some instances the wider setting of some key listed buildings and the Registered Park and Garden at Cowley Manor (Grade II*). However, HE does not agree that the surrounding land is part of the historic character of the village. This is defined by the character attributes of the village itself, as encompassed by the designated boundary of the Conservation Area, and includes its historic layout, its individual and collective building groups, historic boundaries and other features that define its local distinctiveness and character.</p> <p>While Historic England has carried out research and published advice on the</p>

ExQ2	Question to:	Question:	Response:
			effects of aviation noise on the historic environment, in order to advise on impacts of airport expansion in England, it does not include the assessment of traffic noise as an impact of the character of Conservation Areas in its standard guidance. While traffic noise can certainly have other environmental effects, it is difficult to quantify noise impacts on the character and appearance of the Conservation Area, since their character traits are essentially visual.
2.7.8.	Applicant	<p>Effect on Crickley Hill Camp</p> <p>The NT remains concerned about the visual and noise impacts resultant from the Proposed Development. NT notes that the Proposed Development would result in the removal of the entire tree line and habitat along the line of the Barrow Wake. Can the Applicant provide detailed plans and illustrations to clearly demonstrate the effect of this section of the Proposed Development on Crickley Hill and consider whether additional planting would be appropriate having regard to the landscape,</p>	

ExQ2	Question to:	Question:	Response:
		SSSI and heritage significance in the locality, and if not, explain why not?	
2.8.	Landscape and Visual		
2.8.1.	Applicant, CCB	<p>Cumulative effects</p> <p>It is reported in the Statement of Commonality that an outstanding issue is: <i>"The Board considers that further assessments with regards to cumulative effects should be undertaken."</i></p> <p>Outline the extent to which this matter is still in dispute between the parties and which cumulative effects, if any, are perceived to be outstanding.</p>	
2.8.2.	Applicant	<p>Design code</p> <p>Whilst the ExA appreciates the nature of controls on the broad parameters and envelope for the Proposed Development and appreciates the need for flexibility in design development post-consent, it is not convinced that the level of control presently provides sufficient safeguards in this sensitive environment. The potential for further control on the detailed appearance of bridges and structures would provide further comfort in this regard. To that extent, the ExA would request that the Applicant reconsider its position in respect of a potential design code or considers</p>	

ExQ2	Question to:	Question:	Response:
		<p>alterations to the existing Requirements or a new Requirement to provide additional control specifically in respect of the bridges and structures. It is not suggested that detailed designs are required or produced at this stage, but rather that the nature and extent of the matters that will be taken on board and approach to be adopted in developing those designs is documented and codified. The existing statements of high architectural quality are considered insufficient to give an appropriate measure against which to judge future submissions and more objective assessment criteria should be developed.</p> <p>Following Issue Specific Hearing 4, it is understood that the Applicant is proposing to provide additional plans/ drawings which may provide additional detail and potentially require changes to R11 or additional Requirements; this may impact on how you respond to this question.</p>	
2.8.3.	Applicant	<p>Design code Has the Applicant got any response to the '<i>Briefing Note for Access Bridges 2020</i>' submitted by the CCB at Deadline 3 [REP3-036]?</p>	

ExQ2	Question to:	Question:	Response:
2.8.4.	Applicant	<p>Lighting</p> <p>The Joint Councils [REP3-018] notes that a Road Safety Audit undertaken recommended that Ullenwood Roundabout be illuminated to avoid risks of collisions. This decision is said to have been overruled by a designer who disagreed and sought to undertake a TN49 Lighting Assessment to justify no lighting.</p> <p>a) Has the TN49 lighting assessment taken precedence over the RSA and, if so, why?</p> <p>b) Are either of these documents going to be submitted to the Examination?</p>	
2.8.5.	Applicant	<p>LVIA methodology</p> <p>In response to ExQ1.8.3 a) and b), the Applicant indicated that should the ExA require such control in respect of building and stockpile heights, that such controls could be introduced into the Environmental Management Plan, Appendix 2.1 of the ES. The ExA is of the opinion that, given the sensitivity of the environment and length of construction programme, such control would be appropriate and requests that the Applicant make such alterations as necessary to ensure that heights are maintained at heights as low</p>	

ExQ2	Question to:	Question:	Response:
		as reasonably possible having regard to visual impacts assessed in the ES.	
2.9.	Noise and Vibration		
2.9.1.	National Star	<p>Mechanical ventilation</p> <p>It has been suggested that, subject to the Applicant's review of noise effects, provision may be made for mechanical air ventilation to be installed at the National Star premises so that windows can be kept closed. Do you consider this would be a workable solution with regards your students' needs, health, wellbeing and educational attention? If not, why not?</p>	
2.9.2.	Applicant	<p>REAC</p> <p>Reference NV10 provides for noise monitoring to be undertaken at National Star but does not specify any thresholds or actions/ commitments to be undertaken should those thresholds be breached. Can the Applicant explain how monitoring by itself could provide mitigation and how any such mitigation would be secured?</p>	
2.9.3.	Applicant	<p>Noise mitigation</p> <p>With regards your answer to question ExQ1.9.5, is it correct to interpret that instead of providing noise insulation to mitigate the effects, you will be relying on individual</p>	

ExQ2		Question to:	Question:	Response:
			homeowners to contact you and ask for such insulation, and then let you in to fit it? Is that an appropriate way of managing the mitigation of noise effects?	
2.9.4.	Applicant		Flyup 417 Are matters regarding noise upon the occupants of the residence at Flyup 417 at a resolution stage? If so, what conclusions have been drawn?	
2.10.	Socio-economic effects			
2.10.1.	James Hamilton		Cotswold Alpacos With regards your submission at Deadline 3, please confirm whether you consider the Proposed Development has either a direct, indirect or no effect upon the operation or viability of your business, with evidence as necessary to substantiate any points made.	
2.10.2.	Joint Councils		Flyup 417 a) What do you consider to be the lawful planning position at Flyup 417? b) Do you have any concerns about the potential incorporation of new buildings and/ or new car parking arrangements as part of the DCO ' <i>essential mitigation</i> ' parameters? c) Would you require a consultative input into the design and layout of any such	

ExQ2	Question to:	Question:	Response:
		facilities, given the AONB location, if the Applicant were to include such provisions in the DCO?	
2.10.3.	Natural England, Joint Councils	<p>Best and Most Versatile Agricultural Land Do you consider that the Applicant's case for the loss of BMV is justified and robust for this scheme?</p>	
2.10.4.	Applicant	<p>Tourism During CAH1, the residential lettings at Stockwell Farm were raised. From Table 12-25 [APP-043], these lettings are deemed to be subject to a slight adverse temporary effect during construction. However, there are no subsequent findings in relation to the operation of the development. Could this be explained both in an economic sense and in an impact sense (from traffic and noise associated with the use of Cowley Lane)?</p>	
2.10.5.	Applicant	<p>Employment and Skills Plan In ES Chapter 12 [APP-043], at paragraph 12.10.54, it talks of potential legacy benefits including targeted recruitment and training as well as apprenticeships utilising partnership arrangements with local educational institutions. Is there a mechanism to secure the commitments to the local community stated in the ES, perhaps via making an</p>	

ExQ2	Question to:	Question:	Response:
		Employment and Skills Plan a requirement to the dDCO?	
2.11.	Traffic and Transport		
2.11.1.	National Star College	<p>Highway safety In your Written Representation, you have stated that there is an accident blackspot on Leckhampton Hill close to your site entrance. What evidence can you submit to the Examination regarding this?</p>	
2.11.2.	Applicant	<p>Section 59 of Highways Act Can you update the ExA as to any progress made regarding any legal agreement with GCC regarding extraordinary damage to highways?</p>	
2.11.3.	Applicant	<p>Cowley Wood Lane The intention is to make the lane private with a key/ gated access for only those specified users. For clarity:</p> <ul style="list-style-type: none"> a) Are there any design criteria (or indeed preliminary designs) of the gates to be used at either end of the lane? b) Who would be responsible for the maintenance and upkeep of the road once it has been made a private means of access? c) The Order limits and works plans demonstrate the rough locality of where a gate would be provided to Cowley 	

ExQ2	Question to:	Question:	Response:
		<p>Wood Lane in proximity to the new junction. However, would a gate or barrier be provided at the northern end of Cowley Wood Lane or how would drivers be aware the road was stopped up (and did not attempt to travel down it)?</p> <p>d) If a barrier (gate) is to be used at the northern end of Cowley Wood Lane to create a private means of access (as would be done at the southern end), how would this be provided since it is outside of the Order limits?</p>	
2.11.4.	Applicant	<p>Diversion routes In the CTMP, Appendix F, Diversion Route 2, it shows a strategic diversion that follows A46, A435 and A436 via Cheltenham.</p> <p>a) What would deter people making the much shorter direct route through Birdlip up Birdlip Hill towards Little Witcombe and the Toby Carvery on Painswick Road?</p> <p>b) Are diversion routes realistic when the so-called rat-run routes are much shorter and attractive?</p> <p>c) Would so-called rat-running significantly increase during construction and, if so,</p>	

ExQ2	Question to:	Question:	Response:
		<p>what measures are in place to protect the carriageway and verges of the local roads?</p> <p>d) Paragraph 2.3.36 of the CTMP states video footage will be monitored, watching for impacts of diversion routes on the local network. If the impacts observed were unacceptable (define threshold) then what actions would be undertaken (if any) and where are these secured?</p>	
2.11.5.	Applicant	<p>Local highway network Can the Applicant confirm that the operation of the Proposed Development would ensure, as far as is reasonably practicable, the expeditious movement of traffic on the local highway network and GCC's ability to fulfil its Network Management Duty?</p>	
2.11.6.	Joint Councils	<p>Leckhampton Hill In the Deadline 5 submission, there is a reference to a funded feasibility study being provided to look at potential options to mitigate (ie divert) traffic away from Leckhampton Hill "to acceptable levels." Given that the Applicant has said the road will operate within its capacity, can you define what is considered an "acceptable level"?</p>	

ExQ2	Question to:	Question:	Response:
2.11.7.	Applicant	<p>Leckhampton Hill It is suggested in the Applicant's responses to Deadline 4 submissions that delays on the A436 would decrease from 1 minute 45 seconds to 5 seconds. Given that Leckhampton Hill is predicted to have increased traffic flows with the Proposed Development in place and that any traffic on the A436 approaching the Ullenwood Roundabout would have to wait for such Leckhampton Hill traffic to be clear of the roundabout before entering, explain how the conclusion can be reached.</p>	
2.12.	Water Environment and Flood Risk		
2.12.1.	Environment Agency, Joint Councils (specifically GCC in role as LLFA)	<p>Norman's Brook Are there any remaining concerns regarding the realignment of the tributary of Norman's Brook and subsequent effects on the hydrology profiles, or do both the Drainage Report [APP-406] and the Environmental Management Plan [REP4-027] provide sufficient reassurance and controls?</p>	
2.12.2.	Applicant, Gloucestershire Wildlife Trust, Historic England	<p>Norman's Brook In the Statement of Common Ground with GWT, there is a noted concern about the partial canalisation of the tributary to Norman's Brook not being in line with purposes of re-naturalising watercourses. The</p>	Historic England does not believe this question should be directed to it. NH acknowledged verbally on 22 March 2022 they had mentioned HE in GWTs SoCG but that this was a mistake and that it

ExQ2	Question to:	Question:	Response:
		Applicant's noted response is that the matter is being discussed with Historic England. What is the status of discussions and is a resolution to be forthcoming by the close of the Examination?	should have been the Environment Agency.
2.12.3.	Applicant	<p>Highgate Farm Explain, with evidence as necessary, the existing drainage situation at Cowley Wood Lane in proximity to the main construction compound and whether the compound would exacerbate, cause or contribute to surface water flooding in the vicinity.</p>	
2.12.4.	Applicant, EA	<p>Monitoring results Previous submissions to the Examination have suggested that the position regarding surface and ground water matters has been agreed, subject to further monitoring being undertaken. Has monitoring been ongoing and, if so, will the results of that be submitted to the Examination to either ratify or correct the previous findings and assumptions made?</p>	
2.12.5.	National Star	<p>Flood risk At CAH1, the Applicant set out that a temporary easement was still required across the college's land so that run-off with potential construction contaminants could be captured and treated before entering the natural water</p>	

ExQ2	Question to:	Question:	Response:
		<p>system. From the record [EV-023] it is stated: <i>"The water from those will be treated before it is then released into the system as it currently is. And the runoff rate will be restricted to the existing runoff. So, in terms of flood risk, that should not increase downstream from those basins during construction. I think we finished your technical drainage note to back in 2020, June 2020. I don't believe had response to that."</i></p> <p>With or without reference to the technical drainage note, please explain if National Star has any remaining concerns regarding flooding, flood risk or emergency access during a flood event.</p>	