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National Infrastructure Planning  
Temple Quay House  
2 The Square  
Bristol  
BS1 6PN

**Our ref:** WX/2019/133441/01-L05  
**Your ref:** TRO40011  
**Date:** 23 November 2020

Dear Sir/Madam

**METROWEST PHASE 1 DEVELOPMENT CONSENT ORDER (DCO) APPLICATION  
EXAMINATION DEADLINE 2 – SUBMISSION OF WRITTEN REPRESENTATIONS  
ENVIRONMENT AGENCY REFERENCE 20025331**

Thank you for the opportunity to provide formal written representations in respect of the above.

The Agency has undertaken a detailed review of the documentation submitted in support of the proposal, which is viewed as pertinent to its specific interests. Additionally, the Agency has maintained direct liaison with the applicant, with a view to clarifying a range of issues, including aspects of the submitted flood risk modelling data sets and associated detail. Accordingly, please find hereunder the Agency's formal representations, which detail its current position in respect of the proposal, in terms of its functional and related interests:

**1. Flood Risk**

The Environment Agency's flood risk maps show the DCO application area to be within tidal Flood Zone 3 and Flood Zones 3b, 3a, 2 and 1 (fluvial and tidal). Accordingly, the application area has a high probability of flooding.

The Flood Risk Assessment (FRA) submitted in support of the proposal, has demonstrated that part of the site is in functional floodplain (Flood Zone 3b) and will, as a consequence, flood at a return period as low as 1 in 5 years at present. With the predicted impact of climate change, the frequency of flooding (and flood depth) increases to a potential 5 times a year in 2115.

The FRA has, in addition, demonstrated it is not possible to mitigate the flood risk on the line without increasing flood risk to third parties. Therefore, the proposed development would remain in flood zone 3b and, as a consequence, will not be operational during a

flood event. Accordingly, an appropriately detailed Emergency and Evacuation Plan will be essential to ensure the safety of the line and its users (see '**Emergency and Evacuation Plan**' hereunder)

The proposed development has been classified by the applicant as 'Essential Infrastructure' development, as defined in Table 2 (Flood Risk Vulnerability Classification) of the Planning Practice Guidance (PPG).

### **1.1 Sequential Test and Essential Infrastructure in Flood Zone 3b**

The National Planning Policy Framework (NPPF) states the aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.

The submitted FRA advises the flood risk Sequential Test has been applied and passed. The Agency acknowledges that the fundamental nature and objectives of the proposal, effectively precludes the use of other sites at a lower risk of flooding.

The NPPF further advises that if it is not possible for development to be located in zones with a lower risk of flooding (taking into account wider sustainable development objectives), the Exception Test may have to be applied. The need for the Exception Test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification set out in national planning guidance.

The PPG (Flood Risk and Coastal Change) identifies that Essential Infrastructure development is permissible in Flood Zone 3b, subject to the application of the Exception Test.

### **1.2 Exception test**

The NPPF states the application of the Exception Test should be informed by a site-specific flood risk assessment. For the Exception Test to be passed it should be demonstrated that:

- a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and
- b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

The NPPF further advises that when determining planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:

- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
- b) the development is appropriately flood resistant and resilient;

- c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
- d) any residual risk can be safely managed; and
- e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

The Agency has reviewed the submitted FRA and is of the view it does not currently comply with the requirements set out in the Planning Practice Guidance (Flood Risk and Coastal Change). The Agency requires the submission of additional information for review and an update of the FRA, to ensure an appropriate assessment of the flood risks arising from the proposed development. Please see details hereunder:

### **1.3 Modelling**

The proposal's design lifetime has been agreed as 60 years, however all models and the scheme itself, have been assessed for flood risks up to a 100 year lifetime.

The Agency has reviewed the latest modelling submission for the proposal (March 2020 model) and have concluded the model, as submitted, is insufficient. Accordingly, the Agency has requested additional information for review. The applicant is currently in the process of submitting the requested details.

#### **1.3.1 Coastal Flooding (Portishead to Pill)**

The FRA uses the Agency's Coastal Model (North Somerset Coast Flood Warning Improvements 2012) which was updated and adapted for the proposal.

The proposed development area is currently protected from coastal flooding by flood defences, up to the present day 0.1% (1 in 1000yr) annual probability flood event. The defences will continue to offer protection over the 60 year lifetime of the development for the 0.5% (1 in 200) annual probability flood event, but not the 0.1% (1 in 1000). The defences will not protect the site for a 100 year lifetime.

The FRA includes a breach analysis, undertaken to assess the residual risk to the site, in the event the Sea Commissioner's Bank fails. The technical notes (Appendix M) concludes that a breach of the Sea Commissioner's Bank would not affect the scheme now and in the future.

#### **1.3.2 Easton in Gordano Fluvial Flooding**

The Environment Agency modelled the floodplain using JFLOW at this location however, in order to accurately assess the flood risk, the FRA relies on a purpose built TuFLOW 1D-2D linked model, focusing on the area between the M5 and the railway line.

The FRA concludes the Portishead to Pill section of the scheme is above the fluvial and tidal 1 in 1000 year flood level, for present and future scenarios (2075 and 2115). However, this relies on a flood relief channel in the form of a farm access track running under the railway line. As a result, appropriate provisions are required within the DCO, to ensure the farm access track will be maintained for the lifetime of the development.

At that location, the railway needs to be realigned, which will result in a loss of floodplain storage. The model has identified a loss of floodplain storage of 75.5 m<sup>3</sup> as a result of realigning the railway.

Following the submission of the FRA and the model for review, a telephone conference between the Agency, Bristol Port and the applicant's representatives, took place on 20 Oct 2020, to discuss the floodplain compensation issue. On the basis of the identified volume of lost floodplain storage (75.5 m<sup>3</sup>) the Agency confirmed that it would not require the provision of floodplain compensation. Accordingly, all relevant supporting documentation, including the FRA and model report, must be updated to reflect the outcome of the meeting.

### **1.3.3 Drove Rhyne Model**

The Environment Agency modelled the floodplain using JFLOW at this location. However, in order to accurately assess the flood risk, the FRA relies on a purpose built TuFLOW 1D-2D linked model, representing the Drove Rhyne channel and catchment from the flapped outfall to downstream of the M5 Motorway.

The FRA concludes the proposal is above the modelled 1000 year return period Drove Rhyne flood level for the present day (2015) and future (2115) scenarios, and is not considered to be at risk of flooding from Drove Rhyne.

The FRA states the railway will be raised by 200mm (paragraph 4.2.34 p4.13), with no change to the culvert size. The FRA concludes the flood risk impact of the scheme is negligible and there is no need for a post development model. Unfortunately, the FRA does not detail how the railway line will be raised and whether there will be a need to widen the embankment as a result. If this is the case, would there be any loss of floodplain as a result of a wider footprint and a consequential need for appropriate floodplain storage compensation?

The Agency would reiterate that any works in, over, under or within 8m of a culverted main river will require a Flood Risk Activity Permit (FRAP) from the Agency, prior to the commencement of works. The applicant will need to demonstrate the structural integrity of the culvert will be maintained for the lifetime of the proposed development. Additionally, the Agency would advise there must be no additional flows into the culverts from surface water runoff.

During a meeting on the 10 December 2014, discussions included opportunities to deliver wider benefits as part of the works in the vicinity of Drove Rhyne. There is no indication in the FRA that this work is proposed. Clarification from the applicant regarding this matter would be appreciated.

### **1.3.4 Bower Ashton / Ashton Gate Area**

The proposed development is at risk from both fluvial flooding from the Colliters Brook and Longmoor/Ashton Brook and tidal flooding from the river Avon. The FRA has used the existing Bristol City Council's Central Area Flood Risk Assessment (CAFRA) model, which has been developed further for the proposal.

For information, the March and August 2020 version of the CAFRA model has been reviewed by the Agency. A number of aspects need to be further reviewed in the model (see review certificate for details). The Agency is currently awaiting additional

information to complete the review.

Proposals to increase in the height of the railway by 150 to 200 mm at this location, to alleviate flood risk, have proved impracticable without increasing flood risk to third parties. As a result, the railway line will remain at its current height and will therefore, be subject to increased depth and frequency of flooding during its lifetime. The only part of the proposed development that will be raised, with mitigation provided, is Clanage Road compound and ramp (see hereunder).

The model demonstrates that for a 200 year return period, the normal design standard for tidal flooding, the flood depth on the line is 970mm at present, 1330mm within the lifetime of the proposed development and 1930 mm for the 100 year future scenario. With regard to the onset of flooding of the railway line (for the present day) the line is at risk of 150mm of flooding for a return period between 5 and 10 years. Within its lifetime, it increases to 440mm for a 1 year return period, and to 1020mm within a 100 year for 1 year return period.

Network Rail has advised that the depth of flooding on the line is not an issue for them, on the grounds they are unable to operate the line when it is flooded. However, the frequency of flooding is an issue. With climate change, the model demonstrates both the frequency and depth of flooding increases, which will lead to more frequent and longer disruptions on the line and therefore passenger services.

The FRA compares the flooding at this location to the 2013/2014 floods on the Somerset Level and Moors (SLM) and is expecting the recovery of the line to be relatively rapid. However, the nature of flooding at Bower Ashton will be different from the SLM, in terms of duration, wave impact, water velocity and silt deposition/removal. It is not clear in the FRA if the above issues have been taken into consideration when assessing the actual impact of flooding and the consequential closure of the line.

The FRA indicates the CAFRA model overestimates the flood risk. It is acknowledged that there is always a degree of uncertainty when predicting flood risk using a model however, the model represents the best available information. Regardless of any uncertainty, the risk of flooding and its attendant safety impacts, remains high.

Accordingly, the frequency and depth of flooding remains a concern.

### **1.3.5 Clanage Road**

The proposal provides for the construction of a permanent maintenance compound at Clanage Road, together with a ramp to access the railway. The site is currently located within functional floodplain (flood zone 3b), the highest risk flood zone. The proposed works at Clanage road would increase flood risk to third parties however, the FRA has assessed potential mitigation options. The options include the lowering of land within the compound area to 7.5, 7.4 or 7.3m AOD to compensate for the loss of floodplain due to the proposed ramp.

It is not possible to provide level for level floodplain compensation at the site however, the model shows that volume for volume compensation can be provided by lowering ground levels. The FRA states the preferred mitigation option is to lower the ground level to 7.4m AOD, which would result in an increased flood risk to some properties of 1mm, which the FRA contends is negligible and within model tolerance. It is acknowledged the indicated increase in flood risk is low however, the Agency would

prefer the lowering of ground levels to 7.3m AOD, which would have no impact on third parties.

The FRA fails to demonstrate the compound area will be safe. Accordingly, full details must be submitted in respect of a safe (dry) access/egress route.

Additionally, further details are required in respect of how the compound area will be used, including any welfare unit/porta cabin on site, which will necessitate appropriate compensation. The Agency must, in addition, request the provision of additional information regarding:

- the finished floor level of any proposed building(s) on site,
- provision of a safe refuge on upper floor (where applicable).

The Agency remains concerned regarding the location of the proposed storage compound, on the grounds no materials, permanent or temporary, should be stored with Flood Zone 3b, unless the materials can be moved outside the flood zone at short notice, or additional flood storage compensation provided. Additionally, any materials stored must not present a pollution risk.

The FRA does not make any provision for floodplain compensation for temporary works. The submitted assessment reports a low risk of flooding due to the temporary storage of plant and material on the floodplain. Floodplain compensation needs to be provided for any temporary buildings and/or storage facilities within flood zone 3. As advised, land within Flood Zone 3b should not be used for storage purposes, unless the materials can be moved outside the flood zone at short notice, or additional flood storage compensation provided. Again, any materials stored must not present a pollution risk.

#### **1.4 Breach Analysis**

Breach analysis has been undertaken for coastal defences. The technical notes, (Appendix M), concludes that a breach of the Sea Commissioner's Bank would not affect the proposed development, now or in the future.

The bank of the river Avon at Bower Ashton, consists of naturally high ground and therefore, there is no requirement to run a breach analysis for that location. However, there is the potential for the Longmoor tunnel and the Colliters Brook system to fail. It is important to note that a valve on the outlet of the Longmoor tunnel, could fail either open or closed. Both scenarios would have consequences in terms of flooding the railway, which must be assessed, together with the potential impact on the railway, in the event of the Longmoor tunnel collapsing.

The Agency is initiating a project to invest in the Longmoor/Colliters Brook system and will review options to work in partnership with any parties benefitting from the project.

#### **1.5 Flood Risk Activity Permits and Maintenance**

Any works within 8m of a non-tidal main river and 16m of a tidal river (and potentially any works within the floodplain) are likely to require a prior Flood Risk Activity Permit (FRAP) from the Agency. For information, it can take up to 60 days to determine a permit.

The Agency must strongly advise the applicant to apply for any requisite permits at the

earliest opportunity, due to the complex nature of the proposals, which would necessitate the coordination of numerous functions within the Agency.

It is noted the FRA has not identified land in the Agency's ownership, however the FRA confirms that Agency access will be maintained at all times during the construction and operational phases.

Culverts will need to be surveyed to ensure they are structurally sound and sufficient in respect of any proposed works. Any deficient culverts will need to be repaired or replaced on a like for like basis, which will require a FRAP from the Agency, prior to works commencing.

## **1.6 Emergency and Evacuation Plan**

It is important to note that it is considered unsafe for people to walk through flood water greater than 300mm in depth. The FRA shows a depth of flooding greater than 300mm on the line for very low return period events, both in present and future scenarios.

Appendix T provides details of a proposed emergency response in the event of flooding, however, it appears to only detail how Network Rail staff will be organised to monitor and survey structures along the railway line and risks during the construction phase at Clanage Road. Although such provisions are required, the plan, in its current state, is incomplete. The plan is required to make appropriate provisions to ensure the safety of passengers, including those potentially stranded on the line and at stations, members of staff and any other party that could potentially be adversely affected.

Additionally, the Agency must advise that the plan provides for flood risk due to climate change and the potential breach of defences. It must consider how much advanced notice would be received and the time required to initiate emergency procedures e.g. the time required to safely evacuate passengers and staff from a stranded train and/or affected stations.

The Agency would further advise that the emergency plan should detail what actions are required, prior to the occurrence of a storm, to prevent erosion and blockages and the actions required to safely remove any blockages during a storm event.

It is important to note the assumption detailed in Section 8.6.4 p 8.9 is not correct. Rainfall and storms could potentially influence sea level differently along the coast and therefore flooding could potentially occur at any time along the line. Emergency and access arrangements in respect of stations and car parks, need to be evaluated on their own merits.

Accordingly, the Agency must request confirmation of the applicant's intention to extend the provisions of the proposed Emergency Response Plan outlined in Appendix T and as detailed under Requirement 5 (CEMP). All emergency and evacuation procedures detailed within the requisite plan, must be to the satisfaction of the local authority's Emergency Planning Officer.

## **1.7 Climate Change**

A Climate change factor of 25% was originally applied to the Colliters Brook. The Agency has reviewed the models and can confirm that the model was run using 40% and 70% uplift for climate change.

Notwithstanding the above and as previously advised, the climate change information in the supporting FRA is confusing. Accordingly, section 5 of the FRA must be reviewed and updated in line with the climate change factor actually used in the model.

## **1.8 Surface water**

The Agency will not accept any additional surface water discharges, upstream of the pumping station.

If a surface water discharge is required through an Agency defence, an appropriate assessment of the work will need to be undertaken, to the satisfaction of the Agency. Any subsequent liability and maintenance requirements, will be the responsibility of Network Rail.

## **1.9 Associated development**

The FRA (Section 7) refers to associated developments however, these have not been fully assessed for flood risk. Accordingly, details are required in respect of the developments and any potential flood risk impact.

## **1.10 Flood Risk Assessment (FRA)**

Paragraph 2.2.29 states there are 7 areas or works lying within undefended flood zone 3a and 3b. It then refers to table 4.6 of the FRA. Table 4.6 of the current FRA is not pertinent to the above issue. Accordingly, the Agency will require clarification regarding the following points:

- Which table is correct?
- The current FRA only discusses coastal flooding, Easton in Gordano the Drove Rhyne and Ashton Vale area.
- What are the 7 areas? The FRA should present all 7 areas and explain how they will be safe for the lifetime of the development.

Section 7.4.4 page 7-2 states the proposed development “*Has been designed and will be constructed to remain operational during normal conditions and in times of flood, provided it is safe for users.*” However, the current design proposal for Ashton Vale maintains the line at its current elevation, which, as detailed above, will result in an increased depth and frequency of flooding during its lifetime. This arrangement is therefore at at variance with the above statement. Clarification is therefore required regarding this issue.

With regard to Section 7.4.4 page 7-2, the Agency must advise that floodplain compensation should be provided for all loss of floodplain within Flood Zone 3, not just the loss floodplain within Flood Zone 3b (functional floodplain).

Section 10 (Mitigation) Table 10.1 page 10.3, states the residual risk is likely to be mitigated by future strategic tidal flood defences in Bristol. The Agency has previously advised the applicant that it is not acceptable to rely on the proposed strategic defences to mitigate residual risk. For information, the Agency is working with Bristol City Council in respect of future strategic flood defences in Bristol however, proposals are at an early stage and there remains a degree of uncertainty regarding actual delivery.

## 2 Contaminated Land and the Water Environment

Prior to the submission of the Metrowest DCO application for examination, and to an extent as part of examination process, the Agency has undertaken a detailed review of various land contamination documents, and pertinent technical portions of other formal documents. These documents had been submitted by the applicant and relate to the potential for contamination, or actual contaminative conditions, encountered within the application area, or portions of that area. The documents previously reviewed, in response to which the Agency provided formal comments, are detailed hereunder:

- Preliminary Environmental Information Report (PEIR) - Portishead Branch Line (MetroWest Phase 1) - Consultation from 23 October 2017 to 4 December 2017 Under Section 42 Planning Act 2008;
- 'Environmental Statement, Volume 2, Chapter 10 Geology, Hydrogeology, Ground Conditions and Contaminated Land'
- Appendix 17.2 of the 'PORTISHEAD BRANCH LINE DCO SCHEME ENVIRONMENTAL STATEMENT';
- Portishead Branch Line (MetroWest Phase 1) - Planning Inspectorate Reference: TR040011 Statement of Common Ground (*undated but reviewed and commented on in September 2020*);
- 'DISCUSSION DRAFT' of CH2M's report entitled 'Construction Environment Management Plan - Portishead Branch Line (MetroWest Phase 1) DCO Scheme'
- A report by ARUP entitled 'Network Rail - MetroWest Phase 1 - Track Bed Report - W1097B-ARP-REP-ETR-000008 - A04 | 12th January 2018'
- A report by Structural Soils entitled 'ARUP FACTUAL REPORT on GROUND INVESTIGATION at METROWEST - JANUARY 2016 - REPORT NO: 730673'
- A report by ACS entitled 'FACTUAL GEOTECHNICAL REPORT' the report relates to Portishead Carpark and is dated 31 January 2017.

In addition to the above reports, a number of 'Envirocheck Reports' have been submitted as part of the scheme for examination, though these contain factual information concerning a range of mapped issues, but very little interpretation. Additionally, the latter 3 reports listed above, have been submitted for the examination process as supporting documentation (APP-150) and listed as '6.25 - ES Volume 4 - Appendix 10.2 - Land Contamination Annexes B to J'. However, these reports were previously provided to the Agency under separate cover and therefore do not provide new information.

The Agency, as a regulator with responsibilities to protect the water environment, has, on numerous occasions, advised the applicant the submitted documents do not, in its opinion, provide a sufficient understanding of the potential for contamination within the application site, either in terms of the entirety of the application area, or any particular location therein. Additionally, the subsequent assessment undertaken, asserts that the risks are not significant. However, that assessment, as detailed above, is based on insufficient information.

Accordingly, the Agency is of the view the applicant has not followed best practice and in particular the Environment Agency's 'Contaminated Land Report 11 - Model Procedures for the Management of Land Contamination' (CLR11) which requires applicants to take a risk-based approach to contamination. Risks appear to have been dismissed without sufficient supporting evidence. It is important to note CLR11 has now been replaced by the Environment Agency with an on-line document 'Land

contamination risk management' (LCRM). This document is presented in a different manner, but essentially follows the same principals.

The Agency considers it important to highlight at this stage, that section 6 ('Ground Investigation and Contamination') of the 'Statement of Common Ground' document contains a range of statements the Agency's Groundwater and Contaminated Land function had previously provided. The comments were originally submitted in relation to concerns regarding the possibility of contamination within the scheme area and the potential for harm to controlled waters. The comments detailed in the Statement of Common Ground were sourced from various correspondence and were, to a degree, taken out of their original context and are listed without any proposed resolution or explanation as to why they are listed in this manner.

In view of the Agency's continued concerns regarding this issue, it is considered essential that the perceived gaps in the land contamination work undertaken thus far, are addressed through appropriately worded Requirement(s) attached to any approved DCO. It is noted the draft Requirement 17 (Contaminated land and groundwater) does not provide for the submission of a verification plan, which is a standard Agency requirement. Accordingly, the Agency must request an amendment of the draft Requirement to include the following provision:

*'A verification plan must be submitted providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.'*

Additionally, the Agency must request the inclusion of the following provision within an amended Requirement 17, or as a separate Requirement:

*'If, during development, contamination not previously identified is found to be present at the site, no further development (unless otherwise agreed in writing with the LPA) shall be carried out, until the developer has submitted a remediation strategy to the LPA detailing how this unsuspected contamination shall be dealt with and obtained written approval from the LPA. The remediation strategy shall be implemented as approved.'*

Such a provision is considered by the Agency as normal practice.

### **3 Waste Management**

Document APP107 (Materials and Waste) 12.9.3 indicates a degree of uncertainty regarding the management of wastes produced on site, or wastes being brought onto site for construction purposes, stating:

'There is also limited additional information available at this stage regarding:

- The Principal Contractor's design and procurement decisions, particularly those involving the selection of construction materials, products and concrete additives etc.;
- The materials arising on site that likely to be recycled and reused within the DCO Scheme to replace materials sourced from off site;
- Whether any imported materials from recycled or secondary sources are regulated under the Environmental Permitting Regulations 2016 (as amended);
- The reuse on site of materials generated from construction, demolition or excavation activities; and the chosen waste management methods / locations (recycling, recovery, disposal) for those surplus materials and wastes that cannot be reused on site;

- Whether waste be stored on site prior to reuse or removal from site; or whether waste be treated or processed on site prior to reuse or removal from site;
- The chosen waste management methods (recycling, recovery, disposal) and precise geographical locations for managing each waste stream that cannot be re-used on site.'

Additionally, APP107 (Materials and Waste) 12.6.22 indicates that the 36,000 tonnes of construction, demolition and excavation wastes expected to arise from the construction of the proposed development, are likely to be predominately reused on site or segregated and sent for off-site reuse, recycling or recovery within Network Rail's National Delivery Service and the West of England sub-region (i.e. minor magnitude of impact). Accordingly, no details are provided in respect of where these wastes are going to be managed off site, or the Environmental Permissions under which the wastes will be managed.

It is noted document APP211 (CEMP) 9.2.17 advises:

*'The contractor will segregate waste on site so that waste materials can be diverted from landfill through reuse, recycling and recovery. In most cases sorting materials on-site is the most effective way to achieve higher reuse and recycling rates and, by avoiding transport of materials off-site to be sorted by a waste management contractor, assists in reducing costs and the volume of waste disposed to landfill.'*

The draft Statement of Common Ground 9.1.8 and 9.1.9 states it is proposed that waste ballast is to be stored at the Portbury Hundred and Lodway compounds.

As indicated above, there is clearly a degree of uncertainty regarding proposed waste management arrangements. Accordingly, the Agency, as the regulatory authority, will require full details from the applicant regarding proposed wastes activities.

The Agency would welcome clarification of the applicant's intentions regarding the submission of the requisite details. Is it intended to resolve the aforementioned uncertainties during the examination process, or through any subsequent submission pursuant to the discharge of the proposed Site Waste Management Plan, submitted in accordance with proposed Requirement 5 (CEMP)?

#### **4 Environmental Management (Pollution Prevention)**

The Agency has previously advised the applicant in respect of the measures required to prevent pollution of the water environment and the specific regulatory requirements pertinent to the proposed development. A review of the relevant supporting documentation indicates an appreciation of the measures required.

The Agency must be formally consulted in respect of any subsequent submission pursuant to the discharge of the proposed Pollution Incident Prevention and Control Plan, submitted in accordance with proposed Requirement 5 (CEMP). The plan must demonstrate a detailed understanding of the pertinent regulatory authorisations.

#### **5 Biodiversity**

The Agency has previously requested full details regarding how any loss of biodiversity, resulting from the proposed development, will be compensated through mitigation and enhancement, which must result in a net gain in biodiversity. It is noted the Examining Authority has raised this issue with the applicant in its first written questions (Ref: BIO.1.19). Accordingly, the Agency awaits further details from the applicant.

## **6 Environment Agency Land Interests**

The Agency's Relevant Representation (RR – 013) advised in respect of the Agency's land interests in the vicinity of the proposed route.

Discussions are ongoing in respect of how each of the parcels of land, where the Agency is in occupation, or has an interest, will potentially be affected by the proposal and whether any impact will be on a temporary or permanent basis. Whether it is permanent or temporary, the Environment Agency will need to ensure suitable arrangements are in place, to enable it to continue to work operationally from the areas of land in question.

It is deemed essential to ensure that, if the proposal would affect any of the Agency's land interests, it does not put the Agency in breach of any of its obligations, under agreements associated with any land affected.

There is currently a degree of uncertainty regarding the applicant's intentions in respect of land identified by the Agency as pertinent to its interests. Therefore, until such time as the applicant's intentions and any potential operational and legal implications have been established, the Agency is unable to provide a definitive response in respect of this matter (please see Protective Provisions hereunder).

## **7 Protective Provisions**

The Applicant does not seek to disapply any legislation which relates to the Agency's consenting regimes and therefore it is unlikely the Agency will require provisions in the form currently detailed in the draft DCO, setting out a separate consenting regime. However, as mentioned above, the proposed development potentially affects Agency land interests and therefore, it may require protective provisions in relation to those interests.

As stated above, there is currently uncertainty regarding the extent of any adverse impact on Agency land interests. For information, the Agency has not been able to fully investigate this matter, as a result of restricted access to its offices, due to the Covid situation. The Agency expects to be in a position to assess this matter shortly and therefore, discuss the issue with the applicant. Accordingly, the Agency will update the Examining Authority in respect of this issue at an appropriate point in due course.

## **8 Statement of Common Ground (SoCG)**

The Agency must advise that it does not consider the format or content of the SoCG to be appropriate. Where possible, a SoCG should provide a concise, focused, easy reference document, clearly identifying all relevant issues, where agreement has been attained or otherwise. Unfortunately, the submitted document provides a duplication of lengthy extracts of text from previous correspondence, rather than a more conventional summary of issues. As advised, the comments detailed were sourced from various correspondence and were, to a degree, taken out of their original context.

Accordingly, the document is not considered appropriate to address the issues detailed in the Agency's Relevant Representations.

Should you wish to discuss any specific issues detailed above please contact the undersigned.

Yours faithfully

**Dave Pring**  
**Planning Specialist**

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