



MetroWest+

Portishead Branch Line (MetroWest Phase 1)

TR040011

Applicant: North Somerset District Council

9.41 ExA.ISH5.D6.V1 – Applicant's Oral Case and response to Representations at Issue Specific Hearing 5 (ISH5)

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The proposed Portishead Branch Line (MetroWest Phase 1) Order

Applicant's Oral Case and response to Representations at Issue Specific Hearing 5 (ISH5) held on 4 March 2021 at 10am

1. Introduction

- 1.1 The fifth Issue Specific Hearing (**ISH5**) for the Portishead Branch Line – MetroWest Phase 1 (**DCO**) application was held virtually on Microsoft Teams on Thursday 4 March 2021 at 10am.
- 1.2 The Examining Authority (**ExA**) invited the Applicant to respond to matters raised at the Hearing but also in writing following the ISH. This document summarises the responses made at the ISH 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 as follows:

2. Submissions in response to matters raised at ISH5

Ref	Comment/ Representation by:	Questions/Issues Raised at the ISH	Applicant's Response at the ISH	Applicant's Written Response
Agenda Item 3: Habitats Regulations Assessment, Biodiversity and the Natural Environment				
1.	ExA Panel	<p>The ExA noted that Natural England (NE) are not present at the hearing. At the last hearing on environmental matters (ISH 3), the Applicant proposed to submit an updated HRA and legal opinion from Stephen Tromans QC. The ExA understands that these documents and an updated Environmental statement (ES) will be submitted at D6.</p> <p>The ExA has also received a number of related documents from the Applicant, including a summary of case in relation to Package 1 and a response in relation to the government policy paper.</p> <p>Further HRA guidance was published by the government at the end of February. Are there any implications from this guidance to be taken into account in the examination?</p>	<p>The Applicant explained that on 24 February 2021, a package of new guidance was published by DEFRA, including guidance on HRA directed to the competent authority. There is nothing in the new guidance which alters the conclusions arrived at in the HRA. The guidance does helpfully set out a new clear structure for how to undertake a HRA and it explains the 3 stages of the IROPI test. The Applicant is proposing to submit an updated HRA at Deadline 6 to take the new government guidance into account.</p> <p>The Applicant is proposing to produce a 'road map' to explain to the ExA how the HRA and the proposed compensation measures meet the tests in the new guidance. There are specific tests referred to in the new guidance relating to the assurance of compensation, monitoring and what happens if the compensation measures are not delivered.</p>	The Applicant has updated the HRA to incorporate the package of guidance issued by DEFRA on 24 February so there is no longer a need for a separate road map.

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2.	ExA	<p>The ExA noted that a draft heads of terms with the Forestry Commission (FC) had been submitted at Deadline 5. Have these heads of terms now been signed?</p>	<p>The Applicant confirmed that the heads of terms with the FC have now been signed in relation to accessing FC land to deliver whitebeam planting Package 2 and positive woodland management measures. The agreement with the FC is at an advanced stage and is expected to be signed during the course of next week and will be submitted, including the associated plans, at Deadline 6.</p> <p>The HRA documents to be submitted at Deadline 6 include the following:</p> <ul style="list-style-type: none"> • The updated HRA taking into account the new DEFRA guidance and confirmation that Package 2 can be delivered on FC land • The updated ES • The updated AGVMP • The final draft of the SoCG with NE • Stephen Tromans QC's revised legal opinion • A summary of the IROPI case and a 'road map' showing how the HRA documents meet the new DEFRA guidance <p>The Applicant expects the updated HRA, ES and AGVMP submitted at Deadline 6 to be the final certified documents, in the absence of any change in law or fact between now and the end of the examination.</p>	<p>Agreement with Forestry Commission is being engrossed and made ready for execution and completion. A certified copy of the completed document will be provided to the Examination as soon as it is available.</p> <p>The Applicant also provides:</p> <ul style="list-style-type: none"> • The updated HRA taking into account the new DEFRA guidance and confirmation that Package 2 can be delivered on FC land • The updated ES Chapter 9 • The updated AGVMP • The final draft of the SoCG with NE • Stephen Tromans QC's revised legal opinion <p>The Applicant expects these will be the final certified documents, in the absence of any change in law or fact between now and the end of the examination.</p>

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3.	ExA	<p>The ExA noted that NE said in its Deadline 5 representation that Package 1 is expected to fall away. Can the Applicant explain more about NE's representation at Deadline 5 in relation the duplication of the proposed positive management measures and NR's management measures under normal practice?</p>	<p>The Applicant explained that NE has indicated that it doesn't have concerns with the duplication of measures in relation to the grassland compensation measures. NE's concerns about the duplication of the woodland management measures on Network Rail (NR) land will fall away if the positive woodland management measures on FC land can be delivered. It is the Applicant's intention to submit a response to NE's Deadline 5 representation at Deadline 6 to close off this issue. The point should be entirely academic in any case if the options involving FC land are progressed. The new DEFRA guidance doesn't refer to the duplication of measures so the Applicant does not expect this to be an issue.</p>	<p>The Applicant has submitted a response to NE's Deadline 5 representation at Deadline 6. Following conclusion of a land agreement between NSDC and FC, the DCO and AGVMP will secure delivery of woodland habitat compensation measures on Forestry Commission land (as preferred by NE and NSDC) and not on NR land, so the concerns will not arise unless the Secretary of State decides that some positive woodland management should take place on NR land.</p>
4.	NSC BCC	<p>The ExA asked if North Somerset Council (NSC) or Bristol City Council (BCC) had any comments on what has been said by the Applicant in relation to the HRA?</p> <p>Mr Wilmott confirmed that NSC were satisfied with what was said on this topic and are content to defer to NE on those matters.</p> <p>Mr Hawtin confirmed that BCC is also satisfied with what has been said on this topic.</p>	n/a	The Applicant has no further comment.
5.	ExA	The ExA asked if the toad migration surveys were taking place?	The Applicant confirmed that the toad migration surveys are currently in progress as the optimal	Designs of infrastructure to assist toad migration for the operational railway other than the hollow sleeper design may be used and are

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			<p>time for toad migration is late February to early March.</p> <p>The toad surveys started on 16 February 2021 and are programmed to continue until 12 March, subject to weather conditions.</p> <p>Surveys of the breeding ponds at Lodway, Ham Green and Portishead are being undertaken. Surveys are also being carried out on the migration routes on the disused line at Portishead and Lodway and site compounds at Lodway and Ham Green. The Applicant is working closely with Pill Toad Patrol who are collecting toads at Lodway and Ham Green.</p> <p>The results up to 25 February are as follows:</p> <p>For Ham Green: 1 toad in Ham Green Lakes and 2 toads on Chapel Pill Lane.</p> <p>For Portishead: 3 toads in the pond at the Ecology Park, 10 toads in the pond at Galingale Way, 2 toads on Fennel Road. No toads on the disused line between Quays Avenue and Sheepway Bridge.</p> <p>For Pill: 30 toads one night and 50 toads another night on the cycle path, 1 breeding pair one night and 2 breeding pairs another night at the breeding pond north of the cycle path, some toads on the land surrounding the breeding pond, 1 breeding</p>	<p>currently being considered by Network Rail. The preferred design will be confirmed in the final version of the Reptile and Amphibian Mitigation Strategy at Deadline 7.</p>

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			<p>pair in the pond on Lodway Farm by the farm building, 1 toad on The Breaches Road and 1 toad on Lodway Close.</p> <p>The results up to 25 February show only a few toads at Ham Green and some toads at Portishead. The Applicant does not consider that site specific mitigation is likely to be required at these locations, in addition to the generic mitigation in the Construction Environmental Management Plan (CEMP), but the Applicant will review this at the end of the survey.</p> <p>The results show numerous toads on Pill Cycle Path, a few toads at the breeding pond and surrounding land and one toad in the proposed compound and on two surrounding roads. This is consistent with the information provided by Pill Toad Patrol although the numbers are fewer than reported by them. However, the toad migration has not yet reached its peak. The Applicant is of the view that the peak may occur next week because the overnight temperatures this week have been mostly lower than 5 degrees which is too cold for toad migration.</p> <p>The survey will continue and the results will be reviewed after completion.</p> <p>It is proposed that there will be a unified mitigation strategy for reptiles and amphibians. The reptile and amphibian mitigation strategy has been drafted and includes generic and site specific mitigation for toads. A draft of the strategy will be submitted at</p>	

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			<p>Deadline 6. The final version of the strategy will be submitted at Deadline 7 to allow the survey results to be incorporated into the strategy and inform the mitigation proposals.</p> <p>The draft strategy includes the following mitigation measures for amphibians:</p> <ul style="list-style-type: none"> • Displacement by habitat manipulation (also proposed for reptiles) • Trapping and relocation where displacement is unlikely to be successful (also proposed for reptiles) • Destructive search(also proposed for reptiles) • Releasing amphibians into safe retained habitat • Site specific mitigation at Lodway compound including amphibian fencing, restricting vehicle movements after dark during peak migration and contractor method statements. These measures are detailed in REP2-013 and REP3-036. • Mitigation by scheme design such as retaining and replanting vegetation, installing hibernacula and amphibian friendly drainage at station car parks. These measures are detailed in REP3-030. 	

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			<ul style="list-style-type: none"> Mitigation is required for toads on the railway alongside Pill cycle path between the M5 and the junction with the existing freight line to assist toads across the railway once it is operational. <p>The half-pipe design detailed in REP3-036 has not been used in the UK but the Applicant understands that it has been used in France and Poland. Rather than use the half-pipe design, Network Rail (NR) has proposed a hollow sleeper which is normally used for cables to go under the tracks. These sleepers will be installed without the cables and this will provide a gap for toads to move through. NR are considering the design further to see if it can be improved for toads. It is a novel design for the UK.</p>	
6.	ExA NSC	<p>The ExA asked if NE's and NSC's views would be sought on the draft reptile and amphibian mitigation strategy?</p> <p>NSC confirmed that it was content with the proposed general approach to reptile and amphibian mitigation and will comment on the draft strategy submitted at D6.</p>	<p>The Applicant explained that it was not proposing to consult NE and NSC before submitting the draft reptile and amphibian mitigation strategy due to time constraints. However, NE and NSC will have the opportunity to comment on the draft strategy submitted at D6.</p>	<p>The Applicant has no further comment.</p>
7.	ExA	<p>The ExA asked the Applicant to explain the three grades of fencing (1, 2 and 3) referred to in the updated set of general arrangement (GA) plans (REP5 005)?</p>	<p>The Applicant explained that the three grades of fencing corresponded to the different levels of security requirement. In general terms, the three types of fencing are:</p>	<p>The Applicant has provided a fencing grades summary document at Deadline 6.</p>

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			<ul style="list-style-type: none"> • the traditional post and wire fence, which is in existence throughout the Gorge (Grade 3) • 'paladin' fencing, which is a more secure transparent mesh fence usually about 1.8-2m high (Grade 2) • palisade fencing, which is a more secure and austere type of fence and may have spikes to deter people. This type of fence is often used in areas of high trespass and vandalism or where there is sensitive machinery or equipment (Grade 1) <p>The selection of railway fencing grades is driven by the environment or by the security requirements laid down by the DfT.</p> <p>The Applicant can provide an image of what each type of fence will look like to give the ExA more certainty and clarity. The fencing design, which is secured by Requirements 24 and 14, is largely decided by NR and controlled by rail industry guidance and regulation.</p>	
8.	ExA NSC	<p>The ExA asked if NSC and BCC had seen the latest GA plans and if they had any comments on the fencing visuals provided by the Applicant?</p> <p>NSC explained that they hadn't yet examined the visuals in details; however, NSC are familiar with the standard NR fences and the</p>	n/a	The Applicant has no further comment.

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		<p>importance of the colour finish. NSC will consider the visuals and provide comments</p> <p>BCC have agreed a change to some paladin fencing on Clanage Road. BCC are content that the fencing in the Avon Gorge will be disguised by vegetation around the line.</p>		
9.	ExA BCC	<p>The ExA noted that the SoCG with BCC had been updated to say that there was continuing discussion regarding the offsite tree contribution. It is understood the Applicant is waiting for confirmation from BCC on the payment mechanism.</p> <p>BCC have sought legal advice and they are content to accept a letter of intent from the Applicant outlining the payment for tree compensation. The Applicant has provided the wording of a letter of intent and it is currently under review by BCC. BCC can provide an update to the SoCG and try and get this agreed by Deadline 6.</p>	The Applicant agreed with BCC's summary.	The process for dealing with the contribution is agreed. A revised letter will be issued by the Applicant for BCC to consider shortly and it is expected the agreed solution will be recorded in the SoCG between the Parties, on or before deadline 7..
Agenda Item 4: Risk and Drainage				
10.	ExA Panel	The ExA noted that the Environment Agency (EA) are not here today, so any responses	The Applicant confirmed that progress has been made on the SoCG with the EA. The EA has prepared a schedule for the Applicant to review to ensure all the EA's assets can be accessed. The	The EA has now agreed the Applicant's proposed access arrangements although detailed discussions are ongoing, and have provided short form protective provisions which

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		<p>required from the EA will be included in the action points.</p> <p>The ExA asked for an update on the issue of access arrangements in the SoCG with the EA.</p>	<p>Applicant has responded with a schedule of proposed access arrangements. This schedule is currently with the EA's estates team and the Applicant is waiting to hear back from the EA. If this schedule is agreed, the protective provisions (PPs) in the DCO for the EA will not be required.</p>	<p>have been inserted in the dDCO submitted for Deadline 6</p>
11.	ExA	<p>The ExA asked the Applicant to provide an update on the status of the SoCG with the EA. The most recent version submitted at Deadline 5 is an unsigned draft, which still shows a number of matters as outstanding.</p> <p>The North Somerset IDB have suggested in REP3-030 an additional rider for Requirement 11 to confirm that the drainage system will be managed and maintained for the lifetime of the development.</p> <p>One of the questions was the potential for items to be stored at the Clanage Road compound above ground level. However, for health and safety reasons, this was not practical or possible.</p> <p>The ExA noted that it would put it as an action that the EA should come back with comments on the Applicant's proposed rewording of Requirement 31 and the changes to the CEMP.</p>	<p>The Applicant confirmed that the Applicant has amended Requirement 11 and inserted the IDB's wording relating to the lifetime of the development. The Applicant will explain how the IDB's wording has been incorporated into the requirement.</p> <p>The Applicant has made progress in other sections of the SoCG with the EA (REP5-022). Para 5.1.17 concerns a rewording of Requirement 31, re the storage of materials at the Clanage Road compound. The EA is still looking at this. There is some agreement on the proposals to bring in lightweight material into the compound for storage.</p> <p>The Applicant does not consider the compound to be in a functional flood plain (flood zone 3b) However, the Applicant has proposed an amendment to Requirement 31 and a change to the CEMP (see opposite). The flood plan will provide for an emergency and evacuation procedure, details of how the temporary welfare compound would be raised above ground and the means to remove materials stored at the temporary and permanent compounds in times of flooding. Bristol City Council as the lead local flood authority has accepted the Applicant's proposal. The</p>	<p>At DCO 1.7 of Rep 3-030 the Internal Drainage Board proposed additional text to requirement 11 in a new sub paragraph (4) to address management and maintenance of the drainage system for the lifetime of the Proposed Development. The Applicant had previously agreed and incorporated in sub paragraph (2) but has now agreed to add the text in red below to requirement 11 for the approved drainage system to be managed and maintained for the lifetime of the development.</p> <p>Surface and foul water drainage 11.—(1) A stage of the authorised development must not commence until written details of the surface and (if any) foul water drainage system (including means of pollution control) have, after consultation with the lead local flood authority and the Environment Agency, been submitted to and approved by the relevant planning authority (2) The approved drainage systems for the</p>

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			<p>Applicant understands that the EA is minded to consider this as a possible solution.</p> <p>The Applicant will submit a copy of the revised wording of Requirement 31 and the CEMP at Deadline 6.</p>	<p>relevant stage must be constructed in accordance with the approved details and thereafter managed and maintained in accordance with the approved details for the lifetime of the development unless otherwise agreed with the local planning authority after consultation with the lead local flood authority and the Environment Agency.</p> <p>(3) This requirement does not apply to currently operational railway land</p> <p>Proposed text to be added to requirement 31 of the dDCO in red below</p> <p>31. —(1)Works 26, 26A and 26B must not commence until a flood plan which details (i) the emergency and evacuation procedures for use of the temporary and permanent compound (ii) the location, height above ground level and the duration on site (if appropriate) of the welfare facility on the temporary compound and (iii) the-means to remove materials stored at the temporary and permanent compound in the event of flooding has been submitted to and approved in writing by the relevant planning authority in consultation with the Environment Agency, and, if relevant the lead local flood authority. The approved flood plan must thereafter be complied with to the satisfaction of the relevant planning authority. (2) The landscaping and planting forming part of Work</p>

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				<p>No. 26 must be carried out in accordance with the relevant design drawing prior to first use of Work No. 26 as a permanent maintenance compound. Any tree or shrub planted as part of the landscaping that, within a period of five years after planting, is removed, dies or becomes, in the opinion of the relevant planning authority, seriously damaged or diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted, unless the relevant planning authority gives written consent to any variation. (3) The regrading of the levels forming part of Work No. 26 must be carried out, in accordance with the Clanage Road, compound, landscaping and access plan prior to first use of Work No. 26 as a permanent maintenance compound. The levels must thereafter be maintained.</p> <p>The Applicant proposes that the CEMP is amended by the addition of the red text below:</p> <p><u>Flood plan</u></p> <p>2.7.7 The contractor(s) will be required to produce a construction stage Flood Plan which takes into consideration the findings of the FRA (DCO Document Reference 5.6) and the outline construction stage Flood Plan for Clanage Road construction compound (ES Appendix 17.1 FRA Appendix T, DCO Document Reference 5.6).</p>

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				<p>The contractor's Flood Plan shall take into account the flood risk along the DCO Scheme and the commitments made to the regulatory authorities, including the Environment Agency, Local Flood Risk Authorities and the IDB, to avoid increasing the flood risk, contributing to pollution during floods, and endangering the lives of the workforce and third parties during construction. In particular, the Flood Plan will include measures to reduce so far as practicable the storage of materials at the Clamage Road construction compound by taking in the bulk of materials by rail.</p> <p>The EA have contacted the Applicant on 15 March 2021 to indicate that they approve the Applicant's proposals.</p>
12.	ExA BCC	<p>The ExA asked if BCC had any comments at this point?</p> <p>BCC confirmed that it would be helpful if BCC could have sight of the revised wording of Requirement 31. BCC have seen the information submitted at Deadline 5 but they have not yet seen the wording in relation to the raising of the welfare compound.</p>	<p>The Applicant confirmed that the revised wording for Requirement 31 and the revised CEMP have already been provided to BCC.</p> <p>In the CEMP, the Applicant is looking at adding very brief amendment to para 2.7.7 (the part of the CEMP that deals with the flood plan). This paragraph will refer to the contractor devising measures to reduce so far as practicable the storage of materials at the Clamage Road construction compound by taking in the bulk of materials by rail..</p>	<p>Bristol City Council requested that the words "if relevant" be deleted from sub clause (1) of Requirement 31 and the Applicant has agreed to this change.</p>

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13.	ExA	<p>The ExA asked if there were any further points the Applicant wished to make?</p>	<p>The Applicant noted that para 5.19 of the SoCG with the EA, refers to a new Requirement 33 in relation to Cattle Creep Bridge. The EA have agreed the wording of this requirement.</p> <p>Another outstanding issue is at para 5.1.10 regarding Portbury Ditch and Portishead Station. The Applicant doesn't believe that a flood plan is required for this station and the surrounding area. However, the EA believes that a flood plan is required.</p> <p>The Applicant confirmed that it has undertaken coastal flood modelling to assess the risk to Portishead Station. The modelling shows that the proposed works are all outside the area at risk of tidal flooding. The scheme is also outside the residual risk area. As this part of the scheme is not affected by flooding, the Applicant has concluded that a flood plan is not required for Portishead Station. This modelling is included in the flood risk assessment (FRA) and the EA has reviewed it.</p> <p>The Applicant will set out its arguments regarding why a flood plan is not required for Portishead Station in writing.</p>	<p>Portishead Station</p> <p>Works 4, 5 and 6 are partly within Flood Zone 1 and partly within the defended coastal floodplain. Modelling undertaken to assess the impacts of the residual risk associated with a breach of coastal flood defences indicates that Works 4, 5 and 6 are outside of the simulated flood extent resulting from a breach of coastal flood defences during the 200 year return period coastal event in 2115 (the Project design life is 2075).</p> <p>For Works 4, 5 and 6, the FRA therefore focuses on surface water management and drainage design.</p> <p>Drainage design for Works 4, 5 and 6 is covered in the FRA Appendix O (APP-089, APP-090 and APP 091) and suitably manages risk of flooding through drainage improvements.</p>
14.	NSC	<p>The ExA asked if NSC have any comments to make?</p> <p>NSC noted that because the location is fluvial and tidal rather than subject to ground flooding only, this area comes more under</p>	n/a	-

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		<p>the responsibility of the EA. Just because an area is defended, that doesn't mean it would never flood. Flood plans are a relatively common requirement and NSC often asks for one. The key point is whether the EA agree with Jacobs' modelling.</p>		
15.	ExA	<p>The ExA asked about the temporary micro compound at Pill viaduct.</p>	<p>The Applicant confirmed this issue is covered at para 5.1.13 of the SoCG with the EA. This is a very small temporary compound under one of the arches of the viaduct, in an existing open space. The current floor is asphalt and it adjoins the car park for Pill Library. The Applicant is proposing to use this space to park a temporary welfare unit during construction with small scale storage. The intention is also to have 1 or 2 spaces in the adjacent car park for the workforce.</p> <p>The EA is concerned that the Applicant is going to change the ground level but this is not the case. The EA would like confirmation that the ground levels are to remain as existing. This has not yet been provided but the Applicant will provide this to the EA in order to resolve this issue.</p>	<p>The Micro-Compound comprises an existing asphalted area off Underbanks and under Pill Viaduct – see this photo taken from NR’s Construction Strategy (APP-074). The Construction Strategy states “Small welfare unit, small scale deliveries and storage. Pill Library car park to be used for parking.” We do not propose any works to this site, which will remain as it is now ie we are not breaking ground and there will be no change in levels.</p> 

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				The EA has agreed that this text and photo will be added to the SoCG and the issue is resolved
16.	ExA	<p>The ExA noted that the strategic flood report will remain an outstanding issue in the SoCG with the EA.</p> <p>The ExA asked if the issue over the exception test at para 5.1.17 of the SoCG had been resolved in light of what is now proposed at the Clanage Road compound?</p>	The Applicant confirmed that as noted above, the EA has supplied a spreadsheet showing how the access arrangements to its assets are currently configured. In response, the Applicant has provided the EA with a schedule to show how the contractors, NR and the EA will be able to access the EA's assets. The Applicant is waiting for a response from the EA. If the access arrangements are approved, the PPs for the EA in the dDCO will not be required. The Applicant will provide an update at Deadline 6 on whether the PPs for the EA are required.	The Applicant has received confirmation from the EA that the access arrangements are satisfactory although there are ongoing discussions to finalise the arrangements. The EA also supplied short form protective provisions which the Applicant has agreed have been included in the version of the dDCO submitted at Deadline 6.
17.	NSC BCC	The ExA asked the local authorities if they had anything further to add. NSC and BCC confirmed they had nothing further to add on this topic.	n/a	-
Agenda Item 4 Design, Landscape and Visual Impact (including heritage assets and Green Belt);				

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18.	ExA	<p>The ExA noted that it had concerns over the Trinity footbridge following the Deadline 5 submission from Mr Twist and other local Portishead residents. The ExA asked the Applicant for more comments on the justification for the footbridge as this issue was not adequately addressed at Deadline 5 (DE2.5 REP5-028)</p>	<p>The Applicant explained that it understood that this issue had been adequately addressed in the Applicant's Deadline 5 submission.</p> <p>The Applicant identified a policy need in the NPS on national networks for proposing a footbridge in this location because of the severance resulting from the closure of the existing path. Given the status of the NPS the Applicant believes that the scheme is required to comply with the policies in it. The proposed bridge will have a visual impact and it will have some impact on the adjacent properties. However, the Applicant is of the view that including the bridge within the DCO Scheme is the right approach to take. It is difficult for the Applicant to step away from this approach at this late stage.</p>	The Applicant has no additional comment to make.
19.	ExA NSC	<p>The ExA asked for additional comments from NSC, noting that the key question is whether the harm of the bridge is outweighed by the benefits.</p> <p>NSC agreed that this was a sensitive issue. NSC have been provided with shadow diagrams to show the impact of the footbridge at 4 different periods during the year and at different times of the day. NSC has also been provided with cross sections in the vicinity of the station and footbridge. NSC found those additional materials to be reassuring in terms of the potential for the bridge to have an overbearing or adverse visual impact. The bridge will still have an</p>	n/a	The Applicant has no additional comment to make.

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		<p>adverse visual impact to some extent and it will have an overbearing impact on a small number of properties. Overshadowing is unlikely to be a significant issue. No. 14 Peartree Field (approximately 9m from the ramp) and no. 6 Galingale Way (approximately 11m from the ramp) are the properties which will be most affected by the new bridge.</p> <p>The benefits of the bridge appear to be limited if the local school catchment figures are used. The omission of the bridge from the scheme would not be 'fatal' but it would limit the potential improvement options for walking and cycling in the area. NSC's walking, cycling and infrastructure plan sets out improvements for walking and cycling in the period 2020-2026 and there are 3 potential routes that would rely on the proposed footbridge. Without the footbridge in place, these routes would have to make slightly longer detours.</p> <p>NSC has visited a similar footbridge in Weston-super-Mare which was approved around 2000-2005 and which is useful to compare with the proposed Trinity footbridge. This other footbridge had some impact on the adjoining properties but it was not as severe as had been expected. Deciduous trees also provided some screening for part of the year.</p>		

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		NSC can provide the ExA with details of the location of this footbridge in Weston-super-Mare and a copy of the walking, cycling and infrastructure plan (including confirmation of its status).		
20.	ExA	The ExA noted that it hasn't yet seen the shadow diagrams. It would be useful if the Applicant could provide layout and section plans with the distances marked between the bridge the adjoining properties at no. 14 Peartree Field and no. 6 Galingale Way.	The Applicant confirmed that it is intending to submit these shadow diagrams at Deadline 6. The ExA already has the cross-section drawings referred to. Marked up drawings to show the distance of the bridge from gardens and windows in key elevations of the adjoining properties will be provided at Deadline 6.	These will be provided on 16 March 2021.
21.	ExA NSC	The ExA asked about the current use of the footpath link that would use Trinity Footbridge. The survey results of the current footpath use were provided at Deadline 4. However, any further local knowledge or anecdotal evidence would be useful. NSC will look to provide further information on the nature of the use of this footpath.	n/a	-
22.	ExA	The ExA asked NSC if there was any screening on the Weston-super-Mare bridge? NSC explained that there was some panelling on the bridge where it spans over the tracks but not down the sides of the	n/a	-

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		<p>bridge. One issue NSC noted was that the panels do attract graffiti on the inside. On another footbridge that has recently been consented by NSC, it is still intended to have side panels.</p>		
23.	ExA	<p>The ExA asked if the Applicant could provide any other examples of screening to give an idea of how the footbridge would look?</p>	<p>The Applicant will try and source some additional details of screening panels for the footbridge by Deadline 6 but this may not be possible given the time constraints.</p>	<p>The additional information will be provided at Deadline 7.</p>
24.	ExA NSC	<p>The ExA asked NSC if they were happy for the detailed design of the footbridge to be secured by Requirement 4?</p> <p>NSC commented that it has enough information at this stage. However, it is still useful to see visuals at the application stage before the final details are approved. The Applicant provided some details of the screening at Deadline 4. However, it was difficult to see the impact of the screening in these visuals because they were very small. It would be useful to see a clearer version of these visuals that 'zoomed in' on the screens.</p> <p>The ExA agreed that clearer visuals showing the screens would be useful. It is not necessarily to create new viewpoints – just to make the existing visuals clearer with the proposed screens easier to identify.</p>	<p>The Applicant will try and provide some clearer visuals to show what the screening panels could look like.</p>	<p>The additional information will be provided at Deadline 7.</p>

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25.	ExA	<p>The ExA confirmed that the heritage and green belt issues do not need to be covered at this hearing and asked if there was anything else to raise on this topic?</p> <p>No further comments were made.</p>	n/a	-
Agenda Item 6: Transport, highways and public rights of way				
26.	ExA	<p>The ExA noted that the agenda has been extended for Item 6 to include the surface of the perimeter access track and the public rights of way in the vicinity of the port.</p> <p>The ExA asked the Applicant to confirm that the current restrictions are for 20 trains or 40 movements per day?</p>	The Applicant confirmed that this was its understanding.	The Applicant has no further comment.
27.	ExA	<p>The ExA noted that the Applicant has not yet seen a copy of the works agreement – does the Applicant need to see a copy?</p> <p>The Bristol Port Authority (BPC) noted that it has already extracted the relevant parts of the agreement for the ExA but the rest of the agreement could be provided with some financial elements redacted.</p>	The Applicant confirmed that it has not seen a copy of the works agreement. If it would be useful, the Applicant would be happy to receive a copy of the agreement.	The Applicant has not yet received a copy of the agreement.
28.	ExA	The ExA asked the BPC if the limit of 20 trains and 40 movements per day may need to be increased in the future?	n/a	The Applicant has no further comment.

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		<p>BPC confirmed that BPC are seeking to preserve their current position. As far as BPC can see, the current 20 train per day restriction should be sufficient for BPC's needs for the foreseeable future. However, there could be a need for an increase in rail freight in the future. Any change would be a matter for the local planning authority.</p>		
29.	ExA	<p>The ExA asked if it needed to consider potential future increases in train capacity or is this solely a matter for regulator; the Office of Rail and Road (ORR)?</p>	<p>This Applicant stated that it was of the view that the DCO was not the appropriate place to deal with this point.</p> <p>Access rights to the national rail network are allocated by the Office of Rail and Road (ORR) and the network code exists to allocate train capacity on the network, through the 1993 Railways Act. This is the most suitable process for dealing with any future growth in train traffic. As any consideration of growth would affect other lines, traffic allocation on the Portishead line should not be constrained by the DCO.</p>	<p>The Applicant has no further comment.</p>
30.	BPC	<p>The ExA asked BPC to respond.</p> <p>BPC confirmed that it was not seeking allocation of train paths but to preserve the opportunities BPC currently have for train movement. This would then be subject to allocation by ORR. The BPC line is used by freight operating companies who have rights of challenge under the network code. If the</p>	<p>NR commented that it was important to distinguish between track access rights and the capability of the infrastructure. The MetroWest Phase 1 infrastructure has been designed to accommodate the current planning allocation of train slots for an hourly passenger service and an hourly freight service. The infrastructure can support both passenger and freight services at the level contemplated by the planning permission for the</p>	<p>The Applicant wishes to clarify that Network Rail has no control over the allocation of train paths, which is the responsibility of the ORR.</p>

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		<p>line had insufficient paths, this might deter BPC's customers from investing.</p> <p>The DCO does not restrict or direct how the passenger line service should be operated. BPC want to ensure that the current opportunity for 20 trains a day to the Port remains so that the line continues to operate in the long term.</p>	<p>Port's railway. The Office of Road and Rail (ORR) decides how to allocate the train capacity taking into account the wider needs and aspirations of the whole rail industry.</p> <p>The DCO is not the place to deal with restrictions and protections for train capacity.</p> <p>NR has to be allowed to decide how to operate national rail network infrastructure, under the direction of the regulator, the ORR. It is necessary to trust the Department for Transport and the ORR to satisfactorily control this aspect of the DCO Scheme.</p> <p>NR confirmed that it is NR who provide the infrastructure while the ORR grant the rights over this infrastructure.</p>	
31.	BPC	BPC noted that it was strange in that case that NSC had felt the need to impose a planning condition on BPC to restrict train movements.	The Applicant explained that while it could not comment on NSC's decision to impose a planning restriction in 2001, BPC's railway is not part of the national network and therefore the policies and processes concerning the national network do not apply to it. There was a clear and distinct difference between the two situations.	The Applicant has no further comment.
32.	ExA	The ExA explained that a number of matters from the Compulsory Acquisition Hearing had been carried over to today's hearing.	The Applicant explained that it is difficult to confirm precisely how many vehicles would be using the track at this stage because the Applicant has not yet appointed the contractor for the detailed design and construction of the scheme. The contractor will	The Applicant has no further comment.

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		<p>One such issue was the surface of the perimeter access track leading to Marsh Lane toward M5. There was a concern from BPC over dust generation from vehicles using the track and that damage caused by the volume of vehicles could be increased if this track was used as an access to the Lodway compound.</p> <p>The ExA asked the Applicant what volumes of vehicles would use this track?</p>	<p>bring its own innovation and expertise and will need a certain amount of flexibility around the use of the compounds. The Applicant has done its calculations based on a number of assumptions. This is complicated by fact that the construction strategy contains a number of options in relation to how the ballast in the track bed on the disused line is going to be transported out and how new ballast is going to be brought in.</p> <p>The Applicant has assumed that at the peak, up to 25 HGVs a day will be using the perimeter access track (a maximum of 50 HGV movements per day). This will not be the case every day, but this was the calculation at the peak of the peak.</p> <p>The contractor will have to respond to the tender to supply their own construction programme and detailed construction sequence. It is not appropriate for the DCO to get involved at this level of detail to restrict construction sequencing. The finite detail will only be resolved through the tender process.</p> <p>The proposed DCO Requirements as drafted provide effective control over the construction of the DCO Scheme.</p>	
33.	ExA NSC	The ExA noted that as the scheme has been submitted at GRIP4 stage, and the ExA has to look at the worst case scenario. The EXA must work on the basis that out of the iterations being proposed, there may be a better scenario, but the ExA still needs to	The Applicant explained that the proposal to convert the access track into a two-way carriageway is not feasible because there are waterways on both sides of the access track. To accommodate this option, there would have to be 1km of culverting on both sides, which would not be	The Applicant has no further comment.

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	Mr Berry	<p>ensure that the appropriate mitigation is in place to cover all scenarios.</p> <p>The ExA asked NSC to comment.</p> <p>NSC explained that it does encounter issues from dust and airborne particles during construction projects and it understands BPC's concerns about vehicle movements and ballast handling.</p> <p>On other projects, NSC have dealt with this issue in the CEMP. A solution often used to suppress dust is a requirement for roads to be sprayed and damped down when there is a dry period. This limits dust from vehicles. There may be a similar mechanism address to the issue of dust from lorry-borne ballast.</p> <p>The ExA asked Mr Berry to comment.</p> <p>Mr Berry explained that he had made a proposal that Marsh Lane developed a two-way track system which would also alleviate a lot of the traffic problems in the village. Priory Road is narrow in places and can't accommodate two cars side by side. It would be ideal if construction vehicles could be removed from the village completely.</p>	<p>practical. BPC have also mentioned that the vegetation to the north of the track between the track and the fence is an important security measure for the port as it blocks views into the port compound.</p> <p>The Applicant confirmed that it has included the routes that the contractors are intended to use in the Outline Construction Traffic Management Plan. There is no intention to use the narrow sections of road in the village (such as the narrow section of Priory Road) for regular HGV traffic .</p>	

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34.	ExA BPC	<p>The ExA noted that the solution of watering down the track may suppress dust that could be caused by large volumes of traffic going up and down that track. Is this what BPC are seeking in terms of mitigation?</p> <p>BPC explained that their concerns are about dust and the frequency of use of the track, the potential to impede other users, and the potential for damage to the track. If the surface of the track is used heavily, it's going to deteriorate as it was not designed for this level of traffic. If the track gets damaged, this will affect other users of the track such as the National Grid, the EA and other users.</p>	<p>The Applicant explained that the relevant mitigation proposed to address this issue is outlined in the CEMP in the section on materials management. The issue of ballast being transported is covered in the nuisance management plan. In any event, the mitigation used will be discussed with the local planning authority.</p> <p>The Applicant has sought new rights over the track and does not have the ability under the Order to carry out significant physical works that would in effect be asserting ownership of the track –it was seeking to keep freehold acquisition of Port land to an absolute minimum, as requested by BPC . In this context, the Applicant could not do any more to the land than is currently proposed without taking the freehold or by agreement with BPC. BPC did not want the Applicant to acquire the freehold of this track.</p> <p>Ultimately, it is a point of compensation. If there are issues over damage to the track, BPC's course of action is to ask the Applicant for compensation for repair of the damage.</p>	<p>The Applicant believes that, except for 80 metres of the access track at the Marsh Lane end, the access track has a sealed tarmac surface. The Applicant is willing to seal the unsealed section of the track before its construction works commence if agreed by BPC. The width of the track is between 3.0m and 3.3m wide (with a HGV vehicle being a standard 2.5m width), the potential for large amounts of dust to be generated is limited. Dust suppression measures will be agreed with the relevant planning authority before works for the relevant stage commence, pursuant to requirement 5(3)(l) of the dDCO.</p>
35.	ExA BPC	<p>ExA asked BPC to comment on HGV use of the perimeter track.</p> <p>BPC noted that its position was well documented. HGV use of the track is currently limited and infrequent. BPC referred to the photos it submitted at REP4 -058 which shows an unbound section of road.</p>	<p>The Applicant noted that it was surprised to hear these comments on HGV use of the track from BPC as BPC have previously said that the access track was load bearing and used by HGVs.</p> <p>NR have used the track in the past to access works to the freight line around the sandstone tunnel area. Other parties with HGVs have used the track. The</p>	<p>The Applicant is willing carry out:</p> <ul style="list-style-type: none"> • Pre and post construction condition surveys of the track,

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		<p>BPC are not aware of the depth of the sub-base.</p> <p>BPC is ideally looking for the Applicant to build a new sub-base on the track prior to construction works commencing to ensure that the track could accommodate HGVs.</p> <p>The use of water to keep dust down is appropriate sometimes but it can also create mud and slurry which is then brought onto the public highway.</p>	<p>track has a sealed surface (wearing course) but the section of track that is unsealed is only approximately 60-70m. The track is 1km in length to the M5 railway underbridge and a further 1km to the M5 viaduct.</p> <p>The Applicant would be happy to rectify that short section of unsealed track. However, to do as BPC suggests and build a track sub-base upwards for the whole length of the track would be betterment and this would not be justified for the intended use.</p>	<ul style="list-style-type: none"> • sealing the 80 meters section of track at the Marsh Lane end which is unsealed • Repairs for any defects arising with track throughout the DCO Scheme's construction and to repair pot holes within a specified number of days • To undertake repairs to the track post construction arising from the post construction surveys. <p>The Applicant will seek to agree these principles with BPC. The Applicant notes the shared use of the access track which means it is difficult to provide for the matters above by requirement, as use by other parties may also cause damage to the access track. On that basis it would be inappropriate for the Applicant to be potentially criminally liable for the condition of the access track when the damage complained of may have been caused by other parties.</p> <p>The Applicant also notes that Paragraph 45 of the protective provisions in the revised dDCO (Part5 of Schedule 16) states:</p> <p><i>(2) If any damage to Port property or any such interference or obstruction is caused by the carrying out of, or in consequence of the</i></p>

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				<p><i>construction of, a specified work, the undertaker must, regardless of any approval described in paragraph 47(1), make good such damage and pay to the Port all reasonable expenses to which the Port may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction.</i></p> <p>This, together with the ability to claim compensation under the Compensation Code, gives BPC sufficient remedies if the Applicant causes damage to the access track</p>
36.	ExA BPC	<p>The ExA noted that a solution to the issue of damage to the track could be for the Applicant to undertake a survey of the track prior to the works commencing and undertake to repair the track to the same condition after the works are completed. This is not currently secured in the DCO. A specific requirement would need to be inserted into the DCO to deal with the perimeter track at Royal Portbury Dock to secure additional resurfacing work and the resurfacing of the unbound section of track . The requirement would need to ensure that the perimeter road was returned in a similar condition and if heavy traffic caused damage,</p>	<p>The Applicant noted that while the ExA's suggestion was a good one, BPC is unlikely to want the local planning authority to be involved. The Applicant would prefer to try and find a solution that doesn't involve the local planning authority and if a solution can't be agreed, the ExA's suggestion can be used as a fall back. While it is not a public highway, it is a public right of way so the local authority could be involved if necessary.</p> <p>The Applicant is happy with committing to a pre-imposed condition survey. As there are other users of the track, the Applicant would need clarity on how any damage caused by other users would be dealt with.</p>	<p>The Applicant's post hearing submission at line 35 above is relevant.</p>

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		<p>there would be a mechanism to ensure that the track is repaired.</p> <p>BPC noted that it should be involved in assessing and agreeing any proposed mitigation measures. BPC would not like to see exclusive use of the track by construction traffic during the construction period and it would not want to wait until the end of the construction period for the damage to be rectified. BPC would not want to be in a situation where it was constantly seeking to have the track repaired.</p> <p>NSC noted that the ExA's suggestion was frequently used in connection with planning applications. However, as this is not a public highway, NSC would prefer not to be involved and for the matter to be agreed between the parties. NSC does have highway authority over the track because it is a public bridleway.</p>	<p>The Applicant will be speaking with BPC to seek to reach an agreement on this issue.</p>	
37.	ExA BPC	<p>The ExA asked for an update on the discussions between BPC and NR in relation to the bridge that BPC is proposing to build at Court House Farm.</p> <p>BPC confirmed that it was engaged in discussions with NR and it is not the intention of BPC to impede the scheme. The parties are in a position where they wish to find a solution and are waiting for feedback from the contractor. BPC are happy to build a</p>	<p>NR confirmed that NR is in discussion with BPC, and will be giving notification under the easements at the point when it is required.</p> <p>The Applicant's construction programme cannot be finalised until a contractor has been appointed. However, it was anticipated that the Applicant's construction works could largely occur at the same time as the construction of the bridge, but this might</p>	<p>S127 is not engaged for the Court House Farm terminable access. This is because paragraph 45 of the Protective Provisions state:</p> <p>45. –(1) <i>Nothing in this Order affects—</i></p> <p>(a) <i>any right of the Port to use the Court House Farm terminable access; or</i></p> <p>(b) <i>the provisions of the Deed of Grant of Easement dated 4 September 2017 made between Network Rail and First</i></p>

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		<p>bridge but don't want to do so at risk. It is also a timing issue.</p> <p>The ExA asked if the consent for the bridge was time-limited and how long it would take to build the bridge?</p> <p>BPC confirmed that the planning [permission has been implemented. NSC confirmed this is the case. BPC is waiting see if the project is going ahead before planning the construction of the bridge.</p>	<p>result in some constraints on the Applicant's contractor which has the potential to increase costs.</p> <p>The preliminary design for the bridge suggests that the parapets of the bridge will not impact on NR land. NR and BPC are looking at how those elements overlap if both projects are on site in 2022/2023. There is a possibility to work together and NR and BPC are looking at their respective programmes.</p>	<p><i>Corporate Shipping Limited t/a The Bristol Port Company or any other agreement relating to the Court House Farm terminable access</i></p> <p><i>and accordingly the following provisions of this Part of this Schedule do not apply as regards the Court House Farm terminable access.</i></p>
38.	<p>ExA</p> <p>Mr Ovel</p> <p>Mr Berry</p>	<p>The ExA noted that the land for the Bridleway extension, could be acquired or dedicated. BPC advised that it is happy to accommodate the new bridleway extension as a public right of way. The ExA asked for views as to whether this was an option.</p> <p>Mr Ovel, of Easton in Gordano Parish Council, noted that he had read the Applicant's response regarding noise barriers and time will tell if the solution proposed will work.</p> <p>The ExA asked NSC for their views on the proposed extension to the bridleway.</p> <p>NSC confirmed that if the extension was constructed by other parties and dedicated by BPC, NSC would be happy to add the route into the public right of way network.</p>	<p>The Applicant agreed to discuss the issue with BPC.</p> <p>The Applicant did not accept that the loss of this land from the Port's estate, if acquired compulsorily would give rise to serious detriment given its location well outside the Port's security fence and it forming ecological land (a marsh) rather than being used for purposes core to the Port's activity as a statutory undertaker.</p>	<p>The Applicant is content for the new public right of way to be established by a deed of dedication on appropriate terms. Until the deed is in place the Applicant will have to rely on the powers for freehold acquisition sought in the dDCO and application.</p>

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39.	ExA ETM & Manheim	<p>The ExA noted the comments from Mr Tonks and Mr Burton at ETM & Manheim (ETM) at Deadline 4 and Deadline 5 (REP4-050 and REP5-054 AS-065) on the effects on the industrial and trading estates around Ashton Vale Road from the increased use of the existing level crossing.</p> <p>The ExA noted that the number of movements in the Deadline 5 response were overstated and the Applicant has submitted a response. ETM then submitted a further response which will be added to the Deadline 6 submissions. The ExA asked ETM to summarise their latest response.</p> <p>ETM explained that the traffic scenario at this location is being portrayed by a traffic model in which the Applicant has total confidence but ETM has limited confidence. The issues have been identified late in the day and ETM has reached an impasse with the Applicant. It doesn't look like agreement will be reached so the ExA may have to form its own judgement on this issue.</p> <p>ETM does not accept the Applicant's response which provides a table with a breakdown of daily movements extrapolated to monthly movements. The figures that have been put into the table are average figures and it is a reasonable estimate. ETM have</p>	<p>The Applicant explained that in the first place, the barrier downtime is two minutes each time the crossing closes. Two minutes is roughly equivalent to a cycle of traffic signals during peak periods. The Applicant is confident that the MOVA traffic signal system will adequately deal with traffic built up during the barrier downtimes. In most scenarios at Ashton Vale Road, the traffic queue lengths will be back to how it was before the barriers came down after one to two cycles of the traffic signals.</p> <p>The key point is that the MOVA signal system is adaptive and will respond in real time to the situation 'on the ground'. At the moment, the traffic signals are not fully adaptive and operate to a preset programme with a maximum green time of 24 seconds for Ashton Vale Road.</p> <p>The MOVA is a lot more intelligent. This more intelligent optimisation allows the maximum potential green time for Ashton Vale Road to be raised to, for example, 40 or 60 seconds to mitigate the impact of any large build-up of queuing traffic during level crossing closure.</p> <p>In terms of taking into account the operations at Ashton Vale Road, the traffic modelling of the proposed scheme and mitigation shows a neutral impact on capacity at the junction.</p> <p>The traffic model takes into account growth in traffic movements on Winterstoke Road. In line with the</p>	<p>MOVA</p> <p>cTc's assertion that MOVA will not be responsive to changes in traffic on Ashton Vale Road is incorrect. Whilst "green times" will typically be biased to the more heavily trafficked approaches at most signal sites, this does not take into account the unique circumstances relating to Ashton Vale Road following a level crossing closure.</p> <p>During a level crossing closure Winterstoke Road receives largely uninterrupted green time (no appearance of the Ashton Vale Road stage). Consequently, any congestion on Winterstoke Road is likely to be clear by the time the barrier goes up and the road is likely to be near free flow, and so MOVA will recognise this and be able to re-allocate green time accordingly.</p> <p>Additionally, during a level crossing closure MOVA will be aware of any build-up of traffic on Ashton Vale Road, as it will have counted the traffic in on red at an IN detector some 80m from the stop line on this arm. As such, MOVA will be fully aware that there is a lot of traffic there to shift and will do its best to deal with it (subject to user parameters and conditions on other arms which, as noted above, should be largely uncongested)</p>

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		<p>now done a more detailed calculation with the same figures. The reason ETM didn't provide the figures last time was because the day to day variation in the figures was so significant that it is important to consider them in context.</p> <p>ETM has grown in size since the surveys on which model is based were undertaken 3 years ago. There are also many other businesses on this industrial estate which are also growing and it would be false to assume that no growth will occur in the traffic using the access into the industrial estate in the coming years. Traffic growth has been estimated on the main roads north and south of the junction but no allowance has been made for traffic growth from the Ashton Vale Industrial Estate.</p> <p>Different consultancies have different views and ETM sought a second opinion on adequacy of the 2019 model. The second consultant had significant concerns about the conclusions reached by the model.</p> <p>The MetroWest scheme is supported throughout Bristol. ETM supports the scheme but wants to ensure that the scheme that goes ahead protects local businesses.</p> <p>ETM's key concern, and the key point on which ETM differs from the Applicant, is that the Applicant contends that, overall, with the</p>	<p>current guidance on growth assumptions, the model has not captured potential traffic growth on Ashton Vale Road because it is a cul-de-sac with limited scope for expansion. However, the relative performance of the model in terms of capacity still stands. Also, with regard to the need to account for future development, modelling guidelines state only a requirement to take account of traffic growth from committed development of which there was none relating to the estate at the time of carrying out the modelling. There is no requirement for growth from potential future speculative development to be accounted for in the assessment.</p>	<p>Traffic at ETM in context</p> <p>Modelling of the Ashton Vale Road/Winterstoke Road junction was based on traffic counts that did not specifically distinguish ETM movements, but within which the ETM movements are fully encompassed.</p> <p>Analysis indicates that, in May 2017, around 18% of all vehicles entering/leaving Ashton Vale Road industrial estate were HGVs, and some 42% of all HGVs were associated with the estimated ETM traffic movements. Thus only approximately 8% of all traffic using Ashton Vale Road is related to ETM, and any increase in ETM movements has to be considered in this context.</p> <p>In addition, it is important to consider Ashton Vale Road traffic flows in the of context with the Ashton Vale Road / Winterstoke Road junction as a whole, 2018 traffic count data shows that traffic from Ashton Vale Road equates to around 5% of all the traffic arriving at the junction over a 12 hour period, and this increases to around 7% in the PM peak hour (17:00-18:00). See extract from Appendix N to the Transport Assessment [APP-172]</p>

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		<p>implementation of a MOVA traffic signal system, the junction will operate better than it does currently. ETM's concern is that when the crossing closes, the impact on getting in and out of Ashton Vale Estate is huge. A single crossing closing could cause 10 minutes of mayhem while the barrier is down and then a further 20 minutes of disruption while the traffic recovers. What people experience isn't the average. During periods when the level crossing is open, ETM accepts that the new system will enhance the operation of the junction. However, when the crossing is closed, no traffic will be able to move. It is a question of how quickly the system can recover once the crossing has re-opened, how frequently it will close and how much queuing traffic will build up while it's closed. Can businesses cope with the mayhem caused by the crossing closing and the length of time it will take the traffic to recover?</p> <p>The ExA asked the Applicant to comment on the increased operations at the Ashton Vale Industrial Estate that are not provided for in the traffic model.</p>		<p>Table 2: Total junction in- and outflow, including individual arms Source: 2017-2018 Traffic counts</p> <table border="1"> <thead> <tr> <th rowspan="2">From/to arm</th> <th colspan="3">2018 ATCs (15-28 Mar)</th> <th colspan="3">2017 MCC (Tuesday 9 May)</th> </tr> <tr> <th>INTO junction</th> <th>OUT OF junction</th> <th>2-WAY</th> <th>INTO junction</th> <th>OUT OF junction</th> <th>2-WAY</th> </tr> </thead> <tbody> <tr> <td colspan="7">24-hr</td> </tr> <tr> <td>Winterstoke Rd (N) & A.G.Undpps</td> <td>16,936</td> <td>14,720</td> <td>31,656</td> <td>-</td> <td>-</td> <td>-</td> </tr> <tr> <td>Marsh Road</td> <td>1,806</td> <td>2,929</td> <td>4,735</td> <td>-</td> <td>-</td> <td>-</td> </tr> <tr> <td>Winterstoke Rd (South)</td> <td>15,290</td> <td>16,477</td> <td>31,767</td> <td>-</td> <td>-</td> <td>-</td> </tr> <tr> <td>Ashton Vale Road</td> <td>1,726</td> <td>1,633</td> <td>3,358</td> <td>-</td> <td>-</td> <td>-</td> </tr> <tr> <td>TOTAL</td> <td>35,758</td> <td>35,758</td> <td>71,516</td> <td>-</td> <td>-</td> <td>-</td> </tr> <tr> <td colspan="7">12-hr (07:00-19:00)</td> </tr> <tr> <td>Winterstoke Rd (N) & A.G.Undpps</td> <td>13,308</td> <td>11,608</td> <td>24,917</td> <td>15,141</td> <td>12,686</td> <td>27,827</td> </tr> <tr> <td>Marsh Road</td> <td>1,600</td> <td>2,370</td> <td>3,971</td> <td>1,515</td> <td>2,989</td> <td>4,504</td> </tr> <tr> <td>Winterstoke Rd (South)</td> <td>11,991</td> <td>13,170</td> <td>25,162</td> <td>13,064</td> <td>14,276</td> <td>27,340</td> </tr> <tr> <td>Ashton Vale Road</td> <td>1,600</td> <td>1,350</td> <td>2,950</td> <td>1,698</td> <td>1,467</td> <td>3,165</td> </tr> <tr> <td>TOTAL</td> <td>28,500</td> <td>28,500</td> <td>56,999</td> <td>31,418</td> <td>31,418</td> <td>62,836</td> </tr> <tr> <td colspan="7">AM peak (08:00-09:00)</td> </tr> <tr> <td>Winterstoke Rd (N) & A.G.Undpps</td> <td>1,249</td> <td>995</td> <td>2,244</td> <td>1,354</td> <td>1,058</td> <td>2,412</td> </tr> <tr> <td>Marsh Road</td> <td>250</td> <td>274</td> <td>524</td> <td>196</td> <td>295</td> <td>491</td> </tr> <tr> <td>Winterstoke Rd (South)</td> <td>1,128</td> <td>1,248</td> <td>2,376</td> <td>1,202</td> <td>1,284</td> <td>2,486</td> </tr> <tr> <td>Ashton Vale Road</td> <td>58</td> <td>167</td> <td>225</td> <td>78</td> <td>193</td> <td>271</td> </tr> <tr> <td>TOTAL</td> <td>2,684</td> <td>2,684</td> <td>5,368</td> <td>2,830</td> <td>2,830</td> <td>5,660</td> </tr> <tr> <td colspan="7">PM peak (17:00-18:00)</td> </tr> <tr> <td>Winterstoke Rd (N) & A.G.Undpps</td> <td>1,285</td> <td>1,139</td> <td>2,424</td> <td>1,422</td> <td>1,318</td> <td>2,740</td> </tr> <tr> <td>Marsh Road</td> <td>123</td> <td>274</td> <td>397</td> <td>139</td> <td>384</td> <td>523</td> </tr> <tr> <td>Winterstoke Rd (South)</td> <td>1,071</td> <td>1,216</td> <td>2,287</td> <td>1,199</td> <td>1,258</td> <td>2,457</td> </tr> <tr> <td>Ashton Vale Road</td> <td>179</td> <td>28</td> <td>207</td> <td>229</td> <td>29</td> <td>258</td> </tr> <tr> <td>TOTAL</td> <td>2,658</td> <td>2,658</td> <td>5,315</td> <td>2,989</td> <td>2,989</td> <td>5,978</td> </tr> </tbody> </table> <p>Note: 2018 ATC figures are average weekday across surveyed period, excluding Fridays.</p> <p>Hence, whilst there has been an apparent increase in traffic movements associated with ETM from May 2017 to the “current operation” (2020), the absolute numbers involved on a daily and hourly basis are small, with only an around 14 additional vehicle movements (two-way) in an average hour when comparing the current operation with May 2017. And in the context of the total traffic flow to the junction, the increases at ETM are not significant.</p> <p>Growth</p> <p>The VISSIM modelling has allowed TEMPro growth from the base year to 2021 on the ahead</p>	From/to arm	2018 ATCs (15-28 Mar)			2017 MCC (Tuesday 9 May)			INTO junction	OUT OF junction	2-WAY	INTO junction	OUT OF junction	2-WAY	24-hr							Winterstoke Rd (N) & A.G.Undpps	16,936	14,720	31,656	-	-	-	Marsh Road	1,806	2,929	4,735	-	-	-	Winterstoke Rd (South)	15,290	16,477	31,767	-	-	-	Ashton Vale Road	1,726	1,633	3,358	-	-	-	TOTAL	35,758	35,758	71,516	-	-	-	12-hr (07:00-19:00)							Winterstoke Rd (N) & A.G.Undpps	13,308	11,608	24,917	15,141	12,686	27,827	Marsh Road	1,600	2,370	3,971	1,515	2,989	4,504	Winterstoke Rd (South)	11,991	13,170	25,162	13,064	14,276	27,340	Ashton Vale Road	1,600	1,350	2,950	1,698	1,467	3,165	TOTAL	28,500	28,500	56,999	31,418	31,418	62,836	AM peak (08:00-09:00)							Winterstoke Rd (N) & A.G.Undpps	1,249	995	2,244	1,354	1,058	2,412	Marsh Road	250	274	524	196	295	491	Winterstoke Rd (South)	1,128	1,248	2,376	1,202	1,284	2,486	Ashton Vale Road	58	167	225	78	193	271	TOTAL	2,684	2,684	5,368	2,830	2,830	5,660	PM peak (17:00-18:00)							Winterstoke Rd (N) & A.G.Undpps	1,285	1,139	2,424	1,422	1,318	2,740	Marsh Road	123	274	397	139	384	523	Winterstoke Rd (South)	1,071	1,216	2,287	1,199	1,258	2,457	Ashton Vale Road	179	28	207	229	29	258	TOTAL	2,658	2,658	5,315	2,989	2,989	5,978
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				<p>movements on Winterstoke Road. Growth was not applied to Ashton Vale Road traffic because there were no committed developments associated with the estate, and the road is not a through route. DfT's TAG is clear that only committed developments should be assumed when forecasting for core scenarios.</p> <p>Review of previous work</p> <p>Note that the 'second opinion' review of modelling work that cTc indicated was carried out [included in REP2-060] was based on work done prior to submission of the DCO and moreover on modelling work documented for the PEIR. This was superseded by documentation included in the Applicants DCO submission [APP-172], as noted in REP3-036.</p>
40.	ExA ETM & Manheim	<p>The ExA asked about the imminent planning application and licence application to the EA that ETM previously mentioned?</p> <p>ETM confirmed that a planning application was submitted yesterday for the relaxation of its current waste restrictions and hours of operation.</p> <p>A section 73 application has been made to amend the 2017 planning consent to increase the tonnage of waste passing</p>	n/a	-

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		<p>through the site to 300,000 tons. This increase is due to an increase in demand at ETM. Other businesses in the estate are also looking to expand.</p> <p>The ExA asked what the current operating hours were?</p> <p>ETM confirmed that the existing operating hours were 6am-6pm Monday to Saturday. A small extension to these hours has been applied for.</p>		
41.	ExA ETM	<p>The ExA asked about the point made by ETM regarding the agent of change in the NPPF and a related appeal decision.</p> <p>The Applicant's response to this point was that the NPS for national networks was the applicable policy and also that the line has been in place for a long time so the agent of change policy does not apply.</p> <p>Mr Burton explained that in para 1.18 of the NPS for national networks, it states that the NPPF is also likely to be an important consideration when considering NSIPs. The agent of change policy in the NPPF is relevant to this scheme.</p> <p>There are currently 40 train movements a day from the Port. While one additional movement per hour is allowed, in reality the</p>	<p>The Applicant explained that statutory authority from two acts of parliament dated 1862 and 1866 permit the current railway to cross Ashton Vale Road on the level and the railway is operated under statutory authority without restriction on numbers of movements.</p> <p>Consequently, the agent of change point is irrelevant to this examination. The railway has been in situ for 150 years and there are no controls on the times the level crossing across Ashton Vale Road may be used by Network Rail.</p>	The Applicant has no further comments.

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		level crossing rarely closes. Because there is currently little prospect of the level crossing closing on a frequent basis, the permitted use of one additional movement per hour doesn't exist in practical terms.		
42.	ExA	The ExA noted that there was a further point from BNP Paribas that there could be a risk of damage occurring from vehicles trying to 'beat the barriers'. Can the Applicant respond to this point?	Any motorists trying to 'beat the barriers' would have to run a red light which is a dangerous action to take. The Applicant will respond in writing to this point.	<p>The Ashton Vale Road level crossing is an existing operational level crossing. The following paragraphs therefore apply to the current situation at Ashton Vale Road and would not change as a result of the introduction of passenger services.</p> <p>Beating the barrier' would constitute as a failure to comply with traffic lights at level crossings which is an offence under Section 36 of the Road Traffic Act 1988. This can carry a conviction for up to 6 months imprisonment, a £5,000 fine (or both) as well as 6 penalty points.</p> <p>In the event that damage is caused to a barrier, Network Rail would dispatch an operative to take any action as might be necessary to make the level crossing safe. It may be necessary to temporarily close the road and railway so that an inspection can be safely carried out. If a criminal offence has been committed, then it is likely this closure would extend until the</p>

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				<p>police have gathered evidence.</p> <p>Until repair works are carried out, the crossing may be placed under local control by Network Rail and British Transport Police to establish safe conditions for use by road vehicles. Repairs to the crossing may necessitate a further road closure and will be carried out as soon as possible to minimise any long term disruption to road traffic or trains.</p> <p>BNP Paribas on behalf of its client has also asked about anticipated barrier down time. The Applicant has modelled 2 mins 5 seconds closure time, assumed for both passenger and freight trains and based on an average freight train movement. Passenger trains will be shorter and as a result barriers may be raised approximately 15 seconds sooner than for an average freight train.</p>
43.	ExA ETM	<p>The ExA noted that the Applicant's response at Deadline 4 recognises that auctions at ETM would commence at 10am and there will be additional traffic in the morning and evening peaks. Should the traffic survey data have been collected on auction day?</p> <p>ETM noted that it had seen the evidence contained at Appendix N to the Transport Assessment (TA). The data does show a variation. However, on auction day, on</p>	<p>The Applicant noted that it had previously observed that customers dispersed quite quickly on auction day. It would be useful to see ETM's evidence that customers are still on site 7-9 hours after the auctions commence.</p> <p>In Appendix N to the TA, there is discussion about the traffic surveys that have been undertaken over the years. This data shows the variation over the day in this area and includes auction days and</p>	<p>Figures 6 and 7 of Appendix N to the Transport Assessment [APP-172], Part 2 shows that on some days there might be some small increase relating to auctions on the AM peak. The graph suggests that flows from Ashton Value Road are 20-30 vehicles per hour higher and flows into Ashton Vale Road are some 50 vehicles per hour higher.</p> <p>The Applicant does not believe that this increase would materially affect the findings from the</p>

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		<p>Ashton Vale Road, the traffic flow varies by up to 40-50% higher than the figures contained in the model.</p> <p>The Applicant has responded to say that a large percentage of a small number is still a small number and the traffic signals will respond to demand for the junction as a whole. The impact of 80-90 additional vehicles an hour on the junction is very little overall. However, a large variation on a minor arm will not affect 'green time' at the junction and that is not shown in the traffic model.</p> <p>ETM can provide a detailed note on the arrival and departure time of its customers. Auctions often don't finish until mid-afternoon and customers often leave about 3-4pm. There may be some kind of compromise to be reached with the Applicant around Requirement 18 in terms of setting out what would be acceptable. ETM asked why only the disused railway is referred to by the Applicant.</p> <p><u>cTc stated that the Applicant believes the impact of 80-90 additional vehicles an hour on the junction is very little overall. cTc then commented that</u> a large variation on a minor arm will not affect 'green time' at the junction and that is not shown in the traffic model The additional information will be provided at Deadline 7.</p>	<p>football days. The Applicant is confident that the model is representative of the variation that is happening 'on the ground'.</p> <p>The Applicant confirmed that Requirement 18 refers to the disused railway only because the Applicant is unable to enforce against the railway which goes across Ashton Vale Road.</p> <p>The local planning authority and the local highway authority are happy with the proposals at Ashton Vale level crossing. The Applicant will consider the points raised by ETM but it is not able to commit to making any changes to the scheme at this late stage.</p>	<p>modelling work. During the critical PM, Figure 6, shows the May 2017 profile is, in fact, higher than the 2018 MAX profile by the time you get to 5pm.</p> <p>As such the claim that auctions impact on the PM peak appears to be unfounded.</p>

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44.	ExA BCC	<p>ExA asked if BCC was satisfied on the submissions from ETM and BNP Paribas?</p> <p>BCC confirmed that it had scrutinised the traffic modelling. There are numerous traffic surveys in Bristol that could be challenged due to the high volume of road works in the city at the moment. BCC's view is that the MOVA traffic signalling system is the best solution here to account for peaks in demand associated with the Ashton Vale Estate.</p>	n/a	The Applicant supports the conclusions of the local planning authority.
45.	ExA Mr Ovel Mr Berry	<p>Before moving on, the ExA wanted to ask Mr Ovel if there was anything else he wished to raise?</p> <p>Mr Ovel noted that it was clear from the discussion earlier that there is a conflict in that the people in the village want to see as little traffic as possible in the village while, BPC would prefer as little traffic as possible on the haul road, which is in a poor state of repair. If there is a proposal for 100s of HGV journeys on this haul road, it would be wiser to put the track in a good state of repair in advance of the project commencing rather than repair it at the end. If the haul road is damaged, that will result in more construction traffic going through the village.</p> <p>Further work needs to be carried out on the feasibility of installing a temporary siding to</p>	<p>The Applicant will respond further to these points in writing.</p> <p>The Interested Parties are being listened to by the project team. There are people on the team who know the area very well and the situation on the haul road (access track) is well understood. The difficulty faced by the Applicant is that there are a number of 'cogs turning' at the same time. The Applicant was unable to take the freehold of the haul road and BPC were against this option. The Applicant believes resurfacing the haul road is not required and can't commit to re-surfacing the haul road because the Applicant does not own this road. However, the Applicant will speak to BPC to see what can be done.</p> <p>The Applicant assured Mr Ovel and Mr Berry that their points are being considered. All the material ultimately has to be transported on to the M5 or the</p>	The Applicant's response at 35 above is also relevant.

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		<p>remove the spoil from the old railway. This impact would be more beneficial than a large number of HGV movements. Moving the spoil by rail would also have the benefit of reducing dust in the port. It appears that the current preferred option is to remove spoil by road but the village would like to see traffic kept out of the village as much as possible</p> <p>Mr Berry added that the people of the village want the railway but they need to understand that they have been listened to and that efforts have been made to mitigate the impact of the scheme on the village. The haul road should be repaired first to alleviate traffic in the village and to show the people of the village that they are being considered. It all comes down to money but the feeling is that local residents' ideas are being ignored at the moment.</p>	<p>railway network. The Applicant may be able to deal with the export of ballast using BPC's railway connections or may provide a temporary siding at Lodway. However, to an extent, the Applicant has to wait for the contractor to be appointed. At the moment, the Applicant is considering the worst case scenario.</p> <p>It is absolutely essential that this project is affordable, so that the project can be delivered. This is a public sector scheme and the money is tax payers' money. The Applicant has a duty to ensure that taxpayers' money is used as efficiently as possible.</p> <p>The use of Portbury Dock for material movements very much depends on space being available and commercial terms being agreed With BPC. The sums requested by BPC are very substantial.</p> <p>As mentioned above, it is not possible nor necessary to deliver the 2-way perimeter track proposed by Mr Berry. The track is a sealed surface for the majority of its length. As also mentioned above, the Applicant would be happy to carry out pre and post-work surveys and rectify any damage to the track at the end of the project.</p> <p>From the Applicant's point of view, it doesn't make sense to carry out the repair works at the beginning (apart from sealing the unsealed section of track). It makes more sense to undertake the repair work at the end. If damage to the track (such as potholes) arises in the interim, the Applicant would be happy</p>	

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			to commit to dealing with these repairs as they arise.	
46.	ExA Mr Ovel BPC	<p>The ExA asked Mr Ovel for his response.</p> <p>Mr Ovel confirmed that he did not suggest that the Port is used to remove ballast. Rather, his suggestion is that a dedicated siding might be built into the Lodway compound. This would result in a huge reduction in HGV traffic on the roads.</p> <p>There is a conflict in that the Applicant is concerned about money, while the village is concerned about the safety of the residents if there is a lot of HGV traffic. It seems that the suggestion that a siding might be built into the Lodway compound has not been considered by the Applicant as it was always going to be too expensive. The cheapest option is clearly to use the unimproved haul road.</p> <p>The inclusion of the option of a siding for the removal of ballast in the DCO was clearly never a serious possibility. It was simply a "red herring to placate the natives". It will come down to what can be afforded, not what will minimise disruption to traffic on the narrow village streets.</p>	<p>The Applicant confirmed its view that if there were to be a purpose-built siding at the Lodway compound to remove ballast, there would be more construction traffic along the access track from Marsh Lane as HGVs will have to get to the siding. As the ballast on the disused line stretches all the way through to Pill, it needs to be put on HGVs and shipped where to the relevant rail head for transshipment on to the railway. The main access point to a siding at the Lodway compound would be via Marsh Lane and the perimeter access track.</p> <p>The option of a siding at Lodway compound was not included "to placate the natives". It has always been a genuine option under consideration by the Applicant.</p>	<p>The Applicant repeats its submissions at the ISH. A siding on the former railway at Lodway is being considered, as are other rail head options, if agreement can be reached with Bristol Port Company (BPC). The decision will be taken when the Applicant knows if commercial terms can be reached with BPC for use of its sidings, as well as whether the appointed contractor wishes to re-install the connection to the Portishead Branch at Portbury Junction for the purposes of ballast removal. It is likely that the use of the Lodway Compound would lead to the highest level of vehicle movements in the vicinity of Marsh Lane, as other methods of ballast removal would most likely comprise using Port rail connected locations or storage within compounds at locations along the railway until the railway is constructed ready for ballast to be removed by train.</p>

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		BPC added that its view is that the repair of the haul road should be addressed at the beginning of the project as any remedial work undertaken during the construction works would disrupt the use of the haul road.		
47.	NSC Mr Tarr	<p>ExA asked NSC if it had any further comments?</p> <p>NSC confirmed that NSC's role is as highway authority and to ensure environmental protection. It is always very difficult to avoid impacts on traffic from a construction project. NSC has overseen and assisted with mitigation for construction works for a number of projects over the past 10-15 years. The mitigation has been successful in a number of locations. The siding at Lodway is an attractive option but NSC is aware that on previous occasions, there can be very significant technical issues with this kind of option. It looks like a simple proposition but because of lead in times and the length of the siding that is often required, there are issues of costs which have to be balanced against practicality.</p> <p>Mr Tarr noted that he was in support of Mr Ovel's suggestions to reduce traffic impacts on the village and Ham Green.</p>	n/a	-
48.	ExA	ExA asked Mr Tarr if he was acting on behalf of residents of Ham Green?	n/a	-

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	Mr Tarr	<p>Mr Tarr confirmed he was acting on behalf of about 40 people from Ham Green, St Catherine's Park and Chapel Pill Lane. In order to give the group an informal identify, they have formed a group known as the 'Friends of the Lake'. This is an unincorporated body of about 140 people who object to the proposed housing development at Chapel Green Lane which they believe is being facilitated by the MetroWest project.</p> <p>Mr Tarr read out a statement prepared in response to the replies from the Applicant received on 23 and 24 February.</p> <p>Residents might have accepted the explanation that the Applicant changed the access to Hays Mays Lane in November 2017 except that a report dated December 2021 states that the Community Land Trust was formed in 2016. Had NR been the applicant and shared access to the site, the application would have been refused. The background papers between NSC, NR and the Community Land Trust should be disclosed to allow local residents to determine what has taken place and why. Otherwise an FoI request will be made. The local residents' claim is that the MetroWest scheme is supporting the Community Land Trust's housing proposal. The Community Land Trust has refused access to the minutes of these meetings. The</p>		

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		additional information will be provided at Deadline 7.		
49.	ExA Mr Tarr	<p>The ExA asked about Mr Tarr about his Deadline 4 representation which refers to a 450 weekday average of motor vehicles, which will no doubt double as a result of the MetroWest scheme.</p> <p>The Applicant has stated that there will be one HGV per day during construction and one van per week in operation.</p> <p>Mr Tarr confirmed that the figures came from a survey that was provided. Mr Tarr will confirm the source of the figures at Deadline 6. The traffic would substantially increase with the proposed housing development.</p> <p>The ExA asked how one HGV and one van would impact on the important and popular cycle at Chapel Pill Lane?</p> <p>Mr Tarr explained that it is a shared access with the housing development. That part of the lane is rural and leafy but residents have proposed stripping back the vegetation and widening the lane. In future construction materials could be brought via rail and there would be no need for maintenance materials to be stored permanently at the compound. There is no need for HGVs including low loaders to use that section of Hays Mays Lane.</p>	<p>The Applicant confirmed that Work no. 24 is neither a shared access nor does it have a pedestrian footway in it. Those plans are proposed by the Community Land Trust.</p> <p>The Applicant's plans include an emergency access to reach Pill Tunnel, which will be tarmac surfaced because it is to be used for emergency vehicles and for maintenance vehicles. This is designed as a shared access. The Applicant has had some engagement with the Community Land Trust but it would be inappropriate for NSC not to talk to the Community Land Trust about the impact of the Applicant's scheme on the Community Land Trust's proposal.</p> <p>The scheme which is before the ExA and which will be going to the Secretary of State for consideration is for an emergency access and a temporary compound - Work no. 24 and Work. no. 24A. The compound will be used for emergency access and some maintenance vehicles.</p> <p>The scheme is not facilitating the Community Land Trust's proposals. It is for the Community Land Trust to demonstrate to the local planning authority how its scheme will not impact on the DCO Scheme and the DCO Scheme has not been designed to assist or support the Community Land Trust's proposals.</p>	The Applicant has no further comments.

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		<p>The ExA noted that the footway and widening the road is not part of the DCO.</p> <p>Mr Tarr commented that if the Applicant's scheme wasn't facilitating the housing development, this would not be an issue.</p>		
50.	ExA	<p>The ExA commented that the draft neighbourhood plan identifies Hays Mays Lane as a public right of way. However, it is actually a public open space.</p> <p>Hays Mays Lane is unsuitable for emergency access and construction traffic due to ecological restrictions.</p> <p>The 2015 consultation showed this route as an access to the railway line. Can the Applicant confirm when the decision was taken to change the status of this route to its current position in the scheme?</p>	<p>The Applicant confirmed that it understood that the status of Hays Mays Lane only changed in late 2015 – it was transferred to the local authority to be held as open space. The Applicant will provide further details at Deadline 6.</p> <p>Hays Mays Lane is unsuitable for emergency access and construction traffic due to ecological restrictions.</p> <p>The initial Pill Tunnel Emergency Access Plan dated November 2015, shows both potential accesses. However, Revision A and all subsequent revisions of the Plan (APP-040) show what became Work no. 24 only. Revision A is dated 11 December 2015.</p>	<p>Hays Mays Lane is held as open space and is not a public right of way.</p> <p>As Revision A onward of the Pill Tunnel Emergency Access Plan show only the northern and currently proposed) access to Pill Tunnel, forming Work no 24, it is clear that the Applicant's intention to no longer use Hays Mays Lane was determined before 11 December 2015.</p>

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51.	Mr Tarr	Mr Tarr noted that the consultation report dated December 2015 later still included Hays Mays Lane as an emergency access.	<p>The Applicant confirmed that the results of the Stage 1 consultation in June 2015 were published in December 2015 and would have reflected the results of the consultation in June 2015.</p> <p>The Stage 2 consultation took place in 2017 and the change in status of Hays Mays Lane had been incorporated into the proposals by this time.</p>	<p>The Applicant believes that Mr Tarr was referring to the document Report on DCO Stage 1 Consultation – MetroWest Phase 1 – December 2015" (Appendix I7 of the Consultation report, DCO Document Reference 5.1 – APP – 068)</p> <p>The Stage 1 consultation took place between the 22nd June 2015 and the 3rd August 2015. The scope of this consultation stage included using Hays Mays Lane as an access route to Pill tunnel from the southern side of the railway.</p> <p>863 people responded to the consultation; 31 raised specific points regarding the access route. Following the closure of the consultation, all of the responses were analysed and the results compiled into the Stage 1 Consultation Report. The number of responses meant that this took some months to consider and process responses. The response document was published online in December 2015, and reported the consultation responses during the consultation period only. It did not reflect any possible scheme changes being considered following the closure of the consultation in August, Therefore any scheme changes being considered after the closure of the Stage 1 consultation would</p>

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				<p>not be reflected in the Stage 1 consultation report as that was not its purpose – the report would only refer to consultation responses on the scope of the scheme as consulted on during June 22nd and August 3rd 2015.</p> <p>The report from December 2015 clearly refers to the consultation that closed on 3 August 2015 (see para 2.20 of the report). Appendix D of the report is the consultation material issued for the consultation in the summer of 2015. Page 16 of the summer 2015 documentation shows the Hays Mays lane site for the proposed Tunnel Access, because that was what was proposed in the summer of 2015 (the consultation document has the dates "June-August 2015 on its cover). The December 2015 report is reporting on the outcomes of the summer 2015 consultation.</p> <p>As can be seen from the response at line 50 above, the scheme was, by December 2015, considering the current location for the emergency access.</p>
52.	ExA	<p>The ExA noted that there were other rights of way issues at Royal Portbury Dock such as the road crossing with the island in the middle.</p> <p>The Applicant's response at Deadline 5 stated that this crossing will be improved by</p>	<p>The Applicant confirmed that it had deliberately used the term "if required" as the Applicant is aware that this is an evolving conversation. Ultimately, it is a matter for the local highway authority to decide if, on balance, a refuge island is required. While there have been calls for a refuge island in this location,</p>	<p>The Applicant has no further comments.</p>

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		<p>coloured paving and cutting vegetation and, if required, there is space for a refuge.</p> <p>In what situation would such a refuge be required? Would this be once construction starts or would the Applicant wait and see if there are safety issues? Does the refuge need to be on the plans now, and if it is needed, should it be secured by the DCO?</p>	<p>some parties including BPC are opposing the proposal.</p> <p>No plans for this crossing have been submitted yet. However, the Applicant has measured the site and the space available for a refuge is limited.</p> <p>The DCO contains general street works powers which could be used to put in the refuge island. Alternatively, the local highway authority could put it in, using its highway powers, .</p>	
53.	ExA NSC	<p>The ExA asked NSC for their comments.</p> <p>NSC commented that this issue had been discussed this over time and it was probably preferable for NSC to address this issue using their own powers as a highway authority. NSC would want to listen to BPC's views on that and the NSC's highways team will want to see any improvements made before the underpass is closed. It would be better to continue this issue as a discussion point.</p> <p>The ExA noted that the key issue was whether it needed to be secured in the DCO.</p>	n/a	The Applicant has no further comments.
54.	ExA	The ExA asked if there was a need for an additional requirement for the construction worker travel plan?	The Applicant noted that it has previously provided some suggested wording to both authorities. The Applicant will provide a further update at Deadline 6.	The dDCO has been amended – see revised Requirement 5.

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Agenda Item 7: Other Matters				
55.	ExA	<p>The ExA confirmed that there were a number of matters mentioned in the NPS on national networks that had not yet been discussed and the ExA wanted to briefly confirm that these matters were covered in the ES.</p> <p>The ExA noted that there were issues with regard to land instability such as the rock fencing. The ExA has also received a representation from the Coal Authority. Part of the development is in a high risk area and the coal authority has requested that an informative be put on the DCO to draw attention to mine entrances and the need for a coal authority permit. The ExA is unable put informative on a DCO so could this be added to the Master CEMP instead?</p> <p>In terms of contaminated land, Requirement 17 has been amended at the request of the EA. The ExA will ask the EA to confirm it is satisfied with the amendments.</p>	<p>The Applicant will consider the Coal Authority's request and respond at Deadline 6.</p> <p>Contaminated land is included in the SoCG with the EA. The revised requirement has been provided to the EA for consideration. The Applicant will ask the EA to confirm what wording they are looking to see and seek to agree this with NR.</p>	<p>The Applicant has included the following wording in the updated Master CEMP:</p> <p>7.2.15 <i>While part of the operational railway lies within the Development High Risk Area associated with historical coal mining, given the superficial nature of the construction works proposed, the Coal Authority raised no objection to the DCO Scheme. However, the Coal Authority advised that the former coal mining activity could present hazards such as: old mine entries (shafts and adits), shallow coal workings, geological features (fissures and breaks), mine gas and previous surface mining sites. Any intrusive activities which disturb or enter any coal seams, coal mining works, or coal mine entries (shafts and adits) requires a Coal Authority Permit.</i></p> <p>7.2.16 <i>Within the Order limits for the DCO Scheme, the operational railway crosses coal bearing strata along the southernmost section around Ashton Gate. An old coal pit is marked on the 1884 OS map, some 300 m to the west from the railway which survives on mapping editions up to 1955 when the area is developed as allotments.</i></p>

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				<p><i>At Ashton Gate the earliest OS map dated 1886 shows Frayne's Colliery as being disused and a colliery associated with the Ashton Vale Ironworks to the north which remains until some time in the 1940s. Given the long-established nature of the operational railway, which was built in the 1860s, no impacts are considered from coal mining.</i></p> <p>7.2.17 <i>The contractor shall review and update as required the information on historic mining presented in the ES, Appendix 10.2 and take this into consideration in the detailed design and construction of the DCO Scheme. If any coal mining features are identified unexpectedly during construction, the contractor shall inform the Coal Authority</i></p>
56.	ExA BCC	<p>The ExA asked the local authorities to confirm they are happy with the issues of land instability and contaminated land.</p> <p>NSC and BCC confirmed they were satisfied.</p>	n/a	-

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	NSC			
57.	ExA NSC BCC Mr Ovel	<p>The ExA noted that operational nuisance was addressed by Requirement 26 in the dDCO which asks for details of the permanent acoustic fencing to the south of Portishead Station and the former Portbury station.</p> <p>The ExA asked the local authorities if there were any other concerns about noise?</p> <p>BCC had no concerns but it did raise a comment in their consultation response. The Applicant has since provided further information and BCC is satisfied that there is no need for operational noise monitoring.</p> <p>NSC had no additional points to make.</p> <p>The ExA noted that Mr Ovel had made a submission about noise in the tunnels, and suggested that noise barriers were installed throughout the operational period. The Applicant has responded to Mr Ovel's submissions on the acoustic barriers.</p> <p>Mr Ovel commented that if a problem were to arise then the permissive right would be removed and the route would revert to bridleway. Mr Ovel is satisfied at this stage.</p>	The Applicant had nothing further to add.	The Applicant has no further comments.
58.	ExA	The ExA noted that the BPC raised the issue of dust, linked to the surfacing of Marsh	n/a	-

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		<p>Lane. Artificial light at Pill station is dealt with at Requirement 28 and Requirement 29 deals with operational lighting on highways, bridges and car parks.</p> <p>The ExA asked the local authorities if they had any comments on this issue? NSC and BCC had no issues to raise.</p>		
59.	ExA	The ExA asked the Applicant to confirm that there are no issues on civil and military aviation and defence interests? There has been a response from National Air Traffic Services (NATS) regarding safeguarding.	The Applicant confirmed there were no issues on this topic.	-
60.	ExA	The ExA noted that the Health and Safety Executive (HSE) had no objections subject to the provision of protection for gas pipelines. The HSE passed this issue back to Wales and West Utilities (WWU). This issue is likely to be covered by the PPs in the dDCO. Is there any comment from the Applicant on this point?	The Applicant confirmed that it is speaking to WWU and this issue will be dealt with by the PPs in the DCO.	The Applicant continues to progress discussions with WWU.
61.	ExA	<p>The ExA noted that Requirement 31 deals with the flood plan at Clanage Road and emergency evacuation procedures. Fencing is dealt with at Requirement 14(3) and Requirement 25.</p> <p>The ExA asked if there were any other measures required in relation to safety and security?</p>	The Applicant explained that the railway safety guidance from DfT is sufficient to secure satisfactory safety standards in relation to fencing along the railway.	-

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		<p>BCC confirmed it had nothing further to add. BCC will provide comments on fencing in due course.</p> <p>NSC confirmed that the emergency management officer was satisfied with the submissions. NR has well-rehearsed procedures in place and NSC has nothing further to add.</p>		
62.	ExA	<p>The ExA noted that it assumes that pollution control and other environmental protection regimes are covered by the submissions on other licences and permits?</p> <p>NSC and BCC confirmed they had nothing further to add.</p>	The Applicant confirmed that this point is covered in the SoCG with EA at paragraphs 8.11 and 8.22, (REP5 022). Reference is also made to other consents and licensing in the CEMP and ES Chapter 10. These issues have been satisfactorily resolved.	The Applicant has no further comments to make.
63.	ExA	The ExA asked if the Applicant had any further comments on cumulative effects.	The Applicant had no further comments to make.	-
64.	ExA	The ExA noted that the project has longevity and the ExA understands that decommissioning is not to be considered at this stage.	The Applicant confirmed that this is its position. Were the project to be decommissioned, the result would be similar to the condition of the disused railway at the moment.	The Applicant has no further comments to make.
65.	ExA	The ExA noted that the PINS guidance on site inspections remains the same and all site inspections will be on an unaccompanied basis in April 2021. The ExA will publish a list	The Applicant noted that, in order to assist the ExA with the unaccompanied site visit, the Applicant is proposing to submit some drawings to show what they intend to mark on the ground for the ExA to look at. The applicant will submit these drawings	Drawings showing the intend areas to be set out would be submitted to the ExA for comment week commencing 29 March.

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		of the locations that it will be visiting before the visits take place.	before the USI to allow the ExA to consider what other areas would be useful for them to understand on the ground. Drawings showing what was actually possible to mark out on the ground would be submitted by the Applicant a few days before the USI.	The Applicant will set out the locations on site with pegs and marker paint.
66.	ExA	The ExA confirmed that on 29 March 2021, the ExA will be submitting a RIES (Report on the Implications for European Sites) to the Secretary of State if required. The ExA will also submit its preferred DCO and its commentary on the dDCO. This is submitted regardless of the recommendation made by the ExA.	n/a	-