



# MetroWest+

## Portishead Branch Line (MetroWest Phase 1)

TR040011

Applicant: North Somerset District Council

9.61 ExA.FI.D7.V1 – Applicant's responses to the Rule 17 Request

Author: Womble Bond Dickinson (UK) LLP

Version: 1

Date: April 2021





**Planning Act 2008 (as amended) Section 89  
The Infrastructure Planning (Examination Procedure) Rules 2010 (as amended) – Rule 17**

**The Infrastructure Planning (Compulsory Acquisition) Regulations 2010 - Regulations 4 to 19**

**Application by North Somerset District Council for an Order granting Development Consent for the Portishead branch line – MetroWest Phase 1**

**Request for further information and comments on the certified documents list**

**Document Reference: 9.61 ExA.FI.D7.V1**

<b>ANNEX A</b>		
<b>Questions for the Applicant and the National Trust</b>		
<p>The Application seeks Temporary Possession (TP) of 11 plots (11/61, 11/80, 12/07, 12/20, 12/21, 12/30, 13/07, 13/31, 13/32, 13/55 and 14/05) for vegetation clearance, rock picking, rock bolting and ecological works.</p>		
<b>Applicant:</b>	<b>Question:</b>	<b>Response:</b>
1.	<p>Throughout the Examination reference has been made to the erection of rock fencing at these locations to prevent rocks from falling on the track can you please explain why this activity is not included in the purpose of acquisition column in schedule 1 of the Statement of Reasons (SoR) [REP6-014] or if it should be included then amend the SoR as necessary.</p>	<p>The Applicant is working with Network Rail and National Trust to establish the exact location of the proposed catch fences proposed for the reduction of risk for rocks falling from National Trust Land impacting on the railway. At this time it is envisaged that catch fences will be on Network Rail land, provided it is agreed between the parties, following a risk assessment, that placing the catch fencing on Network Rail land is effective in providing against the risk of rock fall. The parties are working together to find a mutually acceptable process for settling the exact location.</p> <p>Access to National Trust land for vegetation clearance and construction of the catch fences will be required in ether outcome.</p> <p>The Applicant has amended the Statement of Reasons, Schedule 1, for plots 12/07, 12/30 and 13/07 to refer to the installation of catch fencing for the relevant plots.</p>

2.	<p>Whilst the ExA accept that vegetation clearance, rock picking and ecological works are activities with a potentially limited timeline. The rock bolting and rock fencing would need to be in place and maintained for the perpetuity of the life of the proposed rail line. As a consequence, given the proposed lifetime for the rail line, this could be viewed as the permanent installation of apparatus. Could the Applicant therefore explain why TP rather than CA is being sought for these plots?</p>	<p>The Applicant's position is that the proposed works are for the benefit of National Trust to reduce the liability on its own land. In essence they are akin to an accommodation work being provided by the Applicant (and by Network Rail on the Applicant's behalf). The provision of the relevant works are for the mutual benefit of Network Rail and National Trust therefore.</p> <p>On this basis it was the Applicant's view that temporary powers were appropriate – there was no need to deny National Trust ownership of its land and the impacts of the installed works are very minimal. The rock bolts will not protrude significantly above the ground and the catch fences are provided on the basis that they are for the benefit of National Trust.</p> <p>That said, the Applicant understands that Network Rail is willing to enter into an appropriate easement with National Trust for access and maintenance purposes and believes that it is possible for such rights to be granted without offending the inalienability principles under which the land is held by National Trust.</p> <p>Given the CA Guidance however the Applicant felt that the necessity for a permanent interest in land for works that were being provided for the benefit of the existing landowner, did not justify either freehold compulsory acquisition or the securing of permanent new rights by compulsion and that temporary powers were the most appropriate way forward. It would then be for National Trust to decide whether it wished to retain and maintain the relevant works provided cognisant of the risks to National Trust of the works being removed.</p> <p>Negotiations with National Trust continue and it is hoped that the parties will find a mutually acceptable way forward to deal with ongoing maintenance and liability issues.</p>
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3.	Should the ExA consider that NT should not be responsible for the ongoing management and maintenance of the rock bolting and rock fencing, then the responsibility for these elements would need to be secured through a protective provision in the DCO. On a without prejudice basis provide draft wording that would enable this.	Protective Provisions have been issued to NT and agreed. These are included in the deadline 7 submission dDCO, at schedule 16 part 10.
<b>NT</b>	<b>Question</b>	<b>Response</b>
1.	In your D6 submission [REP6-040] you make reference to having Counsel's opinion regarding the future liability and responsibility of the impact of rock falls onto the Proposed Development. Can you provide a copy of this opinion or if it has already been provided into the Examination signpost where it can be found?	-
<b>ANNEX B</b>		
<b>Questions for the Applicant and National Grid Electricity Transmission (NGET)</b>		
<b>Applicant:</b>	<b>Question</b>	<b>Response</b>
1.	On a without prejudice basis provide comments on the Protective Provision [REP4-046] suggested by NGET at D4.	Please see Table 1 in Part 4 of the document:  <i>National Grid Electricity Transmission PLC: Applicant's position regarding S127 Planning Act 2008 and Schedule 16 of draft DCO,</i>  which is appended to the Applicant's S127 Statement at Schedule 2, for the Applicant's commentary on Protective Provisions for the mutual benefit of NGET and the railway undertaker, submitted at Deadline 7.
<b>NGET:</b>	<b>Question</b>	<b>Response</b>
1.	Provide details (eg extract from the relevant Land Plan, SoR or Book of Reference (BoR)) of the plots for the Hinkley C Connector DCO that would be affected by the Proposed Development and details of whether it is CA or TP of these plots that will be sought.	Please see Appendix 4 of the document:  <i>National Grid Electricity Transmission PLC: Applicant's position regarding S127 Planning Act 2008 and Schedule 16 of draft DCO,</i>  which is appended to the Applicant's S127 Statement, Schedule 2, for the Applicant's commentary on NGET's inclusion in the MetroWest Book of Reference, submitted at Deadline 7.

		<p>Having received the HPCC land plan from NGET, the Applicant has provided at Appendix 1 to this document an overlay of the final HPCC Order land plans with the relevant sheets of the MetroWest application Land Plans.</p>
<p>2.</p>	<p>The focus of the comments received has been on where the overlap between the Hinkley C Connector DCO would interface with the Proposed Development. However, the BoR [REP5-018] lists a further 50 plots along the line where NGET is listed as either having a Category 1 or Category 2 interest. As currently drafted schedule 16 of the dDCO contains a general Protective Provision (Part 2) that would protect electricity, gas, water, petroleum and sewerage undertakers are NGET satisfied that this would protect their assets/ equipment/ land interests elsewhere along the route? If not why and what protections would NGET be seeking in relation to these plots? If NGET consider that a bespoke Protective Provision for these plots would be necessary provide the relevant drafting.</p>	<p>The Applicant provides a table of interests at Appendix 4 to the document:</p> <p><i>National Grid Electricity Transmission PLC: Applicant's position regarding S127 Planning Act 2008 and Schedule 16 of draft DCO,</i></p> <p>which is appended to the Applicant's S127 Statement at Schedule 2. In relation to the interests on sheet 1 the Applicant does not believe that NGET retains an interest for operational apparatus.</p> <p>In relation to the interests on sheets 3-5, the entries are included in the Book of Reference because NGET's unilateral notice and option are registered on the whole of Bristol Port Company's titles covering the Royal Portbury Dock area.</p> <p>As can be seen from the plans provided at Appendix 5 of:</p> <p><i>National Grid Electricity Transmission PLC: Applicant's position regarding S127 Planning Act 2008 and Schedule 16 of draft DCO,</i></p> <p>there is no interaction between NGET's Order lands for the final HPCC Order, and the interests sought by the MetroWest project.</p> <p>In relation to the entries on sheets 3 and 4 of the Applicant's land plan, the Applicant believes the options registered relate to the alternative route for NGET's cables proposed under the HPCC Order which were not included in the final Order lands and provisions.</p> <p>In relation to the Marsh Lane access track, from Marsh Lane to the M5, the Applicant understands that whilst this land is not within HPCC Order limits, NGET has secured by agreement the</p>

		<p>ability to exercise rights of access over the Marsh Lane access track. The Applicant has discussed the mutual use of this route by HPCC contractors and the MetroWest scheme contractors and anticipates that agreement can be reached by the parties.</p> <p>The Applicant will work with NGET and the other parties authorised to use the Marsh Lane access track by Bristol Port Company (as well as Bristol Port Company) to ensure that access by each of the parties holding rights over the Marsh Lane access track can continue and not be impacted by the Applicant, save for any minor works to repair the access track, to survey the access track and to create temporary works for the benefit of the Applicant during construction. There will be no significant interruption of rights of access for other parties however.</p>
<b>NGET and the Applicant</b>	<b>Question</b>	<b>Response</b>
1.	NGET in their D6 submission [Para 2.6, REP6-039] refer to the fact that they have served notice regarding TP of a number of plots. Having checked the BoR [REP5-018] unlike all the other plots referred to by NGET, NGET are not listed as having an interest in plots 02/86 and 02/130. Can you confirm if NGET does have an interest in these plots and if so amend the BoR accordingly?	The Applicant has included NGET in both Plot 02/86 and 02/130 of the final book of reference.
2.	To enable the ExA to better understand the overlap between the two schemes provide a plan showing the Hinkley C Connector plots and the Portishead plots overlaid with the plots coloured to show the powers being sought.	See Appendix 1 for an overlay of the final HPCC Order land plans with the relevant sheets of the MetroWest application Land Plans
<b>ANNEX C:</b>		
<b>Questions for the Applicant, North Somerset District Council (NSDC) and the Bristol Port Company (BPC)</b>		
<b>Applicant:</b>	<b>Question</b>	<b>Response</b>
1.	On a without prejudice basis provide comment on the changes/ additions to the Protective Provision for the BPC that the BPC have requested in Section 6 of their Written Representation [REP2-064] as your response at Deadline 3 [REP3-036] does not provide detailed comments on these suggestions or if a response has been provided signpost where this information can be found.	<p>The Applicant, Network Rail and BPC have made considerable progress on narrowing differences between them on the proposed Protective Provisions.</p> <p>The protective provisions included in the Applicant's version of the dDCO at Deadline 7 have been discussed at length with BPC and</p>

		<p>represent, where agreement has been reached, the agreed position between them.</p> <p>Agreement has not been achieved, on the following points of principle:</p> <p><b>1. Court House Farm terminable access</b></p> <p>The position of BPC is that the Court House Farm terminable access should be specifically protected by a protective provision and a 15 month period be inserted into the protective provisions to prevent the closure of the Court House Farm easement or terminable access following the approval of the business case by the West of England Combined Authority and Department for Transport, with the latter issuing a final approval of the business case.</p> <p>The Applicant's position is that the Court House Farm easement is excluded from compulsory acquisition and on that basis there is no application of s127 of the 2008 Act. The Applicant cannot exercise its powers of compulsory acquisition and, as far as the Order is concerned, the Court House Farm terminable access would remain in situ notwithstanding the Order being made and works commencing on site.</p> <p>The Applicant believes that the combined operation of Condition 16 of planning permission 16/P/1987/F and the serving of a 12 month notice by Network Rail under its Deed of Easement entered into with BPC sufficiently deals with the planning and land law processes for the replacing of the existing temporary crossing with the bridge to be constructed by BPC. The Applicant notes in particular the need for BPC not to impede the construction of the MetroWest scheme by reference to Condition 16 of the relevant planning permission and believes the Protective Provisions should not include a provision in favour of the Port that would almost certainly lead to the MetroWest scheme being impeded.</p>
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		<p><b>2. Streets, access and public rights of way – paragraph 56(6) of BPC's revised proposed Protective Provisions [see 9.64 ExA.FI.D7.V1, Schedule 3 to the Applicant's S127 Position Statement]</b></p> <p>BPC requests that no parts of Work No. 16 or 18 should become open to any personal public right of way except with the agreement of BPC.</p> <p>Whilst the Applicant is willing to reach agreement in relation to both Work No. 16 (a cycle path) and Work No. 18 (a public bridleway extension) the Applicant does not believe, if compulsory powers are exercised, the restriction proposed by BPC is necessary.</p> <p>Both areas of land are outside of the Port's dock fence and public access to either end is very close by. Work No. 16 will be placed on an area of scrub next to Marsh Lane whilst the public bridleway will connect from the Port's land under the M5 and the public bridleway and footpath network already in existence there, to the street used as a pedestrian route and cycle path connecting to National Cycle Network routes 26 and 41, which is also publicly accessible.</p> <p>The Applicant will continue to work with BPC to seek agreement in relation to both Works but if the Applicant does take the freehold for the construction of the works then it sees no reason why BPC should have a control over the routes becoming publicly accessible given that they would be short links to existing public paths.</p> <p><b>3. Acquisition and use of land</b></p> <p>The Protective Provisions preferred by BPC seek to restrict powers of compulsory acquisition and temporary possession and associated powers to only be exercised with the consent of BPC. This is an absolute prohibition, not qualified by reasonableness.</p>
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		<p>For the reasons explained in 9.64 ExA.FI.D7.V1, Schedule 3 to the Applicant's S127 Position Statement the Applicant believes the impacts of a proposed compulsory acquisition of land and new rights over BPC land would not give rise to serious detriment to BPC. The areas of freehold acquisition are away from where the Port's primary purposes and statutory undertaking are carried out. The Applicant has written to BPC confirming the position on the proposed freehold acquisitions relating to highways. This letter is attached at Appendix 2.</p> <p>The position regarding freehold acquisitions for Work No. 16 and Work No. 18 are set out above and both areas of land are not in use day to day by the Port for its statutory undertaking purposes.</p> <p>The new rights sought over the Marsh Lane Access Track and the Port's railway on a permanent basis are proposed to both allow works to be carried out to the Port's railway to enable it to connect to the National Rail Network at Pill Junction, with the associated signalling; and for the maintenance of the operational Portishead Branch Line, which will be to the benefit of the freight operating companies providing rail freight services to BPC's Royal Portbury Dock.</p> <p>The Applicant believes its new right sought over Plot 05/75 is proportionate, and the route has reflected the existence of vegetation and the space required for Network Rail's vehicular access to the neighbouring watercourse and accommodation bridge for which the new right is sought.</p> <p>With the exception of Marsh Lane Access Track, BPC appears to be content with the Applicant's exercise of temporary possession powers. The Applicant will work with BPC and the other parties with the ability to access the Marsh Lane Access Track to allow for access at all reasonable times by all parties.</p>
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		<p><b>4. Use of land and execution of maintenance of the authorised development</b></p> <p>BPC seeks to exclude the exercise of temporary possession powers over the Marsh Lane Access Track or Rail Link land, or Plot 05/75, 05/103 (a permanent turning area sought for Network Rail's operational maintenance vehicles to enable them to access Marsh Lane cab first) and the construction compound proposed under the M5 Avonmouth Viaduct.</p> <p>The Applicant believes that the powers of temporary possession will be necessary in relation to plots 05/103 and 05/170. The Applicant is content to confirm (and this response can be treated as that confirmation) temporary powers over Plot 05/75 will not be sought.</p> <p>The Applicant will work with BPC and the other parties with the ability to access the Marsh Lane Access Track to allow for access at all reasonable times by all parties.</p> <p>In respect of the exercise of temporary powers over the rail land, such powers would only be exercised in association with a possession on Network Rail's operational railway so that there would be no effect on the availability of the Port's railway to connect with the operational network.</p> <p><b>5. Port's railway</b></p> <p>BPC seek to include a protective provision that would mean the Network Rail operational railway could be "constructed, maintained, altered, used or operated by the undertaker or Network Rail or any other person in the manner which would or might cause the number of train pass available to be sufficient to enable the passage between the Port's railway and the other parts of National Rail Network of 20 freight trains daily per calendar year in each direction".</p>
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		<p>The Applicant and Network Rail believe this provision is unnecessary.</p> <p>This is firstly because there is only a very limited number of paths currently being used over the operational railway to and from Royal Portbury Dock.</p> <p>Secondly it is an inappropriate control on the National Rail Network and the Order should not be used to impose such a control.</p> <p>Thirdly it is unnecessary because by reference to the Works Agreement dated 22 November 2000 between Railtrack Plc (now Network Rail Infrastructure Limited) and First Corporate Shipping Limited, clause 15 provides for the protection that BPC seeks. On 9 April 2021 Network Rail wrote to BPC confirming this – see 9.3.15 ExA.SoCG-NRIL.D7.V1, Appendix 1 to the Applicant's Statement of Common Ground with Network Rail Infrastructure Limited.</p> <p><b>6. General – construction protocol</b></p> <p>The protective provisions preferred by BPC seek to impose on the undertaker and Network Rail an obligation to adhere to BPC's construction protocol.</p> <p>The Applicant and Network Rail believe this is unnecessary as the Protective Provisions and provisions of the draft Order provide sufficient control over construction activities and believe that the construction protocol should not be incorporated into the draft Order given its content and also that there would be an unrestricted ability for BPC to change or revise the provisions of construction protocol, without any qualification in the Protective Provisions.</p> <p>Whilst the Applicant and Network Rail are willing to investigate the incorporation of some and indeed the majority of the construction</p>
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		<p>protocol's provisions in any agreement between the parties, Network Rail and the Applicant believe that the use of Protective Provisions to impose such controls, which are also clearly regulated for activities within the Port's fence rather than on lands at the very margins of the Port's estate, are unnecessary and not appropriate.</p> <p>In terms of detailed drafting, the Applicant's position is set out at Schedule 3 to the Applicant's S127 Statement (see Doc ref: 9.64 ExA.FI.D7.V1).</p>
<b>NSDC:</b>	<b>Question</b>	<b>Response</b>
1.	<p>Condition 16 of planning permission 16/P/1987/F [REP6-032] requires that 'the use of the site for the storage of cargo in transit (eg motor vehicles) shall not be commenced until a programme of works (including timescales) for the introduction and removal of the temporary at grade vehicle crossing and construction of vehicular bridge across the railway line so as not to impede the re-opening of the Portishead Branch line have been submitted (in consultation with MetroWest and Network Rail) to and approved by the Local Planning Authority'. Can you:</p> <p>(a) Confirm whether this condition has been discharged; and</p> <p>(b) Provide details of the timescales for the removal of the at grade crossing and construction of vehicular bridge that were approved under this condition.</p>	<p>The Applicant has no recollection of being consulted by BPC prior to the discharge of this condition.</p> <p>The Applicant has not seen the details submitted to the LPA.</p> <p>The Applicant notes that Condition 16 required, as a pre-condition for use of the site, a programme of works to be submitted for approval by the LPA providing for BPC to act so as</p> <p><i>not to impede the re-opening of the Portishead Branch line</i></p>
<b>BPC:</b>	<b>Question</b>	<b>Response</b>
1.	<p>With regard to the timescales for the removal of the at grade crossing you refer to a deed of a grant of easement dated 4 September 2017 between Network Rail and First Corporate Shipping Limited can you provide a copy of this agreement with the relevant sections highlighted and/ or provide a summary of what this document requires with regards to the removal of the at grade crossing and the construction of the vehicular bridge.</p>	-

The Applicant and BPC:	Question	Response
	<p>The BPC have advised that the principle point of contention with Network Rail Infrastructure Limited is when the BPC would be required to construct the vehicular bridge across the railway to replace the at grade crossing [Point 11, AS-052]. The BPC [CA.1.10, REP3-046] state that the DCO as drafted currently makes no provision to ensure that they have adequate time to construct the alternative crossing in accordance with the timescale envisaged by the planning permission and as previously envisaged by BPC and the Applicant.</p>	<p>The Applicant refers to its response to the question asked of the local planning authority above. The Applicant believes that the temporary at grade crossing is sufficiently regulated by the existing planning permission 16/P/1987/F and understands that the existing easement can be terminated on 12 months' notice. As such the Applicant has sought to exclude the Order from operating against the Port's temporary at grade crossing as its removal is sufficiently dealt with in the planning permission and the deed of easement that BPC entered into with Network Rail.</p>
<p>1.</p>	<p>Should this matter not be resolved by the end of the Examination could both the Applicant and the BPC indicate how they consider this matter could be secured through the DCO and provide appropriate wording.</p>	<p>The Applicant believes the temporary at grade crossing should be excluded from the effects of the dDCO and protective provisions. There is no serious detriment issue arising as the dDCO does not impact on the private law relationship between Network Rail and BPC, whilst planning permission 16/P/1987/F requires BPC to not "<i>impede the re-opening of the Portishead Branch line</i>". BPC will be expected to act in accordance with the details submitted under condition 16 and must have envisaged this situation arising. The removal of the at grade crossing is, in land law terms, entirely an issue for Network Rail and BPC and the exclusion of the powers of compulsory acquisition in the Applicant's book of reference (See Plot 04/95 and 05/05 of Doc: 4.3 - Book of Reference, examination Library ref REP5-018) means S127 of the 2008 Act does not apply.</p>

**1. Applicant's Comment on Schedule 17 – Documents to be Certified**

- 1.1. The Examining Authority (ExA) at Appendix 1 of the Action points arising from Issue Specific Hearing 4 into the draft DCO (document reference: EV-011b) queried whether nine documents were required to be included within the Schedule of Certified documents or whether these were to be omitted from the list purposefully. The Applicant has drafted the following note to confirm for the ExA the final list of documents and the reasons behind their adoption or omission:

<b>Applicant's Comments on Schedule 17 – Documents to be Certified</b>			
<b>Item no.</b>	<b>Document in Question</b>	<b>ExA's Comment on Certified Documents</b>	<b>Applicants Comments on Certified Documents</b>
1.	Bridleway Extension under the Elevated M5 Plan	At the ISH the ExA queried whether or not these documents should be omitted, amended or included within Schedule 17 – documents to be certified, in order to secure the works/ mitigation shown or within those documents (or the latest version of those plans).	The Bridleway Extension Under the Elevated M5 plan has been referenced as a standalone document within Schedule 17. The ExA's comments on the Schedule of Certified documents made it apparent that the plan would appear twice once as a standalone document and again in Requirement 4 of the dDCO. However, the Applicant has reviewed Requirement 4 in the Order and removed reference to the plan in the requirement. Therefore, the plan has remained as a standalone document within the list where no repetition should appear within the Order.
2.	Section Drawings		Upon review of the Order, the Applicant has added the Longitudinal Profile of Railway Alignment and the Cross Section plans to make up the Section Drawings referred to within Schedule 17 of the deadline 7 dDCO. The Applicant does not believe the Engineering Sections referred to by the panel in their correspondence following the Issue Specific Hearing 4 are required as a certified document.
3.	Cattle Creep proposed General Arrangement Plan (APP-021)		The Applicant has included the Cattle Creep proposed General Arrangement Plan in Schedule 17 of the deadline 7 dDCO.
4.	Earthworks (APP-023)		Pursuant to the ExA's query regarding the Earthworks plans, the Applicant has included these plans as part of the certified documents list in Schedule 17 of the deadline 7 dDCO.

5.	Diversion Routes for Pedestrians and Cyclists		The Applicant does not believe the diversion routes for Pedestrian and Cyclists are required as a certified document. This is on the basis that the plans were provided to illustrate the existing available routes for diversion to the wider community rather than a document which is intended to create temporary or permanent new public rights of way when discharging requirements under the order.
6.	National Cycle Network Temporary and Permanent Works Plans (APP-033)		The Applicant has included the National Cycle Network Temporary and Permanent Works Plans as a certified document within Schedule 17 of the deadline 7 dDCO.
7.	Easton-in-Gordano Flood Mitigation Plan (APP-037)		The ExA also commented that the Easton-in-Gordano Flood Mitigation Plan had not been included within the Schedule 17 as drafted. The Applicant has not included this plan within the schedule as this relates to Work 16D which was removed from the order as a result of acceptance of the non-material change request (see document reference: REP4-027).
8.	Surface Water Drainage Strategy for Portishead and Pill Stations, Haul Roads and Compounds (APP-192)		Upon reviewing the ExA's comments on Schedule 17, the Applicant does not believe that the Surface Water Drainage strategy requires certification within the order. The plan has not be referenced specifically within the requirements for the order or in the schedule of certified document as it is not intended to be relied upon by the discharging authority when carrying out the specific requirements for the scheme.
9.	Design and Access Statement (APP-196)		Following the ExA comments on Schedule 17, the Applicant has reviewed several other schemes and considered the purpose of the Design and Access Statement. On the balance of schemes reviewed, the Applicant does not believe the Design and Access Statement is required as a certified document. Multiple transport Schemes including the A303 (Stonehenge and Sparkford to Ilchester), A19 Downhill Lane Improvement, A63 Castle Street Improvement, Great Yarmouth Third River Crossing and A585 Windy Harbour, among many others, have not certified the design and Access Statement. The Applicant does not believe it is necessary or entirely relevant for the discharging authority to

			reference when the requirements are discharged.
10.	Great Crested Newts Indicate Pond Design	The ExA also requested that the Applicant remove the reference to the Great Crested Newt Indicate Pond Design from Schedule 17. The drawing number was still mentioned in the schedule (see document: REP6-020 at ref 23).	The Applicant has also removed drawing number in Schedule 17 that related to the Great Crested Newt Indicative Pond Design at the request of the ExA at ISH4 on the dDCO (see document reference: REP6-020).

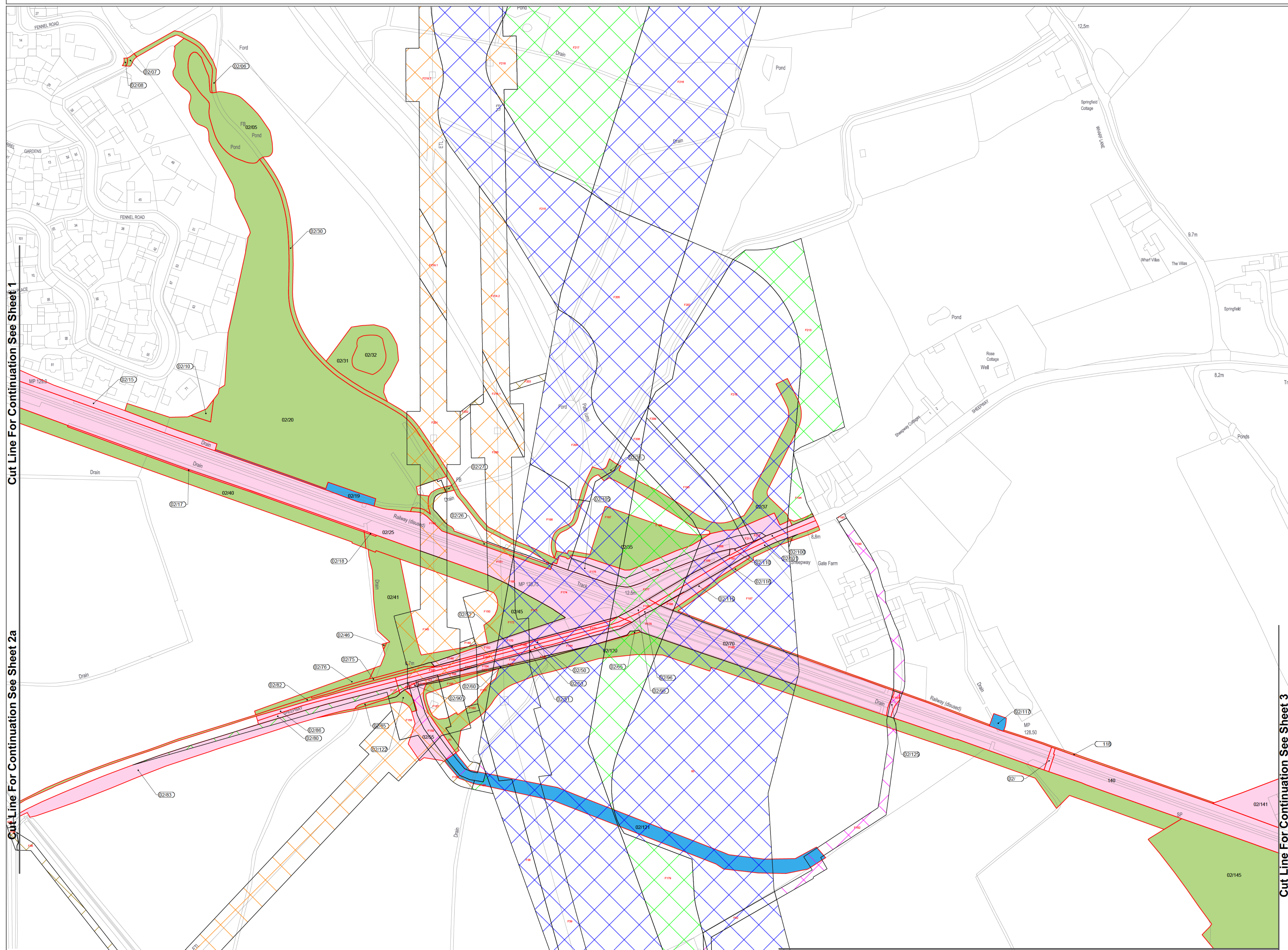
**Appendix 1: Overlay plans showing the relevant Order land in the MetroWest Order and the HPCC Order**



Cut Line For Continuation See Sheet 1

Cut Line For Continuation See Sheet 2a

Cut Line For Continuation See Sheet 3



- Key:**
- Limits of Land to be Acquired or used
  - Land subject to compulsory acquisition of all estates and interests
  - Land subject to temporary possession for construction, mitigation, access, etc
  - Land subject to compulsory acquisition of permanent new rights
  - Land subject to compulsory acquisition of permanent new rights – subsoil only
  - Land subject to compulsory acquisition of permanent new rights in subsoil and temporary possession at surface level
  - Structures in land subject to compulsory acquisition together with temporary possession at ground level
  - Structures in land subject to compulsory acquisition of all estates and interests together with compulsory acquisition of permanent new rights
  - Area of proposed permanent traffic regulation, but no compulsory acquisition

Colourings on the land plans are provided to assist interpretation. The provisions of the Order determine the nature of interests sought to be acquired.

- Hinkley DCO
- Land for Permanent Access
  - Land for Permanent Easement
  - Land for Temporary Access
  - Land for Temporary Construction
  - Land for Temporary Dismantling

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The Portishead Branch Line (MetroWest Phase 1) Order 2021  
 Plan title: Land Plan  
 Sheet No: 2 of 17  
 Date: 14 April 2021  
 Author: Ardent Management

Scale: 1:1250 @A1

10m 0m 10m 20m 30m 40m 50m

Drawn by: N.H.  
 Date: 14/04/2021  
 Checked: C.P.  
 Rev: 79

**ardent**  
 infrastructure and regeneration

Cut Line For Continuation See Sheet 2b





- Key:**
- Limits of Land to be Acquired or used
  - Land subject to compulsory acquisition of all estates and interests
  - Land subject to temporary possession for construction, mitigation, access, etc
  - Land subject to compulsory acquisition of permanent new rights
  - Land subject to compulsory acquisition of permanent new rights – subsoil only
  - Land subject to compulsory acquisition of permanent new rights in subsoil and temporary possession at surface level
  - Structures in land subject to compulsory acquisition together with temporary possession at ground level
  - Structures in land subject to compulsory acquisition of all estates and interests together with compulsory acquisition of permanent new rights
  - Area of proposed permanent traffic regulation, but no compulsory acquisition

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- Hinkley DCO**
- Land for Permanent Access
  - Land for Permanent Easement
  - Land for Temporary Access
  - Land for Temporary Construction
  - Land for Temporary Dismantling

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Travelwest+ is a brand name for the joint venture between Travelwest and West Midlands Railways.

The Portishead Branch Line (MetroWest Phase 1) Order 2021  
 Plan title: Land Plan  
 Sheet No: 2a of 17  
 Date: 14 April 2021  
 Author: Ardent Management

Scale: 1:1250 @A1

10m 0m 10m 20m 30m 40m 50m

Drawn by: N.H.  
 Checked: C.P.  
 Date: 14 04 2021  
 Rev: 79

**ardent**  
 infrastructure and regeneration

Cut Line For Continuation See Sheet 2



Cut Line For Continuation See Sheet 2

Cut Line For Continuation See Sheet 3

- Key:**
- Limits of Land to be Acquired or used
  - Land subject to compulsory acquisition of all estates and interests
  - Land subject to temporary possession for construction, mitigation, access, etc
  - Land subject to compulsory acquisition of permanent new rights
  - Land subject to compulsory acquisition of permanent new rights – subsoil only
  - Land subject to compulsory acquisition of permanent new rights in subsoil and temporary possession at surface level
  - Structures in land subject to compulsory acquisition together with temporary possession at ground level
  - Structures in land subject to compulsory acquisition of all estates and interests together with compulsory acquisition of permanent new rights
  - Area of proposed permanent traffic regulation, but no compulsory acquisition

Colourings on the land plans are provided to assist interpretation. The provisions of the Order determine the nature of interests sought to be acquired.

Hinkley DCO

- Land for Permanent Access
- Land for Permanent Easement
- Land for Temporary Access
- Land for Temporary Construction
- Land for Temporary Dismantling



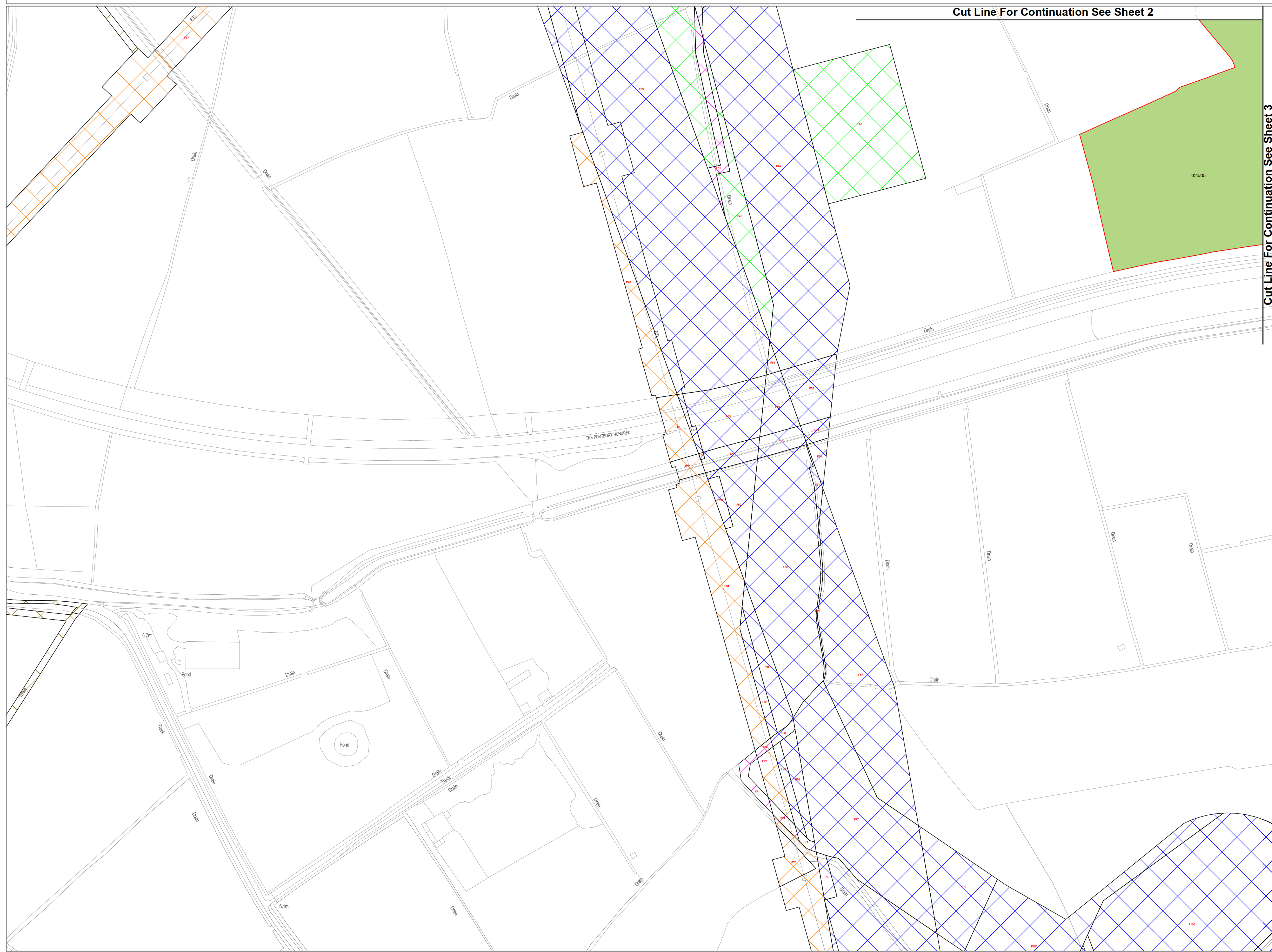
The Portishead Branch Line  
 (MetroWest Phase 1) Order 2021  
 Plan title: Land Plan  
 Sheet No: 2b of 17  
 Date: 14 April 2021  
 Author: Ardent Management

Scale: 1:1250 @A1

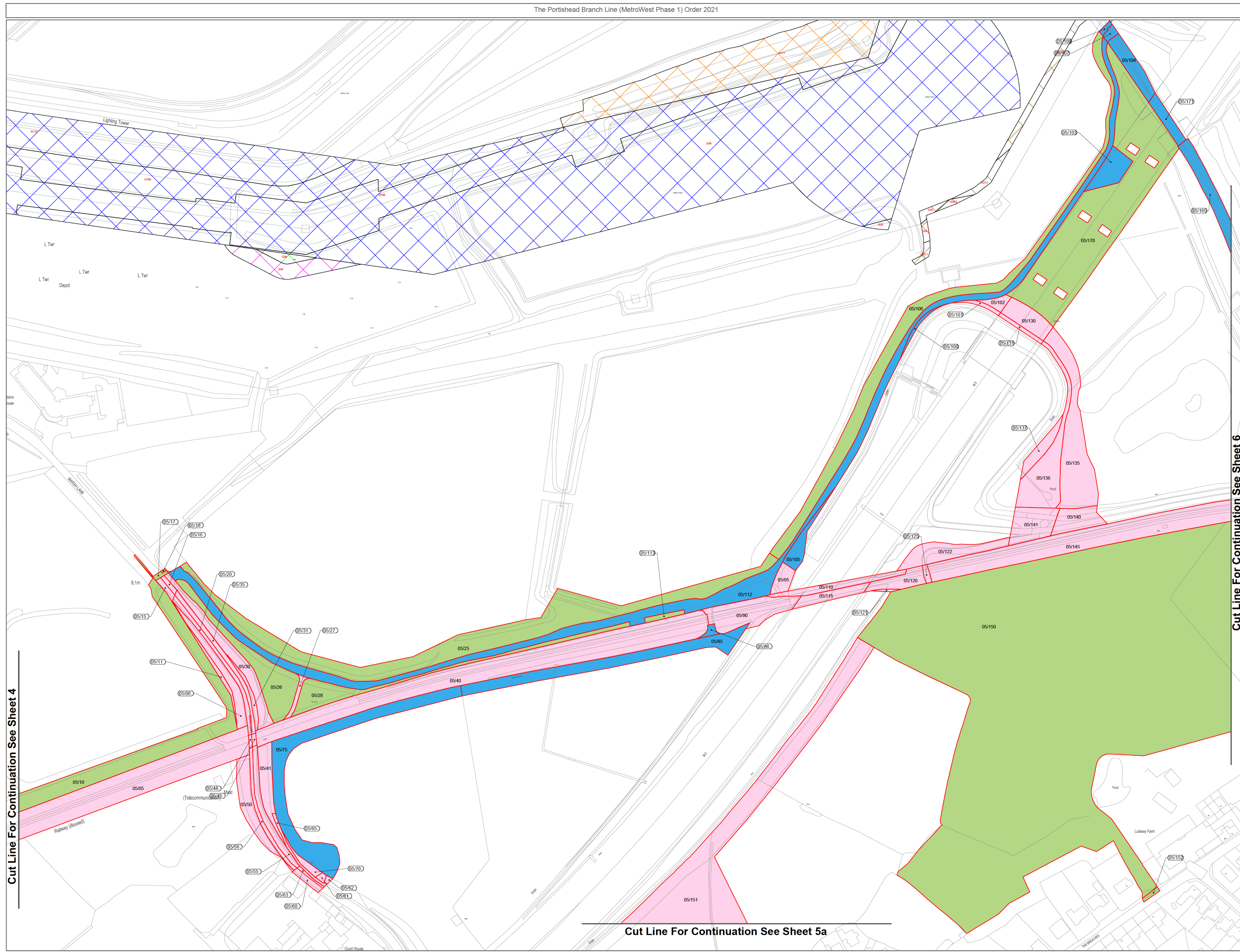
10m 0m 10m 20m 30m 40m 50m

Drawn By: N.H.  
 Checked: C.P.

Date:	14 04 2021	Drawn by:	N.H.
Rev:	79	Checked:	C.P.







- Key:**
- Limits of Land to be Acquired or used
  - Land subject to compulsory acquisition of all estates and interests
  - Land subject to temporary possession for construction, mitigation, access, etc
  - Land subject to compulsory acquisition of permanent new rights
  - Land subject to compulsory acquisition of permanent new rights – subsoil only
  - Land subject to compulsory acquisition of permanent new rights in subsoil and temporary possession at surface level
  - Structures in land subject to compulsory acquisition together with temporary possession at ground level
  - Structures in land subject to compulsory acquisition of all estates and interests together with compulsory acquisition of permanent new rights
  - Area of proposed permanent traffic regulation, but no compulsory acquisition

Colourings on the land plans are provided to assist interpretation. The provisions of the Order determine the nature of interests sought to be acquired.

- Hinkley DCO**
- Land for Permanent Access
  - Land for Permanent Easement
  - Land for Temporary Access
  - Land for Temporary Construction
  - Land for Temporary Dismantling

Cut Line For Continuation See Sheet 6

Cut Line For Continuation See Sheet 4

Cut Line For Continuation See Sheet 5a

**travelwest**  
 South West Rail Services, North Devon and South Gloucestershire  
 The Portishead Branch Line (MetroWest Phase 1) Order 2021  
 Plan title: Land Plan  
 Sheet No: 5 of 17  
 Date: 14 April 2021  
 Author: Ardent Management

Scale: 1:1250@A1

Dwg Ref: N:\CAD Team\MetroWest\PT1 Cut\DWG\0200 Boundary\Boundary\_Plan\_Line\_Ford\_019\_Hinkley DCO\_Overlay\_20210412.dwg

Plan Ref: MetroWest\_RL\_Final\_Reviled\_Stage2.pdf

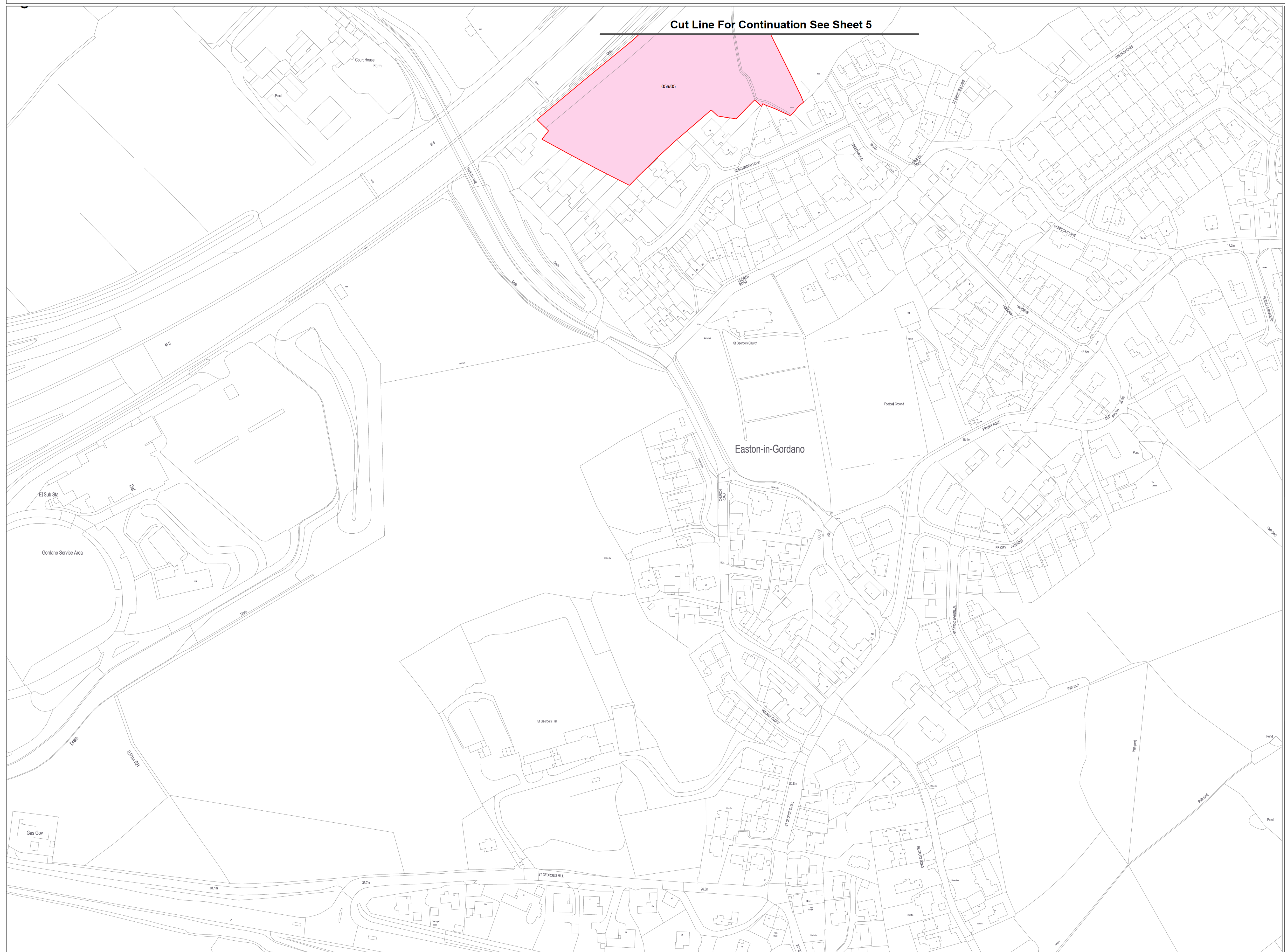
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Date: 14 04 2021	Drawn by: G J
Rev: 79	Checked: C P

**ardent**  
 infrastructure and regeneration



Cut Line For Continuation See Sheet 5



- Key:**
- Limits of Land to be Acquired or used
  - Land subject to compulsory acquisition of all estates and interests
  - Land subject to temporary possession for construction, mitigation, access, etc
  - Land subject to compulsory acquisition of permanent new rights
  - Land subject to compulsory acquisition of permanent new rights – subsoil only
  - Land subject to compulsory acquisition of permanent new rights in subsoil and temporary possession at surface level
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Colourings on the land plans are provided to assist interpretation. The provisions of the Order determine the nature of interests sought to be acquired.

- Hinkley DCO**
- Land for Permanent Access
  - Land for Permanent Easement
  - Land for Temporary Access
  - Land for Temporary Construction
  - Land for Temporary Dismantling



The Portishead Branch Line  
(MetroWest Phase 1) Order 2021  
Plan title: Land Plan  
Sheet No: 5a of 17  
Date: 14 April 2021  
Author: Ardent Management

Scale: 1:1250@A1

Plan Ref: MetroWest\_RL\_Final\_Rev02\_Stage2.pdf  
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	Date: 14 04 2021	Drawn by: G J
	Rev: 79	Checked: C P





**Appendix 2 – Letter from North Somerset Council to Bristol Port Company 14 April 2021**

**Date:** 14 April 2021  
**My ref:** MetroWest Phase 1  
**Your ref:**  
**Contact:** James Willcock  
**Telephone:** 01934 426414  
**Email:** james.willcock@n-somerset.gov.uk



Mr John Chaplin  
Director of External Affairs & Special Projects  
The Bristol Port Company  
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St.Andrew's Road  
Avonmouth  
Bristol BS11 9DQ

Place Directorate  
North Somerset Council  
Town Hall  
Weston-super-Mare  
BS23 1UJ

DX 8411 Weston-super-Mare

**The Proposed Portishead Branch Line MetroWest Phase 1 Order  
Powers relating to land at Marsh Lane, and Royal Portbury Dock, Easton in Gordano**

I am writing to confirm some points that have been discussed in the DCO examination and in our meetings, relating to Marsh Lane.

They deal with accesses to Bristol Port Company (**BPC**) land from the highway of Marsh Lane and with the use of the access track from Marsh Lane to the Port's level crossing underneath the M5 (**Access Track**), by BPC and statutory undertakers benefiting from rights over the Access Track.

**Marsh Lane accesses**

The Applicant has included Plots 05/30, 05/50 and 05/61 as lands for freehold acquisition in the land plans and book of reference submitted with the Order application. Each forms an access to the highway of Marsh Lane from BPC land.

The Applicant wishes to ensure that the Council as local highway authority has sufficient interest in land to carry out works to bridge approaches, and the relevant land parcels have been included in the Order for compulsory acquisition.

Neither of the accesses to the south of the railway (Plots 05/50 and 05/61) are shown on the Applicant's permanent and temporary stopping up and diversion plan whilst being accesses to be closed.

Whilst TS1 is shown on sheet 5 of that plan, this is intended to be used to close during the construction period, the existing bridleway only and not to impact on BPC's ability to access its land at this location (nor the ability for statutory undertakers to use TS1 for access).

I can confirm therefore that:

1. There is no intention to prevent BPC from accessing the highway from the lands fronting the highway at Plots 05/30, 05/50 and 05/61.
2. To the extent that either articles 27 or 28 of the draft Development Consent Order may be seen to apply I can confirm, pursuant to article 28(7) of the draft Order that any rights or ability to access the highway that BPC may have over Plots 05/30, 05/50 and 05/61 would not be extinguished by virtue of article 28 and this letter can be used as confirmation of that. I can also

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confirm that the power in Article 29 will not be used to extinguish BPC's access to the highway in any of the three plots.

3. To the extent BPC can access its land from Marsh Lane over plots 05/62, 05/65 or 05/70, I can confirm the Order powers will not be used to extinguish or override such rights the Port enjoys to do so.
4. I would also note that under articles 28 and 29 the rights of statutory undertakers will not be extinguished by operation of those articles.

#### **Use of Marsh Lane access track**

Plot 05/30, 05/100, 05/103, 05/105, 05/107 and 05/112 form part of an access track used by BPC as well as being a public bridleway. Statutory undertakers and Highways England also use the route for access.

Whilst this route is to be a haul road for the MetroWest scheme, and will be temporarily closed as a public right of way, there is no intention for the Applicant to exercise temporary or other powers to restrict use of the route by other parties with private rights to use the access track. There may be short interruptions whilst works are carried out such as surveys, repairs and the creation of a ramp to enable MetroWest construction traffic access onto the disused railway line close to where the disused railway passes under the M5. We have previously provided a plan showing our proposals regarding the access track, and we anticipate we will issue a revised version of the plan in the next few days, following your feedback.

This letter is provided to confirm that the powers of temporary possession to exclude BPC and any powers in the Order that might be available to prevent other parties from using the access track will not be exercised and the Applicant will exercise the powers under the Order to use the route as a haul road in common with BPC's ownership and the ability for other parties holding rights over the access road to continue to use the access road.

#### **Plot 05/95**

The Applicant's referencing suggests that part of Plot 05/95 forms the access route referred to above. Whilst this plot is scheduled in the Order for freehold acquisition, as it appears to be in the ownership of Highways England Company Limited and not Bristol Port Company, the Applicant can confirm it has no intention to restrict the use of this part of the access road by BPC and others authorised by BPC to use the access road if the title vests in the Applicant.

#### **Plots 04/53 and 04/85**

Both of these plots are indicated as being taken into the Applicant's freehold ownership as part of the compulsory acquisition process if the order is made.

Plot 04/53 is a culvert head that has been fenced so as to be accessible from Network Rail's land but is within the Port's freehold. I can confirm that the freehold acquisition of this culvert head is now not required and accordingly we will not pursue the freehold acquisition of this plot.

In relation to plot 04/85, The Council will rely on the extent of the existing adopted highway in this plot and will not pursue the freehold acquisition of plot 04/85, on the basis that access onto the plot will be available to North Somerset Council as highway authority.

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## Access over Plot 05/50

The Port has indicated that it requires to retain rights over, or preferably retain the freehold of, part of 05/50, being land at the toe of the embankment supporting Marsh Lane, to facilitate access for the communication code operator to its apparatus located between the Port's fence around the Court House Farm cargo area and the southern boundary of Network Rail's disused railway land.

I can confirm that such an arrangement is acceptable to the Council. Whilst we can decide the final details in due course, I can confirm that either:

- (a) If the whole of plot 05/50 is acquired by the Council, then access will be permitted for the Port and the communication code operator across the flat area of plot 05/50 for access to the Port's fence and for the communication code operator to reach its apparatus; or
- (b) The area of acquisition will be restricted to the embankment, provided that the Port confirms that it will grant an easement to allow North Somerset Council access to the embankment over the flat area at the bottom of the embankment.

## Conclusions

I hope this provides you with the necessary comforts regarding the plots in the vicinity of Marsh Lane and in regard to the Council no longer pursuing the freehold acquisition of plots 04/53, 04/85 and being willing to work with the Port for the Port to retain, or retain access over, the lower part of plot 05/50.

A copy of this letter will be provided to the examining authority at Deadline 7 and be publicly available as evidence of the Applicant's commitments.

Yours sincerely



James Willcock  
MetroWest Phase 1 Programme Manager

This letter can be made available in large print, audio, easy read and other formats. Documents on our website can also be emailed to you as plain text files.

Help is also available for people who require council information in languages other than English. For more information contact the sender of this letter.

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