



MetroWest+

Portishead Branch Line (MetroWest Phase 1)

Planning Inspectorate Reference: TR040011

Applicant: North Somerset District Council

9.3.1 ExA.SoCG-NSC.D7.V2 – Statement of Common Ground

Between:

- (1) North Somerset District Council (as Applicant); and
- (2) North Somerset District Council (as Local Planning Authority)

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2. ABBREVIATIONS

2008 Act	Planning Act 2008
AGVMP	Avon Gorge Vegetation Management Plan
Applicant	North Somerset District Council
CEMP	Construction Environmental Management Plan (Doc 8.14, Examination Library ref REP 6-140)
dDCO	draft Development Consent Order (Doc 3.1 Examination Library ref REP 6 – 008)
EA	Environment Agency
ES	Environmental Statement
GCN	Great Crested Newt
LLFA	Lead Local Flood Authority
NE	Natural England
NPPF	National Planning Policy Framework
NRIL	Network Rail Infrastructure Limited
NSIP	Nationally Significant Infrastructure Project
PINS	Planning Inspectorate
SAC	Special Area of Conservation
SoCG	Statement of Common Ground
SSSI	Site of Special Scientific Interest
WECA	West of England Combined Authority

In the text, "DCO Document Reference" refers to the DCO document reference number as shown on the documents on the Portishead Branch Line (MetroWest Phase 1) project page on the PINS website: <https://infrastructure.planninginspectorate.gov.uk/projects/south-west/portishead-branch-line-metrowest-phase-1/?ipcsection=docs>.

In cases where a document appears twice and there are two DCO Document Reference numbers, (for example, the AGVMP which appears twice as standalone DCO Document Reference number 8.12 and as ES Appendix 9.11, DCO Document Reference 6.25), we have used the DCO Document Reference number for the standalone document.

References to the dDCO (including requirement numbers) are references to the draft submitted at Deadline 6: REP6 – 008 of the Examination library documents. The ExA's proposed changes to the dDCO Schedule 2 (Requirements), issued on 29 March 2021, are

discussed at Appendix 5, together with the parties comments on the proposed changes to requirements, and new proposed requirements.

3. INTRODUCTION

- 3.1 This Statement of Common Ground ("SoCG") has been prepared by North Somerset Council ("the Applicant"), and North Somerset District Council in its capacity as Local Planning Authority ("the LPA") to set out the areas of agreement and disagreement between the parties in relation to the Development Consent Order ("dDCO") application for the Portishead Branch Line (MetroWest Phase 1) ("the DCO Scheme") based on consultation to date.
- 3.2 This SoCG comprises an agreement log which has been structured to reflect topics of interest to the LPA in relation to the application for the DCO Scheme. Topic specific matters agreed and not agreed between the LPA and the Applicant are included.

4. SCHEME OVERVIEW

- 4.1 The Applicant has applied to the Planning Inspectorate ("PINS") for a development consent order to construct the Portishead Branch Line under the Planning Act 2008 ("Application"). The Application was made on 15 November 2019 under reference TR040011 and was accepted for examination on 12 December 2019.
- 4.2 The DCO Scheme will provide an hourly (or hourly plus) railway service between Portishead and Bristol Temple Meads Railway Station, with stops at Portishead, Pill, Parson Street and Bedminster.
- 4.3 The DCO Scheme comprises the Nationally Significant Infrastructure Project ("NSIP") as defined by the Planning Act 2008 ("the 2008 Act") to construct a new railway 5.4 km long between Portishead and the village of Pill, and associated works including a new station and car park at Portishead, a refurbished station and new car park at Pill and various works along the existing operational railway line between Pill and Ashton Junction where the DCO Scheme will join the existing railway. Ashton Junction is located close to the railway junction with the Bristol to Exeter Mainline at Parson Street.¹
- 4.4 The Application has been accompanied by an Environmental Statement ("ES") because the DCO Scheme is classified as EIA development in the EIA Regulations 2017 (2).

¹ Please refer to Schedule 1 of the DCO (Application Document 3.1 as updated for Deadline 6: REP6-008) for more detail.

² The Town and Country Planning (Environmental Impact Assessment) Regulations 2017

5. MATTERS OF INTEREST TO NORTH SOMERSET LPA IN THE DCO SCHEME

- 5.1 As North Somerset Council is the Local Planning Authority for the area in which part of the DCO Scheme lies – the remainder being within the administrative area of Bristol City Council – the LPA has a particular interest in the DCO Requirements. Applications to discharge a number of the Requirements will be made to the LPA, and therefore a key area for agreement is the process by which those applications are made by the Applicant and dealt with by the LPA.
- 5.2 As North Somerset Council is a unitary authority, it is also the Local Highway Authority. It therefore has a particular interest in the impact of construction and the operational phase upon the highway network, specifically stations and work compounds. North Somerset Council is also the Lead Local Flood Authority and therefore flood risk and drainage are key issues. Ecology is another key area of interest, given the location of the scheme in close proximity to key ecological sites.
- 5.3 A summary of key issues is provided in the conclusions and summary of key issues section of this SOCG – Section 15.

6. OVERVIEW OF ENGAGEMENT

- 6.1 Introduction
 - 6.1.1 This section briefly summarises the consultation between the Applicant and LPA. For further information on the consultation process please refer to the Consultation Report (Doc 5.1, Examination Library reference APP-058).
- 6.2 Pre-application
 - 6.2.1 The Applicant (together with NRIL) engaged with the LPA on the DCO Scheme during the pre-application process, both in terms of informal non-statutory engagement and formal consultation carried out pursuant to Section 42 of the 2008 Act.
 - 6.2.2 The Applicant has had regular and constructive engagement with the LPA throughout the pre-application process on both a formal and an informal basis.
 - 6.2.3 The formal consultation was carried out in three main stages:

- (a) "Stage 1 Consultation", from 22 June 2015 to 3 August 2015 (pursuant to Section 47 only);
- (b) "Stage 2 Consultation", from 23 October 2017 to 4 December 2017; and
- (c) "Additional Stage 2 Consultation" at several different points following Stage 2 Consultation.

6.2.4 A full account of the Applicant's pre-application engagement with the LPA is contained in the Consultation Report (APP-058).

6.3 Post-application

6.3.1 Following the submission of the Application on 15 November 2019, the Applicant has continued to engage with the LPA and progressed the substantive matters that are recorded in this document.

6.3.2 The LPA's Relevant Representation is set out in section 7 of this SoCG alongside the Applicant's response.

6.3.3 Meetings between the Applicant and LPA have continued post submission with discussion focused on settling the content of this comprehensive SOCG.

6.4 Overview of key issues raised in Relevant Representation and at Section 42 consultation

6.4.1 When formally consulted during the Section 42 consultation, the LPA raised the following key issues:

- (a) Concerns about the Portishead Station building, car park design and the surrounding environment;
- (b) Requests for further information/ clarification/ mitigations regarding ecology; and
- (c) General requests for further information.

6.4.2 Outside of the formal consultation process the LPA raised the following key issues:

- (a) Requested 14 days' notice before the end of the 8 week approval period prior to deemed consent of Requirements (as set out in Schedule 2 of the dDCO taking effect;
- (b) Requested further detail on how the larger car park access at the junction with Harbour Road and Papermill Gardens will operate. The proposed operation of

this junction will be tested to demonstrate that it will operate satisfactorily at the detailed design stage;

- (c) Requests for further details around the Pill Station design, raised safety concerns about pedestrian and vehicle movements around Pill Station Car Park on Monmouth Road. This will be dealt with at the detailed design stage;
- (d) Raised various comments on the Surface Water Drainage Strategy for Portishead and Pill Stations, haul roads and compounds and suggested DCO Requirements around drainage;
- (e) Raised queries about noise mitigation;
- (f) Concerns raised and request for further ecology mitigation;
- (g) Requested an archaeological "watching brief" at compound sites and for the recording of historic railway assets along the railway; and
- (h) Stated that the impacts of new structures cannot rely solely on landscaping to make them appropriate – they need to meet LPA planning policies, be proportionate, and not have unacceptable adverse impacts on the living conditions of neighbours and other land uses.

6.4.3 In addition the LPA requested a number of clarifications regarding the operation of requirements contained in Schedule 2 of the dDCO (Doc 3.1). The Applicant's drafting notes are provided at Appendices 1- 4 to this SOCG. They deal with:

- (a) Detail design submissions under Requirement 4;
- (b) "tailpiece" wording in requirements;
- (c) Processes for approval, including deemed approval of details submitted under requirements; and
- (d) commencement and preparatory activities

6.4.4 In its Relevant Representation (RR -002), following publication of the acceptance of the Application pursuant to Section 56 of the 2008 Act, the LPA highlighted the following:

- (a) The LPA has an adopted development plan framework for the area and is also in the process of preparing a new Local Plan for the period up to 2038, and therefore has a clear understanding of committed and proposed development in its area and how these developments will relate to the DCO Scheme;
- (b) The LPA's remit is informed by the wider responsibilities of North Somerset Council including in the areas of highways and transport, flooding, public health, education and social care, crime prevention and emergency management, and waste management. The LPA works closely with the WECA authority and its constituent members, government agencies and emergency services. Therefore the LPA will continue to take an interest and seek engagement in relation to a broad range of issues and the interaction of the DCO Scheme proposals during the construction and operational phases.
- (c) The LPA is conscious that a large part of the DCO Scheme passes through Green Belt, and there will be location-specific considerations for example where the stations are proposed, where there will be road realignment, and in the Avon Gorge.
- (d) The process for discharge of DCO Requirements and other procedural matters are a significant focus for the LPA.

6.4.5 The following sections provide detail on the matters raised by the LPA during the course of the DCO Scheme consultation, the actions taken by the Applicant and NRIL in response, and whether the matter is agreed or any matters remain to be agreed.

7. RELEVANT REPRESENTATIONS

The following table sets out the comments received by the Applicant and NRIL from the LPA as Relevant Representations (RR-002) following PINS' acceptance of the Application, and the Applicant's response. The table focuses on high level topics and incorporates signposting to the parts of this SoCG where the issues are addressed in further detail.

Table 7.1: Relevant Representations and Applicant responses

Ref.	Topic	LPA position	Applicant's position
RR-002 (1)	Support for the scheme	The Council fully supports the proposal to re-open the rail line between Portishead and Bristol and believes it will reduce traffic movements with attendant carbon reduction and air quality benefits and reduction of congestion on the network including the M5 and A369 and increase the resilience of the sub-regional transport network. It considers there are potentially significant economic benefits to the region, improving accessibility to the Temple Quarter growth hub in Bristol and providing access to job opportunities in this location.	The Local Planning Authority's support of the DCO Scheme and its benefits is noted.
RR-002 (2)	Planning policy	The Planning statement gives a thorough overview of the issues that arise from the proposal. We are the Unitary authority for the area through which most of the line passes through. North Somerset Council has responsibility for Local Planning policies and making decisions on planning applications. We are currently preparing a new Local Plan for the period up to 2038. We therefore	<p>A full Environmental Impact Assessment of the DCO Scheme has been undertaken.</p> <p>The Applicant believes the contribution of a new sustainable public transport facility to connect Portishead and Pill with Bristol will provide sustainable travel solutions compatible with the</p>

Ref.	Topic	LPA position	Applicant's position
		<p>have considerable knowledge of committed development within the locality and its relationship with the proposed rail line. We also have a responsibility for Highways and Transport including roads, travel and parking.</p> <p>The Council has declared a Climate Emergency, and will also wish to make representations concerning matters this.</p>	<p>Council's objectives in declaring a climate emergency.</p>
RR-002 (3)	<p>Role of the LPA and its remit when considering the DCO Scheme</p>	<p>Our role extends to being Lead Flood and Public Health Authority, provider of social care, children, young people and families' services and education authority. We also have an important role in community safety, crime prevention and emergency management. The Council is a Waste Management Authority. We have partnerships with other bodies in the area including the Avon Fire and Rescue Service, the NHS and Ambulance service, the Police, WECA and work closely with neighbouring authorities, Town and Parish Councils and other organisations such as the Environment Agency, and North Somerset Levels Internal Drainage Board to deliver services to our communities.</p>	<p>The project team has been liaising with the planning authority regarding their interests with the DCO Scheme. Stakeholders for the scheme have been fully consulted. This is reported in the Consultation Report (DCO Document reference 5.1, Examination Library ref APP-058).</p>
RR-002 (4)	<p>Basis for a SoCG</p>	<p>Consequently, we will have interests in matters including traffic generation, highways, parking, accessibility for all groups, equal opportunities, living conditions of our residents, quality of design and landscape, the historic environment, air</p>	<p>A Green Belt assessment has been undertaken in the Environmental Statement Chapter 15 'Soils, Agriculture, Land Use and Assets' (DCO Document</p>

Ref.	Topic	LPA position	Applicant's position
		<p>quality, biodiversity and ecology (there are several national and international designations), flood risk and drainage, contamination, materials and waste, noise and vibration. These include construction and operational phases.</p> <p>Importantly much of the area through which the line passes is Green Belt and as Local Planning Authority we consider that the DCO scheme is in accordance with Green Belt policy and as the proposed development stands to be considered as not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it and even if this were not to be the case it would be considered to amount to very special circumstances.</p> <p>Key locations for other planning considerations include proposed stations, road re-alignment, and the Avon Gorge. Our Local Impact Report has detailed these matters. We have worked with the applicant over these matters and this Statement of Common Ground.</p>	<p>Reference 6.18) at paragraph 15.6.30. It concludes that potential harm to the Green Belt from the construction and operation of the DCO Scheme will be minimal and is clearly outweighed by the other important and relevant considerations in relation to the strategic benefit of the DCO Scheme. The DCO Scheme has also been assessed against Green Belt policies in the National Policy Statement for National Networks, as detailed in the Planning Statement (DCO Document Reference 8.11, Examination Library ref APP-208) at paragraph 6.5.137 and the National Planning Policy Framework (NPPF), paragraphs 143-146. It is concluded that the DCO Scheme is not inappropriate development in the Green Belt, though if it were classed as such there exist very special circumstances to justify the DCO Scheme.</p>
RR-002 (5)	Economic regeneration	In addition, we have a vision for our four main towns and are committed to delivering economic regeneration in Portishead.	MetroWest Phase 1 has compelling strategic and economic benefits along with a sound management, commercial and finance case.

Ref.	Topic	LPA position	Applicant's position
			The economic appraisal of the scheme is reported in the Outline Business Case 2017 (DCO Document Reference 8.4), at Chapter 2 'Economic Case'. Appendix 2.2 presents the Economic assessment report.
RR-002 (6)	Cross-boundary issues	Together with our close neighbour Bristol City Council we are aware of interests immediately outside our administrative boundaries such as the Conservation Areas and designations of national significance such as the Avon Gorge that straddle the boundary.	Discussions have taken place with both North Somerset and Bristol Local Planning Authorities with joint meetings on cross boundary issues.
RR-002 (7)	Arrangements for discharge of Requirements/ other procedural matters	As a Local Authority we have a responsibility to use our resources wisely and in a financially prudent way and the arrangements for discharge of Requirements and other procedural matters that form part of the Development Consent Order will be of significance to the Council.	A Planning Performance Agreement has been agreed between North Somerset Council as Local Planning Authority and the Applicant, which will cover financial and programming arrangements for discharge of Requirements and other procedural matters that form part of the DCO.

8. LOCATION-SPECIFIC AND PROJECT-WIDE ISSUES

The majority of the issues within this SoCG can be dealt with on a 'thematic' basis. However, for a limited number of issues raised by the LPA there is benefit in framing them differently. Table 8.1 addresses points which relate to a specific location, though cutting across

themes which may be explored in other parts of this SoCG. Table 8.2 focuses on high level matters which apply to the whole DCO Scheme either geographically or conceptually.

Table 8.1: Location-specific issues

Ref.	Topic	LPA position	Applicant position	Status (Agreed/ Not Agreed)
8.1.1	Pill Station – design (Consultation)	The finish on the vertical wall at Pill Station could have texturing to it rather than be smooth concrete.	It was agreed to engage further with the LPA at the detailed design stage.	Agreed. The LPA's preference is noted, and both parties agree points concerning detailed design will be addressed collaboratively post-DCO.
8.1.2	Pill Station – bats (Consultation)	Concerns regarding the impacts from lighting upgrades to the bat roost at Pill Station. The LPA requests a constraints plan for the site, showing the areas of the roost and any identified horseshoe bat commuting route(s) that must be retained unlit (at or below 0.5lux) that could be provided to the station lighting design team to inform the site lighting constraints for the lighting design. If this is not feasible due to the wide-reaching operational lighting requirements of the station, it needs to be considered if an alternative roost provision can be provided within a suitable location in proximity.	Bat surveys revealed a presence around Pill Station. Work to assess and provide mitigation for the operational lighting impacts has been undertaken and is detailed in Section 9.6 of ES Chapter 9 – Ecology and Biodiversity (DCO Document Reference 6.12, Examination Library ref APP-208) with the survey reports in the Bat Technical Appendix (ES Appendix 9.2, DCO Document Reference 6.25, Examination Library ref AS-036). Examples of mitigations proposed include a barrier or modifications to the lighting design. These will be determined at the detailed design stage.	Agreed. In principle the deferral of the detailed measures until a later detailed design stage is acceptable. It is understood that licensing is likely to be required for this proposal. With the licensing process, to be carried out by Natural England, and further consultation at the detailed design stage there is adequate

Ref.	Topic	LPA position	Applicant position	Status (Agreed/ Not Agreed)
8.1.3	Pill Station – highway drainage (Consultation)	Request checks take place at Pill Station car park as there are existing problems with the highway drainage network in the area, particularly with tide lock, which will require a capacity check and improvement of the system to adoptable standards.	<p>The existing highway drainage system has been surveyed to check its condition and capacity as detailed in Section 6.6.6 of the Surface Water Drainage Strategy for Portishead and Pill Stations, Haul Roads and Compounds (DCO Document Reference 6.26, Examination Library ref APP-192). The highway drainage survey reports have been issued to the Local Highway Authority and the information used to develop a proposed outline design for the drainage of Pill Station. The Pill Station Drainage Report (issued to the Local Highway Authority in February 2020) sets out the proposed route, capacity, outfalls and flow rates.</p> <p>The proposed solution will be developed further at the detailed design stage and subject to approval from the LPA.</p>	<p>opportunity to resolve this.</p> <p>Agreed.</p> <p>The proposed approach is agreed and outline designs are being developed in accordance with this.</p> <p>Detailed designs (performance modelling, implementation and maintenance details), will need to be submitted and approved by the LPA as set out in Requirement 11 of the dDCO.</p>

Ref.	Topic	LPA position	Applicant position	Status (Agreed/ Not Agreed)
8.1.4	Old Portbury Station House – noise mitigation (Consultation)	At Old Portbury Station House, an Environmental Protection Officer needs to confirm whether the noise barrier must be constructed before opening and be retained thereafter.	Section 13.7 of Chapter 13 Noise and Vibration (DCO Document Reference 6.16) of the ES details that the significant effect predicted at the Old Station House in Portbury is to be mitigated by the provision of a 2.4 metre high noise barrier (i.e. 2.4 metres in relation to the track bed level) of a minimum 35 metres in length. This is secured in DCO Requirement 26 which requires the barrier to be in place prior to first commercial use of DCO Work Nos. 1 and 1A and to be retained thereafter.	Agreed.

Table 8.2: Project-wide issues

Ref.	Topic	LPA position	Applicant position	Status (Agreed/ Not Agreed)
8.2.1	Impact of new structures (Consultation)	The impacts of new structures cannot rely solely on landscaping to make them appropriate, as it is necessary to ensure that it meets Council planning policies as far as possible, is proportionate, and does not have unacceptable adverse impacts on the	<p>The details including local policy fit are set out in the Design and Access Statement (DCO Document Reference 8.1, Examination Library ref: APP-196).</p> <p>The works listed in column (1) of the table in sub-paragraph (5) of</p>	<p>The LPA has provided evidence of its views on the impact of structures such as the footbridge in Portishead at ISH 5. This will be a matter for</p>

Ref.	Topic	LPA position	Applicant position	Status (Agreed/ Not Agreed)
		living conditions of neighbours and other land uses.	Requirement 4 of the dDCO must not commence until the detail design for that element has been approved by the relevant planning authority. The detail designs submitted must reflect the principles of the relevant listed design drawings in column (3) of the table in paragraph (5) of requirement 4 unless otherwise agreed with the relevant planning authority. Any changes from the design drawings must be in accordance with the principles set out in the environmental statement. The relevant Work must be carried out in accordance with approved detail design.	the Secretary of State to determine.
8.2.2	Noise mitigation (Consultation)	Noise levels at sensitive receptors during construction and night time working especially on operational railway will need to be discussed with Environmental Protection Officers.	More discussion will occur when a contractor has been appointed and more detail is available. The Master Construction Environmental Management Plan ("CEMP") (DCO Document Reference 8.14) sets out a framework for Environmental Management Consents during construction.	Agreed. There is now a process set out in the CEMP (Section 10.3) in which noise issues will be assessed and where applications under s61 Control of Pollution Act 1974 will be necessary.
8.2.3	Interface with local events	Consideration must be given to the potential impact of events such as the	Noted and to be considered as part of the development of the construction	Agreed

Ref.	Topic	LPA position	Applicant position	Status (Agreed/ Not Agreed)
	(Consultation)	Balloon Fiesta and the Tour of Britain as key routes are closed and restrictions in place. Also stated that the Clanage Road compound would affect the Balloon Fiesta specifically, so engagement with event organiser is required.	works information. Section 3.2.5 of the CTMP (DCO Document Reference 8.13 Examination Library Ref: REP6-106) states the contractor will need to engage with the LPA about events to ensure impacts are minimised.	

9. CULTURAL HERITAGE

The following table sets out the comments received by the Applicant and NRIL from the LPA in respect of Cultural Heritage.

Table 9.1: Cultural heritage issues

Ref	Topic	LPA position	Applicant position	Status (Agreed/ Not Agreed)
9.1.1	Historic buildings (Consultation)	The heritage officers requested a Historic Building Record ("HBR") for features that would be lost as a result of the DCO Scheme.	A HBR for features along the DCO Scheme has been undertaken and the only feature identified for further assessment (7 Station Road, Pill) is detailed in the ES Appendices 8.1 (Cultural Heritage Gazetteer) and 8.2 (Level 1 Historic Building Record for Station House, 7 Station Road, Pill) respectively (both in DCO Document Reference 6.25).	Agreed. The information provided is sufficient for the LPA to update its records.
9.1.2	Archaeology (Consultation)	There is archaeological interest in various sites across the project area, including construction compounds. The LPA requires site-specific watching briefs.	The LPA has been directed to the baseline information on heritage assets in section 8.4 of the ES Chapter 8 – Cultural Heritage (DCO Document Reference 6.11 Examination Library ref REP6-076), and ES Appendix 8.1 – Cultural Heritage Gazetteer (DCO Document Reference 6.25 Examination Library ref APP-118). All relevant heritage assets have been appropriately accounted for.	Agreed

Ref	Topic	LPA position	Applicant position	Status (Agreed/ Not Agreed)
			<p>The proposals for a watching brief are covered in Section 8.6 of the ES Chapter 8 – Cultural Heritage (DCO Document Reference 6.11 Examination Library ref REP6-076), and in the Master CEMP (ES Appendix 4.2, DCO Document Reference 8.14 Examination Library ref REP6-140).</p> <p>DCO Requirement 10 (Archaeology) sets out a requirement to agree a Written Scheme of Investigation for a watching brief with the LPA in respect of areas of archaeological interest identified in the ES.</p>	
9.1.3	Historic buildings (Consultation)	Pill Station House (a non-designated heritage asset) is to be demolished and the LPA would expect a Level 2 building survey to be carried out.	<p>A Level 1 building survey is sufficient for this building. As concluded at section 4 of the Level 1 Historic Building Record for Station House, 7 Station Road, Pill (ES Appendix 8.2, DCO Document Reference 6.25 Examination Library ref APP-118) the asset is of limited architectural and historic interest.</p>	<p>Agreed.</p> <p>The LPA Heritage Officer agreed in March 2018 that a Level 1 building survey would be sufficient for No. 7 Station Road, Pill. This is provided in the ES Appendix 8.2 (Level 1 Historic Building Record for Station House, 7 Station Road,</p>

Ref	Topic	LPA position	Applicant position	Status (Agreed/ Not Agreed)
9.1.4	Historic structures (Consultation)	The old railway infrastructure is an historic asset and the LPA would like a record of where these are, what they are, and whether examples could be left in place. The Council would like a record of these features to update their Historic Environment Records.	A Level 1 survey of the historic railway assets is provided in the ES Appendices 8.1 (Cultural Heritage Gazetteer) and 8.2 (Level 1 Historic Building Record for Station House, 7 Station Road, Pill) respectively (both in DCO Document Reference 6.25). Section 8.6 of Chapter 8, Cultural Heritage (DCO Document Reference 8.13) details the assets that will be removed and retained.	Pill, DCO Document Reference 6.25). Agreed. The information provided in the DCO application provides an appropriately detailed record of the historic railway assets.

10. ECOLOGICAL MITIGATION

The following table sets out the comments received by the Applicant and NRIL from the LPA in respect of ecological mitigation.

Table 10.1: Ecological mitigation issues

Ref.	Topic	LPA position	Applicant position	Status (Agreed/ Not Agreed)
10.1.1	Vegetation removal and/or preservation	Overall it is considered that the approach to the ecological impacts have been considered appropriately. The report demonstrates awareness of	No wet woodland has been identified on the disused line in the Phase 1 habitat survey. The majority of the habitat is scrub with scattered	Agreed

Ref.	Topic	LPA position	Applicant position	Status (Agreed/ Not Agreed)
	(Consultation and Post-Application)	<p>the essential requirement to retain sufficient vegetation structure adjacent to the line, to support continued commuting and foraging by horseshoe bats.</p> <p>an extensive amount of scrub habitat is indicated as being removed that will result in net loss, but it is accepted that this is unavoidable due to the nature of the project requirements within the construction footprint. When scrub is present as mosaic habitat it provides habitat for bats, birds, great crested newt, and other wildlife. Importantly, however, the applicant has tried to minimise this loss of scrub and trees; and replant generally where opportunities allow, albeit replanting will have a significant time lag of 5-15 years before it replicates the pre-existing structural habitats.</p>	<p>broadleaved trees. Broad leaved woodland is mapped to the west and east of Portbury Dock Road. To the west, the woodland is dominated by silver birch and to the east it is dominated by silver birch, hawthorn and bramble. These woodlands are on railway ballast which is not "poorly drained or seasonally wet" and are therefore not wet woodland.</p> <p>Below is extracted text (in italics) from the Phase 1 habitat survey (ES Appendix 9.1, DCO Document Reference 6.25) where we have discussed natural (rather than planted) willow and alder habitat on the disused line and stated whether it is going to be lost or retained. These areas are small and are generally not mapped as wet woodland for a Phase 1 habitat survey at the scale undertaken for the DCO Scheme. It is however accepted that these small areas could be defined as wet woodland under the Joint Nature Conservation Committee ("JNCC") UK Biodiversity Action Plan Priority Habitat descriptions for Wet Woodland.</p>	

Ref.	Topic	LPA position	Applicant position	Status (Agreed/ Not Agreed)
			<p>Paragraph 4.4.38 states: "<i>Willow Salix sp. scrub is also frequent, where it is rooted in drainage ditches</i>". This is mostly present between the Wessex Water Pumping Station and Marsh Lane. Most will be retained except for some small areas – please refer to the Railway Landscape Plans (Disused Line) (DCO Document Reference 2.10).</p> <p>Paragraph 4.4.84 states: "<i>An area of semi-natural (partially self-seeded) goat willow Salix caprea woodland has been found on the southwest corner of Drove Rhyme in Portbury (Annex 2A TN39)</i>". This will be retained.</p> <p>Paragraph 4.4.84 further states: "<i>Similar woodland was also found east from Marsh Lane (Annex 2A TN51)</i>". A small area will be lost here for DCO Work No. 16 'realignment of the existing permissive cycling route' as shown on Sheet 5 of the Works Plan (DCO Document Reference 2.3).</p> <p>Paragraph 4.4.87 states: "<i>Around TN 14 (Annex 1) at Quays Avenue/Harbour Road roundabout, there is also a small</i></p>	

Ref.	Topic	LPA position	Applicant position	Status (Agreed/ Not Agreed)
			<i>willow and alder woodland with a rose, bramble and hawthorn understory</i> ". This small area will be affected by Portishead Station Car Park A.	
10.1.2	Bio-Diversity Enhancement (Post-Application)	<p>There has and will be significant vegetation removal. This will obviously remove a considerable biomass of biodiversity to include insects which are a key base of food webs, and which are a highly complex component of biodiversity to assess. Hence the precautionary principle is recommended to be applied for insect conservation and therefore wherever feasible must be applied to retain habitat types and connectivity and mosaic through the corridor.</p> <p>It is acknowledged that assessment of biodiversity and particularly insect biodiversity is challenging. A key component of biodiversity retention requires effective insect conservation which is highly complex due to the variety of species and the differing requirements of their life stages but retaining as many wild refuges as possible and minimising existing habitat removal is the main precautionary</p>	<p>The impacts of the DCO Scheme have been fully assessed and mitigated for.</p> <p>Consideration has been given to retaining as much habitat as possible. The vegetation losses for construction between Portishead and Pill are 76,551 m² (7.66 ha), and of this the permanent loss is 58,420 m² (5.84 ha). A total of 45,051 m² (8.5 ha) will be retained, replanted or enhanced.</p> <p>Table 9.30 of the ES Chapter 9 – Ecology and Biodiversity (DCO Document Reference 6.12) presents a comparison of vegetation losses and gains between Portishead and Pill. The Railway Landscape Plans (Disused Line) (DCO Document Reference 2.10) shows the vegetation to be retained or replanted.</p> <p>Given that NRIL keeps the operational railway clear of vegetation that might affect the safe operation of the freight</p>	<p>Agreed.</p> <p>The overall approach to this is accepted; it is also noted that there are limitations on what is possible within the DCO application boundary and operational rail requirements. It is also noted that as an NSIP it is primarily assessed against the National Policy Statement for National Networks rather than the NPPF.</p>

Ref.	Topic	LPA position	Applicant position	Status (Agreed/ Not Agreed)
		<p>measure. It is therefore important to retain existing unmanaged habitats as refuges with cover which are also important for legally protected species wherever opportunities allow.</p> <p>In Table 9.3 of the ES Chapter 9 – Ecology and Biodiversity (DCO Document Reference 6.12), the Natural England ("NE") consultation response included reference to assessment of Biodiversity Net Gain and suggested possible use of the Defra metric.</p> <p>Losses in extent of each habitat will obviously remove associated species and increase likelihood of fragmentation of populations. Tables showing loss in extent of area of various habitat types or other biodiversity evaluation need to be included and referenced.</p>	<p>services the Applicant has not undertaken an assessment of losses and gains between Pill (Portbury Junction) and Bristol (Ashton Junction) with the exception of the Avon Gorge Woodlands Special Area of Conservation ("SAC")/ Site of Special Scientific Interest ("SSSI").</p> <p>Vegetation losses and compensation is presented in the Avon Gorge Vegetation Management Plan ("AGVMP") (DCO Document Reference 8.12 Examination Library ref REP6-136) and the Report to inform the Habitats Regulation Assessment (DCO Doc 5.5 Examination Library ref REP6-133).</p> <p>Compensation for the loss of rare whitebeam trees, woodland and grassland habitat within the SAC will be undertaken by positive management and is proposed in a total area that is approximately double the size of the area lost. A 3:1 ratio of positive management compared to habitat lost is used for ancient woodland habitat, given its relatively higher ecological</p>	

Ref.	Topic	LPA position	Applicant position	Status (Agreed/ Not Agreed)
			<p>value, as compared to secondary (recent) woodland habitat (DCO Doc 8.12, Section 4.1 and Table 4).</p> <p>More details on the compensation proposals are given in section 4 of the AGVMP (DCO Document Reference 8.12 Examination Library ref REP6-136).</p> <p>The planting of 54 rare whitebeam trees within the Avon Gorge has been proposed to compensate for loss of 27 rare whitebeam and more detail is discussed in section 5.7 of the AGVMP (DCO Document Reference 8.12, Examination Library ref REP6-076),</p>	
10.1.3	Bio-Diversity Enhancement (Post-Application)	The LPA notes the NE comments regarding Biodiversity Net Gain in its consultation response (Table 9.3 of ES Chapter 9 – Ecology and Biodiversity (DCO Document Reference 6.12). The National Planning Policy Framework ("NPPF") Paragraph 15 has a requirement for biodiversity net gain and it is a legal duty for the LPA, hence previous LPA comments regarding considering and taking opportunities for enhancement.	<p>MetroWest Phase 1 is a Nationally Significant Infrastructure Project ("NSIP") and thus will be primarily assessed against the National Policy Statement for National Networks rather than the NPPF. Biodiversity enhancement requirements will only apply to Town and Country Planning applications when the Environment Bill becomes legislation. However the Applicant is looking to secure land for environmental mitigation purposes,</p>	Agreed

Ref.	Topic	LPA position	Applicant position	Status (Agreed/ Not Agreed)
10.1.4	Horseshoe bat (Consultation and Post-Application)	The current functionality of the route needs to be maintained for horseshoe bats. Unclear what is proposed.	<p>and biodiversity net gain will be explored for those areas.</p> <p>The importance of retaining and planting vegetation on the disused line to maintain the navigational route for bats is described and considered in the ES Chapter 9 - Ecology and Biodiversity (DCO Document Reference 6.12 Examination Library ref REP6-078) and Section 9.7 presents mitigation and residual effects. Table 9.28 sets out the area of woodland or scrub retained or replanted between Portishead and Pill. In addition, Table 9.30 presents a comparison of vegetation losses and gains between Portishead and Pill. The Railway Landscape Plans (Disused Line) (DCO Document Reference 2.10 Examination Library ref: REP6-003) shows the areas of vegetation to be retained or replanted.</p> <p>Vegetation removal along the existing rail corridor has been avoided wherever practicable. For example, access routes to install fences from adjacent land have been included in the DCO Scheme to avoid additional vegetation</p>	The general approach to maintaining bat habitat is now understood and agreed.

Ref.	Topic	LPA position	Applicant position	Status (Agreed/ Not Agreed)
			<p>being removed from the line to access the fence line at the edge of the rail corridor.</p> <p>The important bat navigational route between Pill Viaduct and Avon Road is also recognised in Section 9.7 of ES Chapter 9 - Ecology and Biodiversity (DCO Document Reference 6.12, Examination Library ref REP6-078). Measures will include screens to shield the northern side of the railway corridor and retention of embankment vegetation, keeping light levels on the navigational route at 0.5 lux or less for horseshoe bats.</p> <p>The DCO Scheme mitigation measures will ensure the retention of a corridor for horseshoes bats along the line between Portishead and Pill and along the existing Portbury Freight Line.</p> <p>No additional lighting has been proposed for permanent maintenance compounds, underbridges or the M5 bridleway extension because of the recognised importance of the bat corridors.</p>	

Ref.	Topic	LPA position	Applicant position	Status (Agreed/ Not Agreed)
10.1.5	General approach (Consultation)	The LPA ecology team has been consulted on the project and are broadly content with the approach but have asked that measures to enhance the ecological setting of the route be considered wherever possible. For example, that disused railway structures be retained and protected to support roosting features for bats and that herbicide is not used on the rail corridor in close proximity to any of the non-statutory and statutory designated sites during the operation and construction of the DCO Scheme.	Measures have been developed in consultation with stakeholders to mitigate predicted likely significant effects of the DCO Scheme. These are presented in Section 9.7 of the ES Chapter 9 Ecology and Biodiversity (DCO Document Reference 6.12, Examination Library ref REP6-078). Enhancement measures are not assessed for the ES. NRIL have to use herbicide to maintain safe operation of the railway. However, herbicide is hand sprayed in the Avon Gorge Woodlands SAC to avoid impacts on protected species as part of the Site Management Statement agreed with Natural England.	Agreed
10.1.6	Protected species and habitats (Consultation)	The LPA request inclusion of protection of Section 41 species (i.e. common toad and hedgehog) and their habitats. Ponds and reedbeds comprise Section 41 habitats, and there may be some opportunities to retain, enhance or create such Section 41 habitats within the mitigation proposals to retain a mosaic of locally appropriate habitats.	Information on amphibians other than great crested newt ("GCN") are included in the ES Chapter 9 - Ecology and Biodiversity (DCO Document Reference 6.12 Examination Library ref REP6-078). Summary information on results of pond surveys have been included for amphibians. Hedgehogs have not been considered specifically in the ES because the	Agreed-Appropriate opportunities have been utilised for retention and enhancement of Section 41 habitats and the protection of associated species. Requirement 5 of the dDCO now requires the

Ref.	Topic	LPA position	Applicant position	Status (Agreed/ Not Agreed)
			<p>mitigation for reptiles is considered appropriate for the protection of hedgehogs, e.g. appropriate vegetation removal, appropriate clearance of hibernacula and provision of new hibernacula.</p> <p>No pond habitat will be affected by the DCO Scheme. One pond, at the Portishead Ecology Park, has already been created. 655 m² of swamp habitat (including some areas of reedbed) will be affected by the DCO Scheme. The provision of additional ponds (and possible scope for swamp habitat) within the DCO Scheme remains subject to a decision on GCN district level licensing.</p> <p>Table 9.30 of the ES Chapter 9 - Ecology and Biodiversity (DCO Document Reference 6.12 Examination Library ref REP6-078) presents a comparison of vegetation losses and gains between Portishead and Pill. The Railway Landscape Plans (Disused Line) (DCO Document Reference 2.10 Examination Library ref: REP6-003)</p>	<p>submission of a reptile and amphibian strategy as part of the submission for approval of a stage specific CEMP.</p>

Ref.	Topic	LPA position	Applicant position	Status (Agreed/ Not Agreed)
10.1.7	Great Crested Newt ("GCN") (Consultation)	The operational impacts between Portishead and Pill on GCN need to be considered.	<p>shows the vegetation to be retained or replanted.</p> <p>This consideration has been included in the ES Chapter 9 - Ecology and Biodiversity (DCO Document Reference 6.12 Examination Library ref REP6-078) and a GCN District licence or traditional licence will be obtained.</p> <p>Following the new policy of Natural England to establish district level licensing for GCNs, the Applicant obtained from Natural England a district level licence to mitigate the impact of the DCO Scheme on GCN.</p> <p>As district level licensing will operate so as to better protect GCN populations through developer contributions to create strategic favourable compensatory habitats offsite of development, its use for the DCO Scheme will mean that the site specific GCN compensatory habitat identified in Chapter 9 of the ES is no longer required. Instead, the Applicant will be required to make a conservation payment under a scheme agreement</p>	<p>Agreed.</p> <p>The overall approach and proposed measures for mitigation of impacts on GCN are agreed by the LPA. Connectivity (rough grass and scrub) between foraging, hibernation and breeding ponds is important.</p>

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			<p>and await issue of its district level licence before starting work.</p> <p>The Applicant has constructed one of the ponds to be used as GCN compensation habitat at the Portishead Ecology Park with permission of the LPA. This pond forms part of the compensation habitat to be taken into account in calculating the amount of the conservation payment for the Applicant's district licence.</p>	
10.1.8	Amenity grassland (Consultation)	Query whether the inclusion of Bower Ashton Playing Fields Wildlife Site, cited 'Qualifying Feature' as 'Amenity Grassland' (in the ES Chapter 9) is correct. This is believed to be only low value habitat.	<p>The majority of the habitat is Amenity Grassland and the Bower Ashton Wildlife Site is important as a wildlife corridor rather than the habitat itself.</p> <p>The relevant heading in the ES Chapter 9 – Ecology and Biodiversity (DCO Document Reference 6.12 Examination Library ref REP6-078) has been changed to "Ecological Features" to end confusion.</p>	Agreed
10.1.9	Invasive species (Consultation)	Request an effective ongoing programme of containment and reduction (and where feasible eradication) of invasive species,	This is outside the scope of the DCO Scheme.	Agreed.

Ref.	Topic	LPA position	Applicant position	Status (Agreed/ Not Agreed)
		particularly along the Portbury Freight Line.		
10.1.10	Passerine birds (Consultation)	Concerns regarding the referencing of the magnitude of the impact of loss of habitat to passerine birds in the ES Chapter 9 – Ecology and Biodiversity (DCO Application Document Reference 6.12).	The impact on passerine birds is from unavoidable site clearance and vegetation removal, which has potential to damage or destroy nests. Whilst nesting birds are protected, the habitat is not. Nevertheless, standard measures to protect breeding birds through sensitivity to their habitat have been included in the Master CEMP (DCO Document Reference 8.14 Examination Library ref REP6-140)), such as removal of vegetation outside of the bird nesting season or the vegetation being checked for nests within 24 hours of clearance if cleared during the bird nesting season. The magnitude of impact on nesting passerine birds after mitigation is therefore considered to be minor.	Agreed. The approach set out in the Master CEMP is agreed to the extent of the measures proposed to protect passerine birds and manage their associated habitats.
10.1.11	Whitebeam (Consultation)	A continuing project for propagation from seed to generate further whitebeam saplings is indicated as likely required to effectively conserve these populations (subject to Natural England specialist consultation advice remit).	This is outside the scope of the DCO Scheme and would be outside of the Applicant's control to ensure that this happened. However, during the development of the AGVMP (DCO Document	Agreed.

Ref.	Topic	LPA position	Applicant position	Status (Agreed/ Not Agreed)
		<p>Query if there is any scope for a longer term project to be initiated and pursued by local interest/expert groups/organisations, to include possibilities for further extension of distributions (by generation and planting of seedlings within other potentially suitable sites, (i.e. within limestone quarry sites?)) to reduce the apparently high vulnerability of the extremely limited existing populations within the Avon Gorge.</p>	<p>Reference 8.12, Examination Library ref REP6-136), the DCO Scheme was the catalyst for discussions between NRIL and the Forestry Commission for proposals to work together to implement the Forestry Commission plan to undertake tree felling close to the freight line. The tree felling work requires a rail possession which NRIL may supply as part of their Site Management Statement. More seed was collected from the rare whitebeam trees in the Avon Gorge in October 2019 to propagate and make available the resulting trees to the Forestry Commission for replanting.</p> <p>Surplus propagated whitebeams from more widespread species will be offered to the Avon Gorge SSSI landowners for planting as detailed in the AGVMP.</p> <p>Overall the AGVMP will result in improved management of Tilio-Acerion woodland, restoration of some areas of Festuco-Brometalia grassland and management of endemic whitebeams. (AGVMP, DCO Document Reference</p>	

Ref.	Topic	LPA position	Applicant position	Status (Agreed/ Not Agreed)
			8.12, Examination Library ref REP6-136)	
10.1.12	Whitebeam (Consultation)	Is there any potential to increase the distribution of some of the sub species within habitats with similar geological conditions?	Rare whitebeams can only grow in certain conditions. Areas have been chosen for rare whitebeam replanting that offer the right conditions for their successful growth.	Agreed. Rare whitebeam planting is to be within areas identified in the Avon Gorge Vegetation Management Plan (Doc 8.12, Examination library ref: REP6-136) agreed with Natural England, to provide suitable conditions for them to thrive.
10.1.13	Rare plant species (Consultation)	Query if it may be possible to retain some of the original ballast (selected by ecologist/botanist) to re-use, to retain a component of the seed bank for rare plant species associated with the existing ballast.	As stated in the ES Chapter 9 – Ecology and Biodiversity (DCO Document Reference 6.12, Examination Library ref APP-208), mitigation as proposed is preferred, which is more defined and manageable for the contractors and NRIL. This will be translocation of Pale St John's wort plants from the cess to a safe area suitable for this species, identified by a plant specialist. Narrow-leaved bittercress will recolonise because it colonises recently disturbed habitats.	Agreed. Given the operational limitations of retaining original ballast for the seed bank, the mitigation proposals in respect of rare plant species, favouring translocation as opposed to seed preservation, are approved.

11. STATION ACCESS AND HIGHWAY WORKS

The following table sets out the comments received by the Applicant and NRIL from the LPA in respect of Station Access and Highway Works.

Table 11.1: Station access and highway works issues

Ref	Topic	LPA position	Applicant position	Status (Agreed/ Not Agreed)
11.1.1	Portishead Station Car Park B access (Post- Application)	Requested further detail on how the larger car park access at the junction with Harbour Road and Papermill Gardens will operate. The proposed operation of this junction will need to be tested to demonstrate that it will operate satisfactorily.	The Applicant is considering feasibility of moving the Car Park B entrance further along Harbour Road. However, this will only be settled at the detailed design stage. The final design will be subject to road safety audits and approval from the LPA. Requirement 4(3) of the DCO requires that any changes to the design drawings will be in accordance with the principles set out in the ES	Agreed. It is accepted that the precise location of the Car Park B access is pending detailed design at which point the LPA's approval will be sought pursuant to DCO Requirement 4.
11.1.2	Pill Station Car Park (Post- Application)	We have some safety concerns about pedestrian and vehicle movements around Pill Station Car Park.	Road safety is a key consideration of the design at Pill Station car park and the final design will be subject to road safety audits and approval from the LPA pursuant to Requirement 4 of the dDCO.	Agreed. The outstanding matters will be resolved at detailed design at which point the LPA's

Ref	Topic	LPA position	Applicant position	Status (Agreed/ Not Agreed)
				approval will be sought pursuant to DCO Requirement 4.
11.1.3	Stations – Non-Motorised User ("NMU") access (Consultation)	There is a need for consideration of desire lines for station access. For example, note the use of an existing informal crossing north west of Quays Avenue, Portishead.	Consideration has been given to the desire lines for station access. Mitigation is outlined in the ES Chapter 16- Transport, Access and Non-Motorised Users (DCO Document Reference 6.19). Table 16.8 shows where desire lines have been given consideration.	Agreed. Acknowledging the constraints, including safety factors, of satisfying NMU desire lines within the DCO Scheme design, the LPA is satisfied with the work done to assess and meet NMU desire lines at stations.
11.1.4	Stations – car parking (Consultation)	Concerns over increased on-street parking by rail users.	The impacts on parking provision are discussed within section 16.6 of Chapter 16 - Transport, Access and Non-Motorised Users (DCO Document Reference 6.19, Examination Library ref REP6-086). This document further sets out the post-implementation monitoring of parking provision within Portishead and Pill. The Transport Assessment (EA Appendix 16.1, DCO Document Reference 6.25 , Examination Library ref	Agreed. Routine monitoring of impact of on street parking on areas around stations will be carried out by the local highway authority once the stations are operational.

Ref	Topic	LPA position	Applicant position	Status (Agreed/ Not Agreed)
			<p>REP6-125) also details the impact of the DCO Scheme on local roads and parking. It should be noted that in addition to the provision under the DCO Scheme the Local Highway Authority has powers to control on-street parking.</p> <p>Station travel plans for Portishead and Pill Stations, are now included in requirements 27 and 28 of the dDCO.</p>	
11.1.5	Car parking (Consultation)	Car parks should have electric charging points in line with other developer requirements, and also solar panels on buildings.	<p>A new electric vehicle rapid charging hub with up to 10 charging bays is currently being promoted as a separate project by North Somerset Council highways authority on Harbour Road, a short distance from the proposed site of Portishead Station (planning application reference: 18/P/3106/R3). However Electric vehicle charging technology will now be made available within the Portishead Station and Pill Station car parks and will be shown at detail design stage.</p> <p>Solar panels will be fitted for power as shown on the Portishead Station Building Design: Proposed Station Buildings Plan (DCO Document Reference 2.11, Examination Library ref</p>	Agreed

Ref	Topic	LPA position	Applicant position	Status (Agreed/ Not Agreed)
			APP-018) and a report regarding on site energy generation will be submitted for approval by the relevant planning authority (Requirement 27(3) of the dDCO)	
11.1.6	Pedestrian routes – Portishead (Consultation)	Suggested improvements to the footpath along Harbour Road in Portishead as this is likely to be a well-used route.	A wide, shared use pedestrian/cycle footpath is planned. This is included in The Portishead Station Car Park Layout, Landscaping and New Boulevard and Access Plan, (DCO Document Reference 2.38).	Agreed.

12. DRAINAGE

The following table sets out the comments received by the Applicant and NRIL from the LPA in respect of Drainage.

Table 12.1: Drainage issues

Ref	Topic	LPA position	Applicant position	Status (Agreed/ Not Agreed)
12.1.1	Management/ maintenance plan (Consultation)	Request a management and maintenance manual for all drainage features with information on permeable paved areas to describe any non-standard maintenance activities (e.g.	It is agreed that management and maintenance manual for each drainage feature and not just the manufacturer's or installer's specifications will be	Agreed.

Ref	Topic	LPA position	Applicant position	Status (Agreed/ Not Agreed)
		replacing paviour filler material / “vacuuming” permeable asphalt / replacing clean stone after x years). Query why infiltration was not considered at Pill.	provided as part of the detailed submissions under Requirement 11. It has not been possible to undertake appropriate tests, and a worst case i.e. non-infiltration approach, has been adopted.	
12.1.2	Stations (Consultation)	Request an addition to the “Surface Water Drainage Strategy for Portishead and Pill Stations, Haul Roads and Compounds” July 2018 to reduce the risk of flooding to the development in accordance with the NPPF, the North Somerset Core Strategy policy and the North Somerset Sites and Policies Plan Part 1 (Development Management Policies).	The requirement was added to the Surface Water Drainage Strategy for Portishead and Pill Stations, Haul Roads and compounds, DCO Document Reference 6.26.	Agreed.
12.1.3	Drainage design (Consultation)	No above ground work to take place until surface water drainage works have been implemented in accordance with details that have first been submitted to and approved in writing by the local planning authority.	Requirement 11 of the dDCO (DCO Document Reference 3.1, Examination Library ref REP6-008) requires the Applicant to secure the LPA's approval of the detailed designs, save for in respect of currently operational railway land.	Agreed.
12.1.4	Drainage design	The detailed surface water management plan and flood plan	Noted. These will be shared at detailed design (post-consent).	Agreed.

Ref	Topic	LPA position	Applicant position	Status (Agreed/ Not Agreed)
	(Consultation)	<p>should be agreed with the local flood risk authority.</p> <p>In the surface water management plan, the detailed design of the drainage systems needs to be carried out by the designers not the contractors, and the discharge of Requirements should be submitted by the developer, not the contractor.</p>	Detailed design is a post-consent matter and will be undertaken at (NRIL) GRIP Stage 5.	

13. PORTISHEAD STATION

The following table sets out the comments received by the Applicant and NRIL from the LPA in relation to Portishead Station and the surrounding environment, including the proposed public realm and highway works.

Table 13.1: Portishead Station issues

Ref	Topic	LPA position	Applicant position	Status (Agreed/ Not Agreed)
13.1.1	Terminus wall (Post-Application)	The LPA prefer the stone cladding option for the buffer stop wall with a natural stone look and will need confirmation on its durability.	The materials that could be used for the buffer stop wall are constrained by the engineering considerations. Due to the height of the buffer stop wall, a conventional structural wall using	Agreed It is accepted that further engagement is required ahead of

Ref	Topic	LPA position	Applicant position	Status (Agreed/ Not Agreed)
			natural stone would require piled foundations and as there is a 900mm diameter sewer in this locality, that is not feasible. However, there are now modern cladding materials that are light weight that have the appearance of natural stone, which could be used as they wouldn't require a piled foundation. The Applicant will engage further with the LPA on this matter to reach agreement ahead of the detailed design.	detailed design. Following the completion of detailed design, the LPA's approval will be sought pursuant to dDCO Requirement 4
13.1.2	Portishead Station Building (Post-Application)	The LPA consider there may be opportunity within the Portishead Station building for commercial development and the design should be adaptable to take advantage of such potential. Could the station be extended at a later date?	We are reviewing the feasibility of making a change to the station building design to make the passenger waiting area an enclosed room, rather than being open to the platform. This would create a large enough space for a combined waiting room and retail concession. Beyond the construction and opening of the DCO Scheme, there is also the possibility to extend the station building into the forecourt area at a later date. However it would reduce space in the forecourt and utilities are a constraint for such an extension.	Agreed It is accepted that further engagement is required ahead of detailed design. Following the completion of detailed design, the LPA's approval will be sought pursuant to dDCO Requirement 4
13.1.3	Portishead Station ecology	Briefing attended regarding station design where the LPA highlighted that Section 40 Natural Environment and	Please note the responses given by the Applicant in section 10 of this SoCG.	Agreed

Ref	Topic	LPA position	Applicant position	Status (Agreed/ Not Agreed)
		<p>Rural Communities Act duties to conserve and enhance biodiversity should be a key objective in the design of the landscaping for stations to help offset biodiversity loss within the rail corridor, but there is no mention of ecology/biodiversity and only mention of removal of bramble behind Sainsbury's and an indicated tidying up.</p> <p>There have also been various issues with reptiles and GCN within developments in this wider location within the last 10 years and various pockets of habitat were to be retained so there is some risk that such limited pockets of potential mitigation habitat cover and refuge for insects, birds and protected species will be removed.</p>	<p>Biodiversity has been considered in the car park design which includes a swale, grass and tree planting on the southern side to connect the Portbury Drain with habitat to the east. Amphibian friendly drainage design will be used as detailed in the CEMP (DCO Document Reference 8.14) at Section 6.2.35.</p> <p>Mitigation is provided for reptiles as detailed in the Reptile Mitigation Strategy (ES Appendix 9.13, DCO Document Reference 6.25).</p> <p>Mitigation for reptiles in the area of Portishead Station includes:-</p> <ul style="list-style-type: none"> • reptile translocation to the Portishead Ecology Park with habitat improvements to the receptor site; • a reptile tunnel under Quay's Avenue to provide continued connectivity; and • a swale with scrub and long grass in the design for Portishead Station car park along the southern boundary to provide connecting habitats. 	

Ref	Topic	LPA position	Applicant position	Status (Agreed/ Not Agreed)
			<p>Mitigation is also presented for badgers in the draft badger licence for the dis-used line. A Letter of No Impediment ("LONI") has been received from Natural England for the draft licence.</p> <p>District licensing for GCN has been secured and is the preferred licensing route of the Local Planning Authority, which contributes strategically favourable compensatory habitats off-site rather than site-specific GCN compensatory habitat under the traditional licensing route.</p> <p>Recent developments in Portishead have had an increasingly urbanising effect on the area surrounding the proposed station. The urban/ rural boundary has moved further east and connectivity has been provided for GCN/Reptile to the Ecology Park/ Portbury Wharf Nature Reserve through landscaping proposals along the rail corridor.</p>	
13.1.4	Terminus wall (Consultation)	Concerned about the way in which the track is enclosed at the end of the line, and the impact this has on the pedestrian environment, the	The appearance and view to and from the proposed Portishead Station evolved following stakeholder and public feedback. Options were limited as NRIL	Agreed It is accepted that further engagement is

Ref	Topic	LPA position	Applicant position	Status (Agreed/ Not Agreed)
		termination of the views down the pedestrian 'boulevard', and the impression created for the 'gateway' to the station generally.	have a range of rules in relation to station and track security. The design consists of a walled enclosure to the track, screening the buffer zone from view (as opposed to palisade fencing). The Applicant will engage further with the LPA on this matter to reach agreement ahead of the detailed design.	required ahead of detailed design. Following the completion of detailed design the LPA's approval will be sought pursuant to DCO Requirement 4
13.1.5	Fencing and terminus wall (Consultation)	There is scope for the wall to incorporate some simple, aesthetically pleasing station signage to a) assist legibility and b) break up the wall to some extent. Also possible incorporation of climbing plants and artwork.	<p>These matters are generally post-consent considerations, at the detailed design stage. However drawings were provided in the consultation to convey potential facings.</p> <p>It should be noted that there is very little space for climbing plants so this will not be incorporated.</p> <p>Signage will be considered during detailed design, however the walls have been designed so that they make a positive contribution to the view. The walls have been included on the Portishead Station Building Design: Proposed Station Buildings Plan (DCO Document Reference 2.11 Examination Library ref: APP-018). Further discussion of the design is presented in the Design and Access Statement (DCO</p>	<p>It is accepted there are limitations on the general approach to design, imposed by operational requirements of NRIL. The items referred to by the LPA can be discussed as part of detailed design to be approved post-consent so is not required to be agreed in this SoCG to that extent.</p>

Ref	Topic	LPA position	Applicant position	Status (Agreed/ Not Agreed)
			Document Reference 8.1 Examination Library ref: APP-196). Requirement 4 of the dDCO (DCO Document Reference 3.1 Examination Library ref REP6 – 008) requires the Applicant to secure the LPA's approval of the detailed designs.	
13.1.6	Public realm (Consultation)	Requested retention of any historic features and the use of public art.	There are no historic features left in the Portishead area of the DCO Scheme, however the Applicant will provide history boards about the railway and history of Portishead, in conjunction with community groups and schools etc. There is no budget for public art, but the Applicant would be willing to work with interested parties if they would like to install some.	The LPA agree this approach and would wish to work with interested parties, including potentially local groups who might wish to promote public art in this location.
13.1.7	Station building (Consultation)	It should be noted that the Portishead Station building is the public face of the DCO Scheme and a gateway to the centre of Portishead. It is an important civic space, that should create a sense of pride in the town and the efforts that have gone into re-opening the line. It is noted that reference is made in the Socioeconomic chapter that reference is made to the potential for commercial opportunities in the station environs.	The station has been designed to blend with the existing modern high-quality urban design. Therefore, the station design is a modern, functional and clean design and will form an important gateway into Portishead. The design was also informed by the comments received from the Stage 1 and Stage 2 Consultation periods. The approach to the DCO Scheme design is set out in	It is accepted that the station building has addressed a combination of cost, functional and aesthetic considerations. See also 13.1.2 concerning its ability to adapt to changing future circumstances and opportunities.

Ref	Topic	LPA position	Applicant position	Status (Agreed/ Not Agreed)
		We would welcome continuing discussion over the design to ensure this potential to evolve to meet changing needs is not lost.	the Design and Access Statement (DCO Document Reference 8.1).	The LPA is pleased to note the later commitment to providing opportunities to use renewable energy on the station building as part of requirement 28 of the dDCO.
13.1.8	Public realm (Consultation)	Request some additional features at Portishead Station and car parks: <ul style="list-style-type: none"> planting consistent with crime prevention objectives; boundaries be high enough to create a sense of enclosure and local identity, and extended further visually e.g. to close the gap between disabled parking and covered cycle parking; and more low planting would be welcomed to soften the appearance of the car park whilst not compromising security. 	<p>The landscaping was reviewed in line with consultation comments, in particular to reduce the hardness of the area, provide some sense of enclosure and provide returns to ends of walls around the station building environment and car park.</p> <p>Further discussion of the design is presented in the Design and Access Statement (DCO Document Reference 8.1). Requirement 4 of the dDCO (DCO Document Reference 3.1, Examination Library ref REP6 – 008) requires the Applicant to secure the LPA's approval of the detailed designs.</p>	Agreed. The general design approach is satisfactory – detailed design to be approved post-consent

Ref	Topic	LPA position	Applicant position	Status (Agreed/ Not Agreed)
		<ul style="list-style-type: none"> Landscape design and planting should be the subject to coordinated work by the landscape designer and ecological advisers. 		
13.1.9	Public realm (Consultation)	<p>There is a lack of clarity regarding the proposals for the land to the north of the Portishead car park south of Harbour Road, suggesting that if the space is grassed it would remove the edge to the street that is currently formed by the existing vegetation, and would result in open views across to the linear car park and the rear of Sainsbury's beyond.</p>	<p>The landscaping has been designed to fit with the ecology constraints. The western end was always planned to account for other development proposals. This is included in the Portishead Station Car Park Layout, Landscaping and New Boulevard and Access Plan, (DCO Document Reference 2.38).</p> <p>Please also note the Applicant's responses in respect of GCN district licensing in section 10 of this SoCG.</p>	Agreed-general approach to landscaping is satisfactory.
13.1.10	Public realm (Consultation)	<p>Stated a preference for the vegetation to the rear of Sainsbury's be cut back (but still providing enclosure to the street and screens the rear of Sainsbury's), and replaced with a strip of grass with an avenue of trees planted, ensuring greater legibility as a primary route and continuing the theme of tree lined streets in this area.</p>	<p>The quality of the existing vegetation behind Sainsbury's is very poor, mainly brambles.</p> <p>On the northern side of the car park, the avenue of trees is underplanted with ground cover, not grass. The proposed boulevard provides high quality route legibility all the way to the edge of the site at the northern end of the car park.</p>	Agreed.

Ref	Topic	LPA position	Applicant position	Status (Agreed/ Not Agreed)
			This is included in the Portishead Station Car Park Layout, Landscaping and New Boulevard and Access Plan, (DCO Document Reference 2.38).	

14. DRAFT DCO – REQUIREMENTS AND LPA APPROVALS

14.1 Approach to discharge of requirements

- 14.1.1 Requirement 38 of the dDCO (REP6 – 008) sets out a non-standard process for deemed discharge of Requirements, which has been drafted in consultation with the LPA and in recognition of the particular challenges of project cost control when working in an environment where there are operating trains already and where timing and duration of works is critical. In summary, Requirement 38 provides that if the relevant planning authority has not indicated its decision within eight weeks of submission of a validated application to discharge a Requirement then, as long as the detail is within the parameters of the ES, the Requirement is deemed to have been discharged. A drafting note on the process and the need for a deeming mechanism is proved at Appendix 3.
- 14.1.2 As a precaution to avoid decisions being made through deeming rather than a positive consideration the LPA asked for the provisions of Sub-paragraph (4) to also be included. Sub-paragraph (4) provides a 'final reminder' before the deeming provisions are triggered, requiring the Applicant to give 14 days' notice that the date for determination is approaching (i.e. 14 days before the end of the 8 week determination period), before it can rely on the deeming provisions. This process has been agreed by the Applicant and the Relevant Planning Authority.
- 14.1.3 Sub-paragraph (4) also states that if the details go outside of the ES then the application is deemed to be refused.
- 14.1.4 The suggested drafting in PINS Advice Note 15 in respect of fees is not included in the draft Order. The LPA has signed a Planning Performance Agreement with the Applicant to set out a suitable process for consultation and submission of applications to discharge Requirements and provide the necessary resource to meet the demands of this process, which is expected to be time intensive, cannot be met within existing staffing levels and in some instances may require engagement of external expertise.
- 14.1.5 The deeming provisions in Requirement 38 were further amended prior to submission of the dDCO, and without further consultation with the LPA, to reflect the relevant PINS Advice Note 15 which was issued after the approach had been substantially approved by the LPA. Nevertheless, following subsequent review of Requirement 38 in full the process has been agreed with the LPA.

14.1.6 The Explanatory Memorandum (DCO Document Reference 3) provides further detail on the rationale for the non-standard wording for discharge of Requirements. A further explanatory note is appended to this SoCG at Appendix 3.

14.2 LPA approvals

14.2.1 The Requirements include details of matters which shall be subject to the approval of the LPA as a prerequisite for their discharge. In some cases, it has been agreed with the LPA that there is additional benefit in building flexibility into the Requirements. For example, Requirement 3 sets out the proposed stages of authorised development within each local planning authority area, though with 'tail piece' wording allowing the Applicant to apply for (and the LPA to approve) "such other stages of the Works that are agreed in writing with the relevant planning authority". A note on the use of tailpiece wording is provided at Appendix 2.

14.2.2 The Applicant and Local Planning Authority are now in agreement on the content and wording of the Requirements.

14.3 Requirements

14.3.1 The following table sets out the Requirements in the dDCO where the subsequent approval of the LPA will be required, and the process whereby the Applicant may apply for such approvals.

Table 14.1: DCO Requirements

Requirement	LPA position	Applicant's position	Status: Requirement Agreed/ Not Yet Agreed
Requirement 3 Stages of authorised development	<p>The Stages as currently presented appear logical in terms of the types of work and geographical scope.</p> <p>Agree the flexibility given by the 'unless otherwise agreed' with the LPA and sub-paragraph (submission for approval of part of a Stage) wording is necessary and the LPA considers this to be acceptable.</p>	<p>Stages are necessary to reflect the different types of activity, and because different contractors may be employed to carry out different works at different times.</p> <p>The Stages reflect the current intention of the Applicant and NRIL but flexibility is necessary and built into the drafting with 'tail piece wording' ('unless otherwise agreed' with the LPA). The Stages will be finalised once the contractors are engaged and with the input of NRIL.</p>	Agreed.
Requirement 4 Submission and approval of design detail	<p>No specific comments though the LPA notes the importance of having an agreed approach for how applications to discharge Requirements will be dealt with—approval of designs may require significant resource commitment.</p>	<p>A lot of detail has already been provided in the DCO submission and in many cases the designs are as detailed as would be used for a full Town and Country Planning Act planning application, going beyond what is necessary for a DCO Application.</p> <p>The Applicant and NRIL expect very few changes to the designs.</p>	<p>A Planning Performance Agreement has been signed between the Council and Applicant that addresses the issue of resourcing what is expected to be an intensive process where timely decision-making will be crucial.</p> <p>The agreed approach to discharge of Requirements applies to both Applicant and LPA deal with applications to</p>

Requirement	LPA position	Applicant's position	Status: Requirement Agreed/ Not Yet Agreed
		<p>The railway design is not included in the list as being subject to LPA approval. This is outside the remit of the LPA and is for NRIL to implement as the body with the technical knowledge to deliver safe railways.</p>	<p>discharge Requirements. This must enable pre-application enquiry and advanced notice of submission; submission via Planning Portal so applications are properly registered as this will facilitate better control and accountability than an ad-hoc arrangement. This is especially important given the possibility of different contractors handling submissions.</p> <p>It is accepted that operational part of the railway design is outside the remit of the LPA.</p>
Requirement 5 Construction Environmental Management Plan ("CEMP")	<p>Note there is a Master CEMP but there will also be Stage-specific CEMPs.</p> <p>The LPA notes that the effect of Requirement 5(6) is that the preparatory activities do not have to be undertaken in accordance with the COCP and Master CEMP. They are also excluded from any Stage-specific CEMP. This is a concern in particular for preparatory</p>	<p>Agreed, as per Requirement 5(1).</p> <p>The Applicant has deliberately provided different definitions of preparatory activities relating to the interpretation of requirements (Schedule 1 Requirement 1) and the definition of commencement in Article 2 of the dDCO. Whilst preparatory activities are outside of the control imposed by</p>	<p>Requirement 5 is now agreed.</p>

Requirement	LPA position	Applicant's position	Status: Requirement Agreed/ Not Yet Agreed
	activities involving erection of plant and machinery.	requirements, activities that are pre-commencement but not preparatory activities are bound by the provisions of requirement 5(7).	
Requirement 6 Landscaping scheme – disused railway	In regards to Requirement 6(4) the LPA would usually expect to see maintenance of vegetation for 10 years after planting. However, in the context of the railway corridor 5 years is acceptable. It is noted that Natural England have not queried the maintenance period particularly in respect of the bat corridor.	It should be noted that given the operational requirements NRIL would not normally accept a landscaping requirement for future operational railway. The 3m railway must be kept clear and within 5 metres NRIL require the option to clear the land for future works, as shown on the Landscape plans and ES Chapter 9 – Ecology and Biodiversity (DCO Document Reference 6.12, Examination Library ref APP-208).	Agreed
Requirement 7 Landscaping – other works	10 year maintenance period for landscaping works outside of the rail corridor is agreed.	The Applicant has suggested a five year maintenance period post planting. Note this Requirement excludes both the rail corridor (covered by Requirement 6) and the works covered by the AGVMP (DCO Document Reference 8.12	Agreed

Requirement	LPA position	Applicant's position	Status: Requirement Agreed/ Not Yet Agreed
		Examination Library ref REP6-136).	
Requirement 8 Temporary fencing	This appears to be standard wording but query whether it would cover Heras fencing used for contractor compounds. Also, does it cover temporary ecological fencing?	The Applicant envisages the Requirement does include all types of temporary fencing.	Agreed
Requirement 9 Highway accesses	No comments	This is a standard form Requirement. Note removal of haul roads is controlled separately under Requirement 22.	Agreed.
Requirement 10 Archaeology	The Requirement is generally acceptable though some amendments proposed by the LPA's archaeologist: change 'or a watching brief' to 'for a watching brief' in Requirement 10(1); and delete words 'field work or' in Requirement 10(2).	The amendments have been made.	Agreed
Requirement 11 Surface and foul water drainage	Under normal planning applications, drainage conditions are exempt from deemed discharge – is this still the case for the DCO Scheme?	There is no proposed exemption from the deeming provisions for drainage consents.	Agreed

Requirement	LPA position	Applicant's position	Status: Requirement Agreed/ Not Yet Agreed
	<p>The Requirement is different to the one previously proposed by the Lead Local Flood Authority ("LLFA").</p> <p>The details to be submitted shall include:</p> <ul style="list-style-type: none"> a) a timetable for its implementation and maintenance during construction and handover; and b) a management and maintenance plan for the lifetime of the development which shall include details of land ownership; maintenance responsibilities/arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable urban drainage scheme throughout its lifetime; together with a description of the system, the identification of individual assets, services and access requirements and details of routine and periodic maintenance activities." 	<p>The design requirements have been incorporated into the outline approach to the temporary and permanent drainage of the railway, stations, car parks, haul roads and compounds.</p> <p>The detailed designs will meet the LPA's requirements and will be subject to approval by the LPA.</p> <p>Requirement 11(1) requires consultation with the EA before drainage designs are submitted to the LPA for approval.</p> <p>Requirement 11(2) requires drainage to be maintained in accordance with the approved details. The details submitted under requirement 11 will include those sought by the LLFA.</p> <p>The dDCO would allow for any necessary changes to layout which may be required following detailed drainage designs.</p>	

Requirement	LPA position	Applicant's position	Status: Requirement Agreed/ Not Yet Agreed
	<p>The information is required before works start on site because it is necessary to understand how the system will be maintained during construction works and before the hand over to a management company to prevent flooding downstream of the system.</p> <p>The new requirement wording should be checked against the LLFA wording to make sure that it is asking for the same thing. The new condition also refers to foul drainage. Any foul drainage requirement would need to be discharged in liaison with Wessex Water / Environment Agency ("EA") not the LLFA.</p>		
Requirement 12 Trees	Requirement appears standard and is acceptable.	No comments.	Agreed.
Requirement 13 Control of Invasive Plants outside of Avon	No comments.	Note this Requirement does not apply to the Avon Gorge Woodlands SAC, to which the AGVMP will apply.	Agreed.

Requirement	LPA position	Applicant's position	Status: Requirement Agreed/ Not Yet Agreed
Gorge Woodlands SAC			
Requirement 14 Avon Gorge Woodlands SAC	The principles of this Requirement are accepted. The LPA would like further detail on the timescales for the relevant works and how this relates to the ultimate obligation to carry out those works in the AGVMP.	This Requirement and is now settled with Natural England. The timing of the works depends on several factors including securing of Habitat Regulations consents. The AGVMP is also finalised.	Agreed.
Requirement 15 External lighting and control of artificial light emissions during construction	Requirement appears standard and is acceptable.	No comments.	Agreed.
Requirement 16 Construction Hours	The proposed working hours for the DCO Scheme are 06:00 to 18:00 Mondays to Saturdays with no working on Sundays or Bank Holidays. Whilst I support the no working on Sundays and Bank	Working hours of 0630 to 1800 Mondays to Saturdays are now proposed, and no working on Sundays or Bank Holidays except as agreed with the LPA is proposed for works along the disused railway line. We expect	Agreed The Applicant's proposal to apply for consent under s61 of the Control of Pollution Act 1974 if necessary is noted.

Requirement	LPA position	Applicant's position	Status: Requirement Agreed/ Not Yet Agreed
	<p>Holidays, the 06:00 start is too early.</p> <p>Construction hours should be 07:00 to 18:00 Mondays to Fridays, 08:00 to 17:00 Saturdays, with no works on Sundays or Public Holidays.</p> <p>Piling operations should be between the hours of 08:00 to 17:00 Mondays to Fridays and 09:00 to 14:00 Saturdays.</p> <p>Should the Applicant require works to be undertaken outside of these hours then a S61 application will need to be made under the Control of Pollution Act 1974.</p>	<p>to use S61 for construction noise.</p> <p>The exceptions – existing highway land, operational railway land, and works undertaken at compounds associated with those works – must be excluded and in such cases night working has the benefit of reducing the period of disruption for those affected.</p> <p>Along the operational railway, the works have to accommodate freight train passes. As such, the works may be conducted in a range of shift patterns, including 24 hr working. The pattern of working will subject to agreement with the Bristol Port Company over freight train movements and the proposed construction scheduling developed by the successful contractor.</p> <p>24hr working may be required at the construction compounds to</p>	

Requirement	LPA position	Applicant's position	Status: Requirement Agreed/ Not Yet Agreed
		support ongoing works and deliveries and waste removal.	
Requirement 17 Contaminated land and ground water	Requirement appears standard and is acceptable.	No comments.	Agreed.
Requirement 18 Works to Winterstoke Road, Bristol	No comments as this location is outside of the LPA boundary	No comments.	Agreed.
Requirement 19 Temporary path south of Trinity Primary School, Portishead	Query whether the drafting of this Requirement is correct – there are two references to approval of the LPA in sub-paragraph (1). Also query in sub-paragraph (4) when removal of the temporary path will be as refers only to 'following' opening of Work No. 7 for public use.	The Applicant believes the Drafting of (1) is correct as the first reference to the relevant planning authority is in parenthesis and relates to the design of an alternative path if one is proposed. The Applicant will include the words "within 6 months of" in Requirement 19(4).	[Agreed]
Requirement 20	This Requirement is acceptable. The 'tail piece' wording at (2) in particular is acceptable.	No comments.	Agreed.

Requirement	LPA position	Applicant's position	Status: Requirement Agreed/ Not Yet Agreed
Path at Marsh Lane, Easton in Gordano			
Requirement 21 Temporary Path at Avon Road, Pill	This Requirement is acceptable.	No comments.	Agreed.
Requirement 22 Restoration of land used temporarily for construction	This Requirement is acceptable though the LPA queries whether it provides a mechanism for the Applicant to retain works on land subject only to temporary possession.	This is a standard Requirement save for sub-paragraph (2) which is necessary owing to the temporary possession of National Trust Land for installation of rock bolts. Once installed by NRIL it is intended that they will be maintained by National Trust. It is correct that the Requirement does allow for retention of some works on temporary possession land, in accordance with Article 33(4)(d).	Agreed.
Requirement 23 Watercourses	This Requirement is acceptable.	No comments.	Agreed.
Requirement 24	Is the first planting season following approval the earliest that this planting can be delivered?	The Applicant is investigating whether the planting can be undertaken as early works, to	Agreed.

Requirement	LPA position	Applicant's position	Status: Requirement Agreed/ Not Yet Agreed
For the protection of bats	In respect of the planting referred to in (3), the LPA would normally expect to see a maintenance period of 10 years where dealing with highway planting. The Requirement only allows for 5 years.	allow the secondary bat corridor to mature. The LPA's ecologist will be engaged on this issue. The Applicant believes a 5 year maintenance period is appropriate.	
Requirement 25 Permanent Fencing outside of Avon Gorge Woodlands SAC	This Requirement is acceptable.	Please note the Disused railway engineering plans/ GRIP 4 Minor Civils (DCO Document Reference 2.7, examination Library ref: AS-023 and 024) show fencing but NRIL will provide detailed fencing design at GRIP 5 and these will be subject to LPA approval under this Requirement and as clarified by the Fencing Grades Summary.	Agreed
Requirement 26 Permanent acoustic fencing	Whilst the LPA notes that this Requirement relates to acoustic fencing and requires the acoustic fencing to be installed prior to the works commencing, I understand	The acoustic fence has been discussed with the landowner and draft Heads of Terms have been issued.	Agreed.

Requirement	LPA position	Applicant's position	Status: Requirement Agreed/ Not Yet Agreed
	previously that there some issues with the owner of Old Portbury house and the installation of the fencing. It would be useful to know if this has now been resolved. (Post Application).	The Requirement means the written details for the fence have to be discharged before works begin and that commercial use cannot start until the fences have been constructed.	
Requirement 27 Portishead Station	This Requirement is acceptable.	The LPA at Deadline 4 suggested solar panels be provided at Portishead Station and provision be made for this in requirement 4. The Applicant has instead included drafting in requirement 27 regarding on site energy generation. The Applicant has also amended the requirement to provide for a station travel plan.	Agreed
Requirement 28 Pill Station	Unclear what is meant by 'lighting screens' to restrict light spill onto the northern platform.	These are a type of fence erected so as to create a permanently dark place on the platform. The Applicant has also amended the requirement to provide for a station travel plan.	[Agreed.]

Requirement	LPA position	Applicant's position	Status: Requirement Agreed/ Not Yet Agreed
Requirement 29 Operational lighting – highways, bridges, paths and carparks	This Requirement is acceptable.	The locations where this Requirement is of significance are, amongst others, the Tansy Lane footbridge and the station car parks. The Requirement ensures the LPA must approve the detailed design for lighting in these areas.	Agreed.
Requirement 30 Works Affecting M5 Junction 19	This Requirement is acceptable	No comments.	Agreed
Requirement 31 Clanage Road, Bristol	No comments as this location is outside of the LPA boundary	No comments.	Agreed.
Requirement 32 New bridleway east of M5 Avonmouth Bridge	This Requirement is acceptable.	Note this Requirement addresses the possible extension of the bridleway which terminates in the area under the M5. There are possible benefits in terms of creation of additional bat corridor, though this is an additional benefit rather than compensation. The approach will be informed by ongoing	Agreed.

Requirement	LPA position	Applicant's position	Status: Requirement Agreed/ Not Yet Agreed
		discussions with Bristol Port Company.	
Requirement 33 Cattle Creep Bridge, Easton In Gordano	This Requirement is acceptable	No comments.	Agreed
Requirement 34 Requirement for written approval	This Requirement is acceptable.	No comments.	Agreed.
Requirement 35 Amendments to approved details	This Requirement is acceptable.	No comments.	Agreed.
Requirement 36 Anticipatory steps towards compliance with any requirement	This Requirement is acceptable.	No comments.	Agreed. It is acknowledged by the LPA that relevant activities carried out in advance of the Secretary of State's decision on the application for development consent will be recognised by the LPA as being related to the discharge of requirements. Such activities will be considered by the LPA when deciding

Requirement	LPA position	Applicant's position	Status: Requirement Agreed/ Not Yet Agreed
			whether or not a requirement can be, or has been, discharged.
Requirement 37 Applications made under requirements	What is meant by 'contemplated by' a requirement in 37(1)? The LPA's drainage officer notes that under a normal planning application the drainage consent would be excluded from any deemed consent provisions. Is this the case with the Requirement?	It is accepted that the phrase 'contemplated by' is perhaps unclear so the Applicant will review the drafting to delete those words in this sub-paragraph. Drainage is not excluded from the deemed consent provided for under this Requirement.	Agreed
Requirement 38 Further information	This Requirement is acceptable.	No comments	Agreed
Requirement 39 Appeals	This Requirement is acceptable.	No comments.	Agreed.
Requirement 40 Interpretation of Part 2 of Schedule 2	This Requirement is acceptable.	No comments.	Agreed.

15. CONCLUSIONS AND SUMMARY OF KEY ISSUES

15.1 This Statement of Common Ground records that, in summary:

15.1.1 All principal topics have been considered by the Parties and the parties are, overall, in agreement.

15.1.2 In particular:

- (a) The LPA accepts the approach to detailed design proposed in requirement 4.
- (b) The LPA accepts the principles suggested for dealing with the discharge of submissions for approval, subject to the proposed process set out in requirement 37 applying, together with a planning performance agreement supporting the administration of the process.
- (c) The LPA accepts the existence of "tailpiece" requirements where explained as being necessary in the note attached at Appendix 2.
- (d) The LPA has requested further detail on how the larger car park access at the junction with Harbour Road and Papermill Gardens will operate. The proposed operation of this junction will be tested to demonstrate that it will operate satisfactorily at the detailed design stage;
- (e) The LPA has requested further details around the Pill Station design, raised safety concerns about pedestrian and vehicle movements around Pill Station Car Park on Monmouth Road. This will be dealt with at the detailed design stage;

- (f) The LPA had comments on the Surface Water Drainage Strategy for Portishead and Pill Stations, haul roads and compounds and suggested DCO Requirements around drainage and the relevant details will be settled at the detailed design stage;
- (g) Raised queries about noise mitigation which have been addressed by changed construction hours in requirement 16 ;
- (h) The LPA had concerns raised regarding further ecology mitigation which has been resolved following discussion with the Applicant;
- (i) Requested an archaeological "watching brief" at compound sites along the railway which have been agreed; and
- (j) The impacts of new structures should be proportionate, and not have unacceptable adverse impacts on the living conditions of neighbours and other land uses. In respect of the proposed bridge south of Trinity School (Work No. 7) the LPA has provided its views to the Panel at ISH5 and in its Deadline 6 submissions. If the Secretary of State decides to include Work No. 7 in the authorised works then the LPA will work with the Applicant on the detailed design for Work No. 7.

Appendices 1 - 4

Appendices 1- 4: The Applicant's drafting notes:

- (a) Detail design submissions under Requirement 4 (Appendix 1);
- (b) "tailpiece" wording in requirements (Appendix 2);
- (c) Processes for approval, including deemed approval of details submitted under requirements (Appendix 3); and
- (d) Note on commencement and preparatory activities (Appendix 4)

Appendix 5: North Somerset Council as Local Planning Authority's comments on Applicant's responses to proposed changes to requirements in Schedule 2 of the dDCO as suggested in ExA's recommended amendments to the Applicant's draft DCO submitted at Deadline (D)6

Appendix 1

Detail design submissions under Requirement 4

THE PORTISHEAD BRANCH LINE (METROWEST PHASE 1) ORDER

Drafting Note: Requirement 4 – Detail Design

INTRODUCTION

This note is provided to the two host local planning authorities (North Somerset Council and Bristol City Council) to clarify Requirement 4 of Schedule 2 of the DCO.

The requirement is entitled "submission and approval of detailed design".

2. HOW THE REQUIREMENT WORKS.

2.1 Requirement 4 sets out those parts of the proposed development that have "design drawings" submitted to provide a degree of clarity and certainty linking the Environmental Statement and Design and Access Statement to the application documentation but also retaining a suitable level of flexibility in final design. It is intended to provide fixed points for environmental assessment purposes, setting parameters for the details remaining to be finalised in respect of the authorised development.

2.2 A table sets out the work numbers, gives a description of the works and indicates the design drawings that should be referred to.

2.3 Despite a level of significant detail being provided as part of the application, the final design for the specified element of the authorised development set out in the table in requirement 4 must be approved by the relevant planning authority prior to commencement of that element of the authorised works.

2.4 Requirement 4(2) states that the submitted detail must be in accordance with the principles in the design drawing listed in column 3 of the table in Requirement 4. Any final design proposal submitted must be informed by the design drawings listed in column 3 of the table in Requirement 4, unless otherwise agreed with the relevant planning authority. (This "tailpiece" is needed to allow for the unlikely event that there is a necessary change to the design proposals resulting from detailed design work post consent. This paragraph of the Requirement must be read in conjunction with requirement 4(3)).

2.5 Requirement 4(3) states that any changes from the design drawing in the drawing submitted to the relevant planning authority for approval must be in accordance with the principles set out in the Environmental Statement. This means that any changes, including those to which the tailpiece in requirement 4(2) applies, must still conform with the ES.

2.6 The part of the authorised development relevant to the approved details thereafter must be carried out in the accordance with the final design approved by the relevant planning authority (Requirement 4(4)).

3. THE EFFECT OF REQUIREMENT 4

3.1 The application is, for those parts of the authorised development that are subject to the design drawings listed in the table in Requirement 4, designed to a level somewhere between an outline planning application and full planning application.

3.2 The drawings provided with the application and listed in column 3 of the table in Requirement 4 set out the general principles and are worked up to a level of design that is well beyond standard outline planning applications, and probably in some cases are as detailed as one would normally expect for a full application for planning permission.

3.3 However, to recognise the potential for changes, particularly through the Network Rail "GRIP 5" (Governance for Railway Investment Projects) process, it is essential there is an ability for revised drawings to be submitted. Any such drawings must respect the ES and also the drawings listed in column 2 of the table in Requirement 4 (unless otherwise agreed with the relevant planning authority - so entirely within the control of the relevant planning authority), but can show some detail design changes for approval by the relevant planning authority when compared to those drawings submitted with the application for development consent.

Womble Bond Dickinson (UK) LLP

Appendix 2

"tailpiece" wording in requirements

The Portishead Branch Line (MetroWest Phase 1) Order

Drafting note: Requirements using "tailpiece" wording

1. Introduction

1.1 A number of the Requirements in the Portishead Branch Line (MetroWest Phase 1) Order have the words "unless otherwise agreed with the relevant planning authority" inserted in them.

1.2 Planning Inspectorate in Advice Note 15 indicates that it is ordinarily acceptable to use "tailpiece" wording, on the basis that it is not acceptable to circumvent the prescribed process for making amendments to the terms of a DCO. The issue is covered in Advice Note 15, paragraphs 17.3-17.5.

1.3 As tailpiece wording appears in the Requirements set out below in Schedule 2 of the draft Order, this note provides the explanation for each tailpiece being included.

2. Requirements in Schedule 2 containing "tailpiece" wording

2.1 Requirement 3 - Stages for authorised development

2.1.1 Requirement 3 sets out the stages of the authorised development proposed to be followed to enable the applicant to submit applications to discharges of Requirements for parts of the authorised development rather than the whole. Some 10 stages (of which some have sub-stages) are set out in Requirement 3(1) and 3(2). Identical tailpiece wording appears in Requirement 3(1) and Requirement 3(2). In addition Requirement 3(3) also allows for stages to be implemented, and covered by the approvals mechanisms within on a partial basis rather than the whole of an individual stage needing to be fully dealt with in one application.

Reason for tailpiece

2.1.2 The tailpiece wording is included here to allow for flexibility in the phasing of the authorised development. Alterations to phasing have no impact on what is actually consented but allow for the applicant and the relevant planning authorities to agree that the phasing listed in Requirement 3 (1) and 3(2) are capable of being rearranged if appropriate for the better implementation of the authorised development. It is not in any way changing the nature of the authorised development nor any findings of the ES. To require a non-material change application if it were found that the current phasing proposals were impracticable would lead to an unnecessary and cumbersome additional process.

2.2 Requirement 4 – detail design

Requirement 4(2) states that detail design submitted to the relevant planning authority must reflect the principles of the relevant design drawings that are listed in Requirement 4, unless otherwise agreed with the relevant planning authority. This "tailpiece" is qualified by Requirement 4(3) which indicates changes must be in accordance with the principles of the Environmental Statement.

Reason for tailpiece

Tailpiece wording is included to allow some flexibility in detail design, albeit controlled by the submissions in the Applicant's Environmental Statement. The flexibility in detail design is proposed to allow for the limited level of flexibility if, following issue of development consent and the preparation of approvals under Requirement 4 it is ascertained that the detail set out in the design drawings cannot be fully complied with. To require a non-material change, were it to be found that the current proposals were impractical, would lead to unnecessary and cumbersome additional processes. Control should remain with the relevant planning authority.

2.3 Requirement 11 - Surface and foul water drainage

2.3.1 Requirement 11 requires that a stage of the authorised development does not commence until the written details of the relevant drainage systems have been submitted to and approved by the local planning authority with the approval of the lead local flood authority and the Environment Agency.

2.3.2 Requirement 11(2) states that the details must be carried out as approved unless otherwise agreed with the relevant planning authority unless otherwise agreed with the local planning authority after consultation with the lead local flood authority and the Environment Agency.

Reason for tailpiece

The wording of this Requirement has been agreed with the local planning authority, lead local flood authority and Environment Agency. The tailpiece will allow for altered arrangements and the maintenance of the approved drainage if appropriate and subject to the agreement of the relevant authorities. This flexibility is required in case changes to the maintenance are proposed and to deal with the matter that is not conveniently dealt with by way of the Town & Country Planning Act regime.

Womble Bond Dickinson (UK) LLP

April 2021

Appendix 3

Processes for approval, including deemed approval of details submitted under requirements

THE PORTISHEAD BRANCH LINE (METROWEST PHASE 1) ORDER

Requirements – Provisions for Deemed Discharge

Note to relevant Local Planning Authorities

Drafting Note: explanation for inclusion of Deeming Provisions relating to discharge of requirements

1. INTRODUCTION

- 1.1 This note is provided to the two host local planning authorities (North Somerset Council and Bristol City Council) to further clarify why North Somerset Council (Applicant) has included a process for deeming the approval for requirements that are being discharged in accordance with Schedule 2 of the draft Portishead Branch Line (MetroWest Phase 1) Development Consent Order (the draft DCO).
- 1.2 This note is provided following discussions on the Statement of Common Ground between, principally, Bristol City Council and the Applicant. It is intended that this note, or a revised version of it, be included as an Appendix to the Statement of Common Ground submitted to the examination.

2. WHY HAVE DEEMING PROVISIONS BEEN INCLUDED?

- 2.1 Practice varies in DCO drafting as to whether or not a mechanism for deemed consent by relevant planning authorities is included for requirements following applications for discharge post development consent.
- 2.2 There is some precedent for the inclusion of deeming provisions, albeit in a different context, for recently made Orders determined by the Secretary of State for Transport.
- 2.3 Whilst not all SoST determined Orders include deeming processes for requirements, several Orders made following application by Highways England do include a process for deeming. See for instance requirement 17 contained in Schedule 2 Part 2 of the M20 Junction 10A Development Consent Order 2017 (2017 SI No. 1202).

<https://infrastructure.planninginspectorate.gov.uk/document/TR010006-000893>

And also the recently made M42 Junction 6 Development Consent Order 2020

[https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010027/TR010027-000970-200520%20M42%20DCO%20\(SI%20number%20included\).pdf](https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010027/TR010027-000970-200520%20M42%20DCO%20(SI%20number%20included).pdf)

- 2.4 For DCOs overall therefore, and for DCOs made by the Secretary of State for Transport, there is no single approach – deeming provisions can be included by the Secretary of State in made Orders, but this is not the case for every Order. For the MetroWest DCO Scheme, the relevant provisions of the Order are provided in Appendix 1 to this document whilst Figure 1 provides a flow chart demonstrating how the process should work. Annex 1 provides a draft tracker for the host planning authorities and the Applicant to use to manage the discharge of requirements process.

3. PRECEDENT FOR DEEMED DISCHARGE OF DCO REQUIREMENTS

- 3.1 As is clear from the preceding section of this note, the Applicant has undertaken a review of recent made DCOs, on the basis that recent examples are most likely to reflect the wording the Planning Inspectorate will find to be acceptable.

3.2 MetroWest comparables – made Orders with similar deeming provisions

- 3.2.1 A large number of the recently made Orders reviewed which include deeming provisions do so with very similar wording to the draft MetroWest Order.
- 3.2.2 The following made Orders, as with the proposed MetroWest Order, include:

- (a) a defined period for the LPA to decide an application to discharge a requirement (this period being 8 weeks, save for where a different period is stated); and
- (b) unconditional deemed approval at the expiry of that period provided the subject of the application does not give rise to materially new or materially worse environmental effects (in which case it is deemed to be refused).

3.2.3 None of the made Orders which provide for the deemed discharge of requirements include any additional notice to the LPA at the 6 week (or other) stage, as has been included in the draft MetroWest Order following comments from the LPAs.

3.2.4 Drax Re-Power DCO

This Order was granted on 4 October 2019 and the relevant provisions concerning discharge of requirements are presented at Appendix 2.

The decision period is 9 weeks rather than 8. The deemed discharge provisions do not apply where the environmental effects relating to the subject of the application are materially new or materially different to those set out in the environmental statement.

3.2.5 Abergelli Power DCO

This Order was granted on 19 September 2019 and the relevant provisions concerning discharge of requirements are presented at Appendix 3.

This made Order includes an 8 week determination period. As with the Drax Order, the deemed discharge provisions do not apply where the environmental effects relating to the subject of the application are materially new or materially different to those set out in the environmental statement.

3.2.6 Tees Combined Cycle Power Plant DCO

This Order was granted on 5 April 2019. The relevant provisions are set out in Appendix 4.

The determination period in this made Order is stated as '30 business days' – i.e. 6 weeks – contrasting the 8 weeks proposed in the MetroWest draft Order. Otherwise the deeming provisions in this Order are closely aligned with the drafting in the Drax and Abergelli orders.

3.2.7 Millbrook Power DCO

This Order was granted on 13 March 2019. The relevant provisions are set out in Appendix 5.

The deeming provisions are very similar to those in the MetroWest draft Order. There is an 8 week determination period, and as with the above orders the deeming provisions do not apply where there new or materially worse environmental effects will arise from the subject matter of the application.

3.2.8 Lake Lothing (Lowestoft) Third Crossing DCO

This Order was granted on 30 April 2020. The relevant provisions are set out in Appendix 6.

The deeming provisions include an 8 week determination period (or such longer period as may be agreed). It should also be noted that in this case there is no additional provision relating to environmental effects associated with the subject matter of the application.

3.2.9 Riverside Energy Park

This Order was granted on 9 April 2020. The relevant provisions are set out in Appendix 7.

The deeming provisions in this Order prescribe a 9 week determination period following an application to discharge a requirement (or longer if agreed or if further information is requested). The application is deemed to be approved after this period, unless it gives rise to materially new or materially worse environmental effects.

- 3.3 It is worth noting that a number of recently made Highways England orders include standardised drafting to allow for deemed discharge of requirements where applications are undecided by the Secretary of State (to whom applications are made in respect of the Strategic Road Network, as opposed to the local authority). The provisions are comparable to those included in the MetroWest draft Order, save for the different decision making authority.
- 3.4 Highways England's precedent procedure for deeming incorporates the following:
- 3.4.1 Where an application is made to discharge a requirement the Secretary of State must give notice of its decision to the Applicant within 8 weeks of the application (or longer if agreed between the parties or if further information was requested);
- 3.4.2 If the Secretary of State does not determine the application in the 8 week period, it is deemed to have granted the application, subject to where the application is accompanied by a report showing, in the view of a relevant body to be consulted, its subject matter would give rise to materially new or materially worse environmental effects. In such circumstances the application for discharge shall be deemed to be refused at the end of the 8 week period.
- 3.5 The recently made Highways England Orders in which these provision have been included are:
- 3.5.1 A30 Chiverton to Carland Cross DCO**
- This Order was made on 6th February 2020. The relevant provisions are set out in Appendix 8.
- 3.5.2 A63 (Castle Street Improvement) DCO**
- This Order was made on 28 May 2020. The relevant provisions are not reproduced here as they are substantially the same as those presented at Appendix 8.
- 3.5.3 A585 Windy Harbour to Skippool DCO**
- This Order was made on 9 April 2020. The relevant provisions are not reproduced here as they are substantially the same as those presented at Appendix 8.
- 3.5.4 M42 Junction 6 DCO**
- This Order was made on 21 May 2020. The relevant provisions are not reproduced here as they are substantially the same as those presented at Appendix 8.
- 3.5.5 A19 Downhill Lane Junction DCO**
- This Order was made on 16 July 2020. The relevant provisions are not reproduced here as they are substantially the same as those presented at Appendix 8.

4. PINS ADVICE NOTE 15

- 4.1 Advice Note 15 contains a precedent for the drafting of processes for dealing with the discharge of requirements. Appendix 1 to the Advice Note provides standard drafting and cross refers to good practice point 3 of the Advice Note. It also indicates that decisions on provisions by discharging authority should be given within a decision period of 42 days. No process for deeming is provided in that draft. The Advice Note is at:
https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2014/10/advice_note_15_version_1.pdf

- 4.2 Good practice point 3 states that the drafting is standard wording and:

"where an applicant seeks for any amendment(s) to be made to the drafting of the standard working, it should be justified in full in the Explanatory Memorandum".

5. THE DRAFT DCO

- 5.1 Requirement 38 of Schedule 2 of the draft DCO (document 3.1 – see <https://infrastructure.planninginspectorate.gov.uk/projects/south-west/portishead-branch-line-metrowest-phase-1/?ipcsection=docs&stage=app&filter1=Draft+Development+Consent+Order>)

deals with applications made under requirements for the Portishead application. Requirement 38 is reproduced in this note at Appendix 1.

- 5.2 The Explanatory Memorandum (document 3.2) cross-refers to Advice Note 15 and explains further that extended time periods for consideration of the submitted details under requirements had previously been agreed.
- 5.3 The draft DCO at requirement 38 provides a mechanism for deeming, but only if, six weeks after the application for discharge of a requirement has been provided to the relevant planning authority, the applicant notifies the relevant planning authority of its intention to treat the requirement as being discharged through the deeming provision if no determination is made within the subsequent two weeks following the notice of intended deeming. This approach was discussed with the two relevant planning authorities prior to submission.

6. WHY HAS DEEMING BEEN INCLUDED?

- 6.1 Schedule 2 of the draft DCO includes (at requirement 3) some 10 Stages (together with 5 sub stages) for the proposed authorised project, identified by reference to individual works. A staging plan is provided with this document – see appendix 10
- 6.2 Six stages (and the majority of the works) are within the administrative boundary of North Somerset Council. Four stages (albeit a relatively limited amount of the actual works) are within Bristol City Council's administrative area.
- 6.3 Requirement 3 also allows for the number and nature of stages to be altered by agreement with the relevant planning authority.
- 6.4 Thereafter there are some 30 individual operative requirements. Whilst not every requirement will apply to every stage, or requires further determination, it is clear that in terms of individual approvals for requirements there is the potential for approximately 450 individual discharges of (and in addition approvals and consultation in relation to the submitted documents under requirement 4 such as the CEMP, CTMP etc).
- 6.5 It has never been the Applicant's intention that deeming should be a default process. It is however believed by the Applicant that there are several reasons for deeming provision being justified and necessary. These are set out in paragraphs 7 and 8 below.

7. HOW WILL THE PROCESS WORK?

- 7.1 It is important to note that deeming is just one part of the overall process. Figure 1 below provides the proposed process.
- 7.2 It is hoped that, through the planning performance agreements and process for liaison and tracking performance regarding applications for, timing of and discharge of requirements, deeming will be very much the exception, if indeed it is used at all.
- 7.3 The Applicant intends to work closely with the relevant planning authorities to ensure that full notice is given of the intended applications, full information provided to the relevant planning authorities and all necessary assistance for speedy and efficient discharge of requirements continues throughout.

- 7.4 Further, it is unlikely in practice that deeming will be used in any event because of the six week notice provision that is included in the drafting (something bespoke to the MetroWest draft Order and inserted at the suggestion of the planning authorities). This additional mechanism should allow the relevant planning authority to retain full control over the process.
- 7.5 Deeming is therefore only likely to happen where an application for the discharge of a requirement is considered so low key for the relevant planning authority that resource need not be expended on the formal discharge of the requirement.
- 7.6 It is hoped that, with:
- 7.6.1 a clear programme for application for requirements communicated well in advance to the relevant planning authorities;
 - 7.6.2 a standard form for an application for discharge of requirements being agreed by the parties;
 - 7.6.3 regular updates on progress on requirements during the discharge and preconstruction phase for the development; and
 - 7.6.4 the six week notice of intended deeming provision included within the process for deeming

that deeming will not be used save where only a minor decision is required.

- 7.7 It is to be noted that should any application for discharge requirements give rise to significant environmental effects then the deeming operates to refuse the discharge of the relevant requirement.

8. WHY IS DEEMING CONSIDERED APPROPRIATE?

- 8.1 The Applicant believes that deeming should be included in the draft DCO for the following reasons:
- 8.1.1 there are a large number of individual discharges of requirements in the Order – potentially around 450 individual discharges;
 - 8.1.2 the constraints for construction timetable are considerable. Many activities will hinge on having pre-booked possessions or blockades on Network Rail's railway. Such possessions take a long time to book and have significant financial consequences for Network Rail, which will be passed on to the project, through binding commercial and contractual arrangements. It means delays to getting contractors on site to undertake works in preparation for key pre-booked line possessions / blockade, resulting in just one of the possessions / blockades being missed , could cause a chain of knock on impacts to the construction programme resulting in very serious cost escalation consequences for the Applicant (and co-promoters) and could significantly delay implementation of the project; and
 - 8.1.3 Whilst it is the Applicant's responsibility to make allowance for flexibility where possible in its programme for construction and implementation, the potential consequences of inaction regarding a minor discharge of requirement could result in very considerable financial impacts for the Applicant (and co-promoters) . The deeming approach therefore proportionately allocates risk to avoid a delay in a very minor approval not being issued and need to reduce the risk of delay to the project.
- 8.2 If deeming is not included then the Applicant's only course would be a process to appeal against either refusal or non-determination depending on the circumstances, or to resubmit its application for discharge. Each of these processes would be time-consuming and could similarly impact on the construction programme.
- 8.3 Deeming is not a process unknown to Town and Country Planning Act 1990 applications. The Town and Country Planning (Development Management Procedure) (England) Order 2015 introduced in provisions, with an eight week period to determine an application, with an applicant

able to serve its own notice of deemed discharge after six weeks, stating when it considers deeming discharge to have effect. Whilst not identical, this process is similar to the process included in the draft DCO.

9. CONCLUSIONS

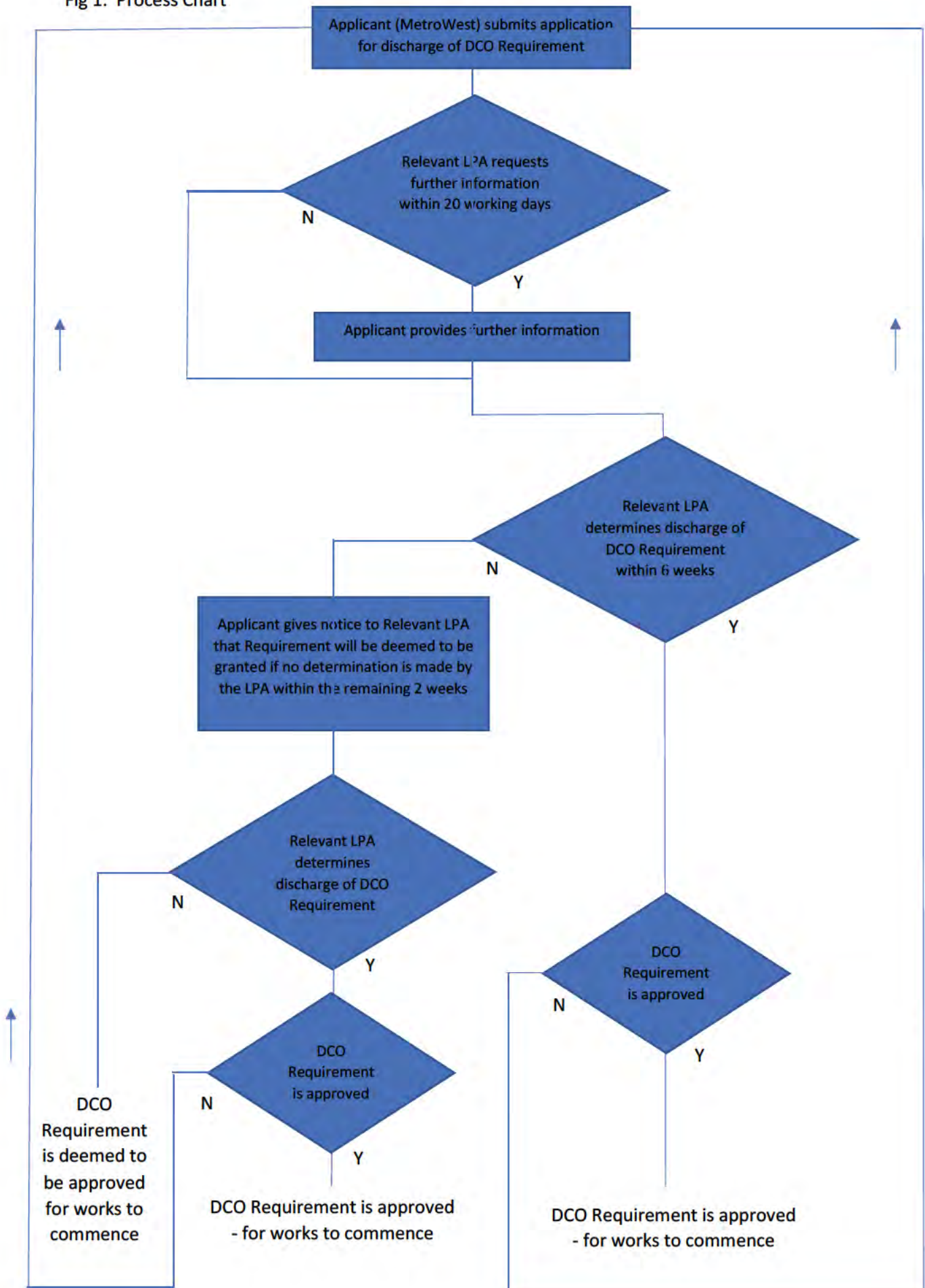
- 9.1 The Applicant believes that the inclusion of deeming provisions in Schedule 2 to the draft DCO provides an appropriate compromise between control and scrutiny by the relevant planning authorities and the need to have a clear construction programme with the reduced risk of delay for relatively minor discharges of requirements.
- 9.2 In the Applicant's view there is a strong precedent for the use of deemed discharge provisions. Notwithstanding this, there are sufficient factors specific to the MetroWest scheme to justify the inclusion of such deeming provisions as a 'safety net'. It is imperative that the discharge of requirements is undertaken in accordance with the prescribed timescales in order to avoid unnecessary disruption to the existing rail network and potential additional expense to the public purse from third party claims.
- 9.3 The deeming process is a small part of the overall package of liaison, monitoring and control that should be in place between the Applicant and the relevant planning authorities. The Applicant anticipates that deeming will rarely, if ever be used in practice, but it remains a vital tool to ensure that this key nationally significant infrastructure project with many planning advantages for the relevant planning authorities and the wider economic area is taken forward if consented with a minimum of delay.
- 9.4 Conversely the absence of deeming provisions leads to a significant risk that possessions and blockades would be missed with potentially very significant impacts on the implementation programme for this project.

Womble Bond Dickinson

July 2020

Process for Discharge of DCO Requirements

Fig 1. Process Chart



APPENDIX 1

MetroWest Phase 1 DCO: Requirement 38 on discharge of Requirements

Procedure for discharge of requirements

Applications made under requirements

38.—(1) Where an application has been made to the relevant planning authority for any consent, agreement or approval required or contemplated by a requirement (including agreement or approval in respect of part of a requirement) included in this Order, the relevant planning authority must give notice to the undertaker of the decision on the application within a period of 8 weeks beginning with—

- (a) the day immediately following that on which the application is received by the relevant planning authority;
- (b) the day immediately following that on which further information has been supplied by the undertaker under paragraph 39 (further information);

or such longer period as may be agreed between the undertaker and the relevant planning authority.

(2) Subject to sub-paragraphs (3) and (4), in the event that the relevant planning authority does not determine an application within the period set out in sub-paragraph (1), the relevant planning authority is taken to have granted all parts of the application (without any condition or qualification) at the end of that period.

(3) Where—

- (a) an application has been made to the relevant planning authority for any consent, agreement or approval required by a requirement included in this Order;
- (b) the relevant planning authority does not determine such application within the period set out in sub-paragraph (1); and
- (c) the application is accompanied by a report that considers it likely that the subject matter of the application is to give rise to any materially new or materially worse environmental effects in comparison with the authorised development as approved,

then the application is taken to have been refused by the relevant planning authority at the end of that period.

(4) Sub-paragraph (2) will only apply to an application made under requirements if—

- (a) at least 6 weeks have elapsed since the application was received by the relevant planning authority,
- (b) the undertaker has served on the relevant planning authority written notice that sub-paragraph (2) will apply from a date specified in the notice (such date not being less than 8 weeks from the date the application was received by the relevant planning authority), and
- (c) by the date specified in the notice (or such later date as the relevant planning authority may agree with the undertaker) the relevant planning authority has not determined the relevant application.

Further information

39.—(1) In relation to any part of an application made under this Schedule, the relevant planning authority has the right to request such further information from the undertaker as is necessary to enable the relevant planning authority to consider the application.

(2) In the event that the relevant planning authority considers such further information to be necessary, the relevant planning authority must, within 20 business days of receipt of the application, notify the undertaker in writing specifying the further information required and (if applicable) to which part of the application it relates. In the event that the relevant planning authority does not give such notification within this 20 day period the relevant planning authority is deemed to have sufficient information to consider the application and is not subsequently entitled to request further information without the prior agreement of the undertaker.

(3) Where further information is requested under this paragraph in relation to part only of an application, that part is treated as separate from the remainder of the application for the purposes of calculating the time periods referred to in paragraph 38 (applications made under requirements) and in this paragraph.

APPENDIX 2

Drax Re-Power: Article 42 and Schedule 11 (discharge of requirements)

"Procedure in relation to certain approvals etc.

42.—(1) Where an application is made to or request is made of any authority or body named in any of the provisions of this Order for any consent, agreement or approval required or contemplated by any of the provisions of the Order, such consent, agreement or approval to be validly given, must be given in writing and must not be unreasonably withheld or delayed. (2) Schedule 11 (procedure for discharge) has effect in relation to all consents, agreements or approvals granted, refused or withheld in relation to any provision of this Order...

...

SCHEDULE 11 PROCEDURE FOR DISCHARGE

Article 42

Interpretation

1. In this Schedule—

“business day” means a day other than a Saturday or Sunday which is not Christmas Day, Good Friday or a bank holiday under section 1 of the Banking and Financial Dealings Act 1971(a);

“relevant authority” means any authority or body named in any of the provisions of this Order and whose consent, agreement or approval is sought; and

“requirement consultee” means any body or authority named in a Requirement as a body to be consulted by the relevant planning authority in discharging that Requirement.

Applications made under Requirements

2.—(1) Where an application has been made to the relevant authority for any consent, agreement or approval required or contemplated by any of the provisions of this Order (including consent, agreement or approval in respect of part of a Requirement) the relevant authority must give notice to the undertaker of their decision on the application within—

(a) a period of nine weeks beginning with the day immediately following that on which the application is received by the authority;

(b) where further information is requested under paragraph 3 of this Schedule (further information and consultation), a period of nine weeks beginning with the day immediately following that on which further information has been supplied by the undertaker; or

(c) such period that is longer than the nine week period in sub-paragraph (a) or (b) as may be agreed in writing by the undertaker and the relevant authority before the end of such nine week period.

(2) Subject to sub-paragraph (3), in the event that the relevant authority does not determine an application within the period set out in sub-paragraph (1), the relevant authority is to be taken to have granted all parts of the application (without any condition or qualification) at the end of that period.

(3) Where an application has been made to the relevant authority for any consent, agreement or approval required by a Requirement included in this Order, and—

(a) the relevant authority does not determine the application within the period set out in sub-paragraph (1) and such application is accompanied by a report which states that the subject matter of such

application is likely to give rise to any materially new or materially different environmental effects compared to those in the environmental statement; or

(b) the relevant authority determines during the period set out in sub-paragraph (1) that it considers that the subject matter of such application will give rise to any materially new or materially different environmental effects compared to those in the environmental statement

then the application is to be taken to have been refused by the relevant authority at the end of that period..."

APPENDIX 3

Abergelli Power: Article 41 and Schedule 12 (discharge of requirements)

"Procedure in relation to certain approvals

41.—(1) Where an application is made to or a request is made of the relevant planning authority, highway authority, traffic authority, street authority, or the owner of a watercourse, sewer or drain for any consent, agreement or approval required or contemplated by any of the provisions of the Order (not including the requirements), such consent, agreement or approval to be validly given, must be given in writing and must not be unreasonably withheld or delayed.

(2) Any consent, agreement or approval given under paragraph (1) above may be given subject to conditions.

(3) Schedule 12 (procedure for discharge of requirements) has effect in relation to all consents, agreements or approvals granted, refused or withheld in relation to the requirements in Schedule 2 (requirements).

(4) Save for applications made pursuant to Schedule 12, if, within eight weeks after the application or request has been submitted to an authority or an owner as referred to in paragraph (1) of this article (or such longer period as may be agreed with the undertaker in writing) it has not notified the undertaker of its disapproval and the grounds of disapproval, it is deemed to have approved the application or request.

(5) The procedure set out in paragraph 3 of Schedule 12 has effect in relation to any refusal by an authority or an owner as referred to in paragraph (1) of this article to any consent, agreement or approval required under this Order, as if such a refusal were in respect of an application to discharge a requirement.

(6) Where any application is made as described in paragraph (1), the undertaker must include a statement in such application that refers to the relevant article of this Order under which consent is sought, the timeframe for consideration of the application and the consequences of failure to meet that timeframe as prescribed by paragraph (4)...

...

SCHEDULE 12

Article 41

PROCEDURE FOR DISCHARGE OF REQUIREMENTS

Applications made under requirements

1.—(1) Where an application has been made to the relevant planning authority for any consent, agreement or approval required by a requirement (including agreement or approval in respect of part of a requirement) included in this Order the relevant planning authority must give notice to the undertaker of their decision on the application within a period of eight weeks beginning with—

(a) the day immediately following that on which the application is received by the authority;

(b) the day immediately following that on which further information has been supplied by the

undertaker under paragraph 2; or

such longer period as may be agreed in writing by the undertaker and the relevant planning authority.

(2) Subject to sub-paragraph (3), in the event that the relevant planning authority does not determine an application within the period set out in sub-paragraph (1), the relevant planning authority is to be taken to have granted all parts of the application (without any condition or qualification) at the end of that period.

(3) Any application made to the relevant planning authority pursuant to sub-paragraph (1) must include a statement to confirm whether it is likely that the subject matter of the application will give rise to any materially new or materially different environmental effects compared to those in the environment statement and if it will then it must be accompanied by information setting out what those effects are.

(4) Where an application has been made to the relevant planning authority for any consent, agreement or approval required by a requirement included in this Order and the relevant planning authority does not determine the application within the period set out in sub-paragraph (1), then if either—

(a) the application is accompanied by a report pursuant to sub-paragraph (3) which states that the subject matter of such application is likely to give rise to any materially new or materially different environmental effects compared to those in the environmental statement; or

(b) the relevant planning authority determines during the period set out in sub-paragraph (1) that it considers that the subject matter of such application will give rise to any materially new or materially different environmental effects compared to those in the environmental statement,

then the application is to be taken to have been refused by the relevant planning authority at the end of that period.

(5) Where an application is made to a relevant planning authority for a consent, agreement or approval required by a requirement they may grant such consent, agreement or approval either unconditionally or subject to conditions..."

APPENDIX 4

Tees CCCP: Article 14 and Schedule 2 (discharge of requirements)

"Procedure in relation to certain approvals etc.

14.—(1) Where an application is made to, or a request is made of the relevant planning authority or any other relevant person for any agreement or approval required or contemplated by any of the provisions of the Order, such agreement or approval must, if given, be given in writing and must not be unreasonably withheld or delayed. (2) Schedule 2 (procedure for discharge of requirements) has effect in relation to all agreements or approvals granted, refused or withheld in relation to requirements...

...

SCHEDULE 2 PROCEDURE FOR DISCHARGE OF REQUIREMENTS

Article 14

Interpretation of Schedule 2

1. In this Schedule—

“appeal documents” means the application and documents referred to in paragraph 4(2)(a) of this Schedule

“appeal parties” means the relevant planning authority, the requirement consultee and the undertaker and “appeal party” shall be construed accordingly;

“appointed person” means a person appointed by the Secretary of State to determine an appeal pursuant to paragraph 4(2)(c);

“business day” means a day other than a Saturday or Sunday which is not Christmas Day, Good Friday or a bank holiday under section 1 of the Banking and Financial Dealings Act 1971(a); and

“requirement consultee” means any body named in a requirement in Part 2 of Schedule 1 to this Order as a body to be consulted by the relevant planning authority in discharging that requirement.

Applications made under requirements

2.—(1) Where an application has been made to the relevant planning authority for any consent, agreement or approval required by a requirement in Part 2 of Schedule 1 to this Order the relevant planning authority must give notice to the undertaker of their decision on the application within a period of 30 business days beginning with—

(a) the day immediately following that on which the application is received by the authority; or

(b) the day immediately following that on which further information has been supplied by the undertaker under paragraph 3;

(2) Subject to sub-paragraph (4), in the event that the relevant planning authority does not determine an application within the period set out in sub-paragraph (1), the relevant planning authority is to be taken to have granted all parts of the application (without any condition or qualification) at the end of that period.

(3) Any application made to the relevant planning authority pursuant to sub-paragraph (1) must include a statement to confirm whether it is likely that the subject matter of the application will give rise to any materially new or materially different environmental effects compared to those in the environmental statement and if it will then it must be accompanied by information setting out what those effects are.

(4) Where an application has been made to the relevant planning authority for any consent, agreement or approval required by a requirement in Part 2 of Schedule 1 to this Order and the relevant planning authority does not determine the application within the period set out in sub-paragraph (1) and—

(a) the application is accompanied by a statement pursuant to sub-paragraph (3) which states that the subject matter of such application is likely to give rise to any materially new or materially different environmental effects compared to those in the environmental statement; or

(b) the relevant planning authority determines during the period set out in sub-paragraph (1) that it considers that the subject matter of such application will give rise to any materially new or materially different environmental effects compared to those in the environmental statement

or such longer period as may be agreed in writing by the undertaker and the relevant planning authority

then the application is taken to have been refused by the relevant planning authority at the end of that period..."

APPENDIX 5

Millbrook Power CCCP: Article 42 and Schedule 11 (discharge of requirements)

"Procedure in relation to certain approvals

40.—(1) Where an application is made to or a request is made of the relevant planning authorities, highway authority, traffic authority, street authority, or the owner of a watercourse, sewer or drain or the beneficiary of any of the protective provisions contained in Schedule 10 (protective provisions) for any consent, agreement or approval required or contemplated by any of the provisions of the Order (not including the requirements but including the protective provisions contained in Schedule 10), such consent, agreement or approval to be validly given, must be given in writing and must not be unreasonably withheld or delayed.

(2) Schedule 12 (procedure for discharge of requirements) has effect in relation to all consents, agreements or approvals granted, refused or withheld in relation to the requirements in Schedule 2 (requirements).

(3) Save for applications made pursuant to Schedule 12 (procedure for discharge of requirements) and where stated to the contrary if, within eight weeks after the application or request has been submitted to an authority, beneficiary of protective provisions or an owner as referred to in paragraph (1) of this article (or such longer period as may be agreed with the undertaker in writing) it has not notified the undertaker of its disapproval and the grounds of disapproval, it is deemed to have approved the application or request.

(4) The procedure set out in paragraph 1(3) of Schedule 12 (procedure for discharge of requirements) has effect in relation to any refusal by an authority, beneficiary of protective provisions, or an owner as referred to in paragraph (1) of this article to any consent, agreement or approval required under this Order, including such as may be required pursuant to the protective provisions contained within Schedule 10 (protective provisions).

(5) Where any application is made as described in paragraph (1), the undertaker must include a statement in such application that refers to the timeframe for consideration of the application and the consequences of failure to meet that timeframe as prescribed by paragraph (3)...

...

SCHEDULE 12

Article 40

PROCEDURE FOR DISCHARGE OF REQUIREMENTS

Applications made under requirements

1.—(1) Where an application has been made to the relevant authority for any consent, agreement or approval required by a requirement (including agreement or approval in respect of part of a requirement) included in this Order the relevant authority must give notice to the undertaker of their decision on the application within a period of eight (8) weeks beginning with—

(a) the day immediately following that on which the application is received by the authority;

(b) the day immediately following that on which further information has been supplied by the

undertaker under paragraph 2; or

(c) such longer period as may be agreed by the undertaker and the relevant authority in writing.

(2) Subject to sub-paragraph (3), in the event that the relevant authority does not determine an application within the period set out in sub-paragraph (1), the relevant authority is to be taken to have granted all parts of the application (without any condition or qualification) at the end of that period.

(3) Where—

(a) an application has been made to the relevant planning authorities for any consent, agreement or approval required by a requirement included in this Order; and

(b) the relevant planning authorities do not determine such application within the period set out in sub-paragraph (1); and

(c) such application is accompanied by a report that considers it likely that the subject matter of such application will give rise to any materially new or materially different environmental effects in comparison with the authorised development as approved,

then the application is to be taken to have been refused by the relevant planning authorities at the end of that period..."

APPENDIX 6

Lake Lothing (Lowestoft) Third Crossing: Schedule 2 Part 2

"Applications made under requirements

17.—(1) Where an application has been made to the discharging authority for any consent, agreement or approval required by a requirement (including agreement or approval in respect of part of a requirement) contained in Part 1 of this Schedule, or a document referred to by a requirement, the discharging authority must give notice to the undertaker of the discharging authority's decision on the application with a period of 8 weeks beginning with—

(a) the day immediately following that on which the application is received by the discharging authority;

(b) the day immediately following that on which further information has been supplied by the undertaker under paragraph 18; or

(c) such longer period as may be agreed between the parties.

(2) Subject to paragraph (3), in the event that the discharging authority does not determine an application within the period set out in sub-paragraph (1), the discharging authority is taken to have granted all parts of the application (without any condition or qualification) at the end of that period.

(3) In determining any application made to the discharging authority for any consent, agreement or approval required by a requirement contained in Part 1 of this Schedule, the discharging authority may—

(a) give or refuse its consent, agreement or approval; or

(b) give its consent, agreement or approval subject to reasonable conditions,

and where consent, agreement or approval is refused or granted subject to conditions the discharging authority must provide its reasons for that decision with the notice of the decision."

APPENDIX 7

Riverside Energy Park: Schedule 12 (procedure in relation to certain approvals etc.)

"Applications made under requirements

2.—(1) Subject to article 42(2) (procedures in relation to certain approvals etc), where an application has been made to the relevant authority for any consent, agreement or approval required or contemplated by any provisions of this Order (including consent, agreement or approval in respect of part of a requirement) the relevant authority must give notice to the undertaker of its decision on the application within a period of nine weeks beginning with—

(a) the day immediately following that on which the application is received by the relevant authority;

(b) the day immediately following that on which further information has been supplied by the undertaker under sub-paragraph (2); or

(c) such longer period as may be agreed in writing by the undertaker and the relevant authority.

(2) Subject to sub-paragraph (4), in the event that the relevant authority does not determine an application within the period set out in sub-paragraph (1), the relevant authority is to be taken to have granted all parts of the application (without any condition or qualification) at the end of that period.

(3) Where an application is made to the relevant authority for any consent, agreement or approval required by a requirement included in this Order, it must be accompanied by a report which states whether the subject matter of the application will give rise to any materially new or materially different environmental effects compared to those in the environmental statement.

(4) Where an application has been made to the relevant authority for any consent, agreement or approval required by a requirement included in this Order, and—

(a) the relevant authority does not determine the application within the period set out in sub-paragraph (1) and such application is accompanied by a report which states that the subject matter of such application is likely to give rise to any materially new or materially different environmental effects compared to those in the environmental statement; or

(b) the relevant authority determines during the period set out in sub-paragraph (1) that it considers that the subject matter of such application will give rise to any materially new or materially different environmental effects compared to those in the environmental statement,

the application is to be taken to have been refused by the relevant authority at the end of that period."

APPENDIX 8

A30 Chiverton to Carland Cross Order: Schedule 2 Requirement 16

"PART 2 PROCEDURE FOR DISCHARGE OF REQUIREMENTS

Applications made under requirements

16.—(1) Where an application has been made to the Secretary of State for any consent, agreement or approval required by a requirement (including agreement or approval in respect of part of a requirement) included in this Order, the Secretary of State must give notice to the undertaker of the decision on the application within a period of 8 weeks beginning with—

(a) the day immediately following that on which the application is received by the Secretary of State;

(b) the day immediately following that on which further information has been supplied by the undertaker under paragraph 17; or

(c) such longer period as may be agreed between the parties.

(2) Subject to sub-paragraph (3), in the event that the Secretary of State does not determine an application within the period set out in sub-paragraph (1), the Secretary of State is taken to have granted all parts of the application (without any condition or qualification) at the end of that period.

(3) Where—

(a) an application has been made to the Secretary of State for any consent, agreement or approval required by a requirement included in this Order;

(b) the Secretary of State does not determine such application within the period set out in sub-paragraph (1); and

(c) the application is accompanied by a report referred to in paragraph 4 stating that, in the view of a body required to be consulted by the undertaker under the requirement in question, the subject matter of the application is likely to give rise to any materially new or materially different environmental effects from those reported in the environmental statement,

then the application is taken to have been refused by the Secretary of State at the end of that period.

Appendix 9 – Stages for the MetroWest DCO

(1) The following stages are in of North Somerset—

(a) Stage 1 comprises Works Nos. 1, 1A, 5, 7, 7E, 9, 11, 11A, 12, 13, 14, 14A, 14B, 16C, 16D being the new railway between Portishead and Station Road, Portbury; the new railway between old Portbury Station and Portbury Junction, the new Portishead Station; Trinity Primary School bridge; works at The Drove at Portbury; a road rail access point, at Easton in Gordano; works to bridleway at Royal Portbury Dock Road and Marsh Lane, Easton in Gordano, and flood attenuation works west of the M5 at Easton in Gordano;

(b) Stage 1A comprises Works Nos. 7D, 8, 10, 10A, 12A, 13A, 15, 16A, 17 and 17A being haul roads south of Work No. 1, cycle path diversions and compounds at Sheepway together with any use of neighbouring Order land as a temporary compound, a temporary construction compound north of the A369 at Portbury; construction haul roads; a permanent access from A369 at Portbury, temporary vehicle turning circle east of the Drove and north of the A369 Portbury Hundred, a temporary construction compound under the M5 Special Road Avonmouth Bridge; a temporary construction compound and haul road at Lodway;

(c) Stage 1B comprises Works Nos. 20, 20B, 23 and 24A and being demolition of garages at Avon Road, Pill, temporary diversion of bridleway to the west of Avon Road, Pill, temporary compound beneath Pill Viaduct, and a temporary construction compound at Chapel Pill Lane, Ham Green together with any use of neighbouring Order land as a temporary compound;

(d) Stage 1C comprises Works Nos. 10B and 11B, being temporary haul roads to the north and south of Shipway Gate Farm, Sheepway; (e) Stage 1D comprises Work No. 11, being improvements to the existing agricultural access from Shipway Gate Farm, Sheepway;

(f) Stage 2 comprises Works Nos. 2, 2A, 3, 4, 6, and 7A-C being the diversion of Quays Avenue, Portishead, highway works at Harbour Road and Quays Avenue, Portishead; new highway drain; footpaths parallel to the disused Portishead Branch Line railway; public realm works and car parks at Portishead;

(g) Stage 3 comprises Works Nos. 10C, 12B and 16B, being new a pond within the Portbury Wharf Ecological Park, Portbury, a pond and ecological works south of Sheepway, Portbury, and a pond and ecological works to the west of the M5, Easton in Gordano;

(h) Stage 4 comprises Works Nos. 1B, 1C, 19, 20A, 21, 21A and 22 being works to the existing railway and to construct a railway between Portbury Junction and Pill Junction, installation of signalling equipment on the Bristol Port Company's railway, works to replace an underbridge to the north of Avon Road, Pill; Pill Station; car park at Pill Station and permanent maintenance compound and road rail access point;

(i) Stage 4A comprises Work No. 18 being a bridleway from under the M5 Avonmouth Bridge to meet National Cycle Network route no. 41 on the east side of the M5 Special Road, Pill;

(j) Stage 4B comprises Work No. 24 being a permanent maintenance access at Ham Green;

(k) Stage 5 comprises Works Nos. 22A and 22B being modifications to an existing bus stop and temporary compound at Pill Memorial Club, Lodway;

(l) Stage 6 comprises Work No. 25 being the reconstruction of Quarry Bridge No. 2 and the associated temporary compound in the Avon Gorge, together with the minor works to the railway between Pill Tunnel and Clifton Overbridge.

The following stages apply in Bristol:

a) Stage 7 comprises Works Nos. 26, 26A and 26B, being a permanent road rail access point and compound, temporary construction compound at Clanage Road and new permanent access to the highway of Clanage Road, at Bower Ashton in Bristol;

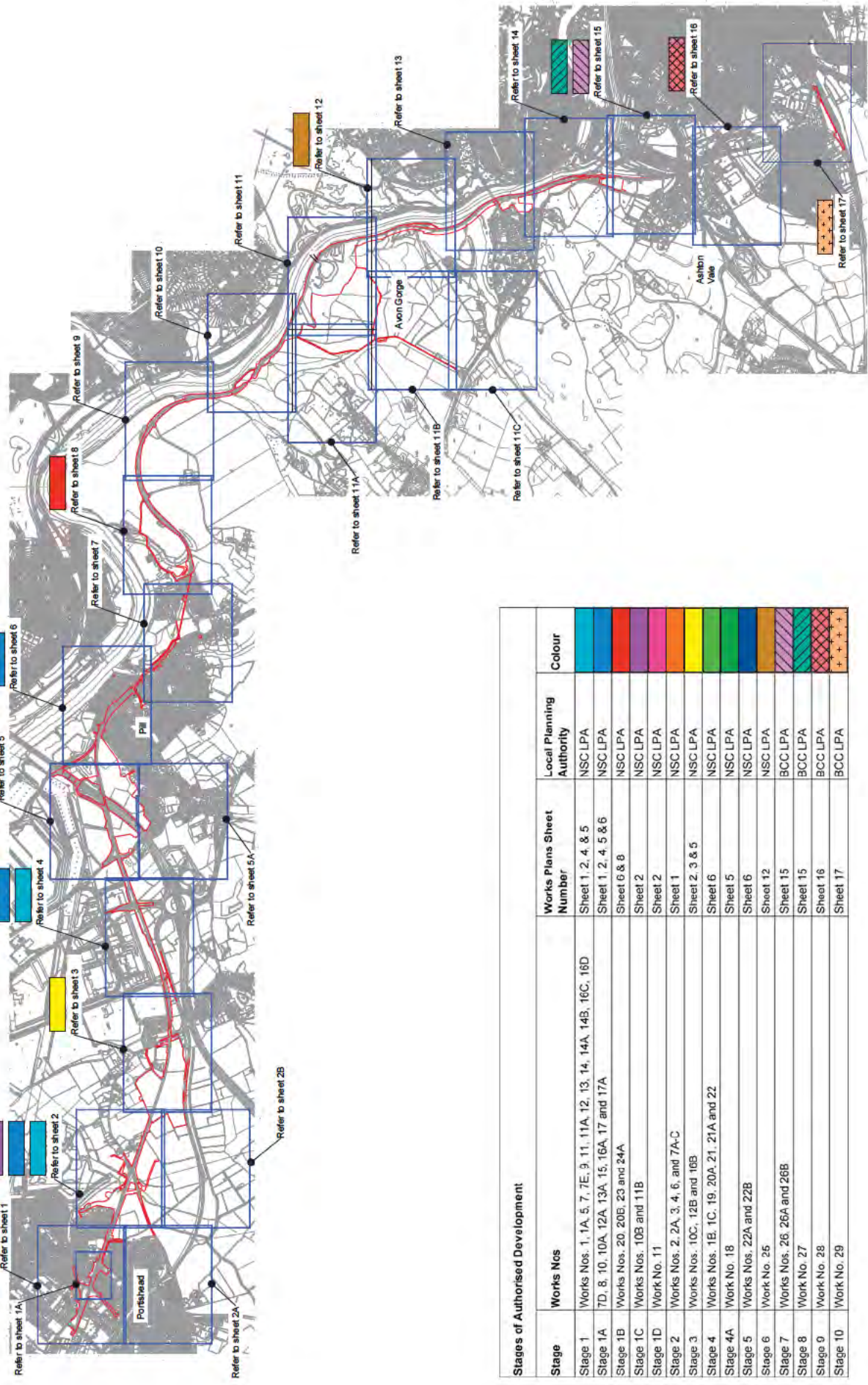
(b) Stage 8 comprises Work No. 27, being a new public cycle track ramp from the A370 Ashton Road to Ashton Vale Road;

(c) Stage 9 comprises Work No. 28, being works to the public highway at the junction of Winterstoke Road and Ashton Vale Road, Bristol; and

(d) Stage 10 comprises Work No. 29 being a temporary construction compound at the rail freight facility at South Liberty Lane, Bristol

Appendix 10 – Plan illustrating Stages for the MetroWest DCO

Key:
Order Limits



Stages of Authorised Development

Stage	Works Nos	Works Plans Sheet Number	Local Planning Authority	Colour
Stage 1	Works Nos. 1, 1A, 5, 7, 7E, 9, 11, 11A, 12, 13, 14, 14A, 14B, 16C, 16D	Sheet 1, 2, 4, & 5	NSC LPA	
Stage 1A	7D, 8, 10, 10A, 12A, 13A, 15, 16A, 17 and 17A	Sheet 1, 2, 4, 5 & 6	NSC LPA	
Stage 1B	Works Nos. 20, 20B, 23 and 24A	Sheet 5 & 8	NSC LPA	
Stage 1C	Works Nos. 10B and 11B	Sheet 2	NSC LPA	
Stage 1D	Work No. 11	Sheet 1	NSC LPA	
Stage 2	Works Nos. 2, 2A, 3, 4, 6, and 7A-C	Sheet 2, 3 & 5	NSC LPA	
Stage 3	Works Nos. 10C, 12B and 16B	Sheet 6	NSC LPA	
Stage 4	Works Nos. 1E, 1C, 19, 20A, 21, 21A and 22	Sheet 5	NSC LPA	
Stage 4A	Work No. 18	Sheet 6	NSC LPA	
Stage 5	Works Nos. 22A and 22B	Sheet 6	NSC LPA	
Stage 6	Work No. 25	Sheet 12	NSC LPA	
Stage 7	Works Nos. 26, 26A and 26B	Sheet 15	BCC LPA	
Stage 8	Work No. 27	Sheet 15	BCC LPA	
Stage 9	Work No. 28	Sheet 16	BCC LPA	
Stage 10	Work No. 29	Sheet 17	BCC LPA	

Travelwest

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THE PORTSHED BRANCH LINE
(METROWEST PHASE 1)
ORDER

WORKS PLAN
SHEET 0
KEY PLAN

67646 BD 42 01-300 M(1)

Sheet 1: 3/200 @ A3

Annex 1– Proposed DCO Requirements Tracker

MetroWest Phase 1 – Requirements Tracker

Date of Current issue of this document:

MetroWest Contact:

LPA Contact:

Overview:

This table is intended to allow both the MetroWest implementation team and the local planning authority clear oversight of how the progress to discharge of requirements is progressing. It utilises a uniform template for each stage, and requirements not relevant to that stage will be noted as "NA".

The MetroWest Team will aim to populate column (b) and discuss it with the LPA at least [8] weeks prior to submission of details.

The document will be submitted with columns (b) and (c) populated prior to first submission of details for a stage. It will thereafter be re-issued by MetroWest every 4 weeks until the approvals process is finished for that stage, or at such other frequency as is otherwise agreed by the LPA .

Any pre-deeming notification served by MetroWest will be accompanied by a copy of the latest iteration of this document for that stage.

Notes:

NA in column (b) (e) or (g) means requirement not relevant for this stage

In column (i) **A** = Approved/R=Refused/**DA** = Deemed Approval/W= Withdrawn

Requirements 1-3 not relevant for table below

(a) Key elements to be approved incl the relevant stage of authorised development	(b) Intended submission notification date	(c) Requirement Number	(d) Actual Submission notification date	(e) Further information requested by LPA and date, if applicable	(f) Date for determination by LPA without deeming	(g) Pre deeming notification issued (Y/N) and date	(h) Date of decision/ deemed decision	(i) Outcome of application (Approved/Refused/Deemed Approval/Withdrawn)
		4						
		5						
		6						

Appendix 4

Note on commencement and preparatory activities

The Portishead Branch Line (MetroWest Phase 1) Order

Drafting note - definitions of "Commence" and "Preparatory Activities" in the draft Order

15. INTRODUCTION

- 15.1 This note has been prepared at the request of the relevant planning authorities to explain the relationship between the definitions of Commencement and Preparatory Activities in the draft Order.
- 15.2 It is designed to inform the two local planning authorities and hopefully then to be incorporated in the relevant Statements of Common Ground and agreed by the parties.

16. DEFINITION OF "COMMENCE"

- 16.1 Article 2 of the draft Order includes the largely standard definition "commence". It reads:

"commence" means beginning to carry out material operation (as defined in Section 155 (when development begins) of the 2008 Act) forming part of the authorised development other than operations consisting of environmental surveys and monitoring, investigations for the purpose of assessing ground conditions, receipt and erection of construction plant and equipment, utility diversions, works to clear watercourses, erection of any temporary needs of enclosure, the temporary display of site notices or advertisements, and "commencement" is to be construed accordingly.

- 16.2 Note that the Applicant has proposed in addition, in its Deadline 7 submissions that Archaeological investigations are added to the list of activities that would not amount to commencement.

- 16.3 The definition of "commence" would apply to development control operations as may be capable of being enforced by the relevant planning authority in connection with the discharge of the requirements listed in Part 1 of Schedule 2 to the Order.

17. PREPARATORY ACTIVITIES

- 17.1 The definition of "preparatory activities" is included in Requirement 1 in Part 1 of Schedule 2 of the Order. It reads:

"preparatory activities" means ecological mitigation works, archaeological investigations, boreholes, intrusive surveys, environmental surveys and monitoring, other investigations for the purpose of assessing ground conditions or the receipt and erection of construction plant and equipment, utility diversions or ground clearance works"

3.2 In the paragraph below the words in red appear only in the definition of commence in Article 2. The words in blue appear only in the definition of preparatory activities. The words in black text are common to both definitions.

"commence" means *beginning to carry out material operation (as defined in Section 155 (when development begins) of the 2008 Act) forming part of the authorised development other than operations consisting of "preparatory activities" means ecological mitigation works, archaeological investigations, boreholes, intrusive surveys, environmental surveys and monitoring, other investigations for the purpose of assessing ground conditions or the receipt and erection of construction plant and equipment, utility diversions or ground clearance works, works to clear watercourses, erection of any temporary needs of enclosure, the temporary display of site notices or advertisements, and "commencement" is to be construed accordingly.*

The Applicant has further proposed at Deadline 7 that archaeological investigations are included in both activities not amounting to commencement and as preparatory activities.

18. THE RELEVANCE OF "PREPARATORY ACTIVITIES"

18.1 "Preparatory activities" is used only in Requirement 3 and 5. These relate respectively to stages and the CEMP.

18.2 In relation to Requirement 3, the last paragraph (Requirement 3(4)) states that preparatory activities may be carried out before staging has been settled by the parties. It is provided to make it clear that the preparatory activities relating to a stage may be carried out without needing all of the requirements for the whole of that stage to be discharged. The preparatory activities can take place in the scenario where development as a whole has commenced in development control terms but all of the discharges for the relevant stage has not yet been approved by the relevant planning authority.

18.3 This is an appropriate balance between keeping control over development and allowing enabling activities to proceed before the details have been fully established.

19. REQUIREMENT 5 – CONSTRUCTION AND ENVIRONMENTAL MANAGEMENT PLAN ETC

Requirement 5(6) makes it clear that preparatory activities are not regulated by the stage specific CEMP if it they are carried out prior to the stage specific CEMP being approved by the relevant planning authority. Control remains because the preparatory activities must be carried out in accordance with the COCP and the Master CEMP which will be certified documents that will have been considered by and approved by the relevant planning authorities.

Womble Bond Dickinson

27 July 2020

(Amended 14 April 2021 to reflect changes made to definitions at Deadline 7 relating to archaeological investigations.)

Appendix 5

North Somerset Council as Local Planning Authority's comments on Applicant's responses to proposed changes to requirements in Schedule 2 of the dDCO as suggested in ExA's recommended amendments to the Applicant's draft DCO submitted at Deadline (D)6 [REP6-008]

Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
SCHEDULES					
Schedule 2 Requirement 5 <i>Construction Environmental Management Plan</i>	5(6) Where a part of the authorised development – (a) is not within a relevant stage or associated development connected with a relevant stage; or (b) does not consist of preparatory activities then that part of the authorised development must be carried out in accordance with the COCP and the Master CEMP.	5(6) Where a part of the authorised development – (a) is not within a relevant stage or associated development connected with a relevant stage; or (b) does not consist of preparatory activities then that part of the authorised development must be carried out in accordance with the COCP, and the Master CEMP and the CTMP.	For consistency	The Applicant has included the suggested change in the revised dDCO but used the definition CTMP – Construction Traffic Management Plan" for consistency.	Noted and agreed

Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
Schedule 2 Requirement 8 <i>Temporary fencing</i>	8(4) The fencing must be removed to the satisfaction of the relevant planning authority	8(4) The fencing must be removed in accordance with the approved removal timetable to the satisfaction of the relevant planning authority.	For precision and enforceability	Agreed and included in revised draft submitted at deadline 7.	Noted and agreed
Schedule 2 Requirement 9 <i>Highway Access</i>	9(2) The approved highway alterations and improvement s, including any altered or new accesses and temporary haul roads, for that stage must be implemented in accordance with the approved details and timetable.	9(2) The approved highway alterations and improvements, including any altered or new accesses and temporary haul roads, for that stage must be implemented in accordance with the approved details and timetable and that stage of the authorised development must not commence until these works have been completed.	To ensure highway safety and for precision and enforceability	The Applicant has not made the proposed change. Given the scale of some stages (for instance, Stages 1 and 2 are several miles in length and involve a number of components, the applicant does not believe the whole of a stage needs to be constrained as suggested by the ExA and	NSC as local planning authority and highway authority accept this is a complex construction programme and that there is the potential for significant implications if no element of flexibility is allowed, as suggested by the applicant. Ultimately since NSC has responsibilities

Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
				there could be significant implications for construction programme. The Applicant suggests that the control in Requirement 9(1) to provide a timetable provides sufficient control for the relevant planning authority and relevant highway authority	as Highway authority the implications of any works not being completed before commencement of the respective stage will be fully examined. If there remain concerns these will be discussed with the applicant.
Schedule 2 Requirement 14 <i>Avon Gorge Woodland SAC</i>	14(3) Work to remove, install or replace security fencing in the Avon Gorge Woodland SAC must not	14(3) Work to remove, install or replace security fencing in the Avon Gorge Woodland SAC must not commence before details of the location, siting, colour and	Colour – the Examining Authority (ExA) consider that due to sensitivity of location	Colour - agreed and included in revised draft submitted at deadline 7. Changes to	We agree with insertion of the word 'colour'. If a change is proposed to be made for <i>railway</i>

Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
	commence before details of the location, siting and design of the fencing together with any required site clearance and working space, have been submitted to and approved by the relevant planning authority in consultation with Natural England. The details submitted for approval must be located within the areas shown for fencing in the habitat impacted by construction works within the Avon Gorge Vegetation Management Plan and any permanent security fencing to be installed must be of a nature substantially in accordance with the details set out in the relevant part of the general arrangement plans and the fencing	design of the fencing together with any required site clearance and working space, have been submitted to and approved by the relevant planning authority in consultation with Natural England. The details submitted for approval must be located within the areas shown for fencing in the habitat impacted by construction works within the Avon Gorge Vegetation Management Plan and any permanent security fencing to be installed must be of a nature substantially in accordance with the details set out in the relevant part of the general arrangement plans and the fencing	control over the colour of any fencing would be necessary for railway operational safety reasons the relevant planning authority gives written consent to any variation – the insertion of this wording would give the Applicant the flexibility to change the fencing if required for operational safety reasons but would mean that Requirement	fencing – The change has not been made as the Applicant does not believe that railway safety fencing should be regulated by the relevant planning authority, for the existing operational railway in the Avon Gorge SAC but left to Network Rail as Statutory undertaker relying on its existing permitted development rights under Part 18 Paragraph A of the Town and	<i>operational safety reasons</i> , we consider that Network Rail is best placed to make such decisions, and such safety considerations should outweigh environmental considerations. We note, moreover the applicant's view that any fencing changes would be subject to the Conservation of Habitats and Species Regulations 2017, application of the which will

Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
	works within the Avon Gorge Vegetation Management Plan and any permanent security fencing to be installed must be of a nature substantially in accordance with the details set out in the relevant part of the general arrangement plans and the fencing grades summary. The works must be carried out in accordance with the approved details and the installed fencing	grades summary. The works must be carried out in accordance with the approved details and the installed fencing thereafter retained unless for railway operational safety reasons the authority gives written consent to any variation. unless alternative type fencing is required for railway operational safety reasons:	35 (2) would apply so that it would ensure that in this sensitive location any variations to the fencing would not give rise to any materially new or materially different environmental effects from those assessed in the Environmental Statement (ES).	Country Planning (General Permitted Development) (England) Order 2015 (Works authorised by Local Act for development control purposes). Any fencing changes would be subject to the Conservation of Habitats and Species Regulations 2017 application of which will provide a control over how works are carried out in the Avon	provide a control over some aspects of how works are carried out in the Avon Gorge Woodlands Special Area of Conservation. Colour is considered to be the other potentially significant impact of fencing and this is proposed to be controlled by the suggested amendment.

Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
	thereafter retained unless alternative type fencing is required for railway operational safety reasons.			Gorge Woodlands Special Area of Conservation.	
Schedule 2 Requirement 24 <i>For the protection of bats</i>	24(1) Work Nos 1, 1A, 1B and 1C must not commence until written details of the proposed tree planting on the A369 Portbury Hundred classified road must have been approved in writing by the relevant planning authority in consultation with the relevant highway	24(1) Work Nos 1, 1A, 1B and 1C must not commence until written details of the proposed tree planting on the A369 Portbury Hundred classified road must have been approved in writing by the relevant planning authority in consultation with the relevant highway authority and Natural England . The details submitted for approval must accord with the Portbury Hundred location of additional	As the tree planting is proposed to provide additional foraging for commuting bats the ExA consider that it would be appropriate that Natural England should be consulted on the details	Agreed and included in revised draft submitted at deadline 7.	Agreed

Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
	authority. The details submitted for approval must accord with the Portbury Hundred location of additional tree planting plans.	tree planting plans.			
Schedule 2 Requirement 25 <i>Permanent fencing outside of Avon Gorge Woodlands SAC</i>	25(1) subject to paragraphs (2) and (3) and without affecting requirement 31(4) a stage of the works the works must not commence until written details of any permanent security fencing to be installed in connection with the that stage, together with a timetable for its installation, have been submitted to	25(1) subject to paragraphs (2) and (3) and without affecting requirement 31(4) a stage of the works must not commence until written details of any permanent security fencing to be installed in connection with that stage, together with a timetable for its installation, have been submitted to and approved by the relevant planning authority. (2) Where new fencing is to be provided that	The insertion of this wording would give the Applicant the flexibility to change the fencing if required for operational safety reasons but would mean that Requirement 35 (2) would apply so that it would ensure that in this location any variations to the fencing would not give rise to any	The change has not been made as the Applicant does not believe that railway fencing safety should be regulated by the relevant planning authority, but left to Network Rail as statutory undertaker relying on permitted development rights under Part 8 Paragraph A of	Please see the Council's comments above in respect of Schedule 2 Requirement 14 <i>Avon Gorge Woodland SAC</i>

Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
	<p>and approved by the relevant planning authority.</p> <p>(2) Where new fencing is to be provided that does not fall within a stage, and is outside of the Avon Gorge Woodlands SAC any permanent security fencing to be installed must be of a nature substantially in accordance with the details set out in the general arrangement plans and the Fencing grades Summary.</p> <p>(3) Any new</p>	<p>does not fall within a stage, and is outside of the Avon Gorge Woodlands SAC any permanent security fencing to be installed must be of a nature substantially in accordance with the details set out in the general arrangement plans and the Fencing grades Summary.</p> <p>(3) Any new permanent security fencing must be installed in accordance with the approved details and thereafter retained unless for railway operational safety reasons the relevant planning authority gives written consent to any variation. -Alternative type-fencing-is-required-for-railway-operational-safety-</p>	<p>materially new or materially different environmental effects from those assessed in the ES</p>	<p>the Town and Country Planning (General Permitted Development) (England) Order 2015, being Development by railway undertakers on their operational land, required in connection with the movement of traffic by rail.</p> <p>In circumstances where safety is a concern or regulations require changes to railway fencing, the approval of the relevant</p>	

Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
	permanent security fencing must be installed in accordance with the approved details and thereafter retained unless alternative type fencing is required for railway operational safety reasons.	reasons:-		planning authority should not be a necessary prerequisite to the change to fencing.	
Schedule 2 Requirement 27 <i>Portishead Station</i>	27(1) Work No 5 (Portishead Station) must not commence until written details of any permanent lighting to be installed in connection with that work, including measures to minimise light spillage, have been submitted	27 (1) Work No 5 (Portishead Station) must not commence until written details of any permanent lighting to be installed in connection with that work, including measures to minimise light spillage, have been submitted to and approved in-writing by the relevant planning authority, the authority acknowledging the	(1) In writing is not necessary as this would be delivered by Requirement 34 (3) the inclusion of the wording 'of any proposals' provides ambiguity the deletion is recommended	(1) the words "in writing" no longer appear in Requirement 27(1)). (3) The words were included to allow for it proving to not be possible for the provision of on-site energy generation at	Noted -we have no further comment to make.

Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
	<p>to and approved in writing by the relevant planning authority, the authority acknowledging the necessity for the lighting to comply with Railway Industry Standards.</p> <p>(2) Work No 5 must not commence until written details of any GSM-R mast to be located at Portishead Station have been submitted to and approved by the relevant planning authority.</p> <p>The GSM-R mast must not exceed 12 meters in height from the Portishead Station have been submitted to and approved by the relevant planning authority. The GSM-R mast must not exceed 12 meters in height from the</p>	<p>necessity for the lighting to comply with Railway Industry Standards.</p> <p>(2) Work No 5 must not commence until written details of any GSM-R mast to be located at Portishead Station have been submitted to and approved by the relevant planning authority.</p> <p>The GSM-R mast must not exceed 12 meters in height from the proposed track bed level of Work No 1 at Portishead Station.</p> <p>(3) Work No 5 must not commence until written details of any proposals for the inclusion of on-site energy generation to be incorporated</p>	<p>to provide clarity and enforceability</p> <p>(4) has been inserted at the request of the Environment Agency [REP6-038]</p>	<p>Portishead station. The words have been removed.</p> <p>(4) This has been included subject to "Shall" being replaced by "must".</p>	

Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
	<p>proposed track bed level of Work No 1 at Portishead Station.</p> <p>(3) Work No 5 must not commence until written details of any proposals for the inclusion of on-site energy generation to be incorporated within the detail design for Portishead Station have been submitted to and approved by the relevant planning authority.</p> <p>(4) work No 5 must be carried out in accordance with the approved details.</p>	<p>within the detail design for Portishead Station have been submitted to and approved by the relevant planning authority.</p> <p>(4) Work No 5 must not commence until a Flood Risk Assessment (FRA) for this work has been submitted to and approved by the relevant planning authority in consultation with the Environment Agency. If the FRA concludes that Work No 5 is at risk of flooding then the FRA shall include details of the mitigation, such as a flood emergency</p>			

Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
		and evacuation plan, that would be required to ensure that the station and users would remain safe should a flood event occur. (5) work No 5 must be carried out in accordance with the approved details.			
Schedule 2 Requirement 30 Works affecting M5 Junction 19	30 (3) All morning shift construction staff arriving by private car at the J19 compounds will be told in advance to arrive no later than 7.30am or no earlier than 9am (Monday to Friday) ("the restricted	30 (3) All morning shift construction staff arriving by private car at the J19 compounds will be told in advance to not arrive no later than between the hours of 7.30am or no earlier than and 9am (Monday to Friday) ("the restricted hours")	For precision	Agreed and included in revised draft submitted at deadline 7.	Agreed

Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
	hours")				
Schedule 2 Requirement 31 <i>Clanage Road, Bristol</i>	31 (1) Works 26, 26A and 26B must not commence until a flood plan which details – (a) the emergency and evacuation procedures for the use of the temporary and permanent compound; (b) the location, height above ground level and the duration on site (if appropriate) of the welfare facility on the temporary compound; and (c) the means to remove materials	31 (1) Works 26, 26A and 26B must not commence until a flood plan which details – (a) the emergency and evacuation procedures for the use of the temporary and permanent compound; (b) the location, height above ground level and the duration on site (if appropriate) of the welfare facility on the temporary compound; and (c) the means to remove materials stored at the temporary and permanent compound in the event of flooding; have been submitted to and approved in	(if appropriate) – deleted as requested by Bristol City Council [REP6-029] (4) wording changed to provide clarity and precision which the ExA consider necessary given the location of the compound within the Green Belt and adjacent to a number of designated heritage assets	31(1) amended in Deadline 7 dDCO. (4) amended in Deadline 7 dDCO. The Applicant has also taken the opportunity to change "shall" to "must" in the draft.	N/A

Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
	<p>stored at the temporary and permanent compound in the event of flooding; have been submitted to and approved in writing by the relevant planning authority in consultation with the Environment Agency and the lead local flood authority. The approved flood plan must thereafter be complied with to the satisfaction of the relevant planning authority.</p> <p>(2) the</p>	<p>writing by the relevant planning authority in consultation with the Environment Agency and the lead local flood authority. The approved flood plan must thereafter be complied with to the satisfaction of the relevant planning authority.</p> <p>(2) the landscaping and planting forming part of Work 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</p>			

Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
	landscaping and planting forming part of Work 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	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 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 Clanlage Road, compound, landscaping and access plan prior to first use of Work No 26 as a permanent maintenance compound. The levels			

Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
	<p>damaged or diseased must be replaced in the first available planting season with a specimen of the same species and size as originally planted, unless the relevant planning authority gives written consent to any variation.</p> <p>(3) The regrading of the levels forming part of Work No 26 must be carried out, in accordance with the Clangage Road, compound, landscaping and access plan</p>	<p>must thereafter be maintained.</p> <p>(4) Any permanent new fencing to be erected as part of Work No 26 shall be of paladin type and shall not exceed a height to be previously approved by the relevant planning authority in writing. Prior to the first use of Work No 26 as a permanent maintenance compound details of the permanent paladin type fencing including colour, height and location shall be submitted to and approved by the relevant planning authority and once</p>			

Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
	<p>prior to first use of Work No 26 as a permanent maintenance compound. The levels must thereafter be maintained.</p> <p>(4) Any permanent new fencing to be erected as part of Work No 26 shall be of paladin type and shall not exceed a height to be previously approved by the relevant planning authority in writing.</p>	<p>installed shall thereafter be permanently maintained.</p>			

Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
Schedule 2 New Requirement <i>t Trinity Primary School Bridge</i>		<p>(1) Work No 7 must not commence until details of any permanent lighting to be installed in connection with that work, including measures to minimise light spillage, have been submitted to and approved by the relevant planning authority.</p> <p>(2) Work No 7 must not commence until details of the colour finish of the bridge have been submitted to and approved by the relevant planning authority.</p> <p>(3) Work No 7 must not commence until details of the location, design and colour of privacy</p>	<p>Whilst the ExA note that the submission and approval of detailed design for Trinity Primary School Bridge (Work No 7) would be delivered under Requirement 4 the ExA consider that as for other elements of the scheme (eg Portishead Station which is also included in Requirement 4) should the Secretary of State (SoS) grant consent then given the concerns raised during the Examination in relation to this work it is</p>	<p>Agreed and included in revised draft submitted at deadline 7. Paragraph (2) has been altered to make it clear that it is for the relevant planning authority to decide if the privacy screening is needed.</p> <p>Paragraph (3) has been altered to make it clear that the requirement seeks the required details and not the Work to be permanently retained</p>	<p>This approach is agreed</p>

Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
		<p>screens, if required, have been submitted to and approved by the relevant planning authority.</p> <p>(4) Work No7 must be carried out in accordance with the approved details and thereafter permanently retained.</p>	important that details in relation to permanent lighting; colour of the bridge and location, design and colour of privacy panels for the bridge are submitted for approval.		
Schedule 2 New Requirement <i>Perimeter Track between Marsh Lane and the compounds under the M5 Avonmouth Bridge and on Lodway Farm</i>		<p>(1) Work Nos 16A and 17 must not commence until:</p> <p>(a) a pre-commencement survey of the perimeter track between Marsh Lane and Work Nos 16A and 17 has been undertaken and submitted to and approved by the relevant planning authority. The pre-commencement survey shall include</p>	<p>The ExA consider that should the SoS grant consent for the use of the perimeter track to access Work Nos 16A and 17 should not result in damage to this track and the track itself should be capable of accommodating the weight and</p>	<p>The Applicant has amended the ExA's proposed requirement, to reflect the land powers the Applicant has in the Order and the limitations on those powers that are being proposed by the Bristol Port Company in its draft protective</p>	<p>No further comment.</p> <p>It is suggested that there is a word omitted from the Reason for the Requirement, which is indicated in red text.</p>

Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
		<p>but not be limited to:</p> <ul style="list-style-type: none"> (i) details of the current surfacing material; (ii) details of the sub-structure; and (iii) an assessment of whether the track as currently constructed would be able to take the volume of construction traffic that will need to access these works. <p>(b) based on the results of the pre-commencement survey a Perimeter Track Strategy shall be submitted to and approved by the relevant planning authority. The Perimeter Track Strategy shall include but not be limited to:</p> <ul style="list-style-type: none"> (i) details of what, if any, measures are 	<p>volume of construction traffic that would need to use it.</p>	<p>provisions. As the Applicant would have to carry out physical works under its temporary powers in the Order, and because Bristol Port Company is seeking an absolute prohibition on temporary powers on this part of the Order land (see para 59 of the protective provisions proposed by Bristol Port Company. The Applicant must not be required to carry out physical works to the Marsh</p>	

Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
		<p>required to ensure that construction vehicles can use the track to access the compounds without damaging the track;</p> <p>(i) a timescale for the implementation of any necessary measures;</p> <p>a strategy or on-going maintenance and management of the track during construction; and</p> <p>(iv) details of management measures to minimise dust generation from construction vehicles.</p> <p>Work Nos 16A and 17 must be carried out in accordance with the Perimeter Track Strategy.</p> <p>(2) Within six months of the cessation of the use of the perimeter</p>		<p>Lane Track if Bristol Port Company will not permit the Applicant to do so. In such circumstances the remedy for Bristol Port Company will be in the compensation code.</p> <p>The track is also used by other parties and the requirement has been amended to reflect this.</p> <p>The Applicant has also changed "shall" to "must" in the draft.</p>	

Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
		<p>track a post-construction survey shall be submitted to and approved by the relevant planning authority. The post-construction survey shall include but not be limited to:</p> <ul style="list-style-type: none"> (i) details of the state of the track post construction; (ii) details of what measures/repairs, if any, are required to ensure that the track is returned in the same or similar state to pre-commencement; and (iii) a timetable for the implementation of any measures/repairs that would be required. 			
Schedule 2 New		Work No 24 must not commence until	Whilst the ExA note that	Agreed and included in	Agreed

Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
Requirement <i>Pill Tunnel</i> <i>Eastern Portal Compound</i> <i>Access, Ham Green</i>		<p>written details of the levels and surfacing of the Work have been submitted to and approved by the relevant planning authority.</p> <p>Work No 24 must thereafter be carried out and retained in accordance with the approved details.</p>	<p>the submission and approval of detailed design for the Pill Tunnel Eastern Portal Compound (Work No. 24) would be delivered under Requirement 4 the ExA consider that as for other elements of the scheme (eg Portishead Station which is also included in Requirement 4) should the SoS grant consent then given the</p>	<p>revised draft submitted at deadline 7.</p>	

Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
			concerns raised during the Examination in relation to this work and its location in the Green Belt it is important that details in relation to surfacing and levels are submitted for approval		

Appendix 1: Comparison of proposed new requirements 34-36, proposed by the ExA

Applicant's responses to proposed changes to requirements in Schedule 2 of the dDCO as suggested in ExA's recommended amendments to the Applicant's draft DCO submitted at Deadline (D)6 [REP6-008] – Comparison of drafting of new requirements proposed by ExA.

Introduction

This document sets out the three new requirements proposed by the ExA in its recommended amendments to the Applicant's draft DCO submitted at Deadline (D)6 [REP6-008]. Whilst the Applicant agrees to the principle of each of the new requirements, it believes two of the requirements require some amendments and has proposed its own wording in the dDCO submitted at Deadline 7. To assist the Panel and the Secretary of State the Applicant has, in this document, set out:

- the three new requirements proposed by the ExA (Part 1 of this document);
- the Applicant's suggested version of the three new requirements proposed by the ExA (Part 2 of this document); and
- a comparison of the versions included in Parts 1 and 2 of this document of the three new requirements proposed by the ExA (Part 3 of this document).

Part 1: ExA's proposed draft for new Requirements

1.1 Trinity Primary School Bridge:

Trinity Primary School Bridge

- (1) Work No 7 must not commence until details of any permanent lighting to be installed in connection with that work, including measures to minimise light spillage, have been submitted to and approved by the relevant planning authority.
- (5) Work No 7 must not commence until details of the colour finish of the bridge have been submitted to and approved by the relevant planning authority.
- (6) Work No 7 must not commence until details of the location, design and colour of privacy screens, if required, have been submitted to and approved by the relevant planning authority.
- (7) Work No 7 must be carried out in accordance with the approved details and thereafter permanently retained.

1.2 Perimeter Track between Marsh Lane and the compounds under the M5 Avonmouth Bridge and on Lodway Farm

Perimeter Track between Marsh Lane and the compounds under the M5 Avonmouth Bridge and on Lodway Farm

- (2) Work Nos 16A and 17 must not commence until:
- (a) a pre-commencement survey of the perimeter track between Marsh Lane and Work Nos 16A and 17 has been undertaken and submitted to and approved by the relevant planning authority. The pre-commencement survey shall include but not be limited to:
- (iv) details of the current surfacing material;
 - (v) details of the sub-structure; and
 - (vi) an assessment of whether the track as currently constructed would be able to take the volume of construction traffic that will need to access these works.
- (b) based on the results of the pre-commencement survey a Perimeter Track Strategy shall be submitted to and approved by the relevant planning authority. The Perimeter Track Strategy shall include but not be limited to:
- (ii) details of what, if any, measures are required to ensure that construction vehicles can use the track to access the compounds without damaging the track;
 - (iii) a timescale for the implementation of any necessary measures;
- a strategy or on-going maintenance and management of the track during **construction**; and
- (iii) details of management measures to minimise dust generation from construction vehicles.

Work Nos 16A and 17 must be carried out in accordance with the Perimeter Track Strategy.

- (2) Within six months of the cessation of the use of the perimeter track a post- construction survey shall be submitted to and approved by the relevant planning authority. The post- construction survey shall include but not be limited to:
- (iv) details of the state of the track post construction;
 - (v) details of what measures/repairs, if any, are required to ensure that the track is returned in the same or similar state to pre-commencement; and a timetable for the implementation of any measures/repairs that would be required.

1.3 Pill Tunnel Eastern Portal Compound Access, Ham Green

Pill Tunnel Eastern Portal Compound Access, Ham Green

Work No 24 must not commence until written details of the levels and surfacing of the Work have been submitted to and approved by the relevant planning authority. Work No 24 must thereafter be carried out and retained in accordance with the approved details.

Part 2: Applicant's proposed draft for new Requirements

2.1 Trinity Primary School Bridge:

Trinity Primary School Bridge

- 34.**—(1) Work No 7 must not commence until details of any permanent lighting to be installed in connection with that work, including measures to minimise light spillage, have been submitted to and approved by the relevant planning authority.
- (2) Work No 7 must not commence until details of the location, design and colour of privacy screens, if required by the relevant planning authority, have been submitted to and approved by the relevant planning authority.
- (3) Work No7 must be carried out in accordance with the approved details and thereafter the required details must be permanently retained.

2.2 Perimeter Track between Marsh Lane and the compounds under the M5 Avonmouth Bridge and on Lodway Farm

- 35.**—(1) Work Nos 16A and 17 must not commence until a pre-commencement survey of the perimeter track between Marsh Lane and Work Nos 16A and 17 (The Marsh Lane Track) has been undertaken and submitted to and approved by the relevant planning authority. The pre-commencement survey must include but not be limited to:
- (a) details of the current surfacing material;
 - (b) details of the sub-structure; and
 - (c) an assessment of whether the Marsh Lane Track as currently constructed would be able to take the volume of construction traffic for the authorised

development that will need to access these works.

- (2) Based on the results of the pre-commencement survey a strategy (the Marsh Lane Track Strategy) must be submitted to and approved by the relevant planning authority. The Marsh Lane Track Strategy must include but not be limited to:
 - (a) details of what, if any, measures are required to minimise damage to the perimeter track by construction vehicles using the Marsh Lane Track to access Work Nos 16A and 17;
 - (b) a timescale for the implementation of any necessary measures;
 - (c) a strategy for on-going maintenance and management of the Marsh Lane Track during construction of the authorised development;
 - (d) a strategy for using the Marsh Lane Track in conjunction with the owner of the Marsh Lane Track and other parties permitted to use it by the owner; and
 - (e) details of management measures to minimise dust generation from construction traffic for the authorised development.
- (3) Work Nos 16A and 17 must be carried out in accordance with the Marsh Lane Track Strategy.
- (4) Within six months of the cessation of the use of Marsh Lane Track for construction traffic for the authorised development a post-construction survey must be submitted to the relevant planning authority for approval. The post-construction survey must include but is not limited to:
 - (a) details of the state of the Marsh Lane Track post construction;
 - (b) details of what measures/repairs, if any, are required to ensure that the Marsh Lane Track is returned in the same or similar state to pre-commencement; and
 - (c) a timetable for the implementation of any measures/repairs that would be required.

2.3 Pill Tunnel Eastern Portal Compound Access, Ham Green

The Applicant agrees the ExA's drafting and has included the wording as drawn in the dDCO submitted for Deadline 7:

- 36.** Work No 24 must not commence until written details of the levels and surfacing of the Work have been submitted to and approved by the relevant planning authority. Work No 24 must thereafter be carried out and retained in accordance with the approved details.

Part 3: Comparison of ExA's proposed draft and Applicant's proposed draft for new Requirements

3.1 Trinity Primary School Bridge:

~~(1)(34.)~~ (2) Work No 7 must not commence until details of any permanent lighting to be installed in connection with that work, including measures to minimise light spillage, have been submitted to and approved by the relevant planning authority.

~~(2) — Work No 7 must not commence until details of the colour finish of the bridge have been submitted to and approved by the relevant planning authority.~~

~~(3)(2)~~ Work No 7 must not commence until details of the location, design and colour of privacy screens, if required by the relevant planning authority, have been submitted to and approved by the relevant planning authority.

~~(4)(3)~~ Work No 7 must be carried out in accordance with the approved details and thereafter the required details must be permanently retained.

3.2 Perimeter Track between Marsh Lane and the compounds under the M5 Avonmouth Bridge and on Lodway Farm

~~(1)(35.)~~ (1) Work Nos 16A and 17 must not commence until a pre-commencement survey of the perimeter track between Marsh Lane and Work Nos 16A and 17 (The Marsh Lane Track) has been undertaken and submitted to and approved by the relevant planning authority. The pre-commencement survey shall include but not be limited to:

~~(1)(a)~~ (a) details of the current surfacing material;

~~(1)(b)~~ (b) details of the sub-structure; and

~~(1)(c)~~ (c) an assessment of whether the ~~track~~ Marsh Lane Track as currently constructed would be able to take the volume of construction traffic for the authorised development that will need to access these works.

~~(2)~~ based Based on the results of the pre-commencement survey a Perimeter strategy (the Marsh Lane Track Strategy ~~shall~~) must be submitted to and approved by the relevant planning authority. The Perimeter Marsh Lane Track Strategy ~~shall~~ must include but not be limited to:

~~(1)(a)~~ (a) details of what, if any, measures are required to ensure that ~~minimise damage to the perimeter track by construction vehicles can use using the track~~ Marsh Lane Track to access ~~the compounds without damaging the track~~ Work Nos 16A and 17;

~~(1)(b)~~ (b) a timescale for the implementation of any necessary measures;

~~(1)(c)~~ (c) a strategy ~~or~~ for on-going maintenance and management of the ~~track~~ Marsh Lane Track during construction of the authorised development; ~~and~~

~~(1)(d)~~ (d) a strategy for using the Marsh Lane Track in conjunction with the owner of the Marsh Lane Track and other parties permitted to use it by the owner; and

~~(1)(e)~~ (e) details of management measures to minimise dust generation from construction ~~vehicles~~ traffic for the authorised development.

~~(3)~~ Work Nos 16A and 17 must be carried out in accordance with the ~~Perimeter~~ Marsh Lane Track Strategy.

~~(2)(4)~~ Within six months of the cessation of the use of the ~~perimeter track a post~~ Marsh Lane Track for construction traffic for the authorised development a

post-construction survey ~~shall~~ must be submitted to ~~and approved by~~ the relevant planning authority for approval. The ~~post~~ post-construction survey ~~shall~~ must include but is not ~~be~~ limited to:

~~(+)~~(a) details of the state of the ~~track~~ Marsh Lane Track post construction;

~~(+)~~(b) details of what measures/repairs, if any, are required to ensure that the ~~track~~ Marsh Lane Track is returned in the same or similar state to pre-commencement; and

(c) a timetable for the implementation of any measures/repairs that would be required.


(5) Any measures/repairs (including, without limitation, any physical works required as a result of the pre-commencement strategy or the post-construction survey) must thereafter be carried out as approved by the relevant planning authority unless the permission of the street authority (as street authority and as owner) for the relevant measures/repairs to the Marsh Lane Track is not forthcoming.


3.3 Pill Tunnel Eastern Portal Compound Access, Ham Green

The Applicant agrees the ExA's draft and has included the wording as drawn in the dDCO submitted for D7. No comparison is provided therefore.

Agreement on this Statement of Common Ground

This Statement of Common Ground has been jointly prepared and agreed by:

North Somerset District Council (as Local Planning Authority)	
Name:	Roger Willmot
Signature:	
Position:	Service Manager Strategic Developments
On behalf of:	North Somerset Council
Date:	14 th April 2021

North Somerset District Council (as Applicant)	
Name:	James Willcock
Signature:	
Position:	MetroWest Programme Manager
On behalf of:	North Somerset District Council
Date:	14 th April 2021