



MetroWest+

Portishead Branch Line (MetroWest Phase 1)

TR040011

Applicant: North Somerset District Council

9.29 ExA.CAS.D4.V1 – Applicant's response to Additional Submission of Mr Stuart Tarr (AS-053)

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THE PORTISHEAD BRANCH LINE (METROWEST PHASE 1) ORDER
Applicant's Responses to Mr Tarr's Representations Submitted for ISH 2 and 3 (AS-053)

DCO Document Reference: 9.29 ExA.CAS.D4.V1

1. INTRODUCTION

1.1 This note is provided in response to the questions raised by Mr Tarr prior to ISH 2 and 3 at examination library reference AS-053.

2. The Applicant's Responses

Ref.	Mr Tarr's Question	Applicant's response
1.	IROPI/HRA	<p>As the Ham Green area is not located within a European Site of nature conservation importance, the process of Habitats Regulations Assessment (HRA) and the test of Imperative Reasons of Overriding Public Interest (IROPI) are not applicable to it.</p> <p>The Phase 1 surveys referred to were principally undertaken to identify habitats and species of flora and fauna observed during the survey, which then informed the need for and scope of further surveys. The Applicant's responses to the Relevant Representations [PDR6-005] detail the further ecological surveys undertaken at Ham Green for Pill Tunnel eastern portal compound, which are:</p> <ul style="list-style-type: none"> • Great Crested Newt survey – 2015 • Dormouse survey – 2015 • Otter survey – 2015 <p>Badger surveys were undertaken during the Phase 1 habitat survey and will be updated by a pre-construction badger survey as detailed in the Master CEMP [AS-046].</p> <p>Since the surveys identified the presence or potential for the presence of protected species, the Applicant set out in the application documents the proposed mitigation measures and licensing requirements. It is not necessary to re-survey until the pre-construction surveys.</p>

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2.	<p data-bbox="226 308 781 395">2.1 Extracts from, and responses to, the Travelwest Extended Phase 1 Habitat Survey</p> <p data-bbox="226 432 781 552">Reptiles 4.5.58 States that 'No reptiles or evidence of reptile present were recorded during the phase 1 surveys march-April 2014 & June 2016'</p> <p data-bbox="226 588 781 767">However, during their survey at the Ham Green Compound 26/05/2016 listed in figure 7, target note HG4 states that an adult Grass Snake was found under a wooden panel; this does not appear to have been covered in the report?</p> <p data-bbox="226 804 781 983">Secondly, have further more recent studies been carried out at Ham Green Lake? Dozens of Slow Worms and Grass Snakes are seen every year, often basking in residents' compost bins and tall grasses adjacent to the lake.</p>	<p data-bbox="804 308 1991 427">Account has been taken of reptiles at Pill Tunnel Eastern Portal construction and maintenance compound in the Reptile Mitigation Strategy, Appendix 9.13 AS-040. Figure 1 of this report shows that displacement of reptiles will be undertaken at the compound. Mitigation is also included in the Master CEMP (AS-046, paragraph 6.2.52).</p> <p data-bbox="804 464 1111 488">Displacement will involve:</p> <ul data-bbox="853 528 1991 743" style="list-style-type: none"> <li data-bbox="853 528 1991 584">• Habitat manipulation to displace reptiles in the active season (April to September inclusive) and overseen by an ecologist. <li data-bbox="853 624 1599 647">• A destructive search will be undertaken after displacement. <li data-bbox="853 687 1991 743">• Existing hibernacula within the construction work footprint will be dismantled and removed in the active season. <p data-bbox="804 783 1991 903">Natural England's standing advice for reptiles states that they should be displaced from sensitive areas by changing the vegetation and translocation should be a last resort. Displacement is considered to be appropriate at this site because there is adequate retained vegetation on the periphery of the compound area.</p>
3.	<p data-bbox="226 1026 781 1414">Great Crested Newts 4.5.15 The Ham Green Construction compound possesses suitable habitat for amphibians and the presence of common toads is likely. The ditch and associated ponding on the opposite side of the bridge may provide suitable habitat for Great Crested Newts as it contains suitable vegetation and known populations are located within 500m of the site. HG13 Connecting ditch with areas of ponding may have potential for Great Crested Newts 25/05/16. It is understood that Toads and Great Crested Newts are present, not just likely, the presence</p>	<p data-bbox="804 1026 1991 1174">Further great crested newt surveys concluded that Ham Green Lakes and the associated ponding detailed in the Phase 1 Habitat Survey are not considered suitable for GCNs (pond number 36, APP-119]. GCNs were identified by eDNA at pond No. 37, which is just over 250m from the proposed Ham Green compound on the other side of the operational railway (referred to as the Portbury Freight Line).</p> <p data-bbox="804 1211 1991 1331">The Applicant is aware of the great crested newt population at St Katherine's school and this is referenced in the GCN survey AS-038 paragraph 4.4.10. The pond lies approximately 300 m south of the Portbury Freight line and is therefore outside the 250m buffer zone required for consideration of GCN licensing.</p> <p data-bbox="804 1367 1991 1422">Mitigation for GCNs will be led by DLL by building new ponds off site plus good practice mitigation measures on site through displacement prior to construction. In addition, the Reptile Mitigation</p>

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	<p>of which in the pond are routinely monitored by a St Katherine's School caretaker who has a newt licence to survey them.</p>	<p>Strategy is to be retitled the Reptile and Amphibian Mitigation Strategy so as to specify measures to protect amphibians, including newts and toads.</p> <p>Measures to protect other amphibians including toads have been included in the Master CEMP and will be recorded in the Reptile and Amphibian Mitigation Strategy. The Applicant is aware of the toad migration at Chapel Pill Lane in Ham Green and will be undertaking toad surveys this year along with the surveys at Pill to understand more about the migration and use of Ham Green Lakes.</p> <p>The Applicant does not think that the toads migrate in large numbers across Chapel Pill Lane but the survey results will be used to refine any requirement for additional mitigation.</p>
4.	<p>Otters 4.5.61 - are known to be present within the vicinity of Ham Green Construction compound and a spraint was located next to the railway bridge, during the Ham Green Survey of May 2016.</p> <p>HG9 Otter Spraint found under railway bridge (26/05/2016)</p> <p>Target note 85 (2/4/2014) Large fishing lake with water lily and potential for otter.</p> <p>1.1.9 Records provided by BRERC 2014. Records of otter are present close to the Ham Lakes section near the river Avon.</p> <p>The lake owner has recently erected fences in the lower lake as a preventive measure against otter attack to the fish. Large (5lbs or more) half-eaten fish (Bream etc) have been found abandoned very close to the lake that on further investigation have provided clear evidence of otter attack.</p>	<p>The Applicant is aware of the presence of otters and mitigation and this is included in the ES Ecology Chapter 9 [AS-031].</p> <p>The design of Pill Tunnel Eastern Portal compound [APP-040] includes woodland planting at the eastern side between the compound and Ham Green Lakes to reduce disturbance of otters (paragraph 9.5.10) and the Master CEMP [AS-046 paragraphs 6.2.55 and 6.2.56] includes pre-construction survey and measures to avoid construction disturbance to otters.</p>
5.	<p>Dormice 4.5.35 - There are records of dormice (BRERC 2014) at Portbury common</p>	<p>No dormice were found during the survey at Ham Green in 2015. Further habitat assessments have since been conducted for the Applicant and a draft application for a dormouse licence is currently being prepared to submit to Natural England as required in the Master CEMP [AS-046]. The draft</p>

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	<p>and Ham Green Lake along the Portishead branch line.</p> <p>Noted: disturbance of sensitive dormice habitats is very likely for which mitigations will be very difficult.</p>	<p>licence includes mitigation set out in the Master CEMP in paragraphs 6.2.53 and 6.2.54. The loss of a small area of suitable dormouse habitat at the compound will be mitigated by new planting at the proposed permanent compound as detailed in the compound design [APP-040].</p>
6.	<p>Bats 4.5.23 - The mature trees at Ham Green construction compound, have a number of features that make highly suitable bat roosts. Cracks are also present within the railway bridge however these are classed as having low potential for bats. See Pic HG10</p> <p>Target note 84-Pill tunnel entrance, potential for bats. Ivy covering wall running up towards the tunnel. 02/04/14</p> <p>Target note 85 Large fishing lake with water lily and potential for otter. Adjacent to the lake is a section of woodland with mature oak trees and potential for bat roosting sites. A number of mature trees surrounding the lake also have splits with potential for bat roosts 02/04/14.</p> <p>Target note 86 Ivy covered maple with Bat potential taken in 02/04/14.</p> <p>Target notes HG6, HG7, HG12 (p156-p158) 2 mature Oaks with Bat Potential, 1 Mature Oak with High Bat Potential.</p> <p>It is understood that this is the oak tree (TPO No.857 dated 2nd July 2004) that the affordable for social rent housing development of 12-16 dwellings proposed in the draft Abbots Leigh, Ham Green, Pill and Easton in Gordano Neighbourhood Plan will, if built,</p>	<p>The trees identified with bat roosting potential will be retained. The two oak trees by the lake (target note HG6 and HG7) are identified to be retained on the compound design plan [APP-040].</p> <p>The oak tree in the middle of the field (target note HG12) will not be affected by the temporary right of access to the lake. The boundaries of the MetroWest project do not encroach onto the TPO within the field.</p> <p>The ash tree at Target note 86 is outside the compound area and will not be affected by the DCO Scheme.</p> <p>Bat surveys of Pill Tunnel have been completed and no bat roosts have been found, as detailed in the ES Ecology Chapter 9 [AS-031], paragraph 9.4.118.</p>

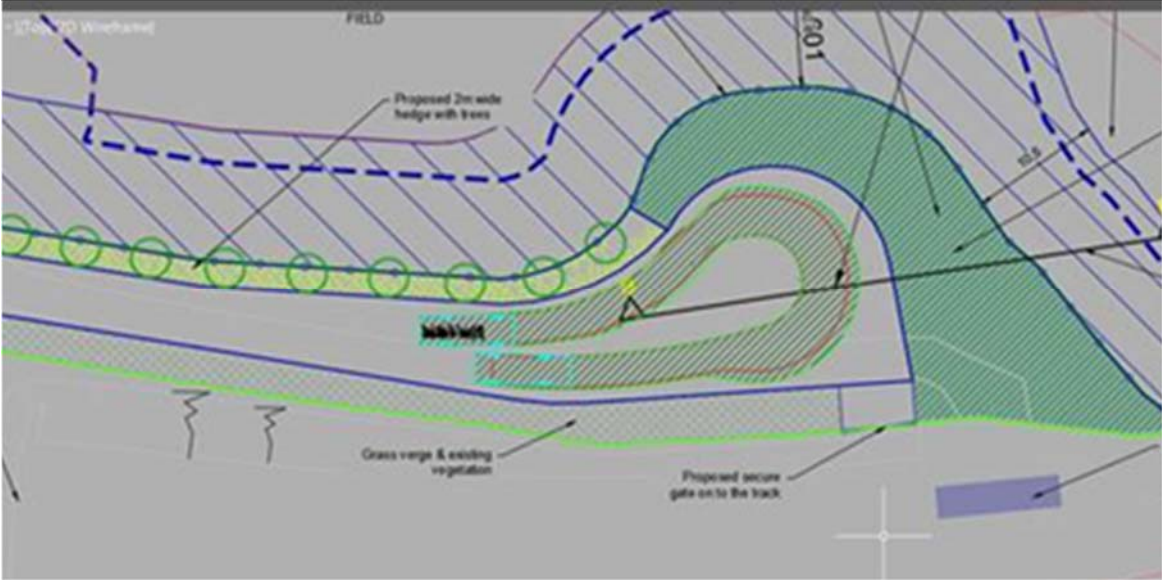
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	<p>effectively enclose. Can confirmation of this be provided and of the measures that will be taken to prevent shared access so that the development cannot proceed to threaten this sensitive site (see also the Applicant's response to Representations at the Open Floor Hearing Held on 19 October 2020).</p>	
7.	<p>Other Species</p> <p>Target note 87 - Potential fox den with 3 holes. Two on Northern bank and one of the southern bank. No signs of rabbits, holes too small for badgers.</p> <p>Red Fox attacks on domestic poultry adjacent to the lake have occurred on a number of recent occasions and the species is regularly observed passing through domestic gardens, especially at night. Whilst not an endangered species, but nonetheless still subject to a series of wildlife protection laws including humane methods of nuisance and population control, should practical mitigation steps be proposed to limit the risk of causing harm?</p>	<p>Pre-construction surveys for badgers and foxes will be undertaken and mitigation measures undertaken if necessary (Master CEMP, paragraph 6.2.58) [AS-046].</p> <p>Target note 87 is outside of the compound area and will not be affected by the DCO Scheme.</p>
8.	<p>Hedgehogs 4.5.66 -listed on S41 NERC Act 2006 are found at various locations.</p> <p>Hedgehogs have been found on land adjacent to the lake which a local rescue centre has said is an ideal location for the species to thrive; special mitigations measures to protect this valuable wildlife species which is in sharp population decline and the lakeside habitat on which it relies will be needed.</p>	<p>Measures proposed for reptiles and amphibians will also protect hedgehogs.</p>

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9.	<p>General Observations about the Survey</p> <p>Have further surveys been commissioned with reference to Appendix 9.7 - Dormice, Appendix 9.8 - Otter, Appendix 9.5 - Reptiles and Appendix 9.4 - Newts. Where can additional surveys be sourced for reassurance that the Habits Assessment is comprehensive and complete, e. g. Avon</p> <p>Wildlife Trust (AWT) has set out the state of nature in Avon in their Avon Biodiversity Action Plan (BAP) which mentions a number of species of local conservation concern include Dormice, Otters and Horseshoe Bats. A notable number of other species also appear to be missing from the assessment including Roe Deer, Stoat, Kingfisher, Woodpecker, Heron, Swift etc, or the identification of the many different species of fish inhabiting the lake. In addition, whilst quite a lot is written about the land along the railway including 4.3.13 Target Note 88 confirming the location of the geological SSSI and the plan for accommodating Slow Worms and Newts, there is no particular reference to the lake and its wildlife dependencies, or its wildlife habitat designation as a Site of Nature Conservation Interest (SNCI).</p>	<p>The ecology survey reports in the public domain are produced as Appendices 9.1 to 9.18 to the ES. These are available on the Planning Inspectorate's website.</p> <p>https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR040011/TR040011-000588-Portishead%20Examination%20Library%20(pdf%20version).pdf</p> <p>Project surveys are focussed on protected species in areas likely to be affected by the construction / operation of the scheme. There are no proposals to survey fish in Ham Green Lakes as these would not be directly affected by the scheme.</p> <p>The ES Chapter 9 Ecology and Biodiversity [AS-031] includes details of the non-statutory designated sites including the River Avon (part of) North Somerset Wildlife Site which includes Ham Green Lakes and the River Avon (part of) Site of Nature Conservation Interest (paragraph 9.4.76), The sites are also shown on Figure 9.3 non-statutory wildlife sites in APP-119. Paragraph 9.6.62 confirms that there is no anticipated direct impact and temporary indirect impacts from construction works will be managed as detailed in the Master CEMP [AS-046].</p>
10.	<p>Hearing 2: Construction Practices and Related Matters</p> <p>3.1 Grasscrete is being used for the junction at Chapel Pill Lane so why can this not be used for the track/access road? Why does the access need to be a permanent road surface, especially as</p>	<p>3.1 The area of 'grasscrete' (used here as a generic term to describe a reinforced grass surface that allows vehicles to track over the surface) at the junction is to allow for a low loader vehicle to manoeuvre onto the access track to the compound whilst maintaining the appearance of a grass verge. See APP-040 / 2.45 - 2.46 - Ham Green Highway Works Plans and Pill Tunnel Eastern</p>

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	<p>the previous access track since dismantled was able to accommodate heavy goods vehicle (HGV) movements with a temporary surface for the repair and upgrade works to the Pill Tunnel when re-establishing the rail freight line? Moreover, this would result in a more sustainable solution to protecting the openness of the Green Belt, its visual amenity, and protecting the bio-diversity of lake?</p> <p>3.2 Secondly, how often will the track be used for essential maintenance and drainage at the Pill Tunnel, for track inspections etc, and what vehicles will be required? Presumably, if there are frequent HGV movements, it would be inappropriate on highways and pedestrian safety grounds and would conflict with Network Rail's own safety regulations to share the access with the proposed social housing development referenced in the Neighbourhood Plan and which, for that reason, should be refused (see also the Applicant's response to Representations at the Open Floor Hearing Held on 19 October 2020)?</p>	<p>Portal Compound, Landscaping and Access Plan Drawing 467470.BQ.04.20-221, which shows the manoeuvre being catered for.</p> <p>'Grasscrete' is not considered appropriate on the access track as the track is also required for emergency access to the tunnel portal. Owing to the relatively steep slopes, a tarmac surface finish is considered appropriate to ensure vehicles do not skid on a grassed surface.</p> <p>The width of the access track has been minimised to 'single' lane with a passing place, and screened with a 2m wide hedge and trees.</p> <p>The temporary construction compound in this location is primarily to enable the construction of the access itself.</p> <p>3.2 Usage will be for inspection maintenance and emergencies. There will be visual track inspections and checking of the silt buster and pump for Pill Tunnel. These inspections could be weekly and 2-3 vehicles could be expected. Maintenance access will mainly be by vans or pickups. Larger vans/small trucks will only be required when works are planned that require RRV's or materials. Larger vans/small trucks should be expected circa two or three times a year.</p> <p>The adequacy of access for the housing development will be for the LPA to consider at the appropriate time. The Applicant for this Order is not in a position to comment on the proposals for access for that proposal.</p>
11.	<p>Hearing 2: Environmental Matters – Design, Landscape, Transport, Public Rights of Way</p> <p>4.1. Noting that there is no light pollution in this area whatsoever at the moment, what mitigations are proposed regarding the use of lighting at the Pill</p>	<p>4.1 No permanent lighting is proposed.</p> <p>Throughout the works, the compound will be in use and occupied by staff, however the new LED lighting used reduces light spill considerably over the 'high lumens' floodlights that were used in the past.</p>

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	<p>Tunnel compound and rail track, both during construction and afterwards? Will there be a requirement for high lumens lighting to be on during the night during construction, only during shift changes, or restricted to motion sensitive lighting only when access is needed? See also working hours below.</p> <p>4.2. How will the safety of cyclists, walkers, joggers and young families using the very narrow Chapel Pill Lane recreationally, that is part of the Pill section of the Avon Cycleway, be ensured during this phase?</p> <p>4.3. What will be the working hours during the construction phase and where will the Welfare Unit be located, presumably not adjacent to the site entrance at the top of Chapel Pill Lane? Secondly, how many construction workers are expected to be accommodated on site and how many cars/other vehicle movements can be expected on an average day? Thirdly, what is the timescale for the programme to start and finish at Chapel Pill Lane and what is the timescale for the reinstatement works on completion of the construction phase? Will the works result in possible contamination of the lake SNCI and what mitigation measures will be taken to prevent environmental</p>	<p>Lighting during construction – the Master CEMP at para 3.4 states:</p> <p><i>3.4 Site lighting</i></p> <p><i>3.4.1 Site lighting will be provided by the contractor(s) as appropriate to enable safe working conditions and security of the construction sites and compounds. A lighting plan will be included in the detailed CEMP and agreed with Network Rail and the relevant planning authority. The lighting scheme to be implemented by the contractor will comply with the Institute of Lighting Professionals Guidance Notes for the Reduction of Obtrusive Light GN01 (2011) and the provisions of BS 5489, Code of Practice for the Design of Road Lighting (BSI, 2013a), where applicable.</i></p> <p><i>3.4.2 Lighting will be designed, positioned and directed so as not to intrude unnecessarily on adjacent buildings, sensitive ecological receptors, structures used by protected species and other land uses to prevent unnecessary disturbance to local residents, light-sensitive species such as bats, railway operations, and passing motorists (such as in Portishead and at Pill). This provision applies to temporary mobile lighting at construction sites where night working will be required and temporary fixed lighting at construction compounds.</i></p> <p>4.2 As set out in the Applicant's response to 3.2 above, the vehicles using the Pill Tunnel Eastern Portal compound will mainly be vans and movements to the compound will be relatively infrequent. This will not materially change the risk posed to cyclists, walkers, joggers and young families.</p> <p>The end of Chapel Pill Lane at the junction with the lane is being widened slightly (principally to provide space to enable vehicles using Chapel Pill Lane to pass a low loader when it is stationary) and the 'grasscrete' overrun would improve visibility at this location. See APP-040 as above.</p> <p>4.3 Network Rail has statutory authority to undertake works to the operational railway at any time day or night. There are scheduled freight train paths for the Portbury Freight Line which are predominantly during the daytime that Bristol Port / FOCs can utilise at very short notice. Consequently, the main opportunity to achieve possessions of the railway to undertake construction works is during the evenings and at weekends. While there are also opportunities to achieve a temporary closure of the line for a period of around 4 weeks (in a 12 month period), 4 week closures would not provide a sufficient construction duration on their own. As a result some overnight working will be essential and this may include use of the Ham Green Compound.</p> <p>The welfare unit will be located further down in the compound so that it is easily accessible from the road/rail access point (RRAP)</p>

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	<p>damage to the lake and its wildlife species including its fish?</p>	<p>There is likely to be some site presence at the compound throughout the 20 month construction phase. The detailed construction sequencing has not yet been undertaken, this we follow when the construction contractor has been appointed.</p> <p>There are no significant works planned in the vicinity of the lake and contamination of the lake is deemed a low risk. Should further track ballast need to be dropped on the railway, bunding will be used at track level to prevent runoff into the lake.</p>
12.	<p>Hearing 3: Environmental Matters – Planning Policy</p> <p>5.1 Finally, the National Planning Policy Framework states in section 11 that the planning system should minimise impacts on biodiversity, providing net gains in biodiversity, where possible. It also states that local planning authorities and planning policies should plan for the creation, protection, enhancement and management of networks of biodiversity and green infrastructure.</p> <p>5.2 This is a very high planning policy bar to set, including the need to demonstrate the existence of Imperative Reasons of Overriding Public Interest (IROPI), regarding both the construction and future intended use of the Pill Tunnel Rail Compound. What reassurance can the applicant provide that, together with the mitigations that might be proposed, the construction of the compound will meet the very high standards of this test?</p> <p>5.3 To address this question, returning to an issue that was first raised at the</p>	<p>5.1 The DCO Scheme will be assessed for compliance against the National Policy Statement for National Network. The Applicant proposes extensive ecological mitigation for the potential impacts of the scheme on ecology and biodiversity.</p> <p>5.2 As the Ham Green area does not lie within a European designated site, IROPI does not apply with regards to impacts at this location. An HRA has been prepared for the scheme [AS-027] which is focussed on the European designated sites that may potentially be affected by the DCO Scheme.</p> <p>5.3 The footprint of the compound has been minimised to reduce its impact.</p> <p>The access track is single lane with passing place which means it cannot be used for storage of materials or parking.</p> <p>The small area at the end by the lake is designed principally to allow a fire engine to turn around, which in itself-limits the size of vehicle that can access the compound and the amount of space available for parking and materials storage.</p> <p>See APP-040 as above.</p> <p>The screen shot below is of the fire engine turning circle:</p>

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	<p>Open Floor Hearing of 19th October 2019 and noting too that the generator which was originally proposed to be installed at the Pill Tunnel compound is to be relocated close to Pill Station, is now the time right to consider restricting the compound to essential rail safety emergency access use with maintenance materials stored elsewhere to be brought to the tunnel by road, or preferably rail, as and when needed?</p> <p>5.4 Whilst accepting that the compound is needed on rail passenger safety grounds if the Phase 1 project is to proceed, this restriction as to the compound's future intended use would make a visible and meaningful contribution to the future protection of the lake and its SNCI habitat designation, its environmental surroundings and high level of visual amenity in Green Belt, and to the protection of the many rare and valuable wildlife species to which it is home.</p>	 <p>5.4 The access track is screened with a 2m wide hedge and trees, and an area of woodland proposed at the turning area.</p> <p>There is no need to impose a further restriction on the compound's use and such a restriction would be unenforceable for lack of precision as to what constitutes an emergency. NR may need to access the line swiftly and must not be at risk of a prosecution on the basis of the LPA disagreeing with NR's interpretation of that interpretation. In any event, it is important to allow the compound to be used by NR for routine line checks which reduce the risk of an emergency.</p>