



MetroWest+

Portishead Branch Line (MetroWest Phase 1)

TR040011

Applicant: North Somerset District Council

9.24 ExA.ISH3.D4.V1 – Appendix 1 to Applicant's Oral Case and response to Representations at the Issue Specific Hearing 3 (ISH3)

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The Applicant's case in support of Whitebeam Planting Package 1 and the provision of woodland compensation measures on Network Rail land

1. INTRODUCTION

This document has been prepared to support the Applicant's case for Whitebeam Planting Package 1 and the provision of woodland compensation measures on Network Rail land, following Issue Specific Hearing 3 on Environmental Matters on 12 January 2021.

There are currently two alternative proposals for both whitebeam planting and woodland compensation under consideration as part of the DCO application. For both whitebeam planting and woodland compensation, the Applicant has proposed alternative options involving the use of Forestry Commission land to address concerns that have been raised by Natural England in about the compensation proposals originally submitted with the DCO application in November 2019. Although it would be possible for the woodland compensation measures to be delivered across parcels of land on both Network Rail land and Forestry Commission land, it is the Applicant's intention that all woodland compensation measures would be provided on Forestry Commission land if that is secured. Natural England has confirmed that it is satisfied with these alternative proposals for both whitebeam planting and woodland compensation.

While the Applicant expects that it will be able to deliver the alternative whitebeam planting and woodland compensation options involving Forestry Commission land, the Forestry Commission land has not yet been formally secured to provide these measures. Consequently, this note is being submitted in support of the Applicant's original compensation proposals for whitebeam planting and woodland compensation (as modified), which are retained in the scheme as a contingency until the Forestry Commission land can be secured.

2. SUMMARY OF ALTERNATIVE PROPOSALS FOR WHITEBEAM PLANTING AND WOODLAND COMPENSATION

As set out in the Report to Inform the Habitats Regulations Assessment submitted with the Application (AS-027), there are three effects on the Avon Gorge SAC that give rise to a need for compensation measures to be provided as part of the DCO scheme. These are:

- (1) loss of up to 0.73 ha of Tilio Acerion woodland, a priority habitat and qualifying feature of the SAC;
- (2) loss of 0.06 ha of Festuco-Brometalia grassland, a qualifying feature but not a priority habitat; and
- (3) loss of up to 27 rare Whitebeam Trees, not a qualifying feature but a key species of the Woodland.

Compensation for loss of the grassland can only be provided on Network Rail land. Further information on the proposed grassland compensation measures has been submitted as part of the Applicant's Deadline 4 submissions.

Following the submission of the DCO application, Natural England expressed concerns with the Applicant's compensation proposals in relation to the location of the proposed woodland compensation on Network Rail land and two of the proposed planting sites for new whitebeam

There are two aspects to Natural England's concerns with the Applicant's original compensation proposals:

(1) The first is the point made by Natural England of the possible difficulty in distinguishing between the works of positive woodland management that Network Rail are obliged to carry out under "normal practice" as conservation measures under Article 6(1) of the Habitats Directive and compensatory measures under Article 6(4) of the Habitats Directive. For this reason, Natural England expressed their preference for the compensatory measures to be on land owned by the Forestry Commission.

(2) The second is Natural England's concerns about the use of Nightingale Valley Site 1a and Miles Dock for replacement Whitebeam planting on the basis that the proposed planting could adversely affect existing species on these sites.

These issues are considered in detail in Sections 3 and 4 below.

Alternative woodland compensation proposal

To address Natural England's concerns about the proposed woodland compensation sites on Network Rail land, the Applicant has identified an alternative site for positive management of woodland entirely on land occupied by the Forestry Commission land adjacent to the SAC, a total area of 3.14 ha from which the 1.45 ha needed could be made available for positive management measures. It could be possible for the 1.45 ha of positive woodland management to be provided from an aggregation of areas across both Network Rail and Forestry Commission land. However, it is the Applicant's intention (with support from Natural England) that if use of the Forestry Commission land is secured through legal agreement then all positive woodland compensation measures will be undertaken on Forestry Commission land. There are now two alternative options for proposed woodland compensation: a series of sites on Network Rail land or a single site on Forestry Commission land. The woodland compensation proposals on Network Rail and Forestry Commission land are summarised in Section 11.3 of the Report to Inform Habitats Regulations Assessment version 02 (HRA) [AS-027]. The proposed locations of the woodland positive management measures are shown in Figures 1 and 4 of Annex F of the Avon Gorge Vegetation Management Plan (AGVMP) [AS-044].

Alternative whitebeam planting sites

To address Natural England's concerns about the proposed whitebeam planting sites, the Applicant carried out further investigations and modified the planting proposals on all three planting sites. The Applicant also put forward an alternative proposal for whitebeam planting which replaces the two of the planting sites (Nightingale Valley 1(a) and Miles Dock Embankment) with a new planting site on Forestry Commission land within the Avon Gorge Woodlands SAC. This site is known as the red oak plantation site. There are now two alternative proposals for whitebeam planting:

(1) **Package 1** (original proposal as modified), which is entirely on land occupied by Network Rail;

- Site 1 (a) and (b) Nightingale Valley - east-facing embankments between the freight line and River Avon Tow Path
- Site 2 Embankment between the operational freight line and the River Avon Tow Path north of Miles Dock Bridge
- Site 3 Land above Clifton Bridge No. 2 Tunnel (southern end)

2) **Package 2** (alternative proposal), which is on a combination of land occupied by Network Rail and land occupied by the Forestry Commission:

- Site 1 (part) : Nightingale Valley 1(b) (Network Rail ownership)
- Site 3: Land above Clifton Bridge No. 2 Tunnel (southern end) (Network Rail ownership)
- Site 4: Red oak plantation site (Forestry Commission ownership)

Table 4 in Annex H of the AGVMP [AS-044] and Table 11a in the Report to Inform the Habitats Regulations Assessment (HRA) [AS-027] summarise the proposals for whitebeam planting. The locations of the proposed plantings sites are shown in Figure 1 of Annex H of the AGVMP, with the detailed planting proposals described and shown in Figures 2-6 of Annex H of the AGVMP.

3. NATURAL ENGLAND'S CONCERN WITH THE USE OF NETWORK RAIL LAND FOR WOODLAND COMPENSATION: "NORMAL" MANAGEMENT VS. COMPENSATION

It is agreed with Natural England that the woodland compensation would involve positive management measures (essentially selective vegetation clearance to benefit relevant species) over twice the area of qualifying woodland lost, i.e. 0.73 ha lost so compensatory positive management over 1.45 ha. The original proposal was for these positive management measures to be located on Network Rail land within the SAC, being areas of semi-natural ancient woodland which support Whitebeam species but where the habitat quality has been adversely affected by shading and non-native species.

Natural England expressed concern that it was not possible to distinguish clearly between compensation measures and "normal" positive management (conservation measures under Article 6(1) of the Habitats Directive) that would be taken in any event to achieve favourable conservation status of the SAC. The Applicant agrees that the distinction needs to be drawn, but is of the view that the proposed measures would be additional to what would be delivered by "normal" positive management by Network Rail. Further, it is noted that Natural England's concern is not with the substance of the compensatory measures but with the ownership of the land on which they take place.

Article 6(1) of the Habitats Directive requires, for special areas of conservation, the establishment of

"... the necessary conservation measures involving, if need be, appropriate management plans specifically designed for the sites or integrated into other development plans, and appropriate statutory, administrative or contractual measures which correspond to the ecological requirements of the natural habitat types in Annex I and the species in Annex II present on the sites."

The necessary conservation measures should have the aim of maintaining or restoring the favourable conservation status of the natural habitat types and the species of Community interest.

It is accepted that this is a conceptually separate requirement to the provision of compensation under Article 6(4). Article 6(4) requires the provision of "all compensatory measures necessary to ensure that the overall coherence of Natura 2000 is protected". The criteria for such measures are summarised in the HRA, para. 11.1.4.

Compensatory measures aim to offset the negative impact of a project and to provide compensation corresponding to the negative effects on the species or habitat concerned. It does not therefore necessarily imply that the SAC will be restored to FCS (for example if it was not in FCS before the project, or if the compensation is undertaken on other land).

However, if compensation is undertaken on the SAC and includes positive management measures, these should be in addition to the measures that would be taken pursuant to Article 6(1). The Applicant has agreed this: see HRA para. 11.1.3 and SOCG 6.1.8.

Natural England considers the “normal” measures to be those detailed in Natural England’s Site Improvement Plan for the SAC (January 2015) together with Supplementary Advice, and Network Rail’s Site Management Statement and Vegetation Management Plan as they develop (SOCG section 6.1.8).

Network Rail’s SMS for the period 2018-2023 is at Appendix 9.15 of the ES [APP-143]. Appendix 6 of the SMS is the VMP. This does refer to the general removal of invasive non-native species and opening up canopies to enhance qualifying features. However, these are general measures across the whole Avon Gorge SAC over a five year period and with no obvious means of measuring compliance or success.

The Supplementary Advice referred to is the document *European Site Conservation Objectives: Supplementary advice on conserving and restoring site features*, 5 March 2019.¹ This does contain (Table, p. 15/30) reference in respect to woodland to “Invasive, non-native and/or introduced species”. The target is to “Ensure invasive and introduced non-native species are either rare or absent, but if present are causing minimal damage to the feature.” This target is one amongst numerous targets in the Advice. The Natural England advice does not provide the detail on how these targets would be achieved.

The Site Improvement Plan is prepared by Natural England: Improvement Programme for England’s Natura 2000 Sites (IPENS) Site Improvement Plan Avon Gorge Woodlands.² Invasive species is stated as a “Threat”. The proposed measure to address the issue is: “Effectively control invasive species across the site to reduce impact. Key to ensuring its effectiveness will be a coordinated approach across the whole site”. Delivery bodies are named as Bristol City Council, Forestry Commission, National Trust, Natural England, Network Rail, Downs Committee, Merchant Ventures, Clifton Suspension Bridge Trust, Trustees of the Wills Estate, Bristol Zoo. Actions given for invasive species are:

1A: Development of an Avon Gorge-wide 'Invasive species and priority habitats management plan'. The date for this was 2015-2017 but it has not been actioned.

1B: Delivery of the Avon Gorge-wide 'Invasive species and priority habitats management plan'. Designed, funded and delivered by all key landowners and stakeholders. This is said to be a 10 year programme from 2017 onwards, costing £100,000- £500,000 over 10 years. Again, this has not been actioned.

These positive management measures therefore, for whatever reason are not occurring in the form envisaged in these documents and there is no reason to suppose that situation would change. There is no detail on how they would be achieved or assurance that they will be.

This may be contrasted with the clear, focused and targeted management in specific areas proposed as part of Package 1 (Annex F, figures of the AGVMP) and the detailed prescriptions provided in Annex G of the AGVMP, which are considerably beyond the vaguer proposals of the SMS/VMP.

¹ <http://publications.naturalengland.org.uk/publication/6740736611450880>

² <http://publications.naturalengland.org.uk/publication/5021516609617920>

The Applicant considers that while the measures envisaged in the documents referred to by Natural England and the measures in Annexes F and G of the AGVMP could both be said to be “positive management”, the compensation proposed in Package 1 goes beyond what might realistically be expected to be achieved by “normal” measures as they are contemplated and as they have in fact eventuated.

Network Rail has assisted the Applicant in developing the AGVMP and is satisfied that it complements its current arrangements, both in terms of vegetation management and management of the SAC. The measures set out in the AGVMP are those that relate to the DCO Scheme. The duration of the mitigation and monitoring plans set out in the AGVMP have been designed to achieve confidence that the mitigation and compensation in respect of the DCO Scheme will be delivered.

Once the AGVMP measures have been completed, the habitat will be sufficiently established to be incorporated into Network Rail's own VMP ongoing plans for conservation in accordance with the legal obligations placed on Network Rail. Network Rail advises that it will ensure that the subsequent VMP plans (2023 – 2028 and 2028 - 2033) accommodate the DCO Scheme measures. In order to comply with its new bio-diversity standards currently under development, Network Rail will be working up VMPs to be implemented across the national rail network. As part of this process, the line to Portishead will have a detailed VMP, however this is not expected to be implemented before the construction works for the DCO Scheme are completed. This ensures that the MetroWest AGVMP is the only ‘live’ plan in place throughout the works and minimises any confusion or risk of duplication of works. Thus in practice there will be a clear distinction between the works being undertaken under the AGVMP compensation measures and the normal management activities undertaken by Network Rail.

4. NATURAL ENGLAND'S CONCERNS WITH THE USE OF NIGHTINGALE VALLEY SITE 1A AND MILES DOCK AS WHITEBEAM PLANTING SITES IN PACKAGE 1

There is no issue over the methodology or the number of replacement trees required to provide adequate compensation (54). The issue is the location of two of the planting sites in the original proposal (Package 1): Nightingale Valley Site 1(a) and Miles Dock Embankment.

Natural England’s concerns about Nightingale Valley Site 1(a) and Miles Dock Embankment are set out in paragraph 2.2.2 of Annex H of the AGVMP and are as follows:

- i. The presence of small-leaved lime and Avon whitebeam on the south-eastern side of the bridge at Nightingale Valley (Site 1a). Small-leaved lime is a key component of *Tilio-Acerion* woodland, which is a qualifying feature of Avon Gorge Woodlands SAC. However, the embankment to the north of Valley Bridge (Site 1b) is more open, obviously on made ground with lots of sycamore and no whitebeam. The made ground grades into ancient woodland.
- ii. The density of ash *Fraxinus excelsior* and the presence of small amounts of species such as small-leaved lime and field maple *Acer campestre* at Miles Dock (Site 2) suggest a correspondence with the National Vegetation Classification (NVC) of W8d *Fraxinus excelsior* – *Acer campestre* - *Mercurialis perennis* woodland, *Hedera helix* subcommunity. Although this is secondary (recent) woodland that has developed on the railway embankment, the vegetation composition corresponds with *Tilio-Acerion* woodland.
- iii. The presence of calcareous grassland at Clifton Bridge No. 2 Tunnel (Site 3), which corresponds with the qualifying *Festuco-Brometalia* grassland feature of the SAC. Natural England has suggested that grassland should be retained

and that some of the existing scrub and non-native species at this site should be cleared for whitebeam planting.

- iv. A suggestion to look beyond Network Rail land for suitable sites, hence the incorporation of the red oak plantation site on Forestry Commission land (Site 4).

Justification for Package 1 of whitebeam planting compensation

Natural England's concern [REP2-045] with Site 1a Nightingale Valley and Site 2 Miles Dock [REP2-045] is that the "Whitebeam planting sites proposed contain habitat features that are associated with the SAC/SSSI and so new planting would be likely to adversely affect those features"

In response to Natural England originally raising this concern, the Applicant undertook further studies and commissioned detailed surveys by rare whitebeam experts and an arboriculturalist in June 2019. Natural England specifically requested that, as far as possible, tree species which are qualifying features of the SAC/SSSI should be retained, in particular existing whitebeams, small-leaved lime and any other ancient woodland indicator species. There was also some uncertainty as to whether the habitats of the planting sites were ancient woodland or secondary woodland, and whether were on made ground or natural woodland floor. This is pertinent because ancient woodland has developed over centuries and is considered irreplaceable, whereas secondary woodland that has developed over a matter of decades on made ground is as a result of recent natural regeneration.

The further studies and surveys entailed the following (described in Annex H of the AGVMP):

- a. Detailed survey of existing vegetation including % dominance of each species.
- b. Detailed survey of age, height and stem diameter of small leaved lime, whitebeam and other ancient woodland indicator species.
- c. The current habitat type e.g. semi-natural ancient woodland (particularly Tilio-Acerion woodland), secondary (recent) woodland, grassland (including type) or scrub. The Ancient Woodland Inventory (MagicMap, accessed 18 June 2019) was consulted for ancient woodland status.
- d. Planting density, distances apart of planted rare whitebeam and % of total area of each site required for planting.
- e. Management required for successful planting and long-term maturity of rare whitebeam (including consideration of shading out by overtopping).
- f. Investigation of the surface substrate of the embankment between the tow path and the freight line at the Nightingale Valley Bridge and Miles Dock planting sites by hand digging 1-3 pits at each site at a depth that would be dug for planting the tree saplings and recording the type of substrate present such as ballast, rubble, rock or earth and confirming whether substrate conditions were suitable for tree planting and whether sites were on natural landforms or made ground.

At a site visit with Natural England in February 2020, the Applicant's justification for describing the Nightingale Valley and Miles Dock embankment sites as secondary (recent) woodland was given: based on the size of the trees, that they are on made ground, and that there is photographic evidence that the embankments were largely clear of trees in the mid-20th century, as evidenced in a photograph of this area dating from 1937:

www.gettyimages.co.uk/photos/avongorge1937?phrase=avon%20gorge%201937&sort=mostpopular#license (last accessed 18.01.2021).

As a result of these studies and the discussions with Natural England, the Applicant adapted its approach to the whitebeam planting. A key change from the initial proposals for complete site clearance in advance of whitebeam planting was to less intrusive site preparation. This is in recognition of the existing value of these areas of *Tilio-Acerion* woodland and the aim is to retain as much of the existing interest as possible, whilst seeking to maximise the success of whitebeam planting and establishment. The site preparation also involves the removal of any existing non-native species.

Detailed prescriptions for site preparation and planting proposals are set out in Annex H of the AGVMP.

The Applicant considers that, with the proposals for careful site preparation to facilitate the success of whitebeam establishment, the introduction of whitebeam to these areas would ultimately improve the quality of existing *Tilio-Acerion* woodland and overall benefit the qualifying woodland by increasing the number of whitebeams and removing non-native species.

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