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Dear Mr Bartkowiak

**North Somerset Council
Development Consent Order application for Portishead Branch Line - MetroWest Phase 1
Application Ref: TR040011**

Response to Mrs Freestone's submission 20 September 2020

The Applicant has seen Mrs Freestone's submission prepared on behalf of herself and her siblings.

The Applicant has considered the representation in full.

The Applicant accepts that the requirement for the land on either side of the M5 changed throughout the pre-application stage, as environmental information has become available and the need for mitigation better understood.

The Applicant does not accept there has been a "lack of care" regarding the required sites. The Applicant continues to work closely with its environmental consultants to consider the compelling case for the relevant land.

The Applicant notes the concerns expressed regarding the availability of documentation and purported lack of clarity regarding the information provided. The applicant will contact with the interested parties' surveyor to ascertain what the information is required to be provided to the interested parties.

With regard to the interests parties' responses to principal issues, the Applicant has the following comments:

Topic	Interested Party's comments	Applicant's response
2. Biodiversity, ecology and the natural environment	Clearly, the effects of biodiversity in post by construction compounds and traffic must be mitigated. However, surely the need to separate reptiles and newts can be achieved by the use of newt fencing and reptile fencing as referred to in the Reptile Mitigation Strategy, Section 4	The compelling case for the interested parties' land remains. For the land on the western side of the M5 motorway, between the Portishead Branch Line and the M5, the reedbed, fen and scrub habitat is suitable for the creation of Great Crested Newt habitat and is within 1km of the

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	<p>(Reptile Fencing) and sheet 7 (Newt Fencing) and elsewhere in the Masterplan 235. The idea of trapping wild creatures to protect them from human activity seems wholly counter-intuitive, especially since there was rail traffic on a regular daily basis from 1860s to the 1960s, yet these species and their progeny survived that period without any interference or assistance.</p>	<p>nearest Great Crested Newt pond, which is located at Portbury Dock Road bridge. Advice from Natural England is that Great Crested Newt receptor sites should be within 1km of existing Great Crested Newt ponds to avoid the need for disease screening for chytrid fungus, which can affect amphibian populations. The existing Great Crested Newt population is located to the west of the M5 between Portishead and the M5. It is therefore considered that any new Great Crested Newt habitat should be located to the west of the M5 within suitable habitat such as the Order lands identified.</p> <p>The land to the west of the M5 is not suitable for use as a receptor site for slow worms (reptiles) due to the wetland habitats (reedbed and fen) not being suitable and the land is within Flood Zone 3, which has a high probability of flooding. Very wet habitats are usually avoided by slow worms.</p> <p>The reptile receptor site east of the M5 was chosen because it is semi-improved grassland habitat with bordering hedgerows and scrub, and is considered to be a suitable site for a reptile receptor with some enhancement (such as the installation of reptile hibernacula and removal of existing grazing). The site is proposed as a receptor for reptiles that will be trapped along the railway corridor between the M5 and Pill tunnel's western portal. The site must be as close as possible to the site at which reptiles were trapped. The area of land is connected to Pill which will ensure that population is not isolated and will allow reptiles to return to the railway corridor in the long term.</p> <p>The construction works from the M5 to Pill tunnel's western portal include removal of existing railway ballast and to replace it with new ballast, strengthening earthworks and a Station and car park at Pill. Reptiles within the areas to be affected by construction works will be trapped and relocated to the reptile receptor site to avoid intentional killing or injury, which is an offence under the Wildlife and Countryside Act 1981 (as amended). It is these activities that are seen as being of significant risk to reptiles and requires the applicant to obtain suitable land for reptile relocation. The Interested Parties' land is the closest and most suitable site for reptile relocation.</p>
4. Construction impacts	The location of land subject to temporary compulsory acquisition appears to be to us inappropriate in	The land selected for the temporary compound is the land to the north-east of the interested parties' land on the eastern side of

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	<p>attempting to negotiate a change to the proposals we have received to scant regard a no formal adjustment to a draft Heads of Terms document received on 3 February. NSDC's own report (<i>Appendix 9.5 Reptile Survey Report</i>) states that our land is not suitable for reptiles and is not endorsed for this use.</p>	<p>the M5 motorway. That land has been selected as a compound because it is next to the disused railway and the operational railway, allowing rail borne construction traffic to be considered as part of the construction strategy.</p> <p>As that land is to be used as a construction compound site it is incompatible with the use of that land as a reptile receptor.</p> <p>The closest suitable land for a reptile receptor is the interested parties' land on the east side of the M5 motorway and with suitable improvements such as provision of hibernacula it can be considered as a suitable reptile relocation site.</p> <p>Appendix 9.5 Reptile Survey Report (DCO Document Reference 6.25) states that low numbers of slow worms were recorded during the survey of the land subject to temporary compulsory acquisition and paragraph 5.1.7 states that the land offers good, but limited, basking habitat in thick, tussock grassland and scrub edges around the perimeter of the fields and an abundance of various hibernacula features (log piles, rock piles, tree roots etc.) The land is considered to be a suitable site for a reptile receptor with some enhancement (such as the installation of reptile hibernacula and removal of existing grazing).</p>
<p>5. Compulsory acquisition</p>	<p>We offered an alternative use of our land, suggesting that plots [●] be used to site the newt receptor since it already contains natural ditches and a pond, a far more natural environment for newts, in addition to the use proposed. At over 6 acres there should be space for both; NSDC would save money and we would be able to continue to use plots [●] and [●] of our land.</p> <p>Whilst we accept there is a compelling case in the public interest for the compulsory acquisition of land, rights and powers that are sought in the draft DCO, we question whether the extent of the land subject to the temporary Order is reasonable or appropriate. We have also questioned the length of time for which the project will render our land of no use to us. We feel that the proposed use and timescale represents an unreasonable infringement of our rights and use on</p>	<p>The Applicant will seek further clarification from the interested parties in relation to this point, hopefully in good time before the compulsory acquisition hearing on 4 December.</p> <p>The Applicant is unaware of any of the interested parties' land being sought for temporary purposes. All of the land of the Interested Parties is proposed for freehold acquisition. The Applicant is however willing to discuss an arrangement that can be secured by agreement such as a lease for a term of years, for the land on the east side of the M5 motorway.</p>

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	our land. With the proposed timescale, at least 15 years, probably more, a pass from an original approach to conclusion of the project.	
14. Socio-economic effects	<p>We are getting on in years and we are very concerned about the impact this scheme will have on our ability to dispose of our land, with subsequent material detriment on our financial wellbeing and that of our families.</p> <p>We have asked for an undertaking that, should the project fail to attract sufficient funding or proceed to be further delayed, all restrictions will be withdrawn so that we can proceed with the use of our land unhindered. We have received no response to this request.</p> <p>It is worthy of note that the various impact reports published within association with this project take no account of the human impact on those whose fundamental right to own property is being assaulted and the socio-economic effect on our family is very significant.</p>	<p>If the interested parties' interest in land is acquired by compulsion then the Compensation Code will apply. This accords with the principles of international law and Article 1 of Protocol 1 of the European Convention on Human Rights.</p> <p>The interested parties will be entitled to compensation for their interests in land being acquired, together with any reasonable disturbance claims and, in those circumstances where the statutory Compensation Code requires it, loss payments calculated in accordance with the provisions of the Land Compensation Act 1973 (as amended by the Planning and Compensation Act 2004).</p> <p>If the project does not proceed then the time limit for the acquisition of land will apply – no land can be acquired after five years from the date of making of the Order (see Article 26 of the draft Development Consent Order.</p>

The Applicant's Responses to the remaining parts' of the Interest Parties representation are set out below, using the numbering and headings employed by the Interested Parties:

Material points

1. Inaccurate designation of our land

- 1.1 The Applicant does not believe that there has been an inaccurate designation or description of the relevant Order land. Intended use of the fields to the east of the M5 motorways for reptile relocation. The neighbouring land to the north, comprising Lodway Farm, is required for a construction compound.
- 1.2 Reference is made to the Environmental Masterplan at 5.3.23 and Lodway Farm is highlighted as a construction compound. This is correct, as Lodway Farm, north of the Interested Parties' land, will be used for that purpose.
- 1.3 The same applies in relation to the reference to Lodway Farm at 5.2.4.
- 1.4 It is understood that the interested parties' land is part of the former Manor Farm, Easton in Gordano, and not Lodway Farm.

2. Scientific evidence

The Applicant is advised by Jacobs (formerly CH2M Ltd) whose appropriately qualified environmental consultants have advised on the strategy for amphibians and reptiles throughout. The Applicant will continue to liaise with the interested parties regarding the information that they believe has not been made available to them.

3. Communications

The Applicant's agents are engaging directly with Greenslade Taylor Hunt. The Applicant does not believe that its communications have been intermittent nor failing to address the issues raised. Heads of Terms in relation to negotiations for acquisition by agreement have been attempted and will continue. The Applicant will approach the interested parties direct to obtain a clearer picture of exactly what information remains unclear or unavailable to the interested parties.

4. Concluding remarks

The Applicant has taken on-board the comments of the interested parties and will seek to liaise with them through their appointed agents.

Yours faithfully



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