

M60/M62/M66 Simister Island Interchange

TR010064

7.16 APPLICANT'S RESPONSE TO ISH1 SUPPLEMENTARY AGENDA

APFP Regulation 5(2)(q)

Planning Act 2008

Infrastructure Planning (Applications: Prescribed
Forms and Procedure) Regulations 2009

Infrastructure Planning

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(Applications: Prescribed Forms and
Procedure) Regulations 2009**

**M60/M62/M66 Simister Island Interchange
Development Consent Order 202[]**

APPLICANT'S RESPONSE TO ISH1 SUPPLEMENTARY AGENDA

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1 Introduction

1.1 Purpose of this document

- 1.1.1 This document has been prepared by National Highways (the "Applicant") in respect of its application for a development consent order for the M60/M62/M66 Simister Island Interchange scheme (the "Scheme").
- 1.1.2 Table 1.1 set out below contains the Applicant's response to the matters raised in the Examining Authority's Supplementary Agenda to Issue Specific Hearing 1 on 12 September 2024.

Table 1.1 ISH1 Supplementary Agenda Additional Questions

Number	Subject	Response by	Question/Clarification	Applicant's Response
CONTENTS AND PREAMBLE				
ISH1.C&P.01	Drafting	Applicant	<p>Page 5, second paragraph</p> <p>1 To improve precision, should the following wording be added after 'panel': 'of two members ("the panel")'?</p> <p>2 To improve precision, should the following wording replace '(appointed by the Secretary of State)': 'appointed by the Secretary of State pursuant to section 61 and 65 of Part 6 of the 2008 Act and carried out in accordance with Chapter 4 of Part 6 of the 2008 Act...'</p>	<p>1 The Applicant has made this change.</p> <p>2 The Applicant has made this change.</p>
ARTICLES				
Part 1 - Preliminary				
ISH1.A.01	Drafting	Applicant	<p>Article 2 – Interpretation</p> <p>Article 2 provides interpretation for the following documents which would be certified by the Secretary of State under article 41 and listed in Schedule 10. These include the “book of reference”, “crown land plans”; “engineering drawings and sections”; “environmental statement”; “important hedgerow plans”; “the land plans”; “streets, rights of way and access plans”; and “works plans”.</p> <p>Could the precision of the drafting of each of these interpretations be improved by inserting the following wording after ‘for the purposes of this Order’: ‘under article 41 (certification of plans and documents, etc.)’?</p>	<p>The Applicant has made this change.</p>

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			If so, please amend accordingly or explain why this is not necessary.	
ISH1.A.02	Drafting	Applicant	Article 2 – Interpretation 'Secretary of State' is referred to numerous times within the Order but is not defined. Should a definition be provided? If not, explain why not.	The Applicant has made this change.
ISH1.A.03	Clarification	Applicant	Article 2 – “authorised development” What is 'any other development authorised by this Order' intended to cover and why is it required for this proposal?	Whilst Schedule 1 of the Order provides a comprehensive description of the authorised development, it is not exhaustive. The wording is therefore included to capture any works which amount to development pursuant to section 32 of the Planning Act 2008 but which might not be specifically identified in Schedule 1 of the Order.
ISH1.A.04	Drafting	Applicant	Article 2 – “book of reference” Should the word 'and' be added after '(documents to be certified)'?	The Applicant has made this change.
ISH1.A.05	Drafting	Applicant	Article 2 – “classification of road plans” Should the word 'and' be added after '(documents to be certified)'?	The Applicant has made this change.
ISH1.A.06	Clarification	Applicant	Article 2 – “bridleway” Can you explain why 'includes a right of way on pedal cycles' has been included?	Under the Highways Act 1980, a bridleway is defined as “a highway over which the public have the following, but no other, rights of way, that is to say, a right of way on foot and a right of way on horseback or leading a horse, with or without a right to drive animals of any description along the highway”. However, section 30(1) of the Countryside Act 1968 gave the public the right to ride a bicycle on any bridleway. The wording has consequently been included to

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				make it clear that the term 'bridleway' is wider than that defined in the 1980 Act.
ISH1.A.07	Drafting	Applicant	<p>Article 2 – “electronic transmission” Should a definition for ‘electronic communications network’ be added, such as the following wording after sub-paragraph (b): ‘and in this definition ‘electronic communications network’ has the same meaning as in section 32(1) (meaning of electronic communications networks and services) (add footnote) of the Communications Act 2003’? If not, why not? If so, should the following footnote also be added: ‘2003 c. 21. Section 32(1) was amended by S.I. 2011/1210’?</p>	The Applicant has made this change.
ISH1.A.08	Clarification	Applicant	<p>Article 2 – “maintain” Explain what ‘improve’ and ‘reconstruct’ would cover and why this is required given that it could give powers for quite wide-ranging works.</p>	Article 4 of the Order provides the undertaker with the power to maintain the authorised development. It does not provide consent for works to be undertaken which constitute development but are not authorised by the Order. Improve and reconstruct should therefore be given their normal every day meaning but will be limited to works which improve or reconstruct the works which are authorised by the Order not wide-ranging works for which a new consent would be required.
ISH1.A.09	Drafting	Applicant	<p>Article 2 – “relevant planning authority” To improve precision, should the definition be expanded to refer to ‘Bury Metropolitan Borough Council’ (BMBC) as being the relevant</p>	The Applicant's preference is to retain the wording "relevant planning authority". Whilst all of the Order Land is within BMBC's area, it is not impossible that local authority

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			planning authority noting that all of the land within the Order Limits is located within BMBC's area, along with a caveat to cover any potential future name change? If not, explain why not.	boundaries could change and/or local authorities could be amalgamated with other local authorities / BMBC could change its name or the scope of its functions. Retaining the generic wording ensures that the wording in the Order remains correct in the future.
ISH1.A.10	Drafting	Applicant	Article 2 – “statutory undertaker” Should this be expanded to also include reference to section 138(4A) of the 2008 Act?	The Applicant has made this change.
ISH1.A.11	Drafting	Applicant	Article 2 – “trunk road” In criterion (a), are the references to (d) and (e) supposed to refer to footnotes? If so, please add.	The Applicant has made this change.
ISH1.A.12	Drafting	Applicant	Article 2 – subparagraph (6) To improve precision, should the following wording be added: 'References in this Order to any statutory body include that body's successor body or bodies as from time to time having jurisdiction over the authorised development'?	The Applicant has made this change.
Part 2 – Principal Powers				
ISH1.A.13	Clarification	Applicant	Article 6(1)(a) – Limits of deviation The works plans [AS-006] referred to in paragraph (1)(a) identifies in the 'Key' to each of the plans limits of deviation applying to 'Highway Work', 'Scheme Gantry' and 'Utility Diversion'. Please clarify, what would 'Highway Works' include?	'Highway Works' includes all of the works comprising the authorised development except gantries and utilities. For instance, it would include carriageway, structures, environmental mitigation features (ponds etc.) and temporary works (haul routes etc.). The limits of deviation for gantries and utilities have their own limits of deviation because it is often requested and has become common practice.

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ISH1.A.14	Drafting	Applicant	<p>Article 8(1)(b) – Consent to transfer benefit of Order</p> <p>The paragraph uses the term 'the grantee'. In other made DCOs the usual term is 'the lessee'. Please provide further detail to explain why 'grantee' is considered more appropriate drafting or amend drafting to refer to 'lessee'.</p>	<p>Whilst many made DCOs refer to 'lessee' there is precedent for 'grantee' for example the A66 Northern Trans-Pennine DCO 2024. The Applicant consider the term 'grantee' to be more accurate as a lessee is someone who takes a lease of land whereas the article operates to grant the benefit of the Order to a third party commonly referred to as a grantee.</p>
ISH1.A.15	Clarification	Applicant	<p>Article 9 – Planning permission</p> <p>The final part of this article states that the carrying out of such development also 'does not prevent the remainder of the authorised development from being implemented'. Please update the Explanatory Memorandum to explain the purpose of this addition and why it is required.</p>	<p>The Applicant has made this change to the Explanatory Memorandum.</p>
Part 3 – Streets				
ISH1.A.16	Drafting	Applicant	<p>Article 10(1)(a) – Street Works</p> <p>Should the sub-paragraph be expanded with the following words to improve precision: 'Break up or open the street, or any sewer, drain or tunnel within or under it;'? Please clarify and amend accordingly.</p>	<p>The Applicant has made this change.</p>
ISH1.A.17	Drafting	Applicant	<p>Article 10(3) – Street Works</p> <p>Should the reference to article 13 refer to article 11? If so, please amend accordingly.</p>	<p>The Applicant has made this change.</p>
ISH1.A.18	Drafting	Applicant	<p>Article 11(1)(b) – Application of the 1991 Act</p> <p>The footnote for (a) refers to section 184 as opposed to section 64 referred to in paragraph (1)(b). Is the wording in footnote (a) correct?</p>	<p>Footnote (1) should refer to section 64 and has been amended.</p>
ISH1.A.19	Clarification	Bury Council	<p>Article 11(3) – Application of the 1991 Act</p>	<p>N/A</p>

Number	Subject	Response by	Question/Clarification	Applicant's Response
			Paragraph (3) seeks to disapply several sections of the New Roads and Street Works Act 1991, as amended by the Traffic Management Act 2004. Please clarify if you are satisfied that these sections can be disapplied and if not, why not?	
ISH1.A.20	Drafting	Applicant	Article 13(1)(b) – Classification of roads etc. Should the reference to 'Schedule 3' instead refer to 'Schedule 4'? If so, please amend accordingly.	The Applicant has made this change.
ISH1.A.21	Drafting	Applicant	Article 13(2) – Classification of roads etc. To improve precision and for consistency with the approach taken in other paragraphs, such as paragraph (1), should the following wording be added in bold in paragraph (2)? '...described in Part 1 (special roads) and of Schedule 3 (classification of roads, etc.) have been completed and are open to traffic–' If so, please amend accordingly.	The Applicant has made this change.
ISH1.A.22	Clarification	Applicant	Article 13(3) – Classification of roads etc. Part 2 of Schedule 3 does not identify any unclassified roads on the scheme. Could you therefore explain why the inclusion of this paragraph is necessary?	The Applicant agrees that the wording can be deleted.
ISH1.A.23	Drafting	1 Applicant Bury Council	Article 13(4)(b) – Classification of roads etc. 1 In order to improve precision, should the paragraph be altered as follows: 'such date as soon as reasonably practicable after following completion of the construction of the public right of way as may be agreed by between the undertaker and the local highway	1 The Applicant has made this change. 2 N/A

Number	Subject	Response by	Question/Clarification	Applicant's Response
			<p>authority'? If so, please amend accordingly.</p> <p>2 Do Bury Council consider it necessary for paragraph 4(b) to be expanded by specifying that any agreement should be made in writing by the local highway authority? If so, please explain why and if not, explain why not.</p>	
ISH1.A.24	Drafting	Applicant	<p>Article 14(1) – Temporary closure and restriction of use of streets</p> <p>For precision, should paragraph (1)(a) be expanded with the following words added in bold: 'Divert the traffic, or a class of traffic, from the street; and...' If so, please amend accordingly.</p>	The Applicant has made this change.
ISH1.A.25	Clarification	Applicant	<p>Article 14(4) – Temporary closure and restriction of use of streets</p> <p>1 Clarify which streets the undertaker is the street authority for.</p> <p>2 Why is the inclusion of 'save as to streets in respect of which the undertaker is the street authority...' necessary given that the paragraph covers streets in which the undertaker is not the street authority and the undertaker would presumably have their own powers to temporarily close, alter, divert or restrict any street under their undertaking?</p>	<p>1 The Applicant is the street authority for the streets within the strategic road network. This includes all of the motorways.</p> <p>2 The Applicant has removed the wording.</p>
ISH1.A.26	Clarification	Bury Council	<p>Article 14(6) – Temporary closure and restriction of use of streets Is the 28 day period specified for issuing a decision of an application</p>	N/A

Number	Subject	Response by	Question/Clarification	Applicant's Response
			<p>for consent a sufficient period of time? If not, explain why not and what you consider an appropriate period of time for issuing a decision would be.</p>	
ISH1.A.27	Drafting	Applicant	<p>Article 14 – Temporary closure and restriction of use of streets Should an additional paragraph be added to the end of this article requiring any application submitted under paragraph (4) to be accompanied by a statement advising of the provisions of paragraph (6), similar to that added to Article 17(12)? If not, explain why not.</p> <p>If so, noting that the Secretary of State added a similar provision under Article 16(7) of the recently made M3 Junction 9 DCO, should the same wording used in that article be added to and adapted to the draft DCO, ie: ‘An application for consent under paragraph (4) must be accompanied by a letter informing the street authority— (a) of the period mentioned in paragraph (6); and (b) that if they do not respond before the end of that period, consent will be deemed to have been granted’. If not, explain why not.</p>	<p>The Applicant has amended the wording to include this change.</p>
ISH1.A.28	Drafting	Applicant	<p>Article 15 – Permanent stopping up, restriction of use of streets, public rights of way and private means of access Is reference to private means of access in the title necessary given that none are identified in schedule 4? If so, please explain why.</p>	<p>The Applicant has made this change.</p>

Number	Subject	Response by	Question/Clarification	Applicant's Response
ISH1.A.29	Drafting	Applicant	<p>Article 15(1) – Permanent stopping up, restriction of use of streets, public rights of way and private means of access Should paragraph (1) be expanded with the following wording highlighted in bold at the end of the sentence after 'Schedule' to improve precision: 'and identified on the streets, rights of way and access plans'?</p> <p>If so, please amend accordingly or explain why this is not necessary.</p>	The additional wording is unnecessary because the article refers to the Schedule to the Order which references the streets, rights of way and access plans.
ISH1.A.30	Drafting	Applicant	<p>Article 15(3) – Permanent stopping up, restriction of use of streets, public rights of way and private means of access To improve precision, should the paragraph be expanded to include the following wording highlighted in bold: '(3) Where a street specified in column (1) of Part 1 of Schedule 4 has been stopped up under this article—...'?</p>	The Applicant has made this change.
ISH1.A.31	Drafting	Applicant	<p>Article 16 – Access to works Should 'layout' be changed to 'lay out' in the first line? If not, explain why.</p>	The Applicant has made this change.
ISH1.A.32	Drafting	Applicant	<p>Article 17(12) – Traffic regulation Should the wording in paragraph (12) be amended to conform with that queried in ISH1.A.27 above and used in article 20(12) in the M3 Junction 9 DCO? If not, explain why not.</p>	The Applicant has made this change.
Part 4 – Supplemental Powers				
ISH1.A.33	Drafting	Applicant	<p>Article 18(4) – Discharge of water Should the following words highlighted in bold be added to paragraph (4) to improve precision:</p>	The Applicant has made this change.

Number	Subject	Response by	Question/Clarification	Applicant's Response
			<p>'The undertaker must not make any opening into any public sewer or drain pursuant to paragraph (1) except—...'? If so, please amend accordingly or explain why this is not necessary.</p>	
ISH1.A.34	Drafting	1 Applicant 2 Environment Agency and Bury Council	<p>Article 18(5) – Discharge of water 1 Paragraph 5 refers to 'main river' although no definition is provided as to what this includes. Should the following definition highlighted in bold be added to paragraph (8) after sub-paragraph (b) to improve precision: “main river” means watercourses as defined under section 113(1) of the Water Resources Act 1991 and shown as such on the statutory main river maps held by the Environment Agency and the Department for Environment, Food and Rural Affairs.?' If so, please amend accordingly or explain why this is not necessary. 2 Can the Environment Agency and Bury Council provide any comments on this suggestion?</p>	1 The Applicant has provided a definition of 'main river' in article 2 of the draft Order. 2 N/A
ISH1.A.35	Clarification	Applicant	<p>Article 18(8)(a) – Discharge of water Please explain why it is necessary to include reference to Homes England, joint planning board and urban development corporation in paragraph (8)(a)?</p>	A public sewer or drain is limited to sewers or drains which are vested in the sewerage or drainage authority. The wording in paragraph 18(8)(a) widens the definition to include sewers and drains which might be under the control or ownership of other public bodies or quasi-public bodies. This is necessary to ensure that the Applicant can connect into any existing sewers or drains.

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				The wording adopted is consistent with other made DCOs include the M42 Junction 6 Development Consent Order 2020 and the M54 to M6 Link Road Development Consent Order 2022.
ISH1.A.36	Clarification	Environmental Agency and Bury Council	Article 18(9) – Discharge of water Is the 28 day period specified for issuing a decision of an application for consent a sufficient period of time? If not, explain why not and what you consider an appropriate period of time for issuing a decision would be.	N/A
ISH1.A.37	Drafting	Applicant	Article 18(10) – Discharge of water Should the wording in paragraph (12) be amended to conform with that queried in ISH1.A.27 above and used in article 21(8) in the M3 Junction 9 DCO? If not, explain why not.	The Applicant has made this change.
ISH1.A.38	Drafting	Applicant	Article 19(3) – Protective work to buildings To improve precision, should the following wording highlighted in bold be added? 'For the purpose of determining how the functions under this article are to be exercised the undertaker may (subject to paragraph (5)) enter and survey any building falling within paragraph (1)....' If so, please amend accordingly or explain why this is not necessary.	The Applicant has made this change.
ISH1.A.39	Clarification	Applicant	Article 19(5) – Protective work to buildings In the absence of any reasoning provided in the Explanatory Memorandum [APP-015, paragraph 5.51], please explain why, aside from any precedent in other made DCO's, a 14 day period has been specified for serving notice on	The Applicant considers 14 days to be reasonable on the basis that, where protective works are required to buildings, then both the Applicant and owners/occupiers are generally keen that those works are undertaken proactively as soon as possible to ensure that damage or

Number	Subject	Response by	Question/Clarification	Applicant's Response
			owners and occupiers and why this is reasonable?	further damage is not caused to the buildings. The period of 14 days is consistent with other time periods specified in the draft Order (for example, taking temporary possession of land). In addition, the Applicant considers that 14 days is considered a reasonable period by which owners/occupiers can organise their affairs to enable works to be undertaken.
ISH1.A.40	Clarification	Applicant	<p>Article 20(2) – Authority to survey and investigate the land</p> <p>1 In the absence of any reasoning provided in the Explanatory Memorandum [APP-015, paragraph 5.52], please explain why, aside from any precedent in other made DCO's, a 14 day period has been specified for serving notice on owners and occupiers and why this is reasonable?</p> <p>2 In order to improve precision, should 'at least' be replaced with 'no less than'? If so, please amend accordingly or explain why this is not necessary.</p> <p>3 For precision and reasonableness, should the paragraph be expanded to specify that the notice that is required to be served must provide details of the nature of the survey or investigation that the undertaker intends to carry out? If so, please amend accordingly or explain why this is not necessary.</p>	<p>1 14 days' notice is consistent with section 53 of the Planning Act 2008 which allows entry to be taken onto land for survey purposes. It is also consistent with the powers in the Housing and Planning Act 2016. The Applicant therefore considers 14 days to be reasonable.</p> <p>2 The Applicant has made this change.</p> <p>3 The Applicant has made this change.</p>
ISH1.A.41	Drafting	Applicant	Article 20(7) – Authority to survey and investigate the land	The Applicant agrees to make this change.

Number	Subject	Response by	Question/Clarification	Applicant's Response
			Should the wording in paragraph (7) be amended to conform with that queried in ISH1.A.27 above and used in article 23(7) in the M3 Junction 9 DCO? If not, explain why not.	
Part 5 – Powers of Acquisition and Possession of Land				
ISH1.A.42	Drafting	Applicant	<p>Article 21(2) – Compulsory acquisition of land</p> <p>1 Should the following words highlighted in bold be added: 'This article is subject to paragraph (2) of article 24 (compulsory acquisition of rights and imposition of restrictive covenants), paragraph (9) of article 30...'? If so, please amend accordingly.</p> <p>2 Should reference also be made to articles 22, 23 and 32(1)(a) to improve precision? If not, please explain why not.</p>	<p>1 The Applicant has made this change.</p> <p>2 The Applicant has made this change.</p>
ISH1.A.43	Drafting	Applicant	<p>Article 23(1)(a) – Time limit for exercise of authority to acquire land compulsorily</p> <p>Should the following word highlighted in bold be added: 'Part 1 (compulsory purchase under the Acquisition of Land Act 1946)'...? If so, please amend accordingly.</p>	The Applicant has made this change.
ISH1.A.44	Drafting	Applicant	<p>Article 24(1) – Compulsory acquisition of rights and imposition of restrictive covenants</p> <p>1 Should the word 'such' be added after 'impose' in the second line to improve precision ie 'or impose such restrictive covenants...'? If so, please amend accordingly and if not, please explain why not.</p>	The Applicant has made this change.

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ISH1.A.45	Clarification	Applicant	<p>Article 24(1) and (5) – Compulsory acquisition of rights and imposition of restrictive covenants</p> <p>In the absence of any reasoning provided in the Explanatory Memorandum [APP-015, paragraph 5.60], please explain who 'any other person' would extend to and why is it needed?</p>	<p>Article 24 provides that the undertaker may acquire rights or impose restrictive covenants over land for the purposes specified in the Order. Such rights or restrictive covenants may be for the benefit of the undertaker or for the benefit of statutory undertakers who are delivering part of the works. They may also be for the benefit of other persons to replace existing rights which may be lost because of the Scheme (for example, a right of access or to connect into services). The wording ensures that the undertaker can acquire all necessary rights as are required to deliver the Scheme whilst still being limited to the purposes set out in the Order. The Applicant has updated the Explanatory Memorandum to deal with this point.</p>
ISH1.A.46	Clarification	Applicant	<p>Article 24(5) – Compulsory acquisition of rights and imposition of restrictive covenants</p> <p>Please provide justification for the inclusion of this paragraph (particularly if a novel provision), the full extent of what the powers sought would cover, why it is required and why it is necessary. Or signpost to where the above requested information is provided in the Explanatory Memorandum [APP-015].</p>	<p>The Scheme will require the diversion and laying of apparatus in the ownership / control of various statutory undertakers. Before undertaking such works, the relevant statutory undertaker will require new rights to be secured for its benefit to allow it to divert or lay its apparatus in third party land. Article 24(5) is necessary to ensure that the Applicant can acquire the rights the relevant statutory undertaker requires. The Explanatory Memorandum has been updated to deal with this point.</p>
ISH1.A.47	Drafting	Applicant	<p>Article 25(1), (3) and (4) – Private rights over land</p>	<p>The meaning of 'private rights over land' is defined in article 25(9) and is wider than just rights and restrictions.</p>

Number	Subject	Response by	Question/Clarification	Applicant's Response
			Does the wording of these paragraphs need to be expanded to include reference to restrictions as well as private rights ie 'all private rights and restrictions over land...?'	
ISH1.A.48	Clarification	Applicant	Article 25(7)(a) – Private rights over land For precision, should the word 'it' be replaced with ' the land ' in sub-paragraphs (ii), (iii) and (iv)?	The Applicant has made this change.
ISH1.A.49	Drafting	Applicant	Article 25(8)(b) – Private rights over land For precision, should the word 'it' be replaced with 'the agreement' before 'is effective, ie ' # the agreement is effective in respect of...?'	The Applicant has made this change.
ISH1.A.50	Drafting	Applicant	Article 26(1) – Modification of Part 1 of the 1965 Act For precision should the title of Part 1 of the Act be quoted in full eg: '(1) Part 1 (compulsory purchase under Acquisition of Land Act of 1946) of the 1965 Act...?'	The Applicant has made this change.
ISH1.A.51	Clarification	Applicant	Article 26(5)(b) – Modification of Part 1 of the 1965 Act Should reference also be made to Article 20 (Authority to survey and investigate the land) in the list of articles referred to under Part 4 Interpretation?	The Applicant has made this change.
ISH1.A.52	Clarification	Applicant	Article 27(4) – Application of the 1981 Act 1 Please confirm whether paragraph (4) is a bespoke paragraph and whether there is any precedent for its inclusion in other made DCO's? 2 Do paragraphs 5.72 and 5.73 in the Explanatory Memorandum relate to this paragraph?	1 The Applicant is not aware of any precedent for inclusion of the wording. It is required to give effect to Article 24(5). 2 The Applicant confirms that paragraphs 5.72 and 5.73 of the Explanatory Memorandum do not directly relate to Article 27(4) but instead relate to the methods of compulsory acquisition. The wording in

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ISH1.A.53	Clarification	Applicant	<p>Article 30(1)(c) – Temporary use of land for carrying out the authorised development</p> <p>1 Please clarify whether the referred to 'buildings' and 'structures' would also be temporary? If so, should the word 'temporary' be added for precision?</p> <p>2 Please explain what buildings or structures are proposed and why inclusion of these references is required / necessary for the Proposed Development?</p>	<p>Article 27(4) relates to a vesting declaration as described in paragraph 5.73.</p> <p>1 Buildings or structures could be temporary or permanent. Given this, the Applicant proposes to retain the wording as currently drafted.</p> <p>2 Buildings could include permanent apparatus cabinets or housing, or temporary site compound buildings. It could also include replacement buildings if required or agreed with the owner/occupier. Structures is wider and could include protective structures over apparatus, new structures for utilities, stabilising structures (bunds or retaining features) or boundary structures (fencing and walls). All of these are expected to be necessary or could be necessary to deliver the authorised development.</p>
ISH1.A.54	Clarification and drafting	Applicant	<p>Article 30(1)(d) – Temporary use of land for carrying out the authorised development</p> <p>1 For precision, should the word 'mentioned' be replaced with 'specified', a comma (,) added after '(authorised development)', and the word 'undertake' added after 'Schedule 7 or...'?</p> <p>2 Please confirm why reference to both the works in Schedule 1 (authorised development) and also in column (3) of schedule 7 are included as it would</p>	<p>1 The Applicant suggests that 'identified' would be better than 'specified'. The Applicant has made the other changes.</p> <p>2 The Applicant has deleted the reference to column (3) of Schedule 7 as such works are included in the works in Schedule 1 (authorised development).</p>

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			<p>appear they cover the same matter? For precision, should reference only be made to column (3) of schedule 7?</p>	
ISH1.A.55	Clarification	Applicant	<p>Article 30(2) – Temporary use of land for carrying out the authorised development Aside from precedent in any other made DCO's, please provide justification for the minimum 14 day period specified and why this differs from the 28 day period specified in Article 31(3)?</p>	<p>Article 30(2) relates to the temporary possession of land for carrying out the authorised development. Article 31(3) relates to the temporary possession of land for the purposes of maintaining the authorised development.</p> <p>The period in Article 31(3) is longer because the power could be exercised up to 5 years after the completed Scheme is first opened for use. It is therefore considered appropriate to allow for a longer period as temporary possession could be taken at any time during that period with little other advance warning.</p> <p>By contrast, the period in Article 30(2) is shorter because those affected by it will have good knowledge of the Scheme due to the DCO application process and because of ongoing engagement and service of statutory notices relating to the Scheme. Given this, it is considered that 14 days' notice is reasonable.</p> <p>In addition, due to the nature of the land required for the Scheme which is largely agricultural or vacant, the Applicant considers that 14 days is sufficient for the land to be handed over as little action is needed by the relevant landowner to vacate or clear the land.</p>

Number	Subject	Response by	Question/Clarification	Applicant's Response
ISH1.A.56	Drafting	Applicant	<p>Article 30(3) – Temporary use of land for carrying out the authorised development For precision, should the word 'may' be replaced with 'must' in order to avoid any element of ambiguity? If so, please amend accordingly or if not, explain why not.</p>	The Applicant has made this change.
ISH1.A.57	Clarification	Applicant	<p>Article 30(12) – Temporary use of land for carrying out the authorised development In the absence of any justification in the Explanatory Memorandum, please explain why the undertaker would need to take temporary possession of any land more than once?</p>	<p>In the Applicant's experience of delivering similar DCO schemes, it has found that temporary possession is often needed at an early stage to enable initial works to be undertaken with a delay thereafter until substantive works commence. Often in these circumstances the owner/occupier of the land requests that the land be handed back to them to enable them to continue to use it in the interim. If the Applicant can only exercise its temporary possession powers once, then it will more likely be unable to agree to such a request. An example of this would be where a temporary structure is needed (for example for utilities works) at the outset with a permanent structure then being provided at the end of the authorised development. There would be no need for the Applicant to retain possession of the land in the interim. Another example would be where temporary possession is taken to enable works to be undertaken but all works cannot be fully concluded at the same time due to adverse weather conditions or seasonal constraints. In such case, it is preferable to hand the land back and return at a later date to finish those works.</p>

Number	Subject	Response by	Question/Clarification	Applicant's Response
ISH1.A.58	Drafting	Applicant	Article 31(9) and (10) – Temporary use of land for maintaining the authorised development Should the reference to paragraph (6) refer to paragraph (8)? If so, please amend accordingly.	The Applicant has made this change.
ISH1.A.59	Drafting	Applicant	Article 31(9) – Temporary use of land for maintaining the authorised development To improve precision, should the words ' as if it were a dispute ' be added after 'is to be determined'?	The additional wording is unnecessary as the beginning of the article makes it clear that it relates to disputes.
ISH1.A.60	Drafting	Applicant	Article 33(2)(a) – Apparatus and rights of statutory undertakers in stopped up streets For precision, should the word ' statutory ' be added before 'utility'? If so, please amend accordingly.	The Applicant has amended 'utility' to 'undertaker'.
ISH1.A.61	Drafting	Applicant	Article 34(2) – Crown Rights For precision, should the words 'which is' be added before 'for the time being' ie: ' ...any Crown land (as defined in the 2008 Act) which is for the time being held... '? If so, please amend accordingly.	The Applicant has made this change.
ISH1.A.62	Drafting	Applicant	Article 34(3) – Crown Rights Should the semi-colon (;) after 'conditions' be either removed or replaced with a colon (,)?	The Applicant has made this change.
ISH1.A.63	Drafting	Applicant	Article 35(3) – Recovery of costs of new connections For precision should the title of Part 3 of the Act be quoted in full eg ' Part 3 (street works in England and Wales) of the 1991 Act applies'?	The Applicant has made this change.
ISH1.A.64	Drafting	Applicant	Article 35(4) – Recovery of costs of new connections	The Applicant has made this change.

Number	Subject	Response by	Question/Clarification	Applicant's Response
			For precision, should the word 'paragraph' be changed to 'article'? If so, please amend accordingly.	
Part 6 - Operations				
ISH1.A.65	Drafting	Applicant	Article 36(3) – Felling or lopping of trees and removal of hedgerows Should a full stop (.) be added to the end of the sentence?	The Applicant has made this change.
Part 7 – Miscellaneous and General				
ISH1.A.66	Drafting	Applicant	Article 41(2) – Certification of plans and documents, etc. For precision, should the word 'reflect' be changed to 'accord with' ie '...set out in Schedule 10 requires to be amended to reflect accord with the terms of...'? If so, please amend accordingly or if not, explain why not.	The Applicant has made this change.
ISH1.A.67	Clarification	Applicant	Article 45 – Application, disapplication and modification of legislative provisions Whilst this is a standard article in other DCO's, in this case is reference to 'application' needed in the title given that the three proposed provisions appear to either disapply or modify legislative provisions?	The Applicant has made this change.
ISH1.A.68	Clarification	Applicant	Article 45(2) – Application, disapplication and modification of legislative provisions In the absence of any justification provided in the Explanatory Memorandum [APP-015], can you explain why this paragraph is necessary and clarify what buildings are proposed in the Authorised Development?	The definition of buildings as defined in the draft Order is wide and includes any structure or erection. It could therefore include the gantries, retaining features or utilities structures. Whilst the likelihood of these triggering any liability for CIL is low, the Applicant proposes to retain the wording.
ISH1.A.69	Clarification	Applicant	Article 45(3) – Application, disapplication and modification of legislative provisions	The Applicant has included wording in the Explanatory Memorandum to justify this power.

Number	Subject	Response by	Question/Clarification	Applicant's Response
			In the absence of any justification provided in the Explanatory Memorandum [APP-015], can you explain why this power is needed and what it would do?	
Parts 1 to 7 (General Queries)				
ISH1.A.70	Drafting	Applicant	Articles 14(5), 19(11), 20(5), 25(5), 29(4) To improve precision, should the words (highlighted in bold) ' as if it were a dispute ' be added after 'in case of dispute,' where it appears in each article? If so, please amend each article accordingly or explain why this is not necessary.	The current wording reading 'in the case of dispute' is correct. In each instance, the wording applies to compensation payable to a party that has incurred loss. Where that compensation is not agreed, it is disputed and to be determined under Part 1 of the 1961 Act as directed by the Article.
ISH1.A.71	Clarification	Bury Council	Article 14(6), Article 17(11), Article 20(6) Is the 28 day period stipulated for determination of an application for consent under these paragraphs a sufficient period of time? If not, why not and what would be an appropriate determination period?	N/A
ISH1.A.72	Clarification	Applicant	Article 46 Paragraphs 5.111 and 5.112 of the Explanatory Memorandum [APP-015] refers to Article 46 - Amendment of legislation but this has not been included in the draft DCO. Please confirm whether this article should be included and if so, update the draft DCO accordingly. Or signpost to where this article is included.	The Explanatory Memorandum has been amended to address this comment.
Schedule 1 – Authorised Development				
ISH1.S1.01	Clarification	Applicant	Work No. 02, 03, 07, 18, 22 and 30 The wording within each of the Work Nos. in Schedule 1 refers to 'Gantry Type 1', 'Gantry Type 4' etc followed by the relevant sheet number although the work plans refers to 'TYPE 1', 'TYPE 3' etc and omits the word 'Gantry'.	The key on the Works Plans [AS-006] identifies the type of gantry. The Applicant therefore does not consider it necessary to amend either the Works Plans or the wording in Schedule 1.

Number	Subject	Response by	Question/Clarification	Applicant's Response
			Should either the Work Plans [AS-006] or the wording in Schedule 1 be updated so that consistent wording is used? If not, why not?	
ISH1.S1.02	Drafting	Applicant	Work No. 02, 03, 22, 30 Should reference to 'improvement' be changed to 'widening' or also include 'realignment' as the term improvement could be considered subjective? If this is not required, explain why.	The Applicant has changed the wording to 'widening'.
ISH1.S1.03	Drafting	Applicant	Work No. 06 Should this refer to 'sheets 1 and 2' as opposed to just 'sheet 1'?	The Applicant has made this change.
ISH1.S1.04	Clarification	Applicant	Work No. 07 Should the description be expanded to include the full scope of works required to form the slip road ie number of lanes to carriageways, earthworks required to form the embankment and landscaping to the embankment? If not, why not?	The Applicant has amended the description.
ISH1.S1.05	Clarification	Applicant	Work No. 13, 21 and 27 Should the description of these works be expanded to include reference to other works required as part of the construction of the ponds, such as that included in Work No. 37?	The Applicant has amended the descriptions.
ISH1.S1.06	Clarification	Applicant	Work No. 25 Should the description of works be more specific about what the proposed 'improvements' to the roundabout are? If not, why not?	The Applicant has amended the description.
ISH1.S1.07	Clarification	Applicant	Work No. 40 Does the netting proposed to the boundary of the golf course need to be more accurately defined, such as details of height, or should the netting be included as a separate work no.?	The details of any netting are not yet known. The Applicant has amended the wording to refer to a maximum height.

Number	Subject	Response by	Question/Clarification	Applicant's Response
ISH1.S1.08	Clarification	Applicant	Schedule 1 – Further Development In paragraph (a) under 'further development', reference is made to increasing or reducing the width of any kerb. A kerb is a physical object of set dimensions and so cannot be changed in the same way that a width of a verge or footpath can be changed. Please explain why the inclusion of 'kerb' is necessary.	Whilst most kerbs are of a standard width, that is not always the case and different widths of kerb may be required due to the physical layout of the carriageway / footpath or to accommodate ground conditions in a particular location.
ISH1.S1.09	Clarification	Applicant	Schedule 1 – Further Development In paragraph (c), why has 'open to all traffic' and 'restricted byways' been included and what would it entail?	The reference in (c) to 'open to all traffic' has been corrected to read 'byways open to all traffic'. This and the reference to 'restricted byways' is required to enable the provision of those types of highway or works to be undertaken to any existing byways.
ISH1.S1.10	Clarification	Applicant	Schedule 1 – Further Development 'Fencing' is included in both sub-criteria (d) and (f). Explain why it is necessary to include reference to this work twice and if this is not required, should it be removed from one of the sub-criteria?	The reference in (d) is to fencing generally. The reference in (f) is to fencing relating to works to apparatus.
ISH1.S1.11	Clarification	Applicant	Schedule 1 – Further Development Paragraph (i) appears to be a bespoke paragraph. Please confirm whether this is the case, why it is required and what the works would entail.	The wording is not bespoke and was included in the M42 Junction 6 Development Consent Order 2020. Extensive existing infrastructure, utilities and services may be affected by the authorised development and this wording is required to enable monitoring to be undertaken and, as required, any works to mitigation any identified impacts. The affected existing infrastructure includes pylons and masts outside the Order limits, the structure carrying the metro line, the existing overbridges, Haweswater

Number	Subject	Response by	Question/Clarification	Applicant's Response
				underpass etc. Because of the extensive existing infrastructure and the potential scope of monitoring/works which could be required, it is not practical to reference the works in (i) in every works no. In addition, because of the nature of the monitoring, it is not possible to be specific or provide a definitive of any works which might be required.
ISH1.S1.12	Clarification	Applicant	Schedule 1 – Further Development Explain why paragraph (j) is required, particularly as these works are also included under Article 10(1)(e)?	The Applicant confirms that paragraph (j) of Schedule 1 describes the authorised development for which development consent is granted. This would include placing, altering, removing or maintaining road furniture as part of the authorised development, including on the strategic road network. Article 10(1)(e) is narrower and provides the undertaker with the power to undertake works to street furniture on the local road network in accordance with the New Roads and Street Works Act 1991.
ISH1.S1.13	Clarification	Applicant	Schedule 1 – Further Development Explain why paragraph (m) is required given the powers sought under Article 36 (Felling of trees and hedgerows)?	The Applicant confirms that paragraph (m) of Schedule 1 describes the authorised development for which development consent is granted. Article 36 provides the undertaker with the power to carry out the works to undertake that development.
ISH1.S1.14	Clarification	Applicant	Schedule 1 – Further Development Aside from any precedence in other made DCO's, please provide sufficient justification for the inclusion of 'works of whatever nature' in paragraph (q).	The Applicant confirms that it is not practical or possible to provide an exhaustive list of every possible work which might be required to be undertaken to deliver the authorised development. The inclusion of paragraph (q) is intended to operate as a catch-all but

Number	Subject	Response by	Question/Clarification	Applicant's Response
				<p>it is not without limitation as it remains subject to the wording set out after Work No. 60 in Schedule 1 i.e. <i>For the purposes of or in connection with the construction of any of those works, further development within the Order limits which does not give rise to any materially new or materially different significant adverse effects in comparison with those reported in the environmental statement, consisting of....</i></p>
Schedule 2 – Requirements (R)				
ISH1.S2.01	Clarification	Applicant	<p>Requirements – General (parts) The term 'part' is referred to in a number of requirements eg R4, R5, R8, R9 and R10 but does not appear to be defined anywhere. Should a definition be provided in paragraph 1? If not, please explain why not and provide further details on what is meant by 'part'.</p>	<p>The Applicant does not consider it necessary to define 'part'. The term should be given its ordinary everyday meaning and means a discrete part or phase of the overall works. The wording is required to ensure that approvals for the whole of the authorised development are not required before it commences. Instead, part of the authorised development can commence when the approvals for that part are in place. This will enable the authorised development to commence in good time without the delays occasioned by the need to secure approval for the whole.</p>
ISH1.S2.02	Drafting	Applicant	<p>Requirements – General (matters related to its functions) Several requirements include the phrase 'on matters related to its functions' in relation to where the Secretary of State is required to consult with the relevant planning and/or highway authority and the Environment Agency.</p>	<p>The wording is required to limit the scope of consultation to that which it is necessary and appropriate. For example, it is likely to be unnecessary to consult the Environment Agency on the scope of highway works for instance.</p>

Number	Subject	Response by	Question/Clarification	Applicant's Response
			Explain why such drafting is necessary and to streamline drafting should it be deleted?	
ISH1.S2.03	Clarification	Applicant	Requirements – General (substantially in accordance with) Some requirements eg R4 and R10 refer to certain matters having to be 'substantially in accordance with'. Does a definition need to be provided to help differentiate from other terms referred to, such as 'in accordance with' or 'reflect'? If not, explain why not.	The Applicant does not consider it necessary to differentiate between the terms. The terms should be given their ordinary everyday meaning and the use of the 'substantially' provides a clear distinction between 'in accordance with' and 'substantially in accordance with'.
ISH1.S2.04	Clarification	Applicant	Requirement 1 – Interpretation The definition for 'Ecological Clerk of Works' (ECoW) states that it ' <i>has the meaning given in the first iteration EMP</i> '. However, the first iteration of the Environmental Management EMP [APP-127] only sets out the responsibilities for the ECoW on page 11 rather than providing a definition. Please provide a more precision definition.	The Applicant has amended the draft Order to define the ECoW as 'the person appointed to ensure competence and quality in ecological matters whose responsibilities are defined in the first iteration EMP'.
ISH1.S2.05	Clarification	Applicant	Requirement 3 – Detailed design Reference is made to 'general arrangement plans' although no definition is provided. Please provide a definition or explain why one is not required.	The Applicant has made this change.
ISH1.S2.06	Clarification	Applicant	Requirement 4(3) – Environmental Management Plan Reference is made to the EMP being written in accordance with 'ISO14001' although no definition is provided. Please provide a definition or explain why one is not required.	The Applicant has made this change.
ISH1.S2.07	Drafting	Applicant	Requirement 4(3)(a) – Environmental Management Plan	The Applicant has changed the reference to 'be in accordance with'.

Number	Subject	Response by	Question/Clarification	Applicant's Response
			<p>The current drafting requires the second iteration EMP to 'reflect the mitigation measures set out in the REAC...'. Such drafting is not precise. Please delete 'reflect' and replace with either 'incorporate' or 'incorporate and where necessary update the mitigation measures...' to improve precision or explain why this would not be appropriate.</p>	
ISH1.S2.08	Drafting	Applicant	<p>Requirement 5(2) – Landscaping</p> <p>1 To improve precision, should 'landscaped' be changed to either 'implemented' or 'planted'?</p> <p>2 To improve the structure of the requirement as drafted, should sub-paragraph (2) be moved to follow sub-paragraph (4)?</p>	<p>1 The Applicant has amended the wording to replace 'landscaped' with 'carried out'.</p> <p>2 The Applicant has made this change.</p>
ISH1.S2.09	Drafting	Applicant	<p>Requirement 5(3) – Landscaping</p> <p>1 For precision, should the words 'prepared under sub-paragraph (1)' be added after 'The landscaping scheme...'?</p> <p>2 The current drafting requires the landscaping scheme to 'reflect the mitigation measures set out in the REAC...'. Such drafting is not precise. Please delete 'reflecting' and replace with either 'incorporate' or 'be in accordance with' to improve precision or explain why this would not be appropriate.</p> <p>3 Given the size of the environmental statement, provide a more precise</p>	<p>1 The Applicant has made this change.</p> <p>2 The Applicant has changed the reference to 'be in accordance with'.</p> <p>3 The Applicant has made this change.</p>

Number	Subject	Response by	Question/Clarification	Applicant's Response
ISH1.S2.10	Clarification and drafting	Applicant and Bury Council	<p>reference for the illustrative environmental masterplan referred to.</p> <p>Requirement 5(4) – Landscaping</p> <p>1 As diverted Public Rights of Way and maintenance tracks are proposed and potentially boundary treatment, does an additional criterion need to be added requiring details of hard landscaping and materials including colour, boundary treatment of any fences and walls, structures and street furniture?</p> <p>2 In criterion (c), does reference need to be made for the scheme to be in accordance with the Arboricultural Impact Assessment [APP-086]?</p> <p>3 Landscaping can often require significant earthworks and changes to levels. Therefore, should the list in criterion (d) be expanded to incorporate details to show this, such as (but not limited to) details of changes to existing land levels, gradients for areas of permanent earthworks (such as sides of northern loop), and/or cross sections to illustrate slope profiles where embankments are formed?</p> <p>4 Should criterion (e) be reworded and expanded to include reference to 'maintenance' ie 'timetables for the implementation and maintenance for all landscaping works'?</p>	<p>1 The Applicant confirms that Requirement 5 deals only with landscaping. Works to Public Rights of Way and maintenance tracks are beyond the scope of the landscaping scheme.</p> <p>2 The Arboricultural Impact Assessment [APP-086] identifies the trees affected by the Scheme rather than the protection measures required. Tree protection measures will instead be approved as part of the landscaping scheme</p> <p>3 The Applicant does not consider this addition necessary in the circumstances where the application is already accompanied by engineering section drawings and Requirement 5(4)(d) requires details of the proposed finished ground levels to be submitted to and approved by the Secretary of State in consultation with the relevant planning authority.</p> <p>4 The landscaping scheme relates only to the detail of the landscaping proposed / required and thereafter its completion. It does not deal with maintenance.</p>
ISH1.S2.11	Drafting	Applicant	Requirement 5(5) – Landscaping	1 The reference has been amended to refer to the Third Iteration EMP.

Number	Subject	Response by	Question/Clarification	Applicant's Response
			<p>1 'Landscape and Ecological Management and Monitoring Plan' is referred to but does not appear to be defined. Please add a definition or signpost to where this is included.</p> <p>2 As currently drafted the paragraph would allow the undertaker to use either the British Standards (BS) or other recognised codes of good practice ie work could be carried out under codes of good practice but not comply with the relevant BS. Please replace 'or' with 'and' to accord with the content of paragraph N.5.11 of the outline LEMP [APP-141].</p>	<p>2 The wording should remain as drafted. The intention is that the works will be carried out in accordance with the BS or other recognised and appropriate codes of good practice.</p>
ISH1.S2.12	Clarification	Bury Council and any other Interested Parties.	<p>Requirement 5(6) – Landscaping Are parties satisfied with the 5 year period specified? If not, what would a sufficient period of time be and why?</p>	N/A
ISH1.S2.13	Clarification	Applicant and Bury Council	<p>Requirement 5 – Landscaping Does an additional sub-paragraph need to be added requiring the authorised development being operated and maintained in accordance with the Third Iteration EMP to ensure that the contents of paragraphs N.1.5 and N.6.3 of Appendix N Outline Landscape and Ecology Management Plan of the First Iteration EMP [APP-141] would be secured? If not, why not?</p>	The Applicant confirms that this is not required as it is already secured in Requirement 4(8).
ISH1.S2.14	Drafting	Applicant	<p>Requirement 6(3) – Contaminated land and groundwater To improve precision, should the sub-paragraph be altered with the following wording deleted and added as follows:</p>	The Applicant has made this change.

Number	Subject	Response by	Question/Clarification	Applicant's Response
ISH1.S2.15	Clarification	Applicant, Bury Council and Natural England	<p>'Remediation must be carried out in accordance with the approved written scheme approved under sub-paragraph (2)'?</p> <p>Requirement 7 – Protected species</p> <p>1 Paragraph N.3.8 of Appendix N Outline Landscape and Ecology Management Plan of the First Iteration EMP [APP-141] states that pre-construction surveys for protected species are required by R7 of the dDCO yet the wording of R7 does not include this. Should an additional paragraph be added at the beginning of the requirement to secure this? If not, explain why not.</p> <p>2 If a paragraph is inserted to incorporate the above, should the wording in sub-paragraph (1) be expanded to include the following: 'In the event that the pre-construction survey prepared under sub-paragraph (1) identified the presence of protected species, or any protected species which were not previously identified in the environmental statement...'</p>	<p>1 The need for pre-construction surveys is identified and secured by commitments B11 and B12 in the Register of Environmental Actions and Commitments at Table 3.2 of the First Iteration Environmental Management Plan [APP-127]. These commitments will be carried forward into the Landscape and Ecology Management Plan which forms part of the Second Iteration Environmental Management Plan required to approved before commencement of the authorised development. As such, the Applicant does not see the need to duplicate the commitment in Requirement 7.</p> <p>2 See above.</p>
ISH1.S2.16	Drafting	Applicant and Bury Council	<p>Requirement 7(2) – Protected species</p> <p>1 Applicant: For precision, should the word 'after' be changed to 'following' before 'consultation with Natural England'?</p> <p>2 Do Bury Council also wish to be consulted on the written scheme of</p>	<p>1 The Applicant has made this change.</p> <p>2 N/A</p>

Number	Subject	Response by	Question/Clarification	Applicant's Response
			protection and mitigation measures? If so, explain why.	
ISH1.S2.17	Drafting	Applicant	Requirement 7(4) – Protected species For precision, should the word 'prepared' be changed to ' approved ' after 'written scheme'?	The Applicant has made this change.
ISH1.S2.18	Clarification	Applicant	Requirement 8(1) – Surface and foul water drainage 1 Clarify if any provision for foul drainage is proposed and if not, why is reference to it required? 2 If a foul drainage system is required, should the relevant sewerage undertaker also be included as a consultee? If not, explain why not. 3 As currently drafted, this includes the phrase 'reflecting the mitigation measures set out in the REAC...'. Such drafting is not precise. Please delete 'reflecting' and replace with 'incorporating' or 'in accordance with' or explain why this would not be appropriate. 4 'Drainage strategy report' is referred to but does not appear to be defined. Please add a definition or signpost to where this is included.	1 The Applicant confirms that, at present, there are no known works required to any foul drainage. However, it is possible as the detailed design of the Scheme is developed and/or works to deliver the Scheme commence, that works to foul drainage may be identified (for example, for the purposes of connecting compounds to support construction of the authorised development). The Applicant therefore proposes to retain the wording as currently drafted. 2 See response to point 1 above. The Applicant confirms that it is usual for this requirement to be approved only following consultation with the relevant planning authority. 3 The Applicant has made this change. 4 The Applicant has made this change.
ISH1.S2.19	Drafting	Applicant	Requirement 8(2) – Surface and foul water drainage For precision and consistency with requirements 5, 9 and 10, should the wording 'must be constructed with' be replaced with	The Applicant has made this change.

Number	Subject	Response by	Question/Clarification	Applicant's Response
			'must be carried out in accordance with'? If not explain why not.	
ISH1.S2.20	Drafting	Applicant	<p>Requirement 9(1) – Archaeological remains</p> <p>1 The word 'potential' implies some ambiguity. Please remove or if this term is necessary to include, explain why.</p> <p>2 For precision, after 'archaeological interest', should the following wording be added: '...archaeological interest, incorporating the mitigation measures set out in the environmental statement and the REAC, has been submitted...'?</p>	The Applicant has made these changes.
ISH1.S2.21	Drafting	Applicant	<p>Requirement 9(2) – Archaeological remains</p> <p>For precision, should the words 'referred to in' be substituted with 'approved under'?</p>	The Applicant has made this change.
ISH1.S2.22	Drafting	Applicant	<p>Requirement 10(1) – Traffic management</p> <p>For precision, after the words 'traffic management plan, should the following be added ', which is substantially in accordance with the outline traffic management plan for that part of the authorised development,...</p>	The Applicant has made this change.
ISH1.S2.23	Drafting	Applicant	<p>Requirement 10(2) – Traffic management</p> <p>For precision, should the words 'referred to in' be substituted with 'approved under'?</p>	The Applicant has made this change.
ISH1.S2.24	Clarification	Bury Council and other relevant statutory bodies	<p>Requirement 12(1) Applications made under requirements</p> <p>As currently drafted this requirement would give deemed approval for the discharge of any application, subject to a number of caveats, if no decision is made by the Secretary of State within 8 weeks from submission of those details. Is this</p>	N/A

Number	Subject	Response by	Question/Clarification	Applicant's Response
			time period appropriate? If not, please advise what an appropriate time period would be and why.	
ISH1.S2.25	Drafting	Applicant	Requirement 12(1) Applications made under requirements To improve precision should the drafting be amended as follows: (c) such longer period as may be agreed between the parties undertaker and the Secretary of State . If not, explain why.	The Applicant has made this change.
ISH1.S2.26	Drafting	Applicant	Requirement 13(2) – Further information Should the sentence beginning with 'In the event...' form a new sub-paragraph to conform with section 9 of PINS advice note 15?	The Applicant has made this change.
ISH1.S2.27	Drafting	Applicant	Requirement 13(2) – Further information For precision, should the reference to 'paragraph 15 (anticipatory steps towards compliance with any requirement' be replaced with ' paragraph 12 (applications made under requirements) '?	The Applicant has made this change.
ISH1.S2.28	Drafting	Applicant	Requirement 15 – Anticipatory steps towards compliance with any requirement For precision, should a comma (,) be added after 'If' and before 'the' in the first line?	The Applicant has made this change.
ISH1.S2.29	Drafting	Applicant and relevant Interested Parties	Requirements – General query (matters related to its functions) Several requirements include the phrase 'on matters related to its functions' in relation to where the Secretary of State is required to consult with the relevant planning and/or highway authority and the Environment Agency. Explain why such drafting is necessary and to streamline drafting should it be deleted?	The Applicant confirms that it is the Applicant (not the Secretary of State) who will consult with the relevant bodies before applying to the Secretary of State for approval. The wording is required to limit the scope of consultation to that which it is necessary and appropriate. For example, it is likely to be unnecessary to consult the Environment

Number	Subject	Response by	Question/Clarification	Applicant's Response
				Agency on the scope of highway works for instance.
Schedule 4 – Permanent stopping up of streets and public rights of way				
ISH1.S4.01	Drafting	Applicant	Part 2 To replicate the approach taken in Part 1, should the words 'to be' be added between 'is' and 'provided' in the title ie '...which a substitute is to be provided'?	The Applicant has made this change.
Schedule 6 – Modification of compensation and compulsory purchase enactments for creation of new rights and imposition of restrictive covenants				
ISH1.S6.01	Drafting	Applicant	Paragraph (2)(2)(a) For precision and consistency where this approach has been taken elsewhere in the draft DCO, should the words ' (powers of entry) ' be added after 'section 11(1)'?	The Applicant has made this change.
ISH1.S6.02	Drafting	Applicant	Paragraph (4) For precision, should the following words highlighted in bold be added to the title above paragraph 4 read 'Application of Part 1 of the 1965 Act'?	The Applicant has made this change.
Schedule 9 – Protective provisions				
ISH1.S9.01	Drafting	Applicant	Article 46 is referred to at the top of the page beside the title which does not exist. Please update accordingly depending the response to ISH1.A.72.	The reference to article 46 has been deleted.
Schedule 10 – Certification of plans and documents, etc				
ISH1.S10.01	Drafting	Applicant	Land Plans and Work Plans These version numbers referred to in column (3) have been updated to P02 following the submission of [AS-005] and [AS-006]. Please amend accordingly and ensure that the Schedule is updated throughout the	The Applicant has made this change.

Number	Subject	Response by	Question/Clarification	Applicant's Response
			Examination to account for any future changes to any of the documents listed.	