



MetroWest+

Portishead Branch Line (MetroWest Phase 1)

Planning Inspectorate Reference: TR040011

Applicant: North Somerset District Council

9.5 ExA.OFH.D1.V1 – Response to Representations at the Open Floor Hearing

Author: Womble Bond Dickinson (UK) LLP

Version: 1

Date: November 2020

The proposed Portishead Branch Line (MetroWest Phase 1) Order

Applicant's response to Representations at the Open Floor Hearing Held on 19 October 2020 at 18.30

1. Introduction


- 1.1 An Open Floor Hearing (**OFH**) for the Portishead Branch Line – MetroWest Phase 1 (**DCO**) application was held virtually on Microsoft Teams on Monday 19 October 2020 at 18.30.
- 1.2 The Examining Authority (**ExA**) invited the Applicant to respond at the Hearing but also in writing following the OFH. This document summarises the responses made at the OFH by the Applicant and also seeks to fully address the representations made by Affected Parties, Interested Parties and other parties attending.
- 1.3 The Applicant has responded to the topics raised by each of the attending parties in the order the ExA invited them to speak provided cross-references to the relevant application or examination documents in the text below. Where it assists the Applicant's responses, the Applicant has appended additional documentation to this response document.

Ref :	Representation by:	Questions/Issues Raised at the OFH	Applicant's Response at the OFH	Applicant's Written Response
1.	Mr Stuart Tarr	Can we be clear about what is proposed for the Pill Tunnel access and construction materials compound: is it a temporary compound during construction works or will it be a permanent compound with maintenance materials – ballast, sleepers, etc - stored there until needed?	The Applicant can confirm that the access at Ham Green to the Pill Tunnel will be on both a permanent and temporary basis. This is set out in the Application.	<p>The Applicant's Works Plan (latest version document ref AS-013) and Pill Tunnel Eastern Portal Compound, Landscaping and Access Plan (APP-040) show the proposed temporary and permanent compounds at Ham Green.</p> <p>The compound is strategically important both for the construction works and when the line is operational for passenger services.</p> <p>During the construction works, the compound is unlikely to be a storage location for large quantities of construction materials as the space constraints and location do not allow for this. Most of land is required for the access.</p> <p>Usage of the compound is therefore limited and likely to include the following activities:</p>

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				<ul style="list-style-type: none"> - A small area is required temporarily as construction compound to enable the construction of this access point itself. - Utilising it as a RRAP (Road Rail Access Point) which will enable the rail contractor to load vehicles on to and off the track when required. Also, to offload materials to the compound for temporary storage when needed. - Storage of small mechanical spares for RRV's (Road Rail Vehicles) - Short term storage of small amounts of materials (e.g. track components for use on a shift by shift basis) - Provision of a welfare and a site cabin for staff - Provision of a parking location off the public highway for staff. <p>After the construction works are complete, the temporary construction compound will be removed and ownership of the compound will transfer to Network Rail. The compound will become an emergency access point to the west portal of Pill Tunnel. In addition, it is likely that it will be used for the following:</p> <ul style="list-style-type: none"> - Maintenance of the drainage and filtering systems for Pill Tunnel - Access point for track inspections - Temporary storage of materials (e.g. track components) <p>Access will also be required for maintaining the existing equipment that has been installed by Network Rail to reduce silt deposits in Ham Green Lake.</p>

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		<p>Secondly, related to this, with regard to HGV low loader traffic impacts on very narrow access roads and lanes and environmental and biodiversity at Ham Green Lake SNCI, could these construction materials be stored elsewhere, e.g. at another large rail compound or perhaps a compound to be constructed at Royal Portbury or Avonmouth Docks, to be brought by rail to Pill Tunnel as and when needed, i.e. using the stock control protocol of "Just in Time"?</p>	<p>In relation the materials storage at the Ham Green compound, the size of the proposed compound is quite small and the approach to this is on a gradient.</p> <p>Its function is more of an access point than a compound per se. It will be a key access point as this is the nearest access to the existing rail freight line at the northern part of the route. This access was used in 2001 when the railway was re-opened for freight operations.</p>	<p>The compound at Pill Tunnel is not intended to operate as a main construction compound and other locations have been found for this purpose.</p> <p>As such, deliveries by HGVs are expected to be limited and it is expected that HGV low loaders would only be used on rare occasions. Deliveries of heavy aggregates will be routed to the main compounds at Lodway, beneath the M5 Avonmouth Bridge and on the A369 Portbury Hundred. Any materials that are required at Pill will be on smaller scale.</p> <p>Existing hedges removed at the junction with Chapel Pill Lane are to be reinstated along with trees and grass verges. The over-run area for large vehicles is proposed as 'grasscrete'. 'Grasscrete' is now used as a generic term for a supporting grid system which allows for vehicle use but is designed to allow grass to grow through the structure such that it looks like a grass verge.</p>
		<p>On the other side of the proposed access to the railway line there is the disused Ham Green Halt station, which itself must have had public access from the opposite side of the railway. Please can you explain why this cannot be used for access?</p>	<p>The Applicant understands that the Halt was created as an access to the former TB hospital but that this was a pedestrian access only and not suitable for the DCO Scheme's purposes.</p> <p>The Applicant considered possible access via Hays Mays Lane but there are covenants over the access that restricted its use.</p>	<p>The existing (unsurfaced) track from Chapel Pill Lane referred to as "Hays Mays Lane" passes over the eastern portal of Pill Tunnel and links to a field on the south side of the railway. Hays Mays Lane will not be used as an access track by the Applicant.</p> <p>However for the purposes of clarification we will be using plot 08/10 shown on the Land Plan (Document reference AS-012, sheet 8), to manoeuvre vehicles, which is at the entrance to Hays Mays Lane, from Chapel Pill Lane.</p> <p>Hays Mays Lane is in the freehold ownership of North Somerset Council, having been transferred by the developers of the Ham Green Hospital site, Redrow Homes Limited, on 20 November 2013.</p>

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			<p>The Applicant agreed that a more detailed response would be provided in writing.</p>	<p>The Transfer contains the following covenant by the Council:</p> <p>Restrictive covenants by the transferee</p> <p>12.4 The Transferee for itself and its successors in title covenants with the Transferor for the benefit of the Retained Land not to use the Property otherwise than as public open space and recreational uses.</p> <p>This covenant would prevent the use of Hays Mays Lane as an access route for Network Rail.</p> <p>The Applicant also considered that use of Hays Mays Lane as a vehicular access would require substantial removal of trees and vegetation for a suitable vehicular access to be formed</p> <p>The Applicant and Network Rail therefore decided to propose an access road roughly parallel to Hays Mays Lane that will connect Chapel Pill Lane to the compound giving access to the RRAP that will be installed on the railway to the east of the Pill Tunnel Eastern Portal. This access route was previously used in 2001 to rebuild the current freight line. The proposals are shown on the plan (DCO document reference APP-040) Ham Green Highway Works and Pill Tunnel Eastern Portal Compound.</p> <p>The Path from Hays Mays Lane to the former Ham Green Halt was only ever a pedestrian access to that small Halt. There is an access point consisting of a narrow path from Hays Mays Lane to the site of the Halt, but this is not sufficiently wide to be made available for RRVs. This is illustrated by the historic photo provided below:</p>

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		<p><i>Additional question raised on 21 October 2020 by email, following the OFH</i></p> <p>Thirdly [introduced as an additional question following the Open Floor Hearing] can reassurance be provided that the Hayes Mayes Lane access to the Pill Tunnel Eastern Portal Rail Compound will not be used, nor have landowner negotiations been entered into, to facilitate the proposed development of up to 16 affordable housing units as referenced in the Abbots Leigh, Ham Green, Pill and Easton-in-Gordano Neighbourhood Plan which, despite considerable resistance from local residents supported in their objections by Dr Liam Fox MP, has been approved for submission to North Somerset Council by both Abbots Leigh and Easton-in-Gordano parish councils (paragraph 5.6, page 17, of the Plan, plus</p>	<p>No response at OFH - introduced as an additional question following the Open Floor Hearing.</p>	<p>We are aware of the proposed Neighbourhood Plan designation for development that you refer to, as well as the emerging proposals for affordable housing development.</p> <p>The Applicant has provided details of its proposed compound at Ham Green to the intended applicant. The Applicant has also responded to specific queries from the intended developer regarding the physical interface between their proposed development and the DCO Scheme. However, we have not altered our proposed design to accommodate the proposed housing development and it will be for the intended developer to make its application to the local planning authority.</p> <p>Mr Tarr has noted in subsequent correspondence that the proposed housing development would be via the access from the proposed Network Rail compound. The Applicant has not at any time altered its plans so as to accommodate an access for the proposed housing development. It will be for the proposed developer of the housing development to put its access proposals to the local planning authority and the owner of the land at the relevant time.</p> <p>Whereas the DCO Scheme will be considered in relation to its accordance with the National Networks National Policy Statement (NNNPS) of December 2014, the intended applicant for the housing development will need to demonstrate its compliance with the National Planning Policy Framework and the relevant local development plan policies. It will also be necessary for the intended developer to bring forward a scheme that facilitates access from Chapel Pill Lane to Pill Tunnel for the benefit of Network Rail, at all times.</p>

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		<p>a written submission on behalf of local residents to last evening's meeting of Easton-in-Gordano Parish Council, are attached).</p> <p><i>Additional representation raised on 23 October 2020 by email, following the OFH</i></p>		<p>The Applicant has responded to Mr Tarr's email of 23 October 2020 by email. This response is attached at Appendix 1.</p>
2.	Dr Christina Biggs on behalf of Friends of Suburban Bristol Railways	Comments in support of the Application – no questions or issues requiring a response from the Applicant.	Noted and the Applicant is grateful for these words in support of the Application.	No additional comment.
3.	Gareth Jones on behalf of Portishead Railway Group	Comments in support of the Application – no questions or issues requiring a response from the Applicant.	Noted and the Applicant is grateful for these words in support of the Application.	No additional comment.

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4.	<p>Mrs Susan Freestone on behalf of herself and Mr Bullock</p>	<p>It is not clear whether all or part of Mrs Freestone's/Mr Bullock's land is required, and whether this is on a temporary or permanent basis.</p> <p>Confusion over references to land East and North East of the M5. Mrs Freestone requested all land is referred to by Plot reference.</p> <p>The Applicant's position has changed several times causing confusion. This has compromised Mrs Freestone's ability to make suitable representations.</p>	<p>The ExA suggested that a plan be prepared to show the land owned by Mrs Freestone and Mr Bullock that the Applicant is seeking to acquire that can be superimposed onto the land plans along with other pertinent details such as the location of the Lodway compound and newt receptors. The Applicant agreed to prepare this as soon as possible.</p> <p>The Applicant explained that the position in relation to land take is covered in the Application (Document 2.2 – Land Plans/ (latest version reference AS-012). There are three parcels of land at Manor Farm that are included within the Application. These are:</p> <ol style="list-style-type: none"> 1) Plot 05/85 – freehold acquisition – land on the Port side of the M5. This area of land is required for Great Crested Newts/ecological mitigation and flood mitigation. 2) Plot 05/151 – freehold acquisition for reptile relocation. 3) Plot 05a/05 – freehold acquisition for reptile relocation. 	<p>The Applicant responded to some of the Affected Parties' comments in its letter of 14 October 2020 to the ExA (redacted copy provided at Appendix 2). In addition the Applicant has prepared the plan requested by the ExA. This was provided to Mrs Freestone under cover of a letter dated 23 October 2020. (A redacted copy of this letter is at Appendix 3).</p> <p>The Applicant, in carrying out this exercise, has seen a discrepancy in plans that it will seek to correct, as is explained in the letter to Mrs Freestone. In essence Work 17, the Lodway Farm temporary Compound, has been wrongly drawn on the Works Plan and other related plans.</p> <p>The relevant plans with the correct designations are:</p> <p>Land Plan (Document ref: AS-012) – plots 05/85 and 05/86 (west of the M5), plots 05/151 and 05a/05 (east of the M5) are all shown for freehold acquisition.</p> <p>Important Hedgerow Plan (Document ref: APP-048) – extent of land labelled as "Lodway Construction Compound" is correct.</p> <p>Plans requiring correction:</p> <p>Works Plan (Document ref: AS-013) – this shows part of the land forming plot 05/151. This incorrectly included within the boundary for Work No. 17, the temporary construction compound on Lodway Farm.</p> <p>General Arrangement Plans (Document ref: APP-010) – again part of plot 05/151 is incorrectly shaded blue to suggest that it is part of Work No. 17 – the construction compound.</p> <p>Compound, Haul Road and Access to Works Plan (Document ref: APP-024) – part of plot 05/151 is incorrectly shaded to suggest it is part of the Lodway Farm construction compound.</p>

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			<p>4) The above plots all form part of Manor Farm.</p> <p>Part of Lodway Farm is proposed to be acquired on a temporary basis only for a construction compound. This is plot 05/150 and it is proposed that this will be used for approximately 2 years.</p> <p>The Applicant explained that the difficulty arises because of the length of time required for the ecological mitigation. The Applicant has been advised that 6-8 years are required for the ecological mitigation but land could not be acquired on a temporary basis for this length of time under the proposed Order. The Applicant has proposed a lease is entered into with Mrs Freestone and Mr Bullock in relation to the affected land instead of a freehold acquisition. This may be where the confusion has arisen.</p> <p>The Applicant agreed that a more detailed response would be provided in writing.</p>	<p>The Applicant can again confirm that the powers sought in the Order would lead to the compulsory acquisition of the whole of Manor Farm. It is however hoped that, for the land on the Easton in Gordano side of the M5 Motorway (plots 05a/05 and 05/151), a leasehold arrangement for the appropriate number of years can be agreed with Mrs Freestone and her brother.</p> <p>By reference to the plot numbers in the Land Plan (Document ref: AS-012) the proposed acquisition is for the following purposes:</p> <p>Plot 05/85 – freehold acquisition – land on the Port side of the M5. This area of land is required for Great Crested Newts/ecological mitigation and flood mitigation.</p> <p>Plot 05/151 – freehold acquisition proposed for reptile relocation</p> <p>Plot 05a/05 – freehold acquisition proposed for reptile relocation.</p> <p>The need for preserving and creating habitats on the west and east sides of the M5 Motorway are quite different, with the western fields being an appropriate location for great crested newts translocated from the Portishead - Portbury area. It is not considered that a site east of the M5 would be appropriate for these populations. 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>In the Pill area, the reptiles to be relocated would come from the railway corridor between Pill Viaduct and the M5, including Pill station, and the proposed site for the Pill station car park. Where reptiles need to be relocated, they should be moved to a site as close to the donor site as possible, which is, where possible, connected by suitable habitat and should not become over-populated as a consequence of relocation. The</p>

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				<p>land west of the M5 would not be a suitable relocation site for reptiles as it is some distance from the donor sites and separated by the M5 Motorway, which would be a major barrier for future dispersion of reptiles. It is more appropriate that these reptile populations be located to the field east of the M5, to enable them to in time migrate back to the re-laid railway. 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 Applicant's expert ecologists from Jacobs, have advised that a period of 8 years would be appropriate. As the Applicant is able to only secure temporary powers for a limited time (until one year after works have ceased in the vicinity of the relevant land) and a leasehold interest cannot be secured by compulsion, there is no alternative to the Applicant seeking the freehold of the land to the east of the M5.</p>
		<p>Please explain why land at Portbury Wharf Nature Reserve is not more suitable for ecological mitigation.</p> <p>Mrs Freestone said she has asked for evidence her land is required as a newt receptor but she has been "ignored".</p>		<p>The Portbury Wharf Nature Reserve has been considered for ecological mitigation for both Great crested newts and reptiles, as illustrated on DCO Document AS-026 Environmental Masterplan Sheets 2 and 3. The Applicant excavated a new pond within the reserve in spring 2020 which would have time to settle down and become a suitable habitat for translocating Great crested newts prior to the start of construction. The Nature Reserve needs to be improved to make it more suitable for reptiles,</p>

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		<p>Clarity is required on the references to land at Lodway Farm and Manor Farm; there appears to be some confusion and incorrect labelling on the plans.</p>		<p>including scrub removal on higher ground to create more basking areas for reptiles and placement of reptile hibernacula.</p> <p>The Applicant's letter of 23 October and its enclosed plan is intended to give the Affected Parties the clarity sought. See Appendix 3.</p>
		<p>Any future correspondence from Ardent Management, on behalf of the Applicant, is to be sent to Mrs Freestone and Mr Bullock direct.</p>		<p>This is noted. The Applicant and Mrs Freestone have spoken subsequently.</p>
5.	<p>Mr and Mrs Sanders (on behalf of themselves and some owners of properties on Peartree Field and Galingale Way.</p>	<p>Why is the Trinity footbridge being proposed and in this particular location?</p> <p>Stated that the choice of the location of the footbridge and the length of the ramps would have privacy and security implications (allowing</p>	<p>The Applicant agreed that a detailed response would be provided in writing.</p>	<p>The Applicant believes that the current crossing over the railway formation between Tansy Lane and Galingale Way is well used and should be replaced.</p> <p>The results of pedestrian and cycle count surveys at this crossing are shown in table 4.20 of DCO document reference 6.25 ES Volume 4 Appendix 16.1 Transport Assessment Pt Main Report (Part 1 of 18) (Examination Library ref: APP 155).</p> <p>The count results show that the crossing is used by several hundred people per day. The interface between trains and pedestrians is one of</p>

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		<p>views into gardens), and would have an impact on house values for the neighbouring properties. The structure will be very large and assume that this will be very expensive.</p> <p>Stated that there are lots of paths that lead to the station and the length of the ramps would mean that you would be able to walk to the school going around the railway line in the same distance it would take to cross going over the footbridge.</p> <p>Also commented that the catchment area of Trinity school is all on the school side of the railway line. As such families on the southern side of the railway line are not eligible for attendance at Trinity School.</p>		<p>the biggest risks on the UK rail network. In the year 2019-2020, 2 fatalities and 316 near misses involving pedestrians were recorded at level crossings. Since becoming the statutory Rail Authority in 2002, Network Rail has adopted a national 'no new level crossing' rule which extends to any level crossing on a disused line which is brought back into operation. This therefore applies to the existing permissive pedestrian crossing over the railway next to Trinity Primary School. The only realistic option is a pedestrian and cycle bridge which will be almost totally accommodated within land in the ownership of the Applicant.</p> <p>The height of the proposed bridge is derived from the clearance required by Network Rail. The range of permissible gradients for the bridge ramp, when designed for GRIP 3 was based on the design standards in BS8300:2009+A1:2010. This allowed for ramps to be between 1:20 and 1:12 the latter being an absolute maximum gradient.</p> <p>With a gradient of 1:20 the ramps would have to be extended in length from 140 metres to 190 metres. This presented two design difficulties:</p> <ul style="list-style-type: none"> a) there was insufficient space available for longer ramps; and b) the usefulness of the bridge was coming into question if there were to be longer distances that ramp users would have navigate. <p>The Relevant Planning Authority's access officer was consulted and acknowledged that where sufficient space was not available then a steeper gradient than 1:20 would be acceptable. A gradient of 1:15 was acceptable, but any steeper would not be acceptable. The Applicant also consulted the local Disability Forum on the bridge design and accepted the need for a compromise between length and gradient.</p>

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				<p>In assessing the competing considerations of use by cyclists and mobility impaired users, against visual impact and site conditions, a 1:15 gradient was felt to be the most appropriate design solution.</p> <p>The bridge approaches are located parallel to the railway line so that it is as far away as possible from the adjacent houses, and on the south side, to fit between railway line and ditch whilst retaining as much of the existing vegetation as possible for screening. Screens on the bridge itself were considered but were rejected on the basis that the visual impacts of the bridge would be increased if screens were attached to the structure.</p> <p>Circular ramps would not be shorter in overall distance for the user and would be 'wider' in footprint (to allow for the radii rather than the 90 degree turns in the current design). The footprint for circular ramps would not fit into the available space due to the close proximity of the pond on the Galingale Way side and consequently it was not possible to achieve a feasible design.</p> <p>At Peartree Field the end of the ramp is at approximately half the overall height with the flight of steps towards the station and the ramp returning east towards the bridge – see plans in document ref: APP-019 (drawing W1097B-ARP-DRG-EST-300006).</p> <p>Whilst the Applicant agrees that the catchment for Trinity School does not cross the railway, the Applicant's team has observed that some pupils and their families do use the existing crossing when leaving school. In any event the frequent use of the route by families and cyclists means that a bridge design not including ramps is not likely to be acceptable by the Secretary of State.</p>

Appendix 1 – Applicant's email 30 October 2020 responding to Mr Tarr's email of 23 October 2020

Dawn White

From: Richard Guyatt
Sent: 30 October 2020 11:44
To: Dawn White
Subject: Application by North Somerset District Council for an Order Granting Development Consent for the Portishead Branch Line – MetroWest Phase 1 - TRO40011

Subject: Application by North Somerset District Council for an Order Granting Development Consent for the Portishead Branch Line – MetroWest Phase 1 - TRO40011 [WBDUK-AC.FID26403138]

Stuart

I am writing to respond to your email of 23 October, which provided comments on the compound provided when the freight railway from Parson Street to Portbury was reopened in 2001. The compound was on land immediately opposite the former site of the Ham Green halt, at the location on which the MetroWest scheme is proposing a permanent road rail access point.

The situation in 2001 was that a temporary road and compound was installed, I believe, by Railtrack to allow the necessary works to the railway to make it capable of carrying freight trains. I do not know how the compound was authorised in planning terms but no doubt could find out if this is material.

The intention was, I believe, that the compound would be temporary in nature. As I understand it, enforcement action was taken by North Somerset Council as local planning authority to require the removal of the temporary works. Whilst I do not know the grounds, the land's green belt status would seem to be a likely reason for the enforcement action being taken.

Moving forward to the MetroWest proposals, my client is applying for development consent, rather than planning permission. The railway passes through green belt between Portishead and Pill, and between Ham Green and Ashton. Compounds including the Ham Green compound are located within green belt land and the relevant policies in the National Planning Statement on National Networks (NN NPS) will apply. (The NN NPS was published in January 2015 and can be found on the Inspectorate's website.)

The NN NPS makes it clear that the status of land as green belt is a significant consideration. Paragraphs 5.162 to 5.185 provide the detail on how green infrastructure and green belts should be considered. The Applicant has assessed its proposals, including the compound at Ham Green, in accordance with the NN NPS. Whilst the Applicant's proposals would be considered to be ordinarily inappropriate development within a green belt, the need for a compound close to the eastern portal of Pill Tunnel, to facilitate in particular any access required to the railway for safety reasons, together with the lack of any additional suitable access to the railway for maintenance purposes east from Ham Green until Ashton is reached, means that notwithstanding the green belt designation, it is considered this is an appropriate location for the proposed compound. There will be no buildings at the compound and it will be suitably landscaped and screened with planting. Overall therefore, the RRAP and compound would not have a significant impact on the openness of the green belt.

As a result, the Applicant believes that the current proposals are easily distinguished from the situation in 2001 in planning terms and is seeking consent for its proposals, in contrast to the position in 2001 when enforcement action was undertaken for the removal of temporary works. Whilst it will be for the Examining Authority to advise the Secretary of State, and for the Secretary of State to decide, the Applicant believes that there are compelling reasons for the compound to be provided at this location, and suitable mitigation has been included in the Applicant's proposals. The open character of the green belt should not be significantly impacted by the proposals

As you have copied your remarks to the Examining Authority, I will append this email to my client's responses to the Open Floor Hearing of 19 October 2020.

With kind regards

Richard

Richard Guyatt

Partner

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Appendix 2 – Applicant's letter of 14 October 2020 to the ExA (redacted copy)

14 October 2020

Bart Bartkowiak
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Our ref:
KJG1/RG1/381278.1
Your ref:

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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Topic	Interested Party's comments	Applicant's response
	<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

Topic	Interested Party's comments	Applicant's response
	<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>

Topic	Interested Party's comments	Applicant's response
	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



Womble Bond Dickinson (UK) LLP

Appendix 3 - letter dated 23 October 2020 from Applicant to Mrs Freestone (redacted copy)

23 October 2020

Susan Freestone

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

By email only

Email: [REDACTED]

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Our ref:
KJG1/RG1/381278.1
Your ref:

Dear Mrs Freestone

The Portishead Branch Line (MetroWest Phase 1) Order Open Floor Hearing - 19 October 2020

I am writing following our discussions at the Open Floor Hearing on 19 October. Many thanks once again for your participation in the Hearing.

At the Hearing on 19 October you and I discussed how your land interests were affected by the MetroWest proposals. I responded to your question, by reference to the Applicant's land plans, to confirm that all of your land comprising the plots forming [REDACTED] are plots that are included in the land plans and Book of Reference for freehold acquisition.

A plan has been prepared to show why each of the plots is sought. This is attached. I deal with each of the plots in turn below.

I can confirm that you were right in pointing out a discrepancy in a number of the plans. On behalf of my client I can only apologise for the discrepancy, but can confirm the currently proposed land acquisition, if compulsory powers have to be used, is as set out in the table below.

The relevant plans

A number of plans show what is proposed for [REDACTED] and there is indeed inconsistency in them. I set out below the plans that are correct, followed by the plans which my client will be requesting are substituted by revised plans showing the correct position.

Please note, where I refer to document references below (in square brackets) these are the references allocated by the Planning Inspectorate for the purpose of the examination.

A full list of the documents admitted into the examination can be found on the project web pages by clicking the blue Examination Library button under the Documents tab.

My client is also required to maintain an up-to-date Guide to the Application – also available on the project page – which lists all of the application documents. You may also find this useful as it lists both my client's 'application reference' and the Planning Inspectorate's 'examination reference' for each document/plan submitted.

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The relevant plans with the correct designations are:

Land Plan [AS-012] – plots 05/85 and 05/86 (west of the M5), plots 05/151 and 05a/05 are all shown for freehold acquisition.

Important Hedgerow Plan [APP-048] – extent of land labelled as "Lodway Construction Compound" is correct.

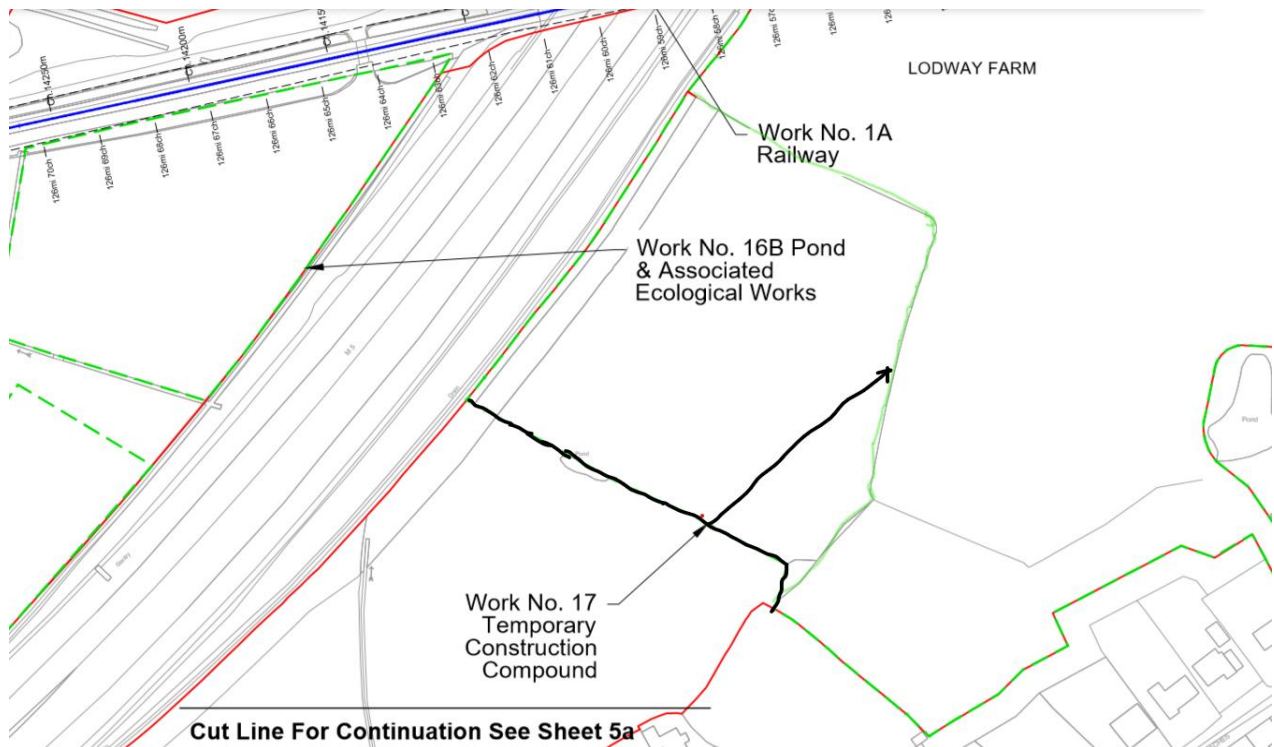
Plans requiring correction:

Works Plan [AS-013] – this shows part of the land forming plot 05/151. This incorrectly included within the boundary for Work No. 17, the temporary construction compound on Lodway Farm.

General Arrangement Plans [APP-010] – again part of plot 05/151 is incorrectly shaded blue to suggest that it is part of Work No. 17 – the construction compound.

Compound, Haul Road and Access to Works Plan [APP-024] – part of plot 05/151 is incorrectly shaded to suggest it is part of the Lodway Farm construction compound.

In an attempt to assist I've prepared an annotated version of the Works Plan to show you how the Lodway Compound will be shown in the amended plans. Those amended plans should be available next week. My rough sketch of the proposed change to the Works plan Sheet 5 is below:



Why the plots have been included in the Order Land and what is proposed for your land

The table below sets out, by reference to the enclosed plan, why each of the plots scheduled in the Order that are held by you and your brother are included in Order lands.

Plot No.	Reason for acquisition	Nature of acquisition if acquired compulsorily	Comments
05/85 and 05/86	Ecological mitigation works and flood mitigation	Freehold acquisition	Freehold acquisition is proposed for the land between the railway and the M5 (accessed by the accommodation bridge next to the M5) because the land is suitable for Great Crested Newt relocation and also for some minor flood mitigation. Further communication regarding this plot will be undertaken with you and other interested parties shortly.
05/151	Reptile relocation	Freehold acquisition	These plots are proposed to be acquired freehold because reptiles need to be relocated before the ballast from the existing Portishead railway line, and the area before Pill Goods Yard, can be cleared of reptiles and ballast replaced. It is anticipated that the reptiles are likely to migrate back to the railway over time. The need however is to secure the land for a sufficiently long time to allow for this to happen – about 6-8 years. It is not possible to acquire land by way of lease. The length of time needed to monitor the reptiles is longer than would be appropriate for temporarily powers to be sought. The compulsory powers sought can therefore only be freehold acquisition but my client would hope that agreement between the Applicant, yourself and your brother can be reached to allow the Applicant to take a lease of this plot.
05a/05	Reptile relocation	Freehold acquisition	

Concluding remarks

Once again I must apologise for the confusion in the plans and I am grateful to you for pointing out the discrepancies to my client.

My client will now be requesting the substitution of a number of our plans to make it completely clear that the Lodway Farm compound does not extend into the [REDACTED]

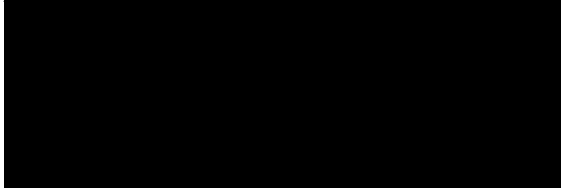
I would hope that the clarification can be accepted by the Panel for the compulsory acquisition hearing on 4 December. In any event this letter has been provided to the Inspectorate for information today and will be appended to the Applicant's formal response to submissions made at the Open Floor Hearing.

My client's agents will be in contact with yours shortly to discuss how to proceed by way of agreement, if that is possible.

I will notify you when updated works, haul roads and access plans and general arrangement plans are to be made available to the Examining Authority.

I will also arrange for a copy of this letter to be provided to Greenslade Taylor Hunt.

Yours sincerely



Richard Guyatt
Partner
Womble Bond Dickinson (UK) LLP










c.c. Metrowest1 Metrowest1@planninginspectorate.gov.uk

Enclosure:

1. Plan

The Portishead Branch Line (MetroWest Phase 1) Order 2021

Key:

-  Limits of Land to be Acquired or used
-  Land to be Acquired
-  HMLR Titles
-  Land Contouring
-  GCN Enhancement Area
-  Reptile Receptor Site
-  New GCN Pond
-  Reptile/GCN Hibernacular
-  Temporary Newt Exclusion Fence

Colourings on plans showing nature of acquisition is indicative only and nature of interest to be taken may change.

Plots contained within ST216097:

- 05/85 - Area: 25343.49 sqm / 6.263 acres
- 05/86 - Area: 73.18 sqm / 0.018 acres
- 05/151 - Area: 30334.73 sqm / 7.496 acres
- 05a/05 - Area: 14626.95 sqm / 3.614 acres

Title:
**The Portishead Branch Line
 (MetroWest Phase 1) Order 2021**
 Stephen James Bullock & Susan
 Elizabeth Freestone
 Environmental Mitigation Overlay
 Sheet 1 of 1

Scale: 1:1250 @ A3


Dwg Ref:
 Stephen_Bullock_Susan_Freestone_R1.dwg

Plan Ref:
 Stephen_Bullock_Susan_Freestone_R1

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Date: 23.10.2020	Drawn by: G.J
Rev: 1	Checked: C.P

