



The Planning Inspectorate
Yr Arolygiaeth Gynllunio

The Planning Act 2008

Portishead Branch Line – MetroWest Phase 1B

Examining Authority's Report
of Findings and Conclusions

and

Recommendation to the Secretary of State for
Transport

Examining Authority

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OVERVIEW

File Ref: TR040011

The Application, dated 15 November 2019, was made under section 37 of the Planning Act 2008 and was received in full by The Planning Inspectorate on 15 November 2019.

The applicant is North Somerset District Council.

The application was accepted for Examination on 12 December 2019.

Due to the COVID-19 pandemic the start of the examination was delayed. The Examination of the Application began on 19 October 2020 and was completed on 19 April 2021.

The Proposed Development comprises:

- A new railway from Quays Avenue in Portishead to Portbury Junction in Pill on the trackbed of the disused railway (Work Nos 1 and 1A);
- A new railway from Portbury Junction through the village of Pill to a new junction west of Pill Tunnel, on the existing freight line (Work No 1B);
- A new railway from Portbury Junction, parallel to Work No 1B, through the village of Pill to a new junction west of Pill Tunnel, on the existing freight line, to connect to Royal Portbury Dock (Work No 1C);
- New stations at Portishead and Pill together, with new car parks and works to the highway network (including the diversion west of Quays Avenue, Portishead), urban realm and public right of way improvements;
- A new cycle and pedestrian bridge to the south of Trinity Primary School, Portishead and associated new cycle tracks;
- Permanent maintenance compounds at Sheepway, Severn Road, Pill, Ham Green (all in North Somerset) and Clanage Road (in Bristol);
- Works to the bridleway network in the vicinity of Royal Portbury Dock and an extension of the bridleway under the M5 Avonmouth Bridge east to provide a continuous public right of way to Pill;
- Bus stop works at Pill and District Memorial Club, Pill;
- Works to the Winterstoke Road/ Ashton Vale Road Junction in Bristol; and
- Temporary compounds and haul roads.

Summary of Recommendation:

The Examining Authority recommends that the Secretary of State should make the Order in the form attached.

REPORT TABLE OF CONTENTS

1.	INTRODUCTION	1
1.1.	INTRODUCTION TO THE EXAMINATION	1
1.2.	APPOINTMENT OF THE EXAMINING AUTHORITY	2
1.3.	THE PERSONS INVOLVED IN THE EXAMINATION	2
1.4.	THE EXAMINATION AND PROCEDURAL DECISIONS.....	2
1.5.	ENVIRONMENTAL IMPACT ASSESSMENT	8
1.6.	HABITATS REGULATIONS ASSESSMENT.....	9
1.7.	UNDERTAKINGS, OBLIGATIONS AND AGREEMENTS.....	10
1.8.	OTHER CONSENTS	10
1.9.	STRUCTURE OF THIS REPORT	11
2.	THE PROPOSAL AND THE SITE	12
2.1.	THE APPLICATION AS MADE	12
2.2.	THE APPLICATION AS EXAMINED.....	17
2.3.	THE SITE AND SURROUNDINGS	18
2.4.	RELEVANT PLANNING HISTORY	20
3.	LEGAL AND POLICY CONTEXT.....	22
3.1.	INTRODUCTION.....	22
3.2.	THE PLANNING ACT 2008 AND NATIONAL POLICY STATEMENT.....	22
3.3.	UK LEGISLATION	23
3.4.	EUROPEAN LAW AND RELATED UK REGULATIONS	26
3.5.	OTHER RELEVANT LEGAL PROVISIONS	28
3.6.	MADE DEVELOPMENT CONSENT ORDERS	29
3.7.	TRANSBOUNDARY EFFECTS	29
3.8.	'IMPORTANT AND RELEVANT' MATTERS	30
3.9.	LOCAL IMPACT REPORTS.....	32
3.10.	THE SECRETARY OF STATE'S POWERS TO MAKE A DCO.....	32
4.	THE PLANNING ISSUES.....	33
4.1.	MAIN ISSUES IN THE EXAMINATION	33
4.2.	OTHER ISSUES ARISING FROM RELEVANT REPRESENTATIONS AND WRITTEN REPRESENTATIONS.....	33
4.3.	ISSUES ARISING IN LOCAL IMPACT REPORTS.....	36
4.4.	CONFORMITY WITH THE NATIONAL POLICY STATEMENT FOR NATIONAL NETWORKS	38
4.5.	CONFORMITY WITH THE DEVELOPMENT PLANS.....	38
4.6.	APPLICATION OF OTHER POLICIES	38
4.7.	OUTSTANDING MATTERS AT THE CLOSE OF THE EXAMINATION	39
5.	FINDINGS AND CONCLUSIONS IN RELATION TO THE PLANNING ISSUES.....	40
5.1.	INTRODUCTION.....	40
5.2.	THE PRINCIPLE AND NEED FOR THE PROPOSED DEVELOPMENT INCLUDING ALTERNATIVES.....	40
5.3.	BIODIVERSITY, ECOLOGY AND THE NATURAL ENVIRONMENT.....	43

5.4.	FLOOD RISK AND WATER QUALITY AND RESOURCES.....	58
5.5.	TRAFFIC AND TRANSPORT.....	73
5.6.	AIR QUALITY, CARBON EMISSIONS AND CLIMATE CHANGE ADAPTION	93
5.7.	CONSTRUCTION IMPACTS	101
5.8.	DESIGN AND LANDSCAPE AND VISUAL.....	118
5.9.	LAND USE.....	132
5.10.	SOCIO-ECONOMIC	145
5.11.	THE HISTORIC ENVIRONMENT	153
5.12.	OTHER POLICY AND FACTUAL ISSUES	159
5.13.	CONCLUSIONS	164
6.	FINDINGS AND CONCLUSIONS IN RELATION TO HABITATS REGULATIONS ASSESSMENT	165
6.1.	INTRODUCTION.....	165
6.2.	REPORT ON THE IMPLICATIONS FOR EUROPEAN SITES	165
6.3.	PROJECT LOCATION AND HRA IMPLICATIONS.....	166
6.4.	HRA MATTERS CONSIDERED DURING THE EXAMINATION.....	167
6.5.	ASSESSMENT OF LSE	167
6.6.	LSE FROM THE PROJECT ALONE	168
6.7.	LSE FROM THE PROJECT IN COMBINATION	169
6.8.	LSE ASSESSMENT OUTCOMES	170
6.9.	SUMMARY OF EXA'S FINDINGS IN RELATION TO LSE	174
6.10.	CONSERVATION OBJECTIVES.....	175
6.11.	FINDINGS IN RELATION TO ADVERSE EFFECTS ON THE INTEGRITY (AeOI). 176	
6.12.	CONSIDERATION OF ALTERNATIVE SOLUTIONS.....	182
6.13.	IROPI	183
6.14.	COMPENSATORY MEASURES.....	186
6.15.	HRA CONCLUSIONS	194
7.	CONCLUSION ON THE CASE FOR DEVELOPMENT CONSENT	196
7.1.	INTRODUCTION.....	196
7.2.	SUMMARY OF THE PLANNING ISSUES AND COMPLIANCE WITH NATIONAL POLICY	196
7.3.	COMPLIANCE WITH S104 OF THE PLANNING ACT 2008 AND THE PLANNING BALANCE	204
8.	COMPULSORY ACQUISITION AND RELATED MATTERS	207
8.1.	INTRODUCTION.....	207
8.2.	LEGISLATIVE REQUIREMENTS.....	207
8.3.	THE REQUEST FOR CA AND TP POWERS	208
8.4.	THE PURPOSE FOR WHICH LAND IS REQUIRED.....	209
8.5.	THE APPLICANT'S CASE	214
8.6.	THE ExA's RESPONSE TO THE APPLICANT'S CASE.....	222
8.7.	CONSIDERATION OF INDIVIDUAL OBJECTIONS AND ISSUES	225
8.8.	THE APPLICANT'S RESPONSE TO OBJECTIONS.....	226
8.9.	THE OBJECTIONS AND THE ExA's RESPONSE.....	226
8.10.	TEMPORARY POSSESSION.....	254

8.11.	HUMAN RIGHTS ACT 1998 CONSIDERATIONS.....	255
8.12.	THE EQUALITY ACT 2010	255
8.13.	The ExA’s RECOMMENDATIONS ON THE GRANTING OF COMPULSORY ACQUISITION POWERS AND RELATED MATTERS	256
8.14.	ExA RECOMMENDATION.....	259
9.	DRAFT DEVELOPMENT CONSENT ORDER AND RELATED MATTERS	260
9.1.	INTRODUCTION.....	260
9.2.	THE DCO AS APPLIED FOR.....	260
9.3.	ISSUES CONSIDERED IN THE EXAMINATION	265
9.4.	ExA’s CONSULTATION DRAFT DCO.....	271
9.5.	OUTSTANDING CONCERNS AT THE CLOSE OF THE EXAMINATION	279
9.6.	ExA’s RECOMMENDED CHANGES	305
9.7.	CONCLUSION	316
10.	SUMMARY OF FINDINGS AND CONCLUSIONS.....	318
10.1.	FINDINGS AND CONCLUSIONS.....	318
10.2.	RECOMMENDATION.....	320

APPENDIX A: THE EXAMINATION LIBRARY

APPENDIX B: LIST OF ABBREVIATIONS

APPENDIX C: THE RECOMMENDED DCO

APPENDIX D: DEVELOPMENT PLAN POLICIES

List of Figures

Figure 2.1: MetroWest Phase 1.....	12
Figure 2.2: Location Plan	13
Figure 2.3: Portishead Branch Line – MetroWest Phase 1 Scheme.....	19
Figure 5.1: Statutory Designated Sites	45
Figure 5.2: Trinity Footbridge alternative walking routes.....	124

List of Tables

Table 8.1: Change Request B.....	213
Table 9.1: Versions of the draft DCO post-submission.....	262
Table 9.2: Consultation draft DCO response and ExA’s recommendation.....	271
Table 9.3: Suggested changes to the DCO made by other organisations.....	280
Table 9.4: Substantive areas of dispute between the Applicant and the BPC.....	284
Table 9.5: Substantive areas of dispute between the Applicant and NGET.....	295
Table 9.6: Substantive areas of dispute between the Applicant and Exolum Pipeline System Ltd.....	301

Table 9.7: ExA's changes to the final preferred draft DCO.....305
Table 10.1: Matters where the SoS may wish to re-consult.....319

1. INTRODUCTION

1.1. INTRODUCTION TO THE EXAMINATION

1.1.1. The Application for the Portishead Branch Line – MetroWest Phase 1 (the Proposed Development) TR040011 was submitted by North Somerset District Council (the Applicant) to the Planning Inspectorate on 15 November 2019 under section (s) 31 of the Planning Act 2008 (PA2008) and accepted for Examination under s55 of the PA2008 on 15 November 2019 [PD-001].

1.1.2. The Proposed Development comprises:

- A new railway from Quays Avenue in Portishead to Portbury Junction in Pill on the trackbed of the disused railway (Work Nos 1 and 1A);
- A new railway from Portbury Junction through the village of Pill to a new junction west of Pill Tunnel, on the existing freight line (Work No 1B);
- A new railway from Portbury Junction, parallel to Work No 1B, through the village of Pill to a new junction west of Pill Tunnel, on the existing freight line, to connect to Royal Portbury Dock (RPD) (Work No 1C);
- New stations at Portishead and Pill together, with new car parks and works to the highway network (including the diversion west of Quays Avenue Portishead), urban realm and public right of way improvements;
- A new cycle and pedestrian bridge to the south of Trinity Primary School, Portishead and associated new cycle tracks;
- Permanent maintenance compounds at Sheepway, Severn Road, Pill, Ham Green (all in North Somerset) and Clanage Road (in Bristol);
- Works to the bridleway network in the vicinity of RPD and an extension to the bridleway under the M5 Avonmouth Bridge east to provide a continuous public right of way to Pill;
- Bus stop works at Pill and District Memorial Club, Pill;
- Works to the Winterstoke Road/ Ashton Vale Road Junction in Bristol; and
- Temporary construction compounds and haul roads.

1.1.3. The location of the Proposed Development is shown on the Location Plan [APP-007], in the Environmental Statement (ES) [REP6-104] and in the Land Plans final updated versions of which were received at Deadline (D) 5 [REP5-003]. The route of the Proposed Development lies within the administrative areas of North Somerset District Council (NSDC) and Bristol City Council (BCC) and is wholly in England.

1.1.4. The legislative tests for whether the Proposed Development is a Nationally Significant Infrastructure Project (NSIP) were considered by the Planning Inspectorate on behalf of the Secretary of State (SoS) for Housing, Communities and Local Government in its decision to accept the Application for Examination in accordance with s55 of PA2008 [PD-001].

1.1.5. On this basis, the Planning Inspectorate agreed with the Applicant's view stated in the application form [APP-002] that the Proposed Development is an NSIP as it relates to the construction of a new railway which would be operated by Network Rail (NR). It includes a section of track that would have a continuous length of more than two kilometres (km), is not on land that is currently operational land of a railway undertaker and would not be permitted development. As such it is within s25 of PA2008, and so requires development consent in accordance with s31 of PA2008. The Proposed Development therefore meets the definition of an NSIP set out in s14(1)(k) and s25 of PA2008.

1.2. APPOINTMENT OF THE EXAMINING AUTHORITY

1.2.1. On 30 June 2020, Jo Dowling and Susan Hunt were appointed as the Examining Authority (ExA) for the application under s62 and s65 of PA2008 [PD-004].

1.3. THE PERSONS INVOLVED IN THE EXAMINATION

1.3.1. The persons involved in the Examination were:

- Persons who were entitled to be Interested Parties (IPs) because they had made a Relevant Representation (RR) or were a statutory party who requested to become an IP.
- Affected Persons (APs) who were affected by a Compulsory Acquisition (CA) and/ or Temporary Possession (TP) proposal made as part of the Application and objected to it at any stage in the Examination.
- Other Persons, who were invited to the Preliminary Meeting (PM) and to participate in the Examination by the ExA because they were either affected by it in some other relevant way or because they had particular expertise or evidence that the ExA considered to be necessary to inform the Examination.

1.4. THE EXAMINATION AND PROCEDURAL DECISIONS

1.4.1. The Examination began on 19 October 2020 and concluded on 19 April 2021.

1.4.2. The principal components of and events around the Examination are summarised below. A fuller description, timescales and dates can be found on the Examination timetable page of the project webpage on the Planning Inspectorate National Infrastructure website (The Inspectorate's Website)¹.

The Preliminary Meeting

1.4.3. On 7 September 2020, the ExA wrote to all IPs, Statutory Parties and Other Persons under Rule 6 of the Infrastructure Planning (Examination Procedure) Rules 2010 (EPR) (the Rule 6 Letter) inviting them to the

¹ <https://infrastructure.planninginspectorate.gov.uk/projects/south-west/portishead-branch-line-metrowest-phase-1/?ipcsection=exam>

Preliminary Meeting (PM) and an Open Floor Hearing (OFH) [PD-007], outlining:

- the arrangements and agenda for the PM;
- notification of an OFH;
- an Initial Assessment of the Principal Issues (IAPI);
- the draft Examination Timetable;
- availability of RRs and application documents; and
- the ExA's Procedural Decisions.

- 1.4.4. To ensure full participation the PM took place virtually in two parts on 6 October 2020 and 19 October 2020. A digital recording [EV-003 and EV-004] and a note of the meeting [EV-004a] were published on the Inspectorate's website.
- 1.4.5. The ExA's Procedural Decisions and the Examination Timetable took full account of matters raised at the PM. They were provided in the Rule 8 Letter [PD-009], dated 26 October 2020.

Key Procedural Decisions

- 1.4.6. Most of the Procedural Decisions set out in the Rule 8 Letter related to matters that were confined to the procedure of the Examination and did not bear on the ExA's consideration of the planning merits of the Proposed Development. Further, they were generally complied with by the Applicant and relevant IPs. The decisions can be obtained from the Rule 8 Letter [PD-009] and so there is no need to reiterate them here.

Site Inspections

- 1.4.7. Site Inspections are held in PA2008 Examinations to ensure that the ExA has an adequate understanding of the Proposed Development within its site and surroundings and its physical and spatial effects.
- 1.4.8. Where the matters for inspection can be viewed from the public domain and there are no other considerations such as personal safety or the need for the identification of relevant features or processes, an Unaccompanied Site Inspection (USI) is held.
- 1.4.9. The ExA held the following USIs:
- USI1, 29 September 2020 [EV-001];
 - USI2, 30 September 2020 [EV-002];
 - USI3, 15 April 2021 [EV-014]; and
 - USI4, 16 April 2021 [EV-015].

Site notes providing a procedural record of each USI can be found in the Examination Library under the above references.

- 1.4.10. The ExA would normally have also held an Accompanied Site Inspection (ASI) to access sites on private land or where there are safety or other technical considerations and/ or there are requests made to accompany an inspection. However, restrictions were placed on travel and gatherings due to the COVID-19 pandemic. At the January Issue Specific Hearings

(ISH) [EV-009 and EV-010] the ExA asked the Applicant, IP's and AP's to review the locations where an ASI had been requested and indicate whether it would be possible for the ExA to undertake these on either on an unaccompanied or an access only basis.

- 1.4.11. Having considered the responses the ExA decided [PD-013] not to hold an ASI on the basis that it had either visited the majority of the locations suggested on an unaccompanied basis [EV-001 and EV-002] or that the remaining locations could be visited on an unaccompanied or access only basis. The locations were further discussed at ISH5 [EV-013].
- 1.4.12. As a result, the ExA conducted its final USIs on 15 and 16 April 2021 the details for which are provided in the site notes [EV-014 and EV-015].
- 1.4.13. The ExA has had regard to the information and impressions obtained during its site inspections in all relevant sections of this Report.

Hearing Processes

- 1.4.14. The ExA held a number of hearings to ensure the thorough examination of the issues raised by the Application. Due to the COVID-19 pandemic ISHs under s91 of PA2008 were held virtually.
- 1.4.15. ISHs were held on the subject matter of the draft Development Consent Order (draft DCO) on:
 - ISH1, 7 December 2020 [EV-007]; and
 - ISH 4, 2 March 2021 [EV-011].
- 1.4.16. ISHs relating to a range of environmental matters were held on:
 - ISH2, 11 January 2021 [EV-009];
 - ISH3, 12 January 2021 [EV-010]; and
 - ISH5, 4 March 2021 [EV-013].
- 1.4.17. The issues that were discussed at the ISH on environmental matters are set out in the agendas for the relevant hearing which are referenced above.
- 1.4.18. Virtual Compulsory Acquisition Hearings (CAH) were held under s92 of PA2008 on:
 - CAH1, 4 December 2020 [EV-008]; and
 - CAH2, 3 March 2021 [EV-012].
- 1.4.19. All persons affected by CA and/ or TP proposals were provided with an opportunity to be heard. These hearings were also used to examine the Applicant's case for CA and TP in the round.
- 1.4.20. A virtual OFH was held under s93 of PA2008 on the evening of 19 October 2020 [EV-006]. The ExA is satisfied that all IPs were provided with an opportunity to be heard on any important and relevant subject matter that they wished to raise.

Written Processes

- 1.4.21. Examination under PA2008 is primarily a written process, in which the ExA has regard to written material forming the Application and arising from the Examination. All this material is recorded in the Examination Library (Appendix A) and published online. Individual document references to the Examination Library in this report are enclosed in square brackets []. For this reason, this Report does not contain extensive summaries of all documents and representations, although full regard has been had to them in the ExA's conclusions. The ExA has considered all important and relevant matters arising from them. Key written sources are set out further below.

Relevant Representations

- 1.4.22. There were 129 RRs received by the Planning Inspectorate [RR-001 to RR-129]. All makers of RRs received the Rule 6 Letter [PD-007] and were provided with an opportunity to become involved in the Examination as IPs. All RRs have been fully considered by the ExA. The issues that they raise are considered in Chapters 4 and 5 of this Report.

Written Representations and Other Examination Documents

- 1.4.23. The Applicant, IPs and Other Persons were provided with opportunities to:
- make written representations (WRs) (D2);
 - comment on WRs made by other IPs (D3);
 - summarise their oral submissions at hearings in writing (D1, D3, D4 and D6);
 - make other written submissions requested or accepted by the ExA; and
 - comment on documents issued for consultation by the ExA including:
 - A Report on Implications for European Sites (RIES) [PD-015] published on 29 March 2021 by D7; and
 - A commentary on the draft DCO [PD-017] published on 29 March 2021 by D7.
- 1.4.24. All WRs and other examination documents have been fully considered by the ExA. The issues that they raise are considered in Chapters 4 and 5 of this Report.

Local Impact Reports

- 1.4.25. Local Impact Reports (LIRs) have been received by the ExA from the following relevant local authorities:
- North Somerset District Council [REP1-033];
 - Bristol City Council [REP1-032]; and
 - South Gloucestershire Council [REP1-034].
- 1.4.26. The LIRs have been taken fully into account by the ExA in all relevant Chapters of this Report.

Statements of Common Ground

- 1.4.27. Given the number of IPs involved the Applicant produced a Statement of Commonality of Statements of Common Ground [REP7-062] which lists the organisations with whom the Applicant tried to complete a Statement of Common Ground (SoCG). Table 2 of this document summarises in tabular form the matters that have been agreed, that are subject to on-going discussions or that have not been agreed with each organisation.
- 1.4.28. By the end of the Examination, the following bodies had concluded SoCGs with the Applicant:
- Highways England [REP1-019];
 - Historic England [REP1-020];
 - Somerset County Council [REP1-024];
 - Avon and Somerset Constabulary [REP1-026];
 - Natural England [REP6-146];
 - NSDC [REP7-025];
 - BCC [REP7-026];
 - Environment Agency [REP7-027];
 - North Somerset Levels Internal Drainage Board [REP7-028];
 - Openreach Limited [REP7-029];
 - Wessex Water Limited [REP7-030];
 - Network Rail Infrastructure Ltd [REP7-032]; and
 - National Trust [REP7-060].
- 1.4.29. The following SoCGs remained unsigned at the end of the Examination:
- The Bristol Port Company [REP1-027];
 - National Grid Electricity Transmission [REP3-019];
 - Western Power Distribution [REP7-031]; and
 - Freightliner Ltd [REP7-061].
- 1.4.30. In the Rule 6 letter [Annex G, PD-007] the ExA requested that SoCGs be prepared between the Applicant and Bristol Water Plc and the Woodland Trust.
- 1.4.31. The Applicant advised at ISH3 that it had tried to contact the Woodland Trust on numerous occasions but had received no response. The ExA asked [Action point 5, EV-10e] by D5 the Applicant to provide further detail on whether a SoCG with the Woodland Trust would be likely to be forthcoming and to provide details of what attempts had been made to engage with the Woodland Trust and the progress made. The Applicant advised [GC.2.8, REP5-028] that given the absence of any direct engagement from the Woodland Trust it did not consider a SoCG would be achievable. The Statement of Commonality of SoCG [REP7-062] records the position as 'no SoCG with the Woodland Trust'.
- 1.4.32. At D5 [GC.2.8, REP5-028] the Applicant advised that it was in the process of negotiating a protective agreement with Bristol Water Plc and, once agreed, it expected a SoCG to be submitted at D6 that would be used to confirm Bristol Water Plc had no outstanding points of objection. No SoCG was submitted at either D6 or D7. The Statement of

Commonality of SoCG submitted at D7 [REP7-062] recorded the position as 'no SoCG with Bristol Water Plc'.

1.4.33. At D5 [GC.2.8, REP5-028] the Applicant advised that with regard to the Forestry Commission (including Forestry England) (FC) negotiations had focused on agreeing the Heads of Terms for an option agreement and that once agreed the Applicant considered that a SoCG would be utilised solely for the purpose of confirming no outstanding objections from the Forestry Commission. The Applicant advised that it was targeting D6 for the submission of this. No SoCG with the FC was submitted at either D6 or D7. However, a completed agreement with the FC was submitted at D7 [REP7-064]. The final Statement of Commonality of SoCG [REP7-062] subsequently recorded that 'no SoCG has been signed but that agreement has been reached'.

1.4.34. Both the signed and the unsigned SoCGs have been considered by the ExA in all relevant Chapters of this Report.

Written Questions

1.4.35. The ExA asked two rounds of written questions.

- ExA's written questions (ExQ1) [PD-010] and procedural decisions were set out in the Rule 8 letter [PD-009], dated 26 October 2020.
- Further written questions (ExQ2) [PD-014] were issued on 26 January 2021.

1.4.36. The following requests for further information and comments under Rule 17 of the EPR were issued on:

- 22 December 2020 [PD-012];
- 26 January 2021 [PD-013]; and
- 29 March 2021 [PD-016].

1.4.37. On 22 December 2020 [PD-012] the ExA wrote to the Applicant confirming that the removal of Work No 16D (flood mitigation area to the south of the disused Portishead Branch Line railway and west of the M5) from the Application was deemed to be non-material and was accepted into the Examination. As a consequence the Applicant was advised that a number of application documents needed to be updated to reflect this change and they needed to confirm that the environmental effects resulting from the changes associated with the deletion of Work No 16D has been cumulatively assessed with other chapters in the ES.

1.4.38. At D4 the Applicant submitted a further request to remove the following Works from the Application [REP4-027]:

- Work No 10C - pond at Portbury Wharf Ecology Park;
- Work No 12B - pond and associated ecological works to the north of the disused railway and south of Sheepway, Portbury;
- Work No 16B - pond and associated ecological works to the south of the disused railway and west of the M5; and
- Work No 27 - foot and cycle track and ramp from Ashton Road to Ashton Vale Road to the west of the railway).

- 1.4.39. The ExA confirmed [PD-013] that these changes would be non-material and accepted them into the Examination and the Applicant was advised that a number of application documents would need to be updated to reflect these changes together with confirmation that the environmental effects resulting from the changes had been cumulatively assessed with other chapters in the ES.
- 1.4.40. When drafting the ExA's commentary on the draft DCO [PD-017] the ExA realised that there were several outstanding questions and points of clarification with regards to CA and TP including the wording and need for Protective Provisions. Consequently, the ExA took the opportunity to seek responses to these outstanding issues [PD-016].
- 1.4.41. All responses to the ExA's written questions and requests for further information have been fully considered and taken into account in all relevant Chapters of this Report.

Requests to Join and Leave the Examination

- 1.4.42. The following person who was not already an IP requested that the ExA should enable them to join the Examination at or after the PM:
- Susan Western who had recently acquired an interest in land which falls within the red line boundary of the Proposed Development area at plot 06/261 requested to become an IP on 30 October 2020 under s102A of the PA2008. The ExA confirmed that Ms Western was an IP on 5 November 2020 [PD-011].
- 1.4.43. During the Examination, as a consequence of discussion at hearings and/or discussions between relevant IPs/ APs/ Other Persons and the Applicant, the following person wrote to the ExA to inform it that their issues were settled and their representation was withdrawn:
- Peter Kirsan [RR-086] who is an AP and has an interest in plots 06/544 and 06/566 advised that his concerns had been amicably resolved [AS-003] and that he wished to withdraw his objection.

1.5. ENVIRONMENTAL IMPACT ASSESSMENT

- 1.5.1. The Proposed Development is development for which an Environmental Impact Assessment (EIA) is required (EIA development).
- 1.5.2. On 25 June 2015, the Applicant submitted a Scoping Report to the SoS under Regulation 8 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (SI 2263) (as amended) (the 2009 EIA Regulations) in order to request an opinion about the scope of the ES to be prepared (a Scoping Opinion). The Applicant notified the Planning Inspectorate in accordance with Regulation 6(1)(b) of the 2009 EIA Regulations of its intention to provide an ES in respect of the Proposed Development.
- 1.5.3. In August 2015 the Planning Inspectorate provided a Scoping Opinion [APP-093]. Therefore, in accordance with Regulation 4(2)(a) of the 2009

EIA Regulations, the Proposed Development was determined to be EIA development, and the application was accompanied by an ES.

- 1.5.4. The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations) came into force in May 2017. As the Applicant had requested a Scoping Opinion before May 2017, it had the option to rely on the transitional provisions of the EIA Regulations and submit an ES in accordance with the 2009 EIA Regulations. However, the Applicant elected to submit an ES in respect of the Proposed Development in accordance with the requirements of the EIA Regulations. The Applicant did not notify the Planning Inspectorate of its intention to provide an ES under the EIA Regulations, however the notification requirements set out in Regulation 6 of the 2009 EIA Regulations are essentially analogous with those specified in regulation 8 of the EIA Regulations. These matters and the Applicant's approach in this respect is set out in section 1.5 of ES Chapter 1 [REP6-068].
- 1.5.5. On 14 January 2020 the Applicant provided the Planning Inspectorate with certificates confirming that s56 and s59 of PA2008 and Regulation 16 of the EIA Regulations had been complied with [OD-001].
- 1.5.6. The ES submitted with the application comprised 19 chapters [APP-096 to APP-144] together with supporting Figures [APP-115 to APP-124], numerous Appendices [APP-125 to APP-191] and a Non-Technical Summary [APP-094]. A comprehensive update to the ES [REP6-068 to REP6-088], took place at D6 as a result of amendments to the Proposed Development, updates to the HRA and through the Applicant's responses to RRs, WRs, and both rounds of written questions.
- 1.5.7. Parts of the ES were updated during the course of the Examination, with updated versions of the Non-Technical Summary [REP6-067], Chapters 1 [REP6-068], 3 [REP6-070], 4 [REP6-072], 7 [REP6-074], 8 [REP6-076], 9 [REP6-078], 12 [REP6-080], 13 [REP6-082], 15 [REP6-084], 16 [REP6-086], 17 [REP6-088] and the corresponding appendices submitted at D6.
- 1.5.8. The ExA's assessment of the Proposed Development undertaken in Chapter 5 of this Report will summarise the environmental effects from the identified stages as set out in the ES. Schedule 17 of the Recommended DCO sets out the documents proposed to be certified in the ES post-examination. The ExA accepts the list to be correct and reflects the documents which comprise the ES as whole, and that the ES is sufficient to enable the SoS to take a decision in compliance with the EIA Regulations.

1.6. HABITATS REGULATIONS ASSESSMENT

- 1.6.1. The Proposed Development is development for which information to inform a Habitats Regulations Assessment (HRA) has been provided. The Proposed Development has been identified as giving rise to the potential for LSE on European sites.

1.6.2. Consideration is given to the adequacy of the HRA Report, associated information and evidence and the matters arising from it in Chapter 6 of this Report.

1.7. UNDERTAKINGS, OBLIGATIONS AND AGREEMENTS

1.7.1. By the end of the Examination, there were no matters subject to any separate undertakings, obligations and/ or agreements. All relevant considerations are addressed in this Report as bearing on the DCO.

1.8. OTHER CONSENTS

1.8.1. The Application documentation and questions during this Examination have identified the following consents that the Proposed Development has obtained or must obtain, in addition to Development Consent under PA2008. These were set out in Consents and Licences required under Other Legislation [APP-073] and the latest position confirmed at D7 [REP7-067].

1.8.2. In summary, they comprise:

- Conservation of Habitats and Species Regulations 2017 – European Protected Species Licence and District Level Licencing;
- Section 16 and 28E/H of the Wildlife and Countryside Act 1981;
- Section 10 Protection of Badgers Act 1992;
- Section 23 Land Drainage Act 1991;
- Environmental Permitting Regulations 2016;
- Section 60/ 61 Control of Pollution Act 1974;
- Notification under Construction (Design and Management) Regulations 2015;
- Certificate of Registration for the use of Radioactive Substances for the operations under the Ionising Radiations Regulations 2017;
- Consent under the Health and Safety at Work Act 1974 and associated Health and Safety Regulations;
- Section 118 Water Industry Act 1991;
- Water Abstraction Licence (if required);
- National station access conditions;
- Section 278 Highways Act 1980;
- Traffic Management Act 2004;
- Road Traffic Regulation Act 1984;
- Part IV Energy Act 2013;
- Road Vehicles (Authorisation of Special Types) (General) Order 2003/ Road Traffic Act 1988;
- Waste (England and Wales) Regulations 2011;
- Construction (Design and Management) Regulations 2015;
- Section 80 Building Act 1984; and
- Planning (Hazardous Substances) Regulations 2015.

1.8.3. The ExA has considered the available information in relation to the outstanding consents recorded above. Without prejudice to the exercise of discretion by future decision makers, the ExA concludes that there are no apparent impediments to the implementation of the Proposed

Development, should the SoS grant the Application or outstanding matters do arise and these are addressed in the Chapters of this Report.

1.9. STRUCTURE OF THIS REPORT

1.9.1. The structure of this report is as follows:

- **Chapter 1** introduces the reader to the Application, the processes used to carry out the Examination and make this Report.
- **Chapter 2** describes the site and its surrounds, the Proposed Development, its planning history and that of related projects.
- **Chapter 3** records the legal and policy context for the SoS's decision.
- **Chapter 4** sets out the planning issues that arose from the Application and during the Examination and sets out the structure of Chapter 5.
- **Chapter 5** reports the ExA's findings on the planning issues in the Examination.
- **Chapter 6** considers effects on European Sites and HRA.
- **Chapter 7** sets out the balance of planning considerations arising from Chapters 4, 5 and 6 in the light of the factual, legal and policy information in Chapters 1 to 3.
- **Chapter 8** sets out the ExA's examination of CA and TP proposals.
- **Chapter 9** considers the implications of the matters arising from the preceding chapters for the DCO.
- **Chapter 10** summarises all relevant considerations and sets out the ExA's recommendation to the SoS.

1.9.2. This report is supported by the following Appendices:

- **Appendix A** – The Examination Library
- **Appendix B** – List of Abbreviations
- **Appendix C** – The recommended DCO
- **Appendix D** – Development Plan Policies

2. THE PROPOSAL AND THE SITE

2.1. THE APPLICATION AS MADE

2.1.1. The Application is for a DCO to construct a new railway on the trackbed of the former branch line from Bristol to Portishead. The Proposed Development and its components are shown on the Application plans and drawings [REP5-004]. A detailed description of the Proposed Development is contained in Chapter 4 of the ES [REP6-072].

2.1.2. The Proposed Development forms part of the wider MetroWest project which is a major cross-authority-boundary rail scheme for improving passenger rail services in the Bristol Sub Region. MetroWest Phase 1 comprises the delivery of infrastructure and passenger train operations that would provide the following:

- A half hourly service for the Severn Beach line (hourly for St. Andrews Road station and Severn Beach station);
- A half hourly service for Keynsham and Oldfield Park stations on the Bath Spa to Bristol line; (together known as MetroWest Phase 1A) and
- An hourly service (or an hourly plus service) for a reopened Portishead Branch Line with stations at Portishead and Pill (MetroWest Phase 1B; the subject of this Application).

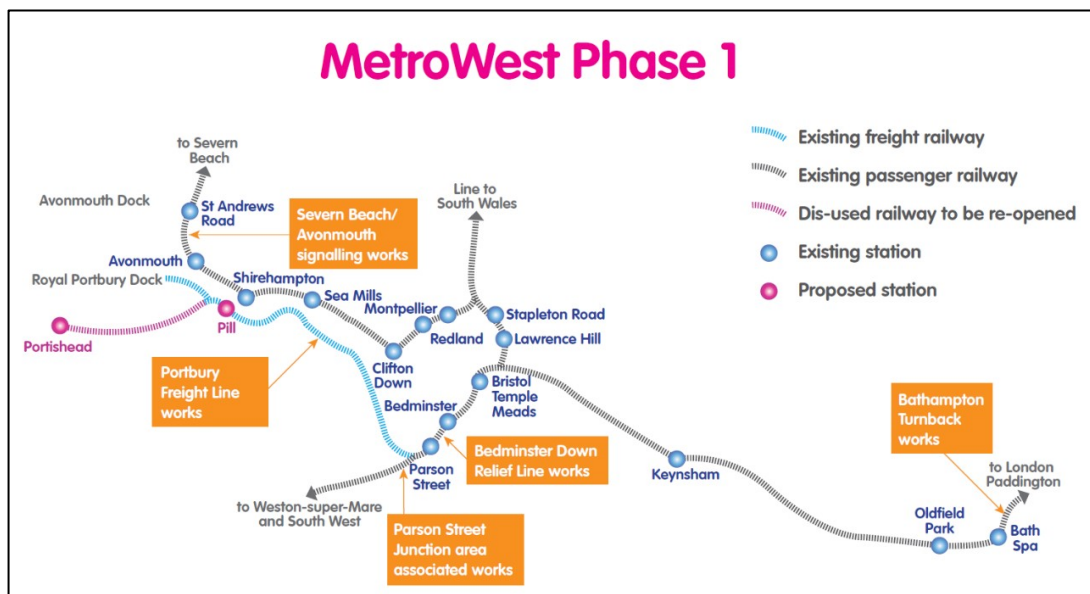


Figure 2.1: MetroWest Phase 1 [Figure 1.1, APP-208]

2.1.3. The Portishead Branch Line was originally built in the 1860s, opening to Portishead in 1867. Passenger services continued between Portishead and Bristol until 1964, and freight services continued until 1981. In 2002 part of the former Portishead Branch Line was re-opened between Parson Street Junction and Portbury Dock Junction and a new section of line (approximately half a kilometre long) was built from Portbury Dock Junction into the port for use for freight services. The remaining disused

section of the railway between Portbury Dock Junction and Portishead has not been maintained and has become heavily overgrown [1.2.4, APP-208].

- 2.1.4. The Proposed Development would follow the existing railway corridor, comprising the disused railway section between Portishead and Pill, and then with associated works along the operational railway line from Pill to the existing Ashton Junction before joining the Bristol to Exeter main line at Parson Street Junction [1.2.5, APP-208].
- 2.1.5. The Proposed Development would extend over a 13.7 km section of railway, between Portishead and Ashton Junction in Bristol [APP-010]. The NSIP part of the Proposed Development comprises of works to the 5.633 km section of trackbed between Portishead to Portbury Dock Junction, to enable it to be re-opened. At Portbury Dock Junction it would connect into the existing Portbury Freight Line with a new junction (Pill Junction), near Pill Viaduct.
- 2.1.6. In addition, a series of Associated Development works would be required including new stations; bridges; highways works; temporary haul roads; compounds and minor works in the Avon Gorge. These works are explained in more detail later in this Chapter.

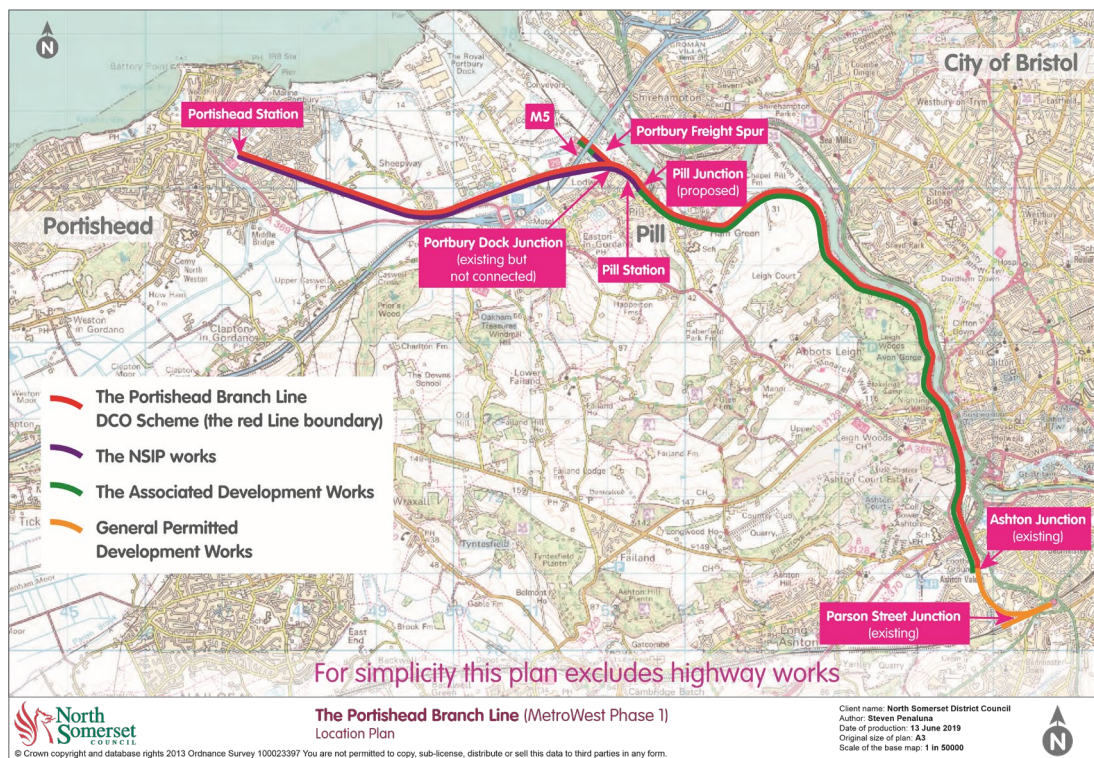


Figure 2.2: Location Plan [APP-007]

- 2.1.7. The following works [Section 1.4, APP-208] would also be required on the existing operational rail network to enable the Proposed Development to operate:

- Parson Street Junction: modifications to the junction (including at Liberty Lane Sidings) to connect the Portishead Branch Line with the Mainline between Bristol and Exeter;

- Parson Street Station: minor modifications to platform 3 to accommodate the new service; and
- Bedminster Down Relief Line: partial reinstatement of the down relief line at Bedminster to provide additional capacity for recessing freight trains on the Bristol to Exeter Main Line.

2.1.8. These works would be entirely on operational railway land and would be undertaken by NR under their permitted development rights. Consequently, they do not form part of the Application.

2.1.9. The Application as originally submitted sought development consent for works as described in the Planning Statement [APP-208] and the draft DCO [APP-052]. Locations of the proposed works are shown on the Works Plans [REP5-004].

Works which comprise the NSIP

2.1.10. The works which comprise an NSIP are the reconstruction of 4.762 km of disused railway from Quays Avenue in Portishead to the existing operational railway at Portbury Dock Junction. A further 871 m of new track would be laid through Pill village, parallel to the existing operational railway line from RPD which would be moved over to allow separation between passenger trains and freight trains coming out of the port. A new junction east of Pill Viaduct (Pill Junction) would be constructed which would be where the proposed new line from Portishead and the operational railway from the port would converge into a single line [Paragraph 3.3.1, APP-208]. These are Work Nos 1, 1A, 1B and 1C in the draft DCO.

2.1.11. As the trackbed is already in existence the principal elements of the NSIP works would be:

- removal of the existing rails, sleepers and ballast;
- installation of new rails, sleepers and ballast; and
- installation of a new railway switch and associated point motor at Pill Junction.

2.1.12. All these works would be located within the jurisdiction of NSDC.

Associated Development

2.1.13. The DCO application also includes a number of other elements that are classified, for the purpose of the PA2008, as Associated Development. These works are shown on the General Arrangement Plans [REP5-005] and would consist of:

In the district of North Somerset:

- the realignment of Quays Avenue in Portishead to the west of its existing position together with connections to existing highways, works to Harbour Road and Phoenix Way (Work No 2), connection to Work No 4, surface water drain into the watercourse known as the Cut (Work No 2A), and footpath/ cycle track and associated works at Portbury Ditch (Work No 3);

- the creation of a car park, foot and cycle track and new vehicular access to Harbour Road, Portishead (Work No 4);
- erection of a railway station south of Phoenix Way, Portishead (Work No 5) including:
 - platform, shelter, office, waiting area, storage and refuse area, seating, ticket machine, CCTV equipment, toilets, public address system, information boards and displays, signage, lighting, fencing, acoustic barrier, landscaping, railway communications mast and drainage;
- additional car park and new access south of Phoenix Way at Portishead (Work No 6);
- a combined pedestrian and cycle bridge over the railway to the south west of Trinity Primary School, Portishead (Work No 7) and associated foot and cycle tracks to the south of Tansy Lane and the north of Galingale Way (Work Nos 7A, 7B and 7C), and new underground electrical cable (Work No 7E);
- a permanent maintenance compound with a road/ rail access point and access road from the west side of Sheepway and north of the railway, permanent diversion of an existing permissive cycle path and works to the existing public car park (Work No 9);
- installation of number of ponds (Work Nos 10C, 12B and 16B) and flood mitigation measures (Work No 16D);
- improvements to the existing agricultural access from Shipway Gate Farm, Portbury to Sheepway south of the disused Portishead branch line (Work No 11);
- permanent new access to the A369 Portbury Hundred (Work No 12);
- improvement of existing access and parking area at The Drove, Portbury north of the A369 Portbury Hundred (Work No 13);
- improvements to bridleways and realignment of the existing permissive cycling route at Royal Portbury Dock Road (Work Nos 14, 14A and 14B);
- realignment of existing permissive cycling route passing under Marsh Lane, Easton-in-Gordano (Work No 16);
- bridleway west of the M5 and under the Avonmouth Bridge (Work No 18);
- installation of new and alteration of existing railway equipment on the freight railway (Work No 19);
- replacement of the Avon Road Bridge and works to the embankments on the west side of the bridge (Work no 20A);
- car park and permanent railway maintenance compound with principal supply point building to the south of Severn Road and Monmouth Road, Pill (Work Nos 21 and 21A);
- reconstruction of the former Pill station (southern platform) (Work No 22) to comprise:
 - demolition of 7 Station Road to create a new station forecourt and access;
 - steepening and stabilisation of Hardwick cutting;
 - provision of a new ramp and stairs between the station entrance and the platform;
 - reconstruction of the southern platform with a shelter and lighting,

- creation of an emergency refuge area; and
- pedestrian/ cycle and highway infrastructure modifications in Pill.
- bus stop waiting facility at Pill Memorial Club (work No 22A);
- repairs to Pill viaduct and Mount Pleasant Embankment to accommodate the two lines between Pill viaduct and Pill Junction;
- minor works to Pill Tunnel;
- provision of a new permanent maintenance compound for Pill Tunnel together with a road/ rail vehicle access point and permanent access from the highway and improvements to the highway at Chapel Pill Lane, Ham Green (Work No 24);
- partial reconstruction of Quarry Bridge No 2 (Work No 25);
- minor works along the operational railway line including:
 - works to improve the existing track geometry to provide a more comfortable passenger experience,
 - minor works to tunnels along the operational freight line;
 - minor works to bridges and retaining walls,
 - geotechnical stabilisation works in the Avon Gorge including stone picking, rock bolting and erection of catch fences; and
 - construction of permanent pedestrian access points;

In the City of Bristol:

- provision of new vehicular access and permanent maintenance compound with ramp and flood attenuation works at the A369 Clanage Road (Work No's 26 and 26B);
- highway modifications on Winterstoke Road (Work No 28), consisting of:
 - extension of the left turn lane on Winterstoke Road,
 - optimisation of the Ashton Vale Road signals and upgrade of signals to a Microprocessor Optimised Vehicle Actuation (MOVA) system, and
 - provision of a pedestrian and cycle ramp from Ashton Vale Road to Ashton Road (Work No 27); and
- formal closure of the Barons Close pedestrian level crossing (also referred to as the Ashton Vale Containers Crossing).

To enable construction:

- temporary construction compounds and haul roads with the principal construction compounds at:
 - Portishead station and car parks (Work No 7D);
 - Sheepway (Work No 10A);
 - Portbury Hundred (Work No 12A);
 - Lodway Farm (Work No 17);
 - a site under the M5 Avonmouth viaduct (Work No 16A);
 - Ham Green (Work No 24A); and
 - Clanage Road (Work No 26A)
- a number of smaller satellite compounds to support the works (Work Nos 20B, 22B, 23, 29);

- temporary construction haul roads (Work Nos 8, 10B, 11A, 11B, 17A and vehicle turning space (Work No 13A);
- temporary diversion of existing permissive cycle path (Work No 10), and National Cycle Network (NCN) 41 (Work No 20) and creation of a temporary path (Work No 15); and
- creation of a road rail access point (Work No 16C).

2.1.14. Subject to development consent being granted, work on site would commence in winter 2022/ 23. Due to the length of the proposed route and the operational needs of the existing freight line construction would take place concurrently and not consecutively. Construction is anticipated to take approximately 1.5 years and the Applicant anticipates that the Proposed Development would be likely to open in autumn 2024 [Section 2.3, APP-094].

2.2. THE APPLICATION AS EXAMINED

2.2.1. Changes to the key application documents, including the wording of the draft DCO, were submitted and updated during the Examination. The changes sought to address points raised by IPs and the ExA and to update or provide additional information resulting from changes and discussions that had occurred during the Examination.

2.2.2. A list of the updated, revised and/ or additional information submitted into the Examination is contained within the Guide to the Application [REP7-002].

Change Request A

2.2.3. The Applicant submitted a request [REP2-001] to remove Work No 16D from the draft DCO. Work No 16D would have provided a flood mitigation area of 4078 square meters (sqm) in an area shown on sheet 5 of the Works Plans [AS-013], to the south side of the disused Portishead branch line and west of the M5 special road, Easton-in-Gordano.

2.2.4. The Applicant requested the change as the Environment Agency (EA) confirmed that it was satisfied that the existing drainage system could accommodate the very small change to the water levels that would result from the Proposed Development. As a consequence, the amount of land that would be needed could be reduced to the benefit of the freeholder of the land who had raised concerns regarding the amount of land being sought [RR-045 and RR-067]. The EA confirmed that they had no objection to the proposed change request [REP3-043]. The BPC [AS-052] and the owners of plot 05/85 [EV-008] confirmed that they did not object to the change request.

2.2.5. The ExA were satisfied that no one would be disadvantaged by the proposed change and that they would be non-material. As a result, the ExA made a Procedural Decision [PD-012] to accept them into the Examination on the 22 December 2020. The Application plans and drawings were amended and updated at D4.

Change Request B

2.2.6. At D4 [REP4-027] the Applicant submitted a further request to remove the following works:

- Work No 10C (pond of 586 sqm in area shown on sheet 2 of the works plans, within the Portbury Wharf Ecology Park, Portbury);
- Work No 12B (pond and associated ecological works shown on sheet 3 of the works plans, to the north of Work No 1 and south of the highway at Sheepway);
- Work No 16B (pond and associated ecological works, shown on sheet 5 of the works plans, to the south of the disused Portishead Branch Line Railway and west of the M5 Special Road, Easton-in-Gordano); and
- Work No 27 (foot and cycle track and ramp of 140 m in length, shown on sheets 15 and 16 of the works plans, from the A370 classified road known as Ashton Road to Ashton Vale Road to the west of the Parson Street to Royal Portbury Dock railway, Ashton, together with alterations to utilities apparatus, drainage, fencing, lighting and landscaping).

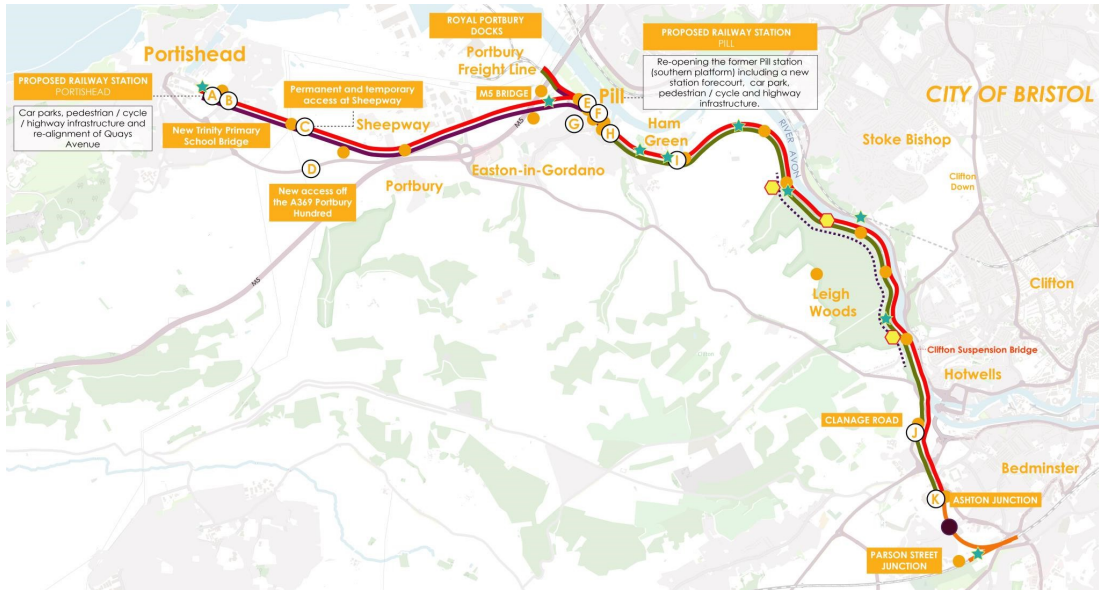
2.2.7. The reasons for the first three changes related to the use of District Level Licencing (DLL) replacing the need for ecological mitigation for a specific European Protected Species (EPS) licence relating to Great Crested Newts. Work No 27 was removed from the Proposed Development, following discussions at CAH1 [EV-008] where BCC agreed that Work No 27 would provide no tangible benefit and were content that the ramp may be removed without impacting on the effectiveness of the Applicant's proposed mitigation for Ashton Vale Road [REP4-039].

2.2.8. The ExA were satisfied that no one would be disadvantaged by the proposed changes and were satisfied that they would be non-material. As a result, the ExA and made a Procedural Decision [PD-013] to accept them into the Examination on 26 January 2021. The Application plans and drawings were fully updated and resubmitted at D6.

2.3. THE SITE AND SURROUNDINGS

2.3.1. Due to the linear nature of the scheme and the length of Proposed Development, there is no consistent characteristic of the route of the Application.

2.3.2. The western end of the Proposed Development would be situated on the North Somerset coast, about 3 km south west, and downstream from the confluence of the River Avon with the Severn Estuary. From Portishead the route would pass eastwards towards the settlements of Easton-in-Gordano, Pill and Ham Green and would eventually follow the River Avon through the Avon Gorge towards Bristol where the Proposed Development would join the main railway line (between Bristol and Exeter) at Parson Street Junction [2.1.1, APP-208]. The Proposed Development would extend through the administrative areas of both NSDC and BCC.



KEY

The Line

- The Portishead Branch Line DCO Scheme (the indicative red line boundary)
- The Nationally Significant Infrastructure Project (NSIP) works
- The Associated Development works
- General Permitted Development works

Main Works along the Route

- A New railway station at Portishead
 - B Trinity Primary School bridge (new combined pedestrian and cycle overbridge)
 - C New permanent and temporary access off Sheepway
 - D New temporary construction access off the A369 Portbury Hundred
 - E New car park at Pill
 - F New railway station at Pill
 - G Proposed bus stop works near the Pill Memorial Club
 - H Pill Viaduct
 - I Pill Tunnel Eastern Portal (new permanent vehicular access)
 - J New permanent and temporary construction access off Clanlage Road
- Temporary construction compounds between Portishead and Ashton Junction
 - I Geotechnical works on slopes within Network Rail land (see Appendix 4.4 of the Portishead Branch Line DCO Scheme Environmental Statement)
 - I Geotechnical works on slopes on third party land (see Appendix 4.4 of the Portishead Branch Line DCO Scheme Environmental Statement)
 - ★ Location of GSM-R communications masts
 - ◊ New permanent stepped access points from the Avon Gorge Tow Path to the railway line to facilitate maintenance
 - Level crossing
 - Indicative location of geotechnical works in the Avon Gorge

Figure 2.3: Portishead Branch Line – MetroWest Phase 1 Scheme [Figure 2.1, APP-208]

2.3.3. The topography between Portishead and Pill comprises of a low-lying coastal plain crossed by several land drains and small rivers. A broad ridge of higher land extends from Clevedon across to the River Avon through Clifton and the northern suburbs of Bristol towards the Cotswolds. The River Avon has cut a valley through this ridge of high land, creating the Avon Gorge, separating the city of Bristol to the east from the wooded slopes and valleys to the west. Much of the countryside lies within the designated Green Belt (GB) around Bristol. The agriculture on the coastal plain is based on pasture for livestock, with arable farmland above the

scarps. There are also patches of woodland along the proposed route [2.1.5, APP-208].

- 2.3.4. The area in which the Proposed Development would be located is important for its nature conservation value. The Severn Estuary Special Area of Conservation (SAC), Special Protection Area (SPA), Ramsar and Site of Special Scientific Interest (SSSI) lie along the North Somerset coast and the lower River Avon. The operational railway runs through the Avon Gorge Woodlands SAC which is designated because of its woodland and grassland habitats. The Avon Gorge SSSI is co-incident in area with the SAC designation and includes the Leigh Woods National Nature Reserve (NNR) both of which are designated for their nature conservation interest. The woods and gorge have an exceptional diversity of whitebeams, including two species *S. bristoliensis* and *S. wilmottiana* which are unique to the gorge. There are six European protected sites within 30 km of the Proposed Development that have bats as a qualifying feature [2.1.6, APP-208].
- 2.3.5. The Proposed Development would run in a tunnel below the Clifton Suspension Bridge, a Grade I listed structure, and along the edge of the Leigh Court Registered Park and Garden (RPG) and close to Ashton Court RPG. There are three Scheduled Monuments that would be within 0.5 km of the Proposed Development in the Avon Gorge and a fourth, a hill fort at Portbury, that would be approximately 550 m south of the Proposed Development.
- 2.3.6. There are six Conservation Areas on the eastern side of the River Avon that would be within 0.5 km of the Proposed Development. Leigh Woods and Bower Ashton Conservation Areas lie on the western side of the Avon Gorge and the Proposed Development. Leigh Woods Conservation Area, which is located within NSDC, lies on elevated ground on the western side of the Avon Gorge, above the operational railway which runs along the western foot slopes of the Avon Gorge. Bower Ashton Conservation Area is centred on the Ashton Estate and its eastern boundary partly follows the existing operational railway boundary and includes the playing fields at Clanage Road.
- 2.3.7. The Proposed Development would also need to pass under the M5 motorway and several A roads. There are several Public Rights of Way (PRoW) along the proposed route including National Cycle Network (NCN) 26 which uses part of the existing railway corridor between the M5 bridge and the Royal Portbury Dock Road and NCN 41 which runs along the western bank of the River Avon following the River Avon Tow Path close to the Portbury Freight Line.

2.4. RELEVANT PLANNING HISTORY

- 2.4.1. The LIRs from NSDC [REP1-033] and BCC [REP1-032] set out the relevant planning history for developments and emerging proposals that would be in close proximity to the Proposed Development. The majority of those listed have limited influence on the ExA's considerations, except those set out below which are more directly relevant.

- 2.4.2. The Portishead Branch Line was built in the 1860's and closed to passenger services in 1964 and freight services in 1981. In April 1999 NSDC granted conditional planning consent (ref: 99/0737) for the construction of a rail link for the Bristol Port Company from RPD to south of the M5 bridge (Pill Junction). This enabled freight trains to connect the port to the national rail network via the junction at Parson Street.
- 2.4.3. In January 2012 (ref: 11/P/1893/F) NSDC granted consent to vary Condition 16 of planning permission 99/0737 to allow the number of freight trains using the rail link to not exceed an average of 20 trains daily per calendar year in and out of the port, and not during any time when the Bristol to Portishead Branch Line is used for scheduled passenger services and shall not exceed one train per hour in each direction.
- 2.4.4. There are a number of planning consents and applications approved or under consideration at RPD which are set out in section 4.5 of NSDC's LIR [REP1-033]. Most relevant to the consideration of this Application is 16/P/1987/F approved in December 2016 at land to west of Court House Farm on Marsh Lane for provision of hard standing for storage of cargo in transit through RPD with associated infrastructure including a crossing over the disused railway by a crossing at grade and/ or vehicle bridge.
- 2.4.5. Condition 16 of 16/P/1987/F required the use of the site to not be commenced until a programme of works (including timescales) for the introduction and removal of temporary at-grade vehicle crossing and construction of a vehicular bridge across the railway line has been submitted and approved by the LPA (in consultation with MetroWest and Network Rail). The condition specifically stated that this was so as not to impede the re-opening of the Portishead Branch Line.
- 2.4.6. Also relevant is the National Grid Hinkley Point C Connection Project Development Consent Order 2016 (SI 2016:49) as corrected by the Hinkley Point C Project (Correction) Order 2017 (SI 2017:786). The underground cable works (Nailsea to Portishead) would cross the Proposed Development at Sheepway.

3. LEGAL AND POLICY CONTEXT

3.1. INTRODUCTION

- 3.1.1. This Chapter sets out the relevant legal and policy context for the Application. It outlines the legislation and policy considered and applied by the ExA in carrying out the Examination and in making its findings and recommendations to the SoS.
- 3.1.2. The Planning Statement [REP6-134] sets out the policy position in relation to the Proposed Development, and Chapter 6 of the ES contains a section setting out the overarching environmental legislation, policy and guidance [APP-101]. Individual chapters of the ES provide specific policy background relating to individual topics.
- 3.1.3. The LIRs [REP1-032, REP1-033 and REP1-034] set out the local authorities' position on applicable development plan policies and other local strategies.

3.2. THE PLANNING ACT 2008 AND NATIONAL POLICY STATEMENT

- 3.2.1. The PA2008 is the principal legislation governing the Examination and the decision whether to grant development consent.
- 3.2.2. The ExA is satisfied that the Proposed Development qualifies as an NSIP because it falls to be designated under s25(1) of the PA2008 as railway-related development. The elements of the Proposed Development which are not encompassed within the NSIP are characterised as Associated Development as provided for by s115(2) of the PA2008.
- 3.2.3. The National Policy Statement for National Networks (NPSNN) forms the primary policy context for the Examination. The NPSNN sets out the need for, and the Government's policies to deliver, development of NSIPs on the national road and rail networks in England. No other National Policy Statements are directly applicable to the Proposed Development.
- 3.2.4. The Proposed Development is not a nationally significant infrastructure project in relation to the construction or alteration of harbour facilities and therefore the ExA is of the opinion that the National Policy Statement for Ports (NPSP) is not a "*relevant national policy statement*" within the meaning of s104(2)(a) of the PA2008.
- 3.2.5. Section 104(2) of the PA2008 sets out the matters to which the SoS must have regard in deciding an application. In summary:
- any relevant National Policy Statements;
 - any LIRs;
 - any matters prescribed in relation to development of the description to which the application relates; and
 - any other matters which the SoS thinks are both important and relevant to the decision.

3.2.6. Section 10 of the PA2008 also places a statutory sustainable development duty on the SoS. The duty makes specific reference to the SoS having regard to the desirability of:

- mitigating and adapting to climate change; and
- achieving good design.

3.2.7. The above matters are addressed in detail, with references to individual paragraphs in the NPSNN, in Chapter 5 of this Report. The NPSNN also states that applicable policies from relevant development plans can be important and relevant matters. Development plan policies are referred to later in this Chapter and set out in full in Appendix D of this Report.

3.3. UK LEGISLATION

The Conservation of Habitats and Species Regulations 2017

3.3.1. The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) govern the assessment processes that must be undertaken in relation to European sites and the Proposed Development, referred to as Habitats Regulations Assessment (HRA). The SoS as the decision maker is the competent authority for the Proposed Development under the Habitats Regulations.

3.3.2. During the Examination (31 December 2020), the Conservation of Habitats and Species (Amendments) (EU Exit) Regulations 2019 came into force, amending the Habitats Regulations reflecting the arrangements in light of the UK's departure from the European Union (EU) and which have since been extended to December 2021. On 1 January 2021 the Department for Environment, Farming and Rural Affairs (Defra) published the policy paper, 'Changes to the Habitats Regulations 2017'. It outlines the arrangements for the transfer of responsibility for the protection of UK sites previously designated under the European Birds and Habitats Directives from the EU to the UK Government. This has been discussed during the Examination and has been taken into account by the ExA. Defra published the guidance 'Habitats Regulations Assessments: protecting a European site' on 24 February 2021 to assist competent authorities deciding if a plan or project that affects a European site can go ahead, and the ExA has had regard to this in preparing this report for the SoS.

3.3.3. The protected sites relevant to this process, SACs and SPAs, continue to be known as 'European sites' which prior to the UK's exit from the EU formed part of the Natura 2000 ecological network. They now form part of the National Site Network of protected sites.

3.3.4. When determining this application, the SoS must consider whether the Proposed Development is likely to have a significant effect on a European site of nature conservation importance, either alone or in combination with other plans or projects under Regulation 63 of the Habitats Regulations. If there is a risk of a likely significant effect (LSE) on a European site, or if there is insufficient evidence to rule out a risk, an appropriate assessment must be carried out. The appropriate assessment

should assess whether a proposal would affect the integrity of the site in light of its conservation objectives and consider ways to avoid or reduce (mitigate) any potential for an adverse effect on the integrity of the site.

3.3.5. In the event that the competent authority cannot exclude adverse effect(s) on the integrity of a European site, the following legal tests must be satisfied in the following order for derogation to be granted (under Regulations 64 and 68 of the Habitat Regulations):

- 1) There are no feasible alternative solutions that would be less damaging or avoid damage to the site.
- 2) There are Imperative Reasons of Overriding Public Interest (IROPI).
- 3) That any compensatory measures necessary to ensure that the overall coherence of Natura 2000 are secured.

3.3.6. Chapter 6 sets out the full details for the HRA that the competent authority is required to undertake in respect of the Proposed Development.

Wildlife and Countryside Act 1981

3.3.7. The Wildlife and Countryside Act 1981 (WCA) is the primary legislation which protects animals, plants, and certain habitats in the UK. It provides for and protects wildlife, nature conservation, countryside protection, National Parks, and PRoWs including the notification, confirmation, protection and management of SSSIs. In England, these sites are identified for their flora, fauna, geological or physiographical interest by Natural England (NE). The Wildlife and Countryside Act contains measures for the protection and management of SSSIs.

3.3.8. If a species protected under the WCA is likely to be affected by a development, a protected species licence would be required from NE. Sites protected under the WCA (including SSSIs) that are affected by a Proposed Development must also be considered. The effects of a Proposed Development on the PRoW network are also relevant.

3.3.9. The WCA is relevant to the Proposed Development in view of the sites and species identified in the Biodiversity chapter 9 of the ES [REP6-078]. Relevant considerations are discussed in section 5.3 of this Report.

Natural Environment and Rural Communities Act 2006

3.3.10. The Natural Environment and Rural Communities (NERC) Act 2006 (as amended) makes provision for bodies concerned with the natural environment and rural communities, in connection with wildlife sites and SSSIs. It includes a duty that every public body must, in exercising its functions, have regard so far as is consistent with the proper exercising of those functions, to the conservation of biodiversity (the biodiversity duty). In complying with the biodiversity duty, regard must be had to the United Nations Convention on Biological Diversity 1992.

3.3.11. Priority habitats and species are listed in the UK Biodiversity Action Plan, which is relevant to the Proposed Development in view of the biodiversity considerations discussed in Section 5.3 of this Report.

3.3.12. The ExA has had regard to the NERC Act 2006 and the biodiversity duty in all relevant sections of this Report.

The Countryside and Rights of Way Act 2000

3.3.13. The Countryside and Rights of Way Act 2000 (as amended) includes provisions in respect of PRoW and access to land. The Act brought in improved provisions for the protection and management of SSSIs and other designations under the WCA.

The Climate Change Act 2008 (as amended) and Carbon Budget Order 2021

3.3.14. The Climate Change Act 2008 (as amended by the Climate Change Act 2008 (2050 Target Amendment) Order 2019) established the world's first long-term, legally binding framework to tackle the dangers of climate change. It sets statutory climate change projections and carbon budgets. A key provision is the setting of legally binding targets for greenhouse gas emission reductions in the UK of at least 100% by 2050 ('NetZero'). This has increased from 80% by the June 2019 amendment order.

3.3.15. The Act also created the Committee on Climate Change, which has responsibility for setting five year Carbon Budgets covering successive periods of emissions reduction to 2050, advising and scrutinising the UK Government's associated climate change adaptation programmes and producing a National Adaptation Plan for the UK Government to implement.

3.3.16. The Paris Agreement 2015 provides a framework for constraining greenhouse gas emissions, keeping global warming well below 2°C. It was ratified by the UK Government in November 2016.

3.3.17. The Sixth Carbon Budget report 'The UK's path to Net Zero' was published in December 2020 and entered UK Law on 24 June 2021. The Carbon Budget Order 2021 sets the UK carbon cap for the five-year period 2033-2037 at 965 million tonnes of carbon dioxide equivalent (78% reduction on 1990 levels), which is in line with the 2050 target in section 1 of the Climate Change Act 2008. The report recommends that the target can be met through four key steps which include the phasing out of high carbon options for transport.

3.3.18. The PA2008 s10(3)(a) requires the Secretary of State to have regard to the desirability of mitigating, and adapting to, climate change in designating an NPS. The ExA had regard to the above objectives throughout this Report, notably in section 5.6 on air quality.

Water Resources Act 1991, Flood and Water Management Act 2010, Water Act 2003 and 2014, Land Drainage Act 1991

- 3.3.19. These Acts set out the relevant regulatory controls that provide protection to waterbodies and water resources from abstraction pressures, discharge and pollution, and for drainage management related to non-main rivers. The Application is considered against such matters in section 5.4 of this Report.

OTHER ENVIRONMENTAL LEGISLATION AND POLICY

Marine legislation and policy

- 3.3.20. Given the inland location of the Proposed Development there would be no pathway to the marine environment. Consequently, the ExA concludes that the Proposed Development would not have such an effect. Therefore, no further consideration has been given to marine or coastal change legislation or policy in this Report.

The Historic Environment

- 3.3.21. Regulation 3 of the Infrastructure Planning (Decisions) Regulation 2010 sets out the obligations on the decision maker when deciding applications for development consent affecting listed buildings, conservation areas or a Scheduled Monument (or their setting). The ExA has had regard to the following in Chapter 5 of this Report:
- the desirability of preserving an affected listed building or its setting or any features of special architectural or historic interest which it possesses;
 - the desirability of preserving or enhancing the character or appearance of a conservation area; and
 - the desirability of preserving an affected Scheduled Monument or its setting.

3.4. EUROPEAN LAW AND RELATED UK REGULATIONS

Leaving the European Union

- 3.4.1. The UK left the EU as a member state on 31 January 2020. The European Union (Withdrawal Agreement) Act of January 2020 gave effect to the transition arrangements until the 31 December 2020. This provided for EU law to be retained as UK law unless excepted and to bring into effect obligations which may come in to force during the transition period. This Report has been prepared on the basis of retained law and references in it to European terms such as 'Habitats' have also been retained for consistency with the examination documents. It will be a matter for the SoS to satisfy themselves as to the position on retained law, obligations and equivalent terms at the point of their decision.

The EIA Regulations

- 3.4.2. The DCO Application was initially prepared in accordance with the 2009 EIA Regulations. This included the Applicant's request for a Scoping

Opinion from the SoS in 2015. The 2009 EIA Regulations prevailed during earlier periods of the Applicant's pre-application consultation. As set out in section 1.5 of this Report, the Applicant submitted their application accompanied by an ES that was prepared in accordance with the EIA Regulations that came into force in 2017 as set out in section 1.5 of ES Chapter 1 [REP6-068]. Reference is only made to the 2009 EIA Regulations where the Applicant considered it to be material to the content of the ES. Subsequent references in this Report to the EIA Regulations are to the current regulations which came into force in 2017 unless otherwise stated.

- 3.4.3. The EIA Regulations establish the minimum information to be supplied by an applicant within an ES, as well as information that can be requested as being reasonably justified in the circumstances of the case. Regulation 14 and Schedule 4 of the EIA Regulations set out the information required in an ES. This is reinforced by Regulation 4(2), which sets out the core duty of the decision maker in deciding on EIA development.
- 3.4.4. The Proposed Development is EIA development under Schedule 2 of the EIA Regulations. The Applicant has provided an ES [APP-095 to APP-191] as part of the submitted application. As set out in paragraph 1.5.6 of this Report, parts of the ES have been updated during the Examination.
- 3.4.5. The ExA has considered all the environmental information, as defined in the EIA Regulations and which the SoS must consider in deciding whether or not to grant development consent as set out in Regulation 4 of the EIA Regulations.

The Water Framework Directive and the Floods Directive

- 3.4.6. The Water Framework Directive (WFD) is a European Directive (2000/60/EC) which aims to protect and improve the water environment. It divides the water environment into water bodies which can include lakes, streams, rivers, groundwater, estuaries and coastal waters. River basin management plans (RBMPs) describe how the WFD will be achieved in each region. They outline which actions and measures need to be implemented to achieve the objectives of the WFD, which can include preventing and reducing pollution, environmental protection, improving aquatic ecology and mitigating the effects of floods.
- 3.4.7. The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 require the 'appropriate agency' to prepare RBMPs for each River Basin District. Part of the route of the Proposed Development would be covered by the Severn River Basin District RBMP (updated in 2015).
- 3.4.8. Regulation 3 places a general duty on the SoS and the EA to exercise their 'relevant functions' to secure compliance with the WFD. The PA2008 is not a 'relevant function' for this purpose. However, these bodies, together with public bodies, also have a specific duty to have regard to the relevant RBMP and any supplementary plans made under it in

exercising their functions, which would include functions under the PA2008.

- 3.4.9. The Flood Risk Regulations 2009 stem from the Floods Directive (2007/60/EC) and set out the duties of the EA and Lead Local Flood Authority (LLFA) in relation to flood risk management activities and planning. NSDC and BCC are the LLFAs for their respective local authority areas.
- 3.4.10. The WFD and Floods Directive are addressed in Section 5.4 of this Report.

The Air Quality Directive, the UK Air Quality Strategy and the Clean Air Strategy

- 3.4.11. The 2008 Ambient Air Quality and Cleaner Air for Europe Directive (2008/50/EC) merged most existing legislation into a single directive and sets legally binding limits for concentrations in outdoor air of major air pollutants that impact public health.
- 3.4.12. The Environment Act 1995 requires the UK to produce a national Air Quality Strategy (AQS) and part IV of the Act requires local authorities to review air quality in their area and designate air quality management areas (AQMA) if improvements are necessary. Where an AQMA is designated, local authorities are also required to work towards the Strategy's objectives prescribed in regulations for that purpose. An air quality action plan describing the pollution reduction measures must then be put in place. These plans contribute to the achievement of air quality limit values at local level to contribute to the requirements of the Ambient Air Quality Directive.
- 3.4.13. The Clean Air Strategy 2019 sets out actions required across government and society to improve air quality, with some goals more ambitious than the EU requirements and supporting the creation of clean air zones to lower emissions from all sources of air pollution.
- 3.4.14. The Proposed Development is partly located within an AQMA in the Ashton Gate area. Air Quality is considered in Section 5.6 of this Report.

3.5. OTHER RELEVANT LEGAL PROVISIONS

Equality Act 2010

- 3.5.1. The Equality Act 2010 establishes a Public Sector Equality Duty (PSED) to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not. The PSED is applicable in the conduct of this Examination and reporting to the SoS in decision-making. The ExA had particular regard to the PSED, including in the decision to hold virtual hearings during the Examination period as well as in producing the guidance for, and conducting, those hearings.

Human Rights Act 1998

- 3.5.2. The compulsory acquisition of land can engage various relevant Articles under the Human Rights Act 1998. This has been considered throughout the Examination and the implications of this for APs is considered in Chapter 8 of this Report.

Other Relevant Legislation

- 3.5.3. Other relevant legislation has been considered for this Report, including: the Highways Act 1980; the Town and Country Planning Act 1990; the Town and Country Planning (General Permitted Development) (England) Order 2015; the Countryside and Rights of Way Act 2000; the Neighbourhood Planning Act 2017; the Protection of Badgers Act 1992; the Environment Act 1995; the Hedgerows Regulations Act 1997; Environmental Permitting (England and Wales) Regulations 2016; the Pollution Prevention and Control Act 1999; the Water Industry Act 1991 and the Land Drainage Act 1991.

3.6. MADE DEVELOPMENT CONSENT ORDERS

- 3.6.1. The draft DCO includes wording derived from other made DCOs as explained in the EM [APP-053]. These principally include the:
- Network Rail (Redditch Branch Enhancement) Order 2013 (SI 2013:2809);
 - Silvertown Tunnel Order 2018 (SI 2018:574); and
 - Hinkley Point C Connection Project Development Consent Order 2016 (SI 2016:49) as corrected by the Hinkley Point C Project (Correction) Order 2017 (SI 2017:786).

3.7. TRANSBOUNDARY EFFECTS

- 3.7.1. On behalf of the SoS, the Planning Inspectorate carried out a screening exercise to determine whether the Proposed Development would result in any LSEs on the environment in another European Economic Area (EEA) State. A transboundary screening under Regulation 32 of the 2017 EIA Regulations was undertaken on behalf of the SoS on 28 August 2015 following the Applicant's request for a Scoping Opinion. A second screening took place on 4 February 2020 following submission of the application documents on 15 November 2019.
- 3.7.2. The first transboundary screening dated 28 August 2015 was completed under Regulation 24 of the EIA Regs 2009. As set out in Section 1.5 of this Report the ES submitted as part of the Application was prepared in accordance with the requirements of the EIA Regulations. Changes were also made to the Proposed Development since the previous transboundary screening decision. Therefore, a second screening took place on 4 February 2020 following submission of the application documents on 15 November 2019.
- 3.7.3. The conclusion in the previous screening decision remained unchanged under Regulation 32 of the EIA Regulations. No potential for significant

effects on the environment in another EEA state as a result of the Proposed Development were identified in terms of extent, magnitude, probability, duration, frequency or reversibility.

- 3.7.4. The Regulation 32 duty is an ongoing duty on the SoS as in determining whether or not to grant development consent. The ExA has considered whether any facts have emerged to change these screening conclusions, up to the point of closure of the Examination. No mechanisms whereby any conceivable transboundary effects could occur emerged.

3.8. 'IMPORTANT AND RELEVANT' MATTERS

- 3.8.1. Aside from the NPSNN, and the legislation set out above, the other matters that the ExA considers to be 'important and relevant' for the purposes of s104(2)(d) of the PA2008 include the following:

- 3.8.2. National Policies:

- National Planning Policy Framework (NPPF) (2019);
- National Planning Practice Guidance (NPPG);
- National Infrastructure Delivery Plan (NIDP) (2016–2022);
- National Planning Policy for Waste (2014); and
- Noise Policy Statement for England (2010).

- 3.8.3. Regional Policies:

- West of England Joint Local Transport Plan 4 (JLTP4) (2020);
- West of England Joint Waste Core Strategy (2011); and
- West of England Strategic Economic Plan (SEP) (2015-2030).

- 3.8.4. Local Policies:

- Development Plans for the NSDC and BCC areas.

National Planning Policy Framework

- 3.8.5. The NPPF (February 2019) and its accompanying NPPG notes set out the Government's planning policies for England and how these are expected to be applied, for the purposes of making Development Plans and deciding applications for planning permission and related determinations under the Town and Country Planning Act 1990 (as amended) (TCPA 1990). Paragraph 5 of the NPPF makes it clear that it does not contain specific policies for NSIP decision-making as these are determined in accordance with the decision-making framework in the PA2008 as well as relevant NPSs and any other matters which are relevant, which may include the NPPF.

- 3.8.6. Paragraphs 1.17 to 1.20 of the NPSNN further describe the relationship between the NPPF and the NPSNN. In summary, these paragraphs provide:

- the NPPF may be an important and relevant consideration in decisions on NSIPs, but only to the extent relevant to a particular project;

- the NPPF is not intended to contain specific policies for individual NSIPs where particular considerations can apply. The NNNPS performs that function; and
- the NPPF provides a framework within which responses to individual project effects can be considered, but that in relation to particular tests or standards to be met, these are normally derived from the NNNPS.

3.8.7. Although the NPPF has been revised twice (July 2018 and February 2019) since the NPSNN was published (December 2014) and the production of the ES, the ExA has concluded that paragraphs 1.17 to 1.20 of the NPSNN remain as a complete statement of the relationship between the two documents.

3.8.8. NPPF policies have been considered in respect of all planning issues addressed in Chapters 4 and 5 of this Report. They are drawn out there only where they identify different or additional considerations from those arising from the NPSNN.

Development Plans

3.8.9. The current development plan for the NSDC area comprises the:

- North Somerset Core Strategy (2017);
- North Somerset Sites and Policies Plan Part 1: Development Management Policies (2016);
- North Somerset Council Sites and Policies Plan Part 2: Site Allocations (2018);
- West of England Joint Waste Core Strategy (2011); and
- The Long Ashton Neighbourhood Plan (2015).

3.8.10. NSDC has several supplementary planning documents (SPD) that provide further guidance on specific matters and are considered capable of being material considerations in planning decisions. Of relevance to the Proposed Development are:

- Creating Sustainable Buildings and Places (2015);
- Parking Standards (2013);
- Travel Plans (2010);
- Biodiversity and Trees (2005);
- North Somerset and Mendip Bats Special Area of Conservation – Guidance on Development (2018) and
- Landscape Character Assessment (2018).

3.8.11. The current development plan for the BCC area comprises the:

- Bristol Development Framework - Core Strategy (2011);
- Bristol Local Plan - Site Allocations and Development Management Policies (2014);
- Bristol Local Plan - Central Area Plan (2015); and
- West of England Joint Waste Core Strategy (2011).

3.8.12. BCC has several SPDs that provide further guidance on specific matters and are considered capable of being material considerations in planning decisions. Of relevance to the Proposed Development are:

- Planning Obligations (2012); and
- PAN 2 – Conservation Area Enhancement Statements (1993).

3.8.13. A list of the policies cited by NSDC and BCC cited in their LIRs [REP1-033 and REP1-032] are listed in Appendix D of this Report.

3.9. LOCAL IMPACT REPORTS

3.9.1. Section 104 of the PA2008 states that in deciding the application the SoS must have regard to any LIR within the meaning of s60(3). There is also a requirement under s60(2) to give notice in writing to each LA falling under s56A inviting them to submit LIRs. This notice was given on 7 September 2020 [PD-007]. LIRs have been received from NSDC [REP1-033], BCC [REP1-032] and South Gloucestershire Council (SGC) [REP1-034].

3.9.2. The issues raised within them are summarised in Chapter 4 and considered in further detail in the relevant sections of Chapter 5.

3.10. THE SECRETARY OF STATE'S POWERS TO MAKE A DCO

3.10.1. Throughout the Examination the ExA has remained aware of the need to consider whether revisions to the application documents have changed the proposal to a point where it became a different application and, therefore, whether the SoS would have the power under s114 of the PA2008 to make a DCO having regard to the development consent applied for.

3.10.2. Planning Act 2008: Guidance for the examination of applications for development consent (March 2015), refer at paragraphs 109 to 115 to changing an application post acceptance. The view expressed by the Government during the passage of the Localism Act was that s114(1) places the responsibility for making a DCO on the decision maker and does not limit the terms on which it can be made.

3.10.3. Having regard to this context, the ExA considers that the changes to the application [PD-012 and PD-013] have not resulted in any significant changes to the proposals for which the application was originally made. The changes considered in reaching this conclusion include the two rounds of change requests documented in paragraphs 2.2.3 to 2.2.8 of this Report.

3.10.4. It follows that the ExA considers that the SoS has the power to make the DCO as recommended in Chapter 9 and provided in Appendix C to this Report.

4. THE PLANNING ISSUES

4.1. MAIN ISSUES IN THE EXAMINATION

- 4.1.1. A total of 129 RR were received raising a range of issues and concerns, but generally grouped around the following principal matters:
- effect of construction and operation on the Avon Gorge Woodlands SAC/ SSSI;
 - impact on wildlife with particular reference to bats, newts, and to toads at Pill;
 - flooding and drainage;
 - proposed use of diesel trains and the implications for climate change;
 - effect of construction on residents and businesses particularly from construction traffic in and around Pill;
 - effect of proposed footbridge (Work No 7) on character and appearance and living conditions;
 - effect of operation on local businesses;
 - construction and operational effects on the existing freight line; and
 - the need to CA/ TP land.
- 4.1.2. Over 30 RR stated their support for the Application albeit that a number of these representations raised other concerns.
- 4.1.3. Annex C of the ExA's Rule 6 letter [PD-007] outlined the IAPI. At the PM [EV-003 and EV-004] no IPs raised any concerns with the IAPI as topic headings. However, the Bristol Port Company (BPC) [PDA-002] considered that the effect of the Proposed Development on RPD should form its own heading. BPC advocated that, amongst other things this should examine the availability of train paths, potential severance of facilities, the loss of safeguarded land and the effect that this would have on BPC ability to carry out its role as a Statutory Undertaker.
- 4.1.4. Whilst the ExA accepted the points raised by the BPC it felt that the matters raised would be more appropriately considered under the relevant topic headings such as construction impacts and CA.

4.2. OTHER ISSUES ARISING FROM RELEVANT REPRESENTATIONS AND WRITTEN REPRESENTATIONS

- 4.2.1. Other issues raised include:
- effect on the Green Belt (GB);
 - effect on agricultural land;
 - adequacy of the proposed train service and consideration of additional stations;
 - whether trains would be full by the time they reached Pill;
 - future access and parking problems around stations;
 - impact on the cycle and footpath network during construction;
 - proximity of proposals to high pressure gas pipelines;
 - adequacy of existing bridges to take the weight of construction traffic;

- the creation of a new access track to access the proposed Ham Green Compound versus the use of the existing Hayes Mays Lane, and whether the new access track would enable an affordable housing scheme and the proposed surfacing of this track;
- the ability of NSDC to be impartial given it is both the relevant planning authority, the Applicant and has an interest in a proposed affordable housing scheme;
- insufficient time to be able to read all the documentation;
- lack of consultation;
- operational effects on residents' living conditions in Pill; and
- noise from trains.

- 4.2.2. The effect on GB and agricultural land is considered in more detail in section 5.9 of this Report.
- 4.2.3. Regarding the adequacy of the proposed service and whether there would be sufficient capacity on the trains the Applicant advised [REP1-029] that the forecast passenger demand had been benchmarked against actual passenger volumes at similar sized existing stations. Furthermore, in the opening year of the Portishead Line 220 of the 263 seats (of a three-carriage train) are expected be occupied in the morning peak, and 201 in the evening peak. By year seven the Applicant believes that there would be standing room only in the morning peak at which point additional carriages would be sourced to form five-carriage trains [Section 3.6, APP-203].
- 4.2.4. The Applicant advised that a station at Ashton Gate is out of the scope of the Proposed Development. However, the design of the Proposed Development would ensure that no lineside equipment is proposed on the site of where a station could be located in the future [23-3, REP1-029]. The creation of an additional station at Ham Green Halt would impact on train pathing and timetables and would require additional infrastructure requirements. This would result in additional land and additional EIA and as such is outside of the scope of the current application [61-2, REP1-029]. The ExA was satisfied with these responses and did not find it necessary to advance these matters into the Examination.
- 4.2.5. Future access and parking problems around stations is considered in more detail in section 5.5 of this Report, and the impact on the cycle network during construction is set out in sections 5.7 and 5.9 of this Report.
- 4.2.6. In ExQ1 the ExA asked a number of questions [GC.1.16 and CI.1.6, PD-010] regarding the proximity of the Proposed Development to a number of fuel pipelines. The Health and Safety Executive [REP2-043] advised that it was the responsibility of the pipeline owner/ operator in combination with the landowner/ applicant to ensure that any health and safety risks arising from the presence of fuel pipelines is assessed and managed. The Applicant advised [REP2-013] that the pipeline, owned by CLH, could be protected in situ through the Protective Provisions contained in Schedule 16 of the draft DCO [REP7-056]. The ExA is therefore satisfied that the safety of existing pipelines would not be

jeopardised as a result of the Application and therefore did not find it necessary to advance the matter in the Examination.

- 4.2.7. The Applicant has advised [116-3, REP1-029] that the two road bridges over the railway (Sheepway Bridge and Portbury Station Bridge) have been surveyed and works would be done to repair and improve them prior to the start of the main construction phase to ensure that they would be suitable for any construction vehicles that would need to use them. The bridge surveys were not included with the application documentation as these structures are owned by NSDC as highway authority and therefore consent would not be required to do these works [HE.1.1, REP2-013]. Based on this evidence the ExA is satisfied that existing bridges would be able to take construction traffic and so did not consider it necessary to examine this matter further.
- 4.2.8. The concerns in relation to the need for a new access track for the proposed compound at Ham Green (Work Nos 24 and 24A); whether the compound could be accessed via Hayes Mayes Lane and whether the creation of the proposed new access would enable delivery of an affordable housing scheme on an adjoining site was raised at ISH2, ISH3 and ISH5 [EV-009, EV-010 and EV-013], at various deadlines [REP1-042, REP4-054 to REP4-056, REP6-044, REP6-045 and REP7-053] and through a number of additional submissions [AS-053, AS-058, AS-060, AS-061, AS-062 and AS-067].
- 4.2.9. The ExA is satisfied on the basis of what it has read and heard that a compound and access track (Work Nos 24 and 24A) of the design and size proposed at Ham Green would be necessary to enable both the construction and operation of the Proposed Development [APP-040]. The concerns regarding the safety of non-motorised users (NMUs) of Chapel Pill Lane from vehicles accessing these works is considered in more detail in sections 5.6 and 5.8 of this Report.
- 4.2.10. At ISH5 [EV-013] the Applicant confirmed that the option to access the tunnel via Hayes Mayes Lane was considered in initial rounds of consultation [REP4-056]. However, following further design work the Applicant decided not to progress this option and so it did not form part of the Application as submitted. At this stage in the process the use of Hayes Mayes Lane to access the proposed compound would require the acquisition of additional land and the environmental effects that would arise would require additional EIA [50, REP6-021]. As such it would be a material change to the Application and therefore not a matter that the ExA can consider.
- 4.2.11. The matter of surfacing of the proposed access track is considered in sections 5.5, 5.9 and in Chapter 9 of this Report.
- 4.2.12. Concerns were also raised regarding whether the proposed track would enable development of the adjoining field. Although the emerging Neighbourhood Plan 2020-2026 for Abbots Leigh, Ham Green, Pill and Easton-in-Gordano [REP6-045] contains an allocation for an affordable housing development on this site the ExA notes that the plan is not yet

made. In addition, at the point when the Examination closed an application for this site had not been submitted. As such the ExA considers that there is no certainty that a scheme for this site would come forward. Furthermore, any application to develop this land would be subject to a separate planning application at which point the effect of the housing scheme on the GB, how the site would be accessed and any other highway safety matters would be consulted on locally and considered by NSDC as local planning authority.

- 4.2.13. The ExA notes the concerns expressed by a number of IPs regarding the impartiality of NSDC given that it is both the Applicant and the local planning authority [AS-058, AS-060 and AS-061]. In relation to the potential affordable housing scheme the Applicant has confirmed that NSDC (as local planning and local housing authority) may be involved in pre-application discussions with the Pill and District Community Land Trust. However, the project team responsible for managing this Application are not [AS-065]. Any requests for disclosure of documentation in relation to potential future schemes would need to be made under the Freedom of Information Act 2000 to the relevant body and are not a matter for the Examination. The ExA is satisfied with the measures set out in Appendix 2 of the Explanatory Memorandum (EM) [REP7-009] which sets out the separation of functions, together with the Applicant's response to the IPs [AS-065].
- 4.2.14. In accepting the Application for Examination [PD-001] the Planning Inspectorate on behalf of the SoS was satisfied that the pre-application consultation undertaken by the Applicant complied with Chapter 2 of Part 5 of the PA2008. There was also a lengthy period between Acceptance of the application and the start of the Examination. Consequently, the adequacy of consultation and matters relating to insufficient time to read documentation were not considered further by the ExA at the Examination.
- 4.2.15. Matters relating to operational noise and statutory nuisance are dealt with in Section 5.12 of this Report. Noise and other effects on living conditions during the construction phase are considered in detail at section 5.7 of this Report. Operational effects on living conditions, largely in relation to the Trinity Footbridge, are set out at section 5.8. The ExA is satisfied that fencing and existing/ replanted vegetation, and the moving nature of trains, would minimise effects on the privacy of properties which would adjoin the operational railway line.
- 4.2.16. Matters in relation to the need to CA/ TP land are considered in Chapter 8 of this Report.

4.3. ISSUES ARISING IN LOCAL IMPACT REPORTS

- 4.3.1. Sections 104 and 105 of the PA2008 state that in deciding the application the SoS must have regard to any LIR within the meaning of s60(3).

4.3.2. A LIR was submitted by both host authorities NSDC [REP1-033] and BCC [REP1-032] as well as adjoining authority SGC [REP1-034]. All LIRs expressed support for the Proposed Development in principle.

4.3.3. Specific concerns raised in the LIRs included the following:

NSDC:

- adverse impacts on nearby residential uses and disruption during the construction period particularly around Pill;
- adverse impacts on living conditions for some dwellings at Portishead relating to the Trinity Footbridge and its adverse visual impact (Work No 7);
- noise and vibration during construction in Portishead and Pill;
- operational noise at Portishead and Old Portbury Station House;
- PRoW concerns;
- need for more detailed drainage information; and
- impacts on wildlife.

BCC:

- construction traffic generation;
- highway safety concerns regarding the use of the Clanage Road construction and maintenance compound (Work Nos 26, 26A and 26B);
- impacts on the Avon Gorge SAC;
- tree loss and mechanisms for replacement;
- landscape and visual impact within the Avon Gorge from loss of trees, lighting, fencing and construction compounds; and
- effects on the Bower Ashton Conservation Area.

SGC:

- potential for contamination pathways in relation to the Severn Estuary.

4.3.4. The signed SoCGs demonstrate that most of the concerns presented by NSDC and BCC at the outset in their LIRs had been overcome.

4.3.5. The final SoCG with NSDC [REP7-025] confirmed agreement on all topics, many with the proviso that further detailed matters would be assessed on submission of Requirements for approval. The only exception, which does not specifically note agreement, is in relation to impact of new structures (Table 8, 8.2.1). This sets out that the matter of the impact of the proposed Trinity Footbridge (Work No 7) in Portishead would be a matter for the SoS to determine. All topics are agreed in the final SoCG with BCC [REP7-026].

4.3.6. The ExA has had regard to all matters raised in the LIRs, as required by s104(2) of the PA2008. The overall support for the proposal and its benefits in easing traffic congestion, enhancing connectivity between settlements and facilitating economic development is noted. The other concerns expressed are discussed later in this chapter and in the relevant sections of Chapter 5.

4.4. CONFORMITY WITH THE NATIONAL POLICY STATEMENT FOR NATIONAL NETWORKS

- 4.4.1. As identified in Chapter 3 of this Report, the Proposed Development falls to be considered against the NPSNN. Conformity with the NPSNN was a principal matter for consideration in the Examination and for the SoS under s104(3) of the PA2008. Section 5.2 of this Report identifies the extent to which the Proposed Development conforms with the most relevant parts of the NPSNN.

4.5. CONFORMITY WITH THE DEVELOPMENT PLANS

- 4.5.1. The LIRs submitted by NSDC, BCC and SGC set out the development plan policies which are relevant to the Proposed Development [REP1-032 to 034]. These are also listed in Appendix D of this Report. No planning authority has identified a particular conflict against its' respective development plans in either the LIR or signed SoCG.
- 4.5.2. The Proposed Development is directly supported by Policy DM22 of the North Somerset Sites and Policies Plan Part 1: Development Management Policies 2016 (NSDC) which safeguards land between Portishead and Pill, protecting the railway corridor from inappropriate development.

4.6. APPLICATION OF OTHER POLICIES

- 4.6.1. The JLTP4 was published in March 2020 after submission of the Application. Policy W1 seeks to "*provide more public transport options and improve service quality*". SGC [Paragraph 2.2.5, REP1-034] advocates that the MetroWest Phase 1 project is a significant scheme in the delivery of this forming a key element of an integrated package of sustainable transport measures for the West of England that will increase capacity and enable modal shift, thereby reducing the impacts of congestion on the road network (page 46). The JLTP4 (page 5) also aims to ensure that transport is carbon neutral by 2030 and acknowledges that there must be a substantial shift towards greener and more sustainable forms of transport. MetroWest Phase 1 is listed in the projects that together encourage a switch to more sustainable modes including public transport.
- 4.6.2. NSDC declared a 'Climate Emergency' in 2019 with the aim of amongst other things to become carbon neutral by 2030, encouraging greener choices in local infrastructure, building and planning; and increasing green and wild spaces to encourage local wildlife and absorb carbon emissions. To deliver this NSDC has produced a climate emergency strategy and climate emergency action plan [REP4-042]. One of the key principles of the strategy is to reduce emissions from transport.
- 4.6.3. NSDC has also declared a 'Nature Emergency' [REP4-042] which amongst other things aims to find ways to increase carbon absorption or sequestration by the natural environment. To do this NSDC aims, amongst other things, to increase biodiversity and protection of habitats and species, increase flood defences using natural flood mitigation

measures, and to protect the natural landscape and protect and enhance the associated ecosystems.

- 4.6.4. The West of England Local Cycling and Walking Infrastructure Plan 2020-2036 [REP6-034] was published during the Examination. It is a detailed plan identifying investment needed to provide high quality infrastructure to ensure the West of England is a region where cycling and walking are the preferred choice for shorter trips. The Plan identifies a range of issues and suggested enhancements to walking and cycle paths within Portishead.

4.7. OUTSTANDING MATTERS AT THE CLOSE OF THE EXAMINATION

- 4.7.1. There were no significant outstanding matters at the close of the Examination which were unresolved or where the ExA considers additional or updated information is required. In most cases the relevant planning authorities would have control over approval of documents which are secured by the Recommended DCO. Outstanding matters, which are in relation to CA and protective provisions, are set these out in section 10.1 this Report for the SoS's ease of reference.

5. FINDINGS AND CONCLUSIONS IN RELATION TO THE PLANNING ISSUES

5.1. INTRODUCTION

- 5.1.1. This Chapter sets out the ExA's findings and conclusions on the planning issues. Matters relating to the overarching legal and policy context and the ExA's findings in relation to these matters have been considered in Chapters 3 and 4 respectively and will not be repeated here.
- 5.1.2. This Chapter is structured to firstly examine the matters of principle and the alternatives sought, followed by an assessment of the effects of the Proposed Development. The structure is as follows:
- Section 5.2 - The principle and need for the Proposed Development including alternatives;
 - Section 5.3 - Biodiversity, ecology and the natural environment;
 - Section 5.4 - Flood risk, water quality and resources;
 - Section 5.5 - Traffic and transport;
 - Section 5.6 - Air quality, carbon emissions and climate change adaptation;
 - Section 5.7 - Construction impacts;
 - Section 5.8 - Design and landscape and visual;
 - Section 5.9 - Land use, including PRoW;
 - Section 5.10 - Socio-economics;
 - Section 5.11 - Historic environment; and
 - Section 5.12 - Other policy and factual issues.
- 5.1.3. In each section, the ExA will identify the policy position followed by a summary of the findings in the ES, then report of the main issues that were discussed for each topic. Findings and conclusions will then be drawn for each topic including whether it represents a positive, neutral or negative planning effect.

5.2. THE PRINCIPLE AND NEED FOR THE PROPOSED DEVELOPMENT INCLUDING ALTERNATIVES

Policy Context

- 5.2.1. Section 104(3) of the PA2008 requires that, subject to a number of caveats, the SoS must decide an application for an NSIP in accordance with the relevant NPS. Rail networks are covered by the NPSNN. Paragraph 1.2 of the NPSNN advises the "*Secretary of State will use this NPS as the primary basis for making decisions on development consent applications for national networks nationally significant infrastructure projects in England*".
- 5.2.2. Paragraph 2.28 of the NPSNN refers to the importance of railways to the country's transport infrastructure and paragraph 2.29 seeks for the railway to offer a safe and reliable route to work, facilitate increases in both business and leisure travel, connect communities and provide for

the transport of freight across the country and to and from ports in order to help meet environmental goals and improve quality of life.

- 5.2.3. Paragraph 2.31 of the NPSNN identifies that demand for passenger rail travel has risen strongly in recent years. Furthermore, paragraph 2.33 highlights that passenger demand is predicted to grow significantly.
- 5.2.4. Paragraph 2.35 highlights the crucial role that rail transport has to play in delivering significant reductions in pollution and congestion. The Government has concluded that at a strategic level there is a compelling need for development of the national rail network (paragraph 2.36).
- 5.2.5. Paragraphs 2.37 to 2.39 of the NPSNN set out how improvements and expansion to rail infrastructure would enable economic growth and improve user satisfaction. In addition to these wider transport and economic benefits it advocates that a modal shift from road and aviation to rail can help to reduce transports carbon emissions (paragraph 2.40).
- 5.2.6. Policy W1 of the JLTP4 seeks to "*provide more public transport options and improve service quality*". The JLTP4 (page 5) also aims to ensure that transport is carbon neutral by 2030 and acknowledges that to achieve this there must be a substantial shift towards greener and more sustainable forms of transport. MetroWest Phase 1 is listed in the projects that together encourage this modal shift.

The Application

- 5.2.7. Chapter 4 of the Planning Statement [REP6-134] and Appendix 1 of the Statement of Reasons (SoR) [REP7-011] set out the need for the Proposed Development. The Planning Statement [4.1.1, REP6-134] highlights that rail travel across the West of England has doubled in the last ten years and while this area benefits from good long-distance rail routes, the local rail network is relatively underdeveloped.
- 5.2.8. The Application forms part of a wider MetroWest programme. The objectives of which [4.3.3, REP6-134] are to support economic growth, improve transport network resilience, improve accessibility to the rail network and to make a positive contribution to social well-being. Supporting objectives are to contribute to reducing traffic congestion, contribute to enhancing the capacity of the local rail network and to contribute to reducing the overall environmental impact of the transport network.
- 5.2.9. Specifically, [Appendix 1, Paragraph 25, REP7-011] the Applicant considers that the Application would deliver:
 - network wide benefits, arising from a modal shift from highway to rail, resulting in journey time savings for both users (of the train) and non-users (remaining car users) in the A369 corridor intersected by the M5 at J19;
 - reductions in the total number of car trips per day; and

- benefits to the local economy including 207 net new permanent jobs and £19 million per annum Gross Value Added (GVA), totalling £139 million discounted GVA during the first ten years.

5.2.10. The Applicant advocates [7.9, REP7-011] that there is no practicable or viable alternative for the Proposed Development as it is reusing the disused railway, owned by the Applicant or NR.

5.2.11. Consequently, for these reasons the Applicant advocates that by extending the country's network of railways, enabling a modal shift from road to rail and reducing the number of car journeys the Proposed Development would help meet environmental goals and assist in meeting the national need set out in the NSPNN.

Issues Considered During the Examination

5.2.12. Whilst NSDC in its LIR [REP1-033] does not expressly consider the matter of need it advises that the proposal addresses most local strategic priorities and goals as set out in the current development plan.

5.2.13. BCC in its LIR [Paragraph 26, REP1-032] consider that the need for the project has been satisfactorily demonstrated through the Outline Business Case [APP-201 to APP-203] and advise that the Application is supported in principle by the development plan [Paragraph 33, REP1-032].

5.2.14. SGC in its LIR [Paragraph 4.2, REP1-034] highlight that it considers that the Proposed Development should make a positive contribution to the delivery of a range of transport, planning and climate change policies in the wider West of England area (of which SGC is part). Furthermore, it considers that positive socio-economic and environmental effects are expected to arise from the delivery of the Proposed Development, for the wider West of England area including South Gloucestershire.

5.2.15. Several RR [RR-049, RR-066, RR-108 and RR-120] questioned the need for a railway advocating that a busway would be more cost effective, efficient and would produce less carbon. The ExA explored this suggestion at ExQ1 [GC.1.6, PD-010] and the matter was discussed at ISH3 [EV-010] where alternatives were examined in relation to air quality and climate change.

5.2.16. The Applicant has considered the alternative of a busway as part of the transport mode options for the corridor [Paragraphs 3.3.7 to 3.3.12, REP6-070] which concluded that highway based modes (car, bus etc) are much more uncompetitive in terms of journey times compared with a passenger train. Furthermore, rail journey times do not tend to erode over time compared to a long-term trend of highway journey times increasing due to the continued growth in traffic volumes.

5.2.17. With regard to the proposed alternative of a busway, the Applicant advised [Appendix C, REP1-029] that neither the Office of Rail and Road (ORR) or the Rail Safety and Standards Board currently approve the use of buses on railways (except at level crossings). Furthermore, given the

standard gauge of the track the tyres of a bus would travel over the top edge of the railway sleepers which would give rise to a number of technical and safety issues including ride comfort, load bearing and kerb guidance. The Applicant advised that operating a single-track railway with mixed vehicle types ranging from freight trains (up to 2300 tonnes) with buses (of approximately 18 tonnes) could have very serious consequences in the event of a signalling system failure or human error resulting in the collision of vehicles. Finally, there would be numerous system integration issues whereby buses would have to operate under railway signal control while on the railway which would entail significant additional cost and regulatory approval.

- 5.2.18. The matter of alternatives in terms of climate change is covered in Section 5.6 of this Report (air quality), and in terms of HRA in Chapter 6.

ExA Conclusion

- 5.2.19. To encourage a modal shift away from road travel there is a national need for the provision of new rail infrastructure. The ExA accepts that the provision of a rail link between Portishead and Bristol would help deliver such a shift and would therefore satisfy the broad principles and strategic aims set out within the NPSNN.
- 5.2.20. The ExA is satisfied that there is no viable alternative route for the Proposed Development and that the alternative of a busway at this time is not feasible owing to the significant technical and safety impediments that would prevent the authorisation of the operation of buses on an operational railway.
- 5.2.21. Accordingly, the ExA is satisfied that the Proposed Development would contribute to the established need for alternative modes of travel and would help provide the residents of Portishead and Pill with a viable alternative to travelling by car. The transport-related benefits of the Proposed Development and its resultant conformity with the NPSNN weighs heavily in favour of the Proposed Development. The principle of and need for the Proposed Development therefore attracts positive weight in the Planning Balance.

5.3. BIODIVERSITY, ECOLOGY AND THE NATURAL ENVIRONMENT

- 5.3.1. This section considers the effects of the Proposed Development on biodiversity and the natural environment. It includes effects on protected species and consideration of sites of local and regional interest. It also includes matters relating to loss of trees. The effects on European Sites in the context of the Habitats Regulations are separately considered in Chapter 6 of this Report although there are some linkages with the content of this section.

Policy Context

- 5.3.2. The NPSNN (paragraph 5.23) requires the Applicant to show how the Proposed Development has taken advantage of opportunities to conserve and enhance biodiversity and geological conservation interests.
- 5.3.3. In taking decisions, the SoS should ensure that appropriate weight is attached to designated sites of international, national and local importance, protected species, habitats and other species of principal importance for the conservation of biodiversity (paragraphs 5.24 to 5.35). Applicants should include appropriate mitigation measures as an integral part of the Proposed Development. These should address construction and operational impacts, and should take opportunities to enhance existing habitats and, where practicable, to create new habitats of value within the site.
- 5.3.4. The SoS will need to take account of what mitigation measures may have been agreed between the Applicant, NE and the relevant planning authorities and whether NE has granted or refused, or intends to grant or refuse, any relevant licenses, including protected species mitigation licenses (NPSNN paragraphs 5.35 to 5.38).
- 5.3.5. The NPPF at paragraphs 170 to 177 seeks, amongst other things, for development to contribute to and enhance the natural environment by minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 5.3.6. Relevant Development Plan policies are listed by NSDC and BCC in their LIR's [REP1-033 and REP1-032] and in the ES [Table 9.2, REP6-078]. These policies are also listed in Appendix D of this Report.
- 5.3.7. The LIRs [REP1-033 and REP1-034] and the signed SoCGs [REP7-025 and REP7-026] record that the relevant planning authorities considered that the Proposed Development would not be in conflict with their quoted Development Plan policies or guidance.

The Application

- 5.3.8. Ecology and Biodiversity matters are set out in Chapter 9 of the ES [REP6-078], its supporting figures [REP6-094] and appendices which include a range of habitat surveys [AS-036, AS-038, APP-139, APP-140, REP6-114, REP6-115, REP6-117, REP7-019].

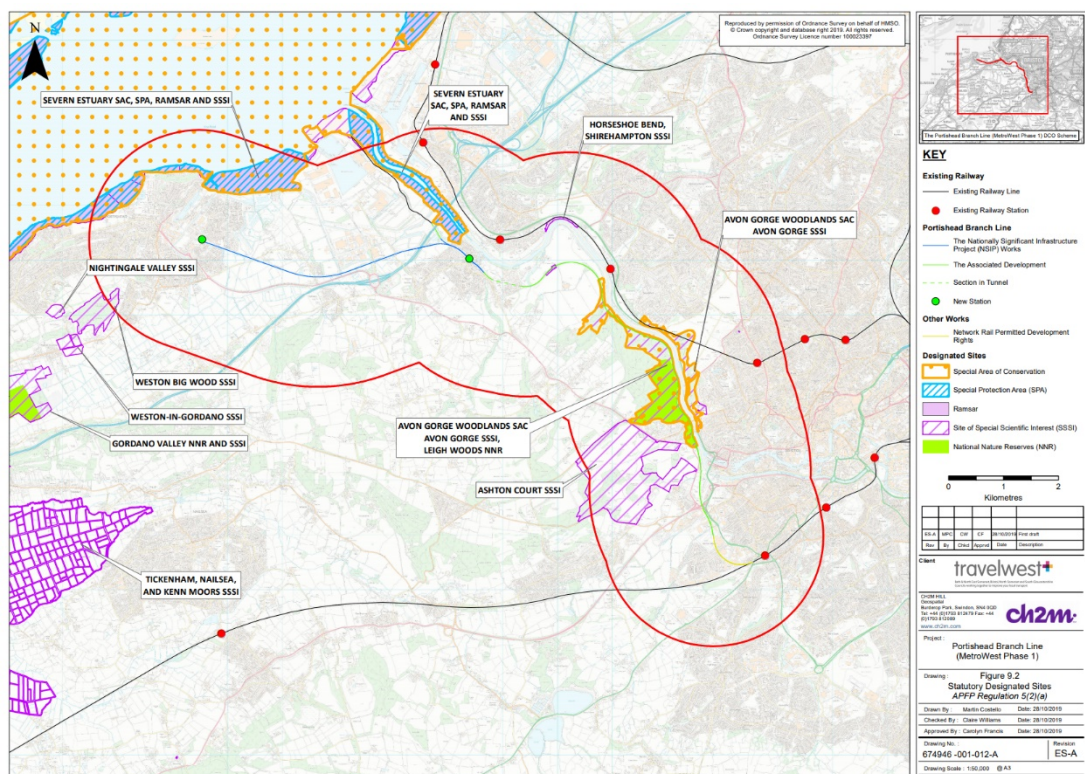
Designated Sites

- 5.3.9. The Proposed Development lies within several areas of importance for their nature conservation value, including national and European/international designations. The Applicant identifies at Tables 9.8 and 9.14 of ES Chapter 9 [REP6-078] and graphically at REP6-059 ten internationally designated sites within 30 km of both the Portishead to Pill disused line and the Portbury Freight Line operational railway. These are:

- Severn Estuary SAC, SPA and Ramsar;
- Avon Gorge Woodlands SAC;
- North Somerset and Mendip Bats SAC;
- Chew Valley Lake SPA;
- Wye Valley Woodlands SAC;
- Wye Valley and Forest of Dean Bat Sites SAC;
- Mendip Limestone Grassland SAC; and
- Bath and Bradford on Avon Bats SAC.

5.3.10. The following nationally designated sites are located within a 2 km radius of the disused line and operational railway (Tables 9.9 and 9.15, REP6-078]:

- Severn Estuary SSSI;
- Weston Big Wood SSSI;
- Horseshoe Bend Shirehampton SSSI;
- Avon Gorge SSSI;
- Leigh Woods NNR;
- Leigh Woods/ Oak Wood Ancient Woodland;
- Rownham Wood Ancient Woodland;
- Ashton Court SSSI;
- Clifton Down Wood Ancient Woodland; and
- Leigh Wood/ Markham Bottom Ancient Woodland.



5.3.11. In terms of local designations, there are no Local Nature Reserves within 0.5 km but there are numerous Local Wildlife Sites (LWS), Nature Reserves or Sites of Nature Conservation Importance (SNCI) within 0.5 km of the Proposed Development which are set out in Tables 9.10 and

9.16 of ES Chapter 9 [REP6-078] and illustrated on Figure 9.3 of ES Volume 3 [REP6-094].

Applicant's Approach

- 5.3.12. In accordance with paragraph 5.22 of the NPSNN, Chapter 9 of the ES [REP6-078] sets out the LSE on internationally, nationally and local designated sites of ecological importance on protected species and on habitats and other species identified as being of principal importance for the conservation of biodiversity.
- 5.3.13. For the study area, a biological records search for species and local wildlife sites was obtained for a 0.5 km buffer around the railway. Potential effects on nationally designated sites within 2 km and internationally designated sites within 5 km (30 km for sites with bats as a qualifying feature) were also considered.
- 5.3.14. ES Chapter 9 as originally submitted [APP-104] was comprehensively updated at D6 [REP6-078]. The ES sets out the mitigation measures proposed in both the construction phase and when operational, and identifies those residual effects considered to be significant. It goes onto consider potential cumulative effects with eight other projects, as well as other works proposed for MetroWest Phase 1 which have been or are to be completed under NR's permitted development rights.
- 5.3.15. Supporting information is provided in the relevant figures [REP6-094] and Appendices. Individual surveys were submitted for bats [APP-134], birds [APP-135 and APP-136], Great Crested Newts (GCN) and reptiles [APP-137], badgers [APP-138], dormice, otters and water voles [APP-139], and flora [APP-140]. The survey for bats was updated [AS-036] and an additional survey for toads was submitted during the Examination in response to submissions made by IPs [Appendix 9.13, REP7-019].
- 5.3.16. The methodology used is set out in section 9.3 of ES Chapter 9 [REP6-078]. The Applicant's assessment follows the methodology set out in the Guidelines for Ecological Impact Assessment in the UK and Ireland produced by the Chartered Institute of Ecology and Environmental Management as well as Department for Transport (DfT) guidelines in the Design Manual for Roads and Bridges (DMRB). It includes a summary of pre-application consultation undertaken with key biodiversity stakeholders including NE, the Environment Agency (EA), North Somerset Levels Internal Drainage Board (NSLIDB), the Forestry Commission (FC), the National Trust (NT), Avon Wildlife Trust, NSDC and BCC.

Issues Considered During the Examination

- 5.3.17. Biodiversity, ecology and the natural environment was identified by the ExA in its IAPI [Annex C, PD-007]. The matter was also examined in detail at ISH2 [EV-009], ISH 3 [EV- and ISH5 [EV-013]. The ExA also asked a number of questions in ExQ1 [BIO.1.1 to BIO.1.44, PD-010] and ExQ2 [BIO.2.1 to BIO.2.5, PD-014].

- 5.3.18. Setting aside the matters concerning European Sites in the context of HRA, which are considered separately in Chapter 6 of this Report, the principal matters of concern relating to biodiversity that were considered during the Examination are: the age of baseline survey information, effects on bats, toads, great crested newts and other species, the Severn Estuary and trees.

Age of baseline survey information

- 5.3.19. Given that the ES was compiled some time before the Examination commenced, the ExA requested an update as to any additional baseline survey information that had taken place or was due to take place at ExQ1 [GC.1.19, PD-010]. A number of RRs also set out concerns relating to insufficient consideration of amphibians and reptiles in the survey data, particularly in relation to toads around Pill and the Lodway Compound [RR-031, RR-043, RR-050, RR-053, RR-054, RR-057, RR-061, RR-068, RR-071, RR-072, RR-073, RR-074, RR-077, RR-078, RR-088, RR-095, RR-096, RR-097, RR-098, RR-101, RR-108, RR-110, RR-114, RR-117, RR-124, AS-053, REP4-038].
- 5.3.20. The Applicant set out in its response to ExQ1 [GC.1.19, REP2-013] a Schedule of Ecology Surveys completed since submission of the Application in November 2019 and further surveys proposed [REP2-023]. It considered that the baseline ecological data submitted as part of the Application in November 2019 for other species and habitats remained fit for purpose. The Applicant confirmed that the issue of the potential effect of programme delays on the age of surveys had been discussed with NE, and established that the baseline is sufficient for the purposes of the impact assessment, and the age of the data would be addressed by undertaking pre-construction surveys to inform the detailed mitigation requirements. As a result, the Applicant considered that a delay to the programme would not affect the assumptions of the assessment [GC.1.19, REP2-013]. NE later confirmed in their SoCG that they agreed with the applicant's position regarding a range of surveys [REP6-146].

Bats

- 5.3.21. NE highlighted in their RR the potential effects on the North Somerset and Mendip Bats SAC which could arise from vegetation clearance and increased lighting along the new section of line between Pill and Portishead, including at Pill Station. They stated that without mitigation, this could cause habitat fragmentation and severance affecting foraging and commuting habitats as well as direct disturbance to lesser horseshoe bat roosts [RR-022].
- 5.3.22. A local resident [AS-053] pointed out the features at Ham Green that have potential for bat roosts, including an oak tree protected by a Tree Preservation Order (TPO).
- 5.3.23. The ExA asked a number of questions relating to bats at ExQ1 [BIO.1.24 to BIO.1.29, PD-010]. Clarification was sought relating to consultation, mitigation screening and lighting at Pill Station, lighting levels elsewhere

along the railway corridor, tree planting at Portbury Hundred, and retention of a derelict store building.

- 5.3.24. The area of North Somerset and the South West of England supports a wide range of bat species and is a stronghold for several of the UK's rarest bats, including lesser and greater horseshoe bats (*Rhinolophus hipposideros* and *R. ferrumequinum*). All bat species and their roosts are protected in the UK under the Habitat Regulations as well as the WCA. There are known foraging and commuting habitats of bats relating to the North Somerset and Mendip Bats SAC of which greater and lesser horseshoe bats are qualifying features. The Proposed Development passes through the Avon Gorge Woodlands SAC where rare and uncommon bat species can be found [REP6-078], although no bat species are qualifying features of this European site.
- 5.3.25. The ES considered direct effects on existing bat roosts including railway bridges and tunnels, derelict buildings, green corridors and trees. The bat assessment [AS-036] confirmed that at least 13 bat species were recorded on or immediately adjacent to the disused railway line, including greater and lesser horseshoe bats.
- 5.3.26. The radio-tracking study of a male greater horseshoe bat in 2015 and a female greater horseshoe bat in 2018 demonstrated that the disused railway line is a resource used by this species of bats from Brockley Hall Stables SSSI, which is linked with the North Somerset and Mendip Bats SAC. Appendix 9.2 of the ES [6.1.6, AS-036] evaluates the foraging resource as being important at a county level. Its importance as a habitat and linear landscape for bats was found to also be of value at a regional level.
- 5.3.27. No evidence was found of any large roosts close to the Proposed Development but both lesser and greater horseshoe bats are known to occupy small day roosts in the locality, including at Pill Station within two stone arches on the southern platform [AS-036].
- 5.3.28. Further bat surveys were subsequently carried out between Pill Viaduct and its junction with the disused line [AS-036]. The latest data indicates that activity at or close to Pill Station is not strongly associated with the disused railway line. Whilst there is likely to be some movement from the wider area, much of the lesser horseshoe bat activity appears to be localised and greater horseshoe bat activity through the station is too low to be considered significant commuting behaviour. The study concluded that the overall importance as a roost habitat and linear landscape feature for bats is of value at local level [Appendix 11, AS-036].
- 5.3.29. Whilst more widespread species such as pipistrelles are likely to be able to adapt more readily to clearance, a LSE on horseshoe bats was identified in the original version of the ES [APP-104]. Chapter 6 discusses this matter in further detail, but in summary following the further bat surveys [AS-036] the ES concluded that whilst the Proposed Development could impact upon individual greater and lesser horseshoe bats, some of which are from the North Somerset and Mendip Bats SAC

populations, only very small numbers would likely to be affected and consequently that adverse effects on the integrity of the SAC would be unlikely [AS-036].

- 5.3.30. In relation to impacts of artificial light on bats, the ES confirmed that the greatest impact would be from existing external sources (including at RPD). However, loss of existing vegetation to the west of Marsh Lane to enable the installation of a proposed fence would be temporary and grow back towards the fence. As such, severance of bat flight lines due to light spill from BPC's cargo areas is unlikely [REP3-030].
- 5.3.31. The mitigation at Pill station would include a permanent screen along the length of the disused northern platform to shield bats from lighting and louvres to lights. Other mitigation measures proposed include retention of and additional planting around RPD to maintain a dark corridor at this location and limits to lighting levels at Pill Station [AS-036], to be secured as part of the landscape plans.
- 5.3.32. NE confirmed that subject to securing the mitigation identified, an adverse effect on the integrity of the North Somerset and Mendip Bats SAC could be avoided [RR-022] and in its response to EXQ1 [REP2-045] NE confirmed its agreement that the evidence presented supports the conclusion that bats using Pill Station are not associated with the SAC. NE added that whilst mitigation of lighting effects is no longer a requirement of HRA mitigation measures would still be necessary to protect the bat roost at the station from artificial lighting (this would be secured by Requirements 5 and 28 of the draft DCO [REP7-056]). NE also confirmed its satisfaction with additional planting proposed in order to maintain the dark corridor [REP2-045].
- 5.3.33. For potential removal of structures which have potential for bats, such as the derelict store to the west of Station Road bridge at Portbury (which is in the ownership of NSDC), use of a licence under the Wildlife and Countryside Act 1981 would provide sufficient protection. NE confirmed that a Letter of No Impediment (LoNI) for bats had been issued [RR-022] and a copy of the letter dated 18 September 2019 supplied [REP3-041].
- 5.3.34. No further comments were made by NE or any other IPs in relation to bats following the answers to EXQ1.

Reptiles and Amphibians (Herpetofauna)

- 5.3.35. All species of reptile in the UK are protected under Schedule 5 of the WCA and some species receive additional protection under the Habitats Regulations. This includes GCN which are listed on Schedule 2 of the Habitats Regulations as a European Protected Species. Amphibians are partially protected by the WCA. The species focused upon here, the common toad *Bufo Bufo* and the GCN, are Species of Principal Importance under the NERC Act 2006.
- 5.3.36. A significant number of representations were received regarding the presence of and potential effects to toads in particular around Lodway Farm in Pill as well as Ham Green a number of these also referred to the

presence of GCN. NE's RR advised that further information was needed to support a LoNI and licence application for GCN [RR-022].

- 5.3.37. Surveys for GCN and other amphibians are presented in Appendix 9.4 of ES Chapter 9 [REP6-078]. Much of the area within 500 m of the Proposed Development provides valuable habitat for reptiles in the form of rough grassland with scrub, hedgerows, ditches and open areas. Surveys showed that slow worms are present along the entire length of the disused line and much of the freight line, with particularly high numbers in the vicinity of Station Road Portbury and Pill Station. Grass snakes were also found to be widespread across the disused line. GCN, common frog, common toad, palmate newts and smooth newts are widespread across both the disused line and freight line.

Toads

- 5.3.38. A number of RRs [RR-031, RR-043, RR-050, RR-053, RR-054, RR-057, RR-061, RR-068, RR-071, RR-072, RR-073, RR-074, RR-077, RR-078, RR-088, RR-095, RR-096, RR-097, RR-098, RR-101, RR-108, RR-110, RR-114, RR-117, RR-124, REP2-058, REP4-038] highlighted the presence of migrating toads around the Lodway Farm area of Pill. Concerns were raised regarding the potential effects of the Proposed Development both during construction and operation. An additional representation [AS-053] noted the potential presence of toads at Ham Green.
- 5.3.39. Whilst most representations focused on Lodway Compound and the Pill area, the evidence also shows toads to be prevalent around the Portishead Ecology Park/ Fennel Road area of Portishead [Appendix 9.13, APP-143]. In both locations there are toad crossings registered with 'Froglife'. The toad crossings are shown at Figure 9.4 of the ES [REP6-094].
- 5.3.40. The ExA asked for further details of the migrating toads and proposed mitigation at ExQ1 [BIO.1.2, PD-010]. Comments from 'Pill Toad Patrol' were set out in NSDC's response [REP2-038] and in REP2-056 which provides some background about the patrol and the prevalence of toads around Lodway Farm, as well as the need for mitigation. In its further response [AS-051] NSDC included information from Froglife which highlighted that the migrating toad population at NCN 41 near Lodway Farm is of regional importance and that wildlife tunnels may be needed underneath the railway. NE noted the presence of toads in its response to ExQ1 [REP2-045].
- 5.3.41. It was evident from the representations that the potential effects on toads had not been adequately addressed in the ES or the Reptile Mitigation Strategy [Appendix 9.13, APP-143] which was not specific to toads or the aforementioned areas of prevalence. The Applicant stated that a separate amphibian mitigation plan was not initially put forward because the reptile mitigation strategy and measures undertaken for GCN under a EPS licence or District Level Licence (DLL) would provide mitigation for all amphibians [BIO1.2, REP2-013].

- 5.3.42. Potential mitigation measures were discussed at ISH3 [EV-010]. The Applicant also updated the ExA on additional surveys and their ongoing discussions with the Toad Patrol and NE. Further updates in response to ExQ2 [REP5-028] and at ISH5 [EV-013] confirmed that additional toad surveys would be undertaken.
- 5.3.43. NE [REP5-042] confirmed that it was satisfied with the mitigation approach proposed but would defer to NSDC on the mechanism needed to secure agreed mitigation for toads. NSDC [REP5-039] accepted the approach provided that the forthcoming mitigation strategy would cover both generic and site-specific aspects of amphibian avoidance and mitigation measures.
- 5.3.44. Surveys of toads were subsequently undertaken at Pill, Portishead and Ham Green in February and March 2021 (the peak season for their migration) and results presented at Table 1 of ES Volume 4 Appendix 9.13 [REP7-019]. Updated toad patrol data from Froglife for the two registered toad crossings at Pill (2010 to 2020) and Portishead (2014 to 2020) were presented at Table 2 of the same document. The surveys confirm that toads are crossing the disused line between the M5 and Portbury junction in Pill, as well as their presence within the proposed Lodway Compound.
- 5.3.45. Site specific mitigation measures during construction for toads are set out at section 5.2 of the Reptile and Amphibian Mitigation Strategy [Appendix 9.13, REP7-019]. Measures include temporary amphibian fencing, gaps in fencing adjacent to the railway to allow migrating toads to pass underneath, and pitfall traps. It confirms that there would be liaison with the local Toad Patrol regarding collection of toads during peak migration times and checking of pitfall traps, as well as use of an ecological clerk of works (EcCoW). For known toad crossing areas at both Pill and Portishead, construction vehicle movements would be restricted after dark during peak toad migration times [Appendix 9.13, REP7-019].
- 5.3.46. NR is considering suitably designed infrastructure to allow safe passage for toads whilst maintaining the operational safety of the relevant section of the railway at Pill. One potential design would be the use of hollow sleepers like those normally used for cables, which could be placed at regular intervals along this stretch of line. This is a work in progress; currently there are no examples from across the country of such infrastructure, so European examples are being assessed. Other designs are currently being considered and the preferred design would be confirmed once the research and feasibility studies are complete [Appendix 9.13, REP7-019]. Final details would be required to be submitted through the CEMP which would be secured by Requirement 5 of the recommended DCO.

Great Crested Newts

- 5.3.47. Potential effects on GCN were raised in a number of representations [RR-043, RR-053, RR-068, RR-071, RR-072, RR-074, RR-095, RR-110, AS-053], the majority in relation to the proposed construction compound at

Lodway Compound (Work no 17) and another in relation to the proposed Ham Green compound (Work No 24).

- 5.3.48. Surveys of water bodies for GCN were carried out in 2015 with further eDNA surveys and sampling in 2016-2018. The presence of GCN was confirmed in three of the 16 waterbodies surveyed in 2015 with further populations confirmed in a range of other waterbodies [REP6-078 and REP6-094].
- 5.3.49. The Applicant confirmed in its response to the RR's that no GCN were found to be in the pond at Lodway compound [REP1-029]. In reply to AS-053, the Applicant clarified that Ham Green Lake and the associated ponding was found not be suitable habitat for GCN [pond 36, APP-119]. The GCN population at St Katherines School is referenced in the GCN survey [paragraph 4.4.10, AS-038], but is outside of the 250 m buffer zone required for consideration of GCN licencing [REP4-033 and REP4-023].
- 5.3.50. None of the waterbodies containing GCN would be lost or directly impacted by the construction or operation of the Proposed Development. However, some of the surrounding terrestrial habitat in which GCN spend much of the year foraging or hibernating would be lost and this is displayed at Table 5.1 of ES Volume 4 Appendix 9.4 [AS-038].
- 5.3.51. Measures to minimise risks to GCN during construction include obtaining a DLL, habitat manipulation and destructive search and where possible moving individuals, creation of new habitat at Portishead, amphibian-friendly drainage features to highways and car parks, and installation of four hibernacula along the Portishead to Pill line at locations shown on the Environmental Masterplan [REP6-055]. Mitigation measures are set out in the Master CEMP [REP7-023], to be secured by Requirement 5 of the recommended DCO.
- 5.3.52. NE confirmed in their answer to ExQ1 BIO.1.30 that the DLL gives at least the same level of certainty as the previous proposal for an EPS licence, if not more, at the DCO stage [REP2-045]. A provisional Impact Assessment Conservation Payment Certificate in relation to DLL was issued by NE on 18 December 2020 [REP3-045]. Following the grant of a DCO, the Applicant would submit an application to use DLL based on the DCO and the remaining conservation payment under the scheme agreement would be made and this approach is agreed by NE in their SoCG [REP6-146].
- 5.3.53. The DLL negated the need for a number of new ponds for translocation of GCN within the Order Limits. Work Nos 10C, 12B and 16B were subsequently removed and the associated change request was agreed by the ExA [PD-013]. One of the ponds (10C – Portbury Wharf Ecology Park) had already been created under permitted development rights in 2020 and can be used on a temporary basis for translocation if necessary.

Other Species

- 5.3.54. An IP made written representations [AS-053, REP1-042, REP4-054 and REP6-054] and oral submissions at the OFH [EV-005], ISH3 [EV-010] and ISH5 [EV-013] regarding a range of other species including otters, dormice and hedgehogs as well as various types of birds Ham Green compound (Work Nos 24 and 24A). Effects on the lake at Ham Green were also raised by another local resident and a landowner [REP6-044 and REP4-057]. The lake is a locally designated SNCI. The Habitats Regulations and IROPI are not applicable to the construction compound at Ham Green as it is not a European Site. A SSSI is mentioned by the IP in respect of biodiversity however the Ham Green SSSI is designated for geological reasons and would be unaffected by the compound works. Its location is shown at Volume 3 Figure 6.1 of the ES [APP-116].
- 5.3.55. In its response to the IP [REP4-033] the Applicant explained that the species mentioned are identified in the Extended Phase 1 Habitat Survey [APP-133], which was initially carried out in 2014. Further surveys were then carried out over the next four years as summarised in Table 2.1 of the document. An extended survey was specifically carried out in Ham Green in March 2018. Table 5.1 of the survey [APP-133] summarises the further surveys that are recommended on certain species, including those mentioned in their written representations: Badgers [Appendix 9.6, APP-138], Birds: [Appendix 9.3, APP-135 and APP-136], Dormice: 7 [Appendix 9.7, APP-139] and Otters [Appendix 9.8, APP-139].
- 5.3.56. Following the IPs submissions, it became apparent that the associated Appendix 9.1 Part 2 of 2 (Figures plans) were not attached to the Extended Phase 1 Habitat Survey [APP-133]. The plans were subsequently submitted by the Applicant at D4 and sheet 9 of 22 and Figure 6 specifically refer to Ham Green and the detail the location of the 'target notes' referred to [REP4-005]. No further comments were received specifically in relation to the Figures or their late submission.
- 5.3.57. The Master CEMP [paragraph 6.2.58, REP7-023] sets out that a further badger survey would take place prior to construction, as well as an EPS licence being required from NE. The design of the compound [APP-040] includes planting to reduce disturbance of otters. Additionally, the Master CEMP [REP7-023 paragraphs 6.2.55 and 6.2.56] specifies that a pre-construction survey would be undertaken for otters and sets out measures to avoid construction disturbance to otter habitats.
- 5.3.58. No dormice were found during the 2015 survey [Table 4.2, APP-139], but there are other records indicating small populations may be present therefore the Master CEMP [REP7-023] sets out that a dormouse licence would be prepared to submit to NE. This would include mitigation set out in the Master CEMP in paragraph 6.2.54. With specific reference to Ham Green [REP4-033] the Applicant proposes that the loss of any small areas of suitable dormouse habitat at the compound would be mitigated by new planting at the proposed permanent compound as detailed in the compound design [APP-040].

- 5.3.59. To prevent illegal disturbance of breeding birds or their nests, the Master CEMP sets out that no removal of vegetation should take place within the bird breeding season (March to September) unless the EcCoW has undertaken an inspection of the vegetation for active nests prior to clearance. Bird boxes are proposed to be installed on retained vegetation along the disused section of the railway at locations shown on the Environmental Masterplan [REP6-055] in advance of commencement of construction works.
- 5.3.60. In respect of hedgehogs, measures proposed for reptiles and amphibians would also protect this species. The potential fox den highlighted by the IP [AS-053] is outside of the compound area and would not be affected by the Proposed Development.
- 5.3.61. The EA [RR-013] set out issues relating to species that are dependent on watercourse and wetland habitats. It acknowledged that extensive survey work has been undertaken to identify potential risks to these habitats and dependent species but wanted to ensure proposed mitigation measures would minimise any impacts.
- 5.3.62. The ExA noted on their site inspection [EV-001] the existence of wildlife corridors in and around RPD and asked a question at ExQ1 [PD-010]. In response [REP2-065], the BPC confirmed that they have an extensive network of wildlife corridors and green areas in RPD, which provide links to allow the free and safe movement of mobile species throughout the RPD estate. Further information on the extent of the wildlife corridors, and the ecological and landscape management prescriptions required to maintain and enhance key ecological areas, is provided within the Avonmouth and Royal Portbury Docks Ecological Management Plan 2018-2022 [REP2-066].

Severn Estuary

- 5.3.63. The Severn Estuary is a designated SPA, Ramsar and SSSI. It is functionally linked to the Proposed Development via the Portbury Wharf nature reserve as set out in section 5.3 of the HRA report [REP6-120]. Potential impacts were considered in relation to noise and visual disturbance of qualifying bird species and hydrological connectivity. Hydrological connectivity is also dealt with in paragraphs 6.8.2 to 6.8.9 of the HRA chapter of this Report.
- 5.3.64. The closest construction works would involve the temporary diversion of a footpath at 'Jenny's Meadow' to the north west side of Pill, around 77 metres from the SPA. Table 9.25 of the ES [REP6-078] sets out the predicted noise levels and temporary indirect impacts in this location are identified in the ES as slight adverse due to the small numbers of designated species found during surveys in the area, and because the area is already subject to a range of noise and visual disturbance arising from the freight rail traffic, the M5 and dog walkers. Noise disturbance to birds during construction is identified in the ES [Section 9.6, REP6-078] as slight adverse effects and not significant in terms of the EIA Regulations.

- 5.3.65. In its submissions prior to ISH3 (which it was unable to attend), the EA set out the need for measures to be secured to prevent contamination of the water environment around the Severn Estuary, including a verification plan following any remedial works [AS-057].
- 5.3.66. The ExA asked a range of questions at ExQ1 [GC.1.17, PD-010] relating to hydrological connectivity and effects on the SAC. In its answers [REP2-013] the Applicant provided further clarification pointing towards ES Chapter 9 [paragraph 9.6.57 REP6-078] and ES Appendix 17.3 Water Receptors [Table 1.1, APP-190]. Historical drainage patterns are shown in the Land Contamination Summary Report [APP-148] and it is stated that ditch 16 was altered following construction of the M5 Avonmouth Bridge. On a precautionary basis, the Applicant has assumed that ditch 16 could have hydrological connectivity with the Estuary.
- 5.3.67. The Applicant confirmed the closest point to the SAC at which ballast removal could take place would be to the west side of the village of Pill, approximately 85 m away. The effects of potential release of contaminants from the ballast were considered in the ES Chapter 9 Ecology and Biodiversity paragraphs 9.6.57 to 9.6.5 [REP6-078].
- 5.3.68. In terms of temporary hydrological connectivity, pollution control through a settlement pond prior to discharge from the Lodway Compound (Work No 17) plus dilution within the Easton-in-Gordano stream is not predicted to materially change water quality, particularly in the light of pollution prevention measures embedded into the Master CEMP [REP6-140]. Consequently, the drainage water from the construction sites would not directly affect the qualifying features of the Severn Estuary SAC.
- 5.3.69. NE [REP2-045] confirmed its satisfaction that LSE on the Severn Estuary European Site have been ruled out both in terms of hydrological connectivity and bird populations. The bird surveys [APP-135 and APP-136] suggest that qualifying species of the SPA/ Ramsar site do not occur in significant numbers within the survey area. An assessment of noise adequately demonstrates that noise levels within the Severn Estuary designated site and functionally linked would be largely unaffected by the construction or operation of the new passenger service.

Trees

- 5.3.70. The removal of rare whitebeam trees and effects of the Proposed Development on woodland and grassland in the Avon Gorge Woodlands SAC is considered in Chapter 6 of this Report (HRA).
- 5.3.71. BCC raised concerns about the removal of trees in the Bristol administrative area in its LIR [REP1-032]. Local Plan Policy DM17 requires that where tree loss or damage is essential to allow for appropriate development, replacement trees of an appropriate species should be provided in accordance with the 'Bristol Tree Replacement Standard' which is detailed within Planning Obligations SPD.
- 5.3.72. BCC supported the replacement trees being included as part of the Clanage Road compound plan [APP-044] in terms of screening the site

and having landscape and visual benefits. However, it noted that there would be insufficient space for the full quantum of replacement trees required, and a financial contribution would be required for the remainder [REP1-032].

- 5.3.73. In answer to ExQ1 BIO.1.14 [REP2-013] the Applicant confirmed that it anticipated a loss of 21 trees within the BCC area. None are subject to a TPO, nor are any of notable or veteran value. To accord with the Bristol Tree Replacement Standard 75 replacement trees would be required. 35 would be planted at Clanage Road compound [APP-044], and a contribution would be paid for the remaining 40 trees to be planted elsewhere by the Council.
- 5.3.74. The ExA asked at ISH2 [EV-009] and ISH5 [EV-013] how such payment would be secured, and the Applicant advised that a s106 Agreement would not be used for this purpose but that they were agreeing a process for securing the contribution with BCC. Section 12.1.1 of the final SoCG with BCC confirms their agreement to the payment mechanism, which is included at Appendix 6 of the SoCG, and Appendix 4 sets out the calculations for tree loss payments [REP7-026].
- 5.3.75. The ExA asked a question relating to the loss of trees at Quays Avenue in ExQ1 [GC.1.18, PD-010]. The Applicant confirmed that they would be removed due to the re-alignment of Quays Avenue and the railway station development. Those adjacent to the pumping station are to be removed due to their poor condition. A comprehensive replacement tree planting scheme is proposed at Portishead [APP-035]. NSDC confirmed in their SoCG that the general approach to landscaping is satisfactory [13.1.9, REP7-025].
- 5.3.76. At ISH3 [EV-010] the issue of a protected oak tree at Ham Green was raised by an IP. The Applicant subsequently confirmed that the oak tree is not within the boundaries of the Proposed Development to be removed and would therefore be unaffected [REP4-023 and plan at REP4-025].
- 5.3.77. An AP [AS-069] raised concerns regarding loss of trees at the Ham Green compound following the pegging out of their land for the ExA's USI [EV-014]. The Applicant [REP7-069] confirmed that the large trees by the lake would be unaffected by the Proposed Development but that there were several trees on the slope where the turning area would be located. The Applicant advised that removal of vegetation and trees would be minimised and new trees and hedges would be planted as set out in the Ham Green Highways Work Plans and Pill Tunnel Eastern Portal Compound, Landscaping and Access Plan [APP-040] which would be secured through Requirement 4 [REP7-056].
- 5.3.78. The Applicant also confirmed [REP7-069] that the works in this area of Ham Green were the subject of EIA which is set out in Chapter 9 of the ES [REP6-078]. The area is also covered by the Environmental Masterplan [REP6-055].

- 5.3.79. At ISH3 [EV-010] another IP asked if the Applicant was proposing to plant additional trees to offset the carbon generated from the railway. The Applicant confirmed that they are not, and that biodiversity net gain is not currently a requirement for NSIPs [REP4-017]. The Applicant set out that the tree planting that has been proposed is to mitigate trees lost to the scheme and the proposals have been developed to meet ecological and landscaping objectives rather than carbon offsetting [REP4-023].
- 5.3.80. The EA highlighted that measures must be included for habitat re-creation and enhancement, which must result in a net gain in biodiversity from the proposal [RR-013]. The ExA subsequently asked a question about net gain at ExQ1 [BIO.1.19, PD-010].
- 5.3.81. The Applicant confirmed that they had not used a biodiversity metric to measure biodiversity net gain [REP2-013] and referred to footnote 75 to paragraph 5.25 of the NPSNN which explains that the goal is to achieve no net loss and preferably a net gain of biodiversity. Nonetheless, a total 8.5ha of vegetation would be retained, re-planted or enhanced along the disused line to offset the total vegetation losses on the disused line of 7.66 ha [Table 9.30, REP6-078]. The signed SoCG with the EA [section 7, REP7-027] confirmed that all biodiversity related issues were resolved.
- 5.3.82. NE confirmed throughout the Examination [Paragraph 2.27, RR-022 and paragraph 3.18, REP2-045] and in its signed SoCG [7.1.8, REP6-146] that it was satisfied that wider biodiversity interests had been assessed thoroughly and suitable measures included in the ES to avoid or reduce impacts.

ExA Conclusions

- 5.3.83. At the end of the Examination there were no outstanding objections relating to biodiversity and natural environment matters. SoCG's were agreed with NE [REP6-146], the EA [REP7-027] as well as NSDC [REP7-025] and BCC [REP7-026].
- 5.3.84. The ExA is satisfied that the Applicant has updated the wildlife surveys where necessary (including the most recent surveys on toads), and that the mitigation measures set out in the Master CEMP [REP7-023] and the Environmental Masterplan [REP6-055] would be appropriately secured by Requirement 5 of the recommended DCO. The ExA is satisfied from the updated bat surveys [AS-036] and proposed mitigation measures that there would be no likely significant effects on the integrity of the North Somerset and Mendip Bats SAC populations. Effects of lighting on bats at Pill Station would be secured by Requirement 28. Effects on GCN would be appropriately managed using DLL and mitigation measures set out in the Master CEMP.
- 5.3.85. Tree losses (outside the Avon Gorge Woodlands SAC) would be appropriately offset by new tree planting in a number of locations, together with a financial contribution via a mechanism which has been agreed by BCC in their SoCG [REP7-026].

- 5.3.86. Where works affect European Sites these considerations are dealt with in the HRA at Chapter 6, for all other aspects, in terms of biodiversity and the natural environment the ExA concludes that the Proposed Development would not give rise to any unacceptable effects and all matters have been addressed during the Examination.
- 5.3.87. The ExA is satisfied that the Proposed Development would accord with the NPSNN, in particular paragraphs 5.24 to 5.38. The ExA considers the overall effect of the Proposed Development on biodiversity and the natural environment to be neutral in the planning balance.

5.4. FLOOD RISK AND WATER QUALITY AND RESOURCES

- 5.4.1. This section considers the effects of the Proposed Development on the water environment including drainage, water quality and pollution, flood risk and the WFD. The effect of the proposal on water-based biodiversity and nature conservation is covered in Section 5.3.

Policy Context

Flood Risk

- 5.4.2. Paragraph 5.91 of the NPSNN advises that the NPPF "*make it clear that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. But where development is necessary, it should be made safe without increasing flood risk elsewhere.*" It goes on to note that the supporting guidance explains that "*essential transport infrastructure, which has to cross the area at risk, is permissible in areas of high flood risk, subject to the requirements of the exception test.*"
- 5.4.3. Where flood risk is a factor, the SoS should be satisfied that the application is supported by an appropriate FRA and that the Sequential Test and, if required, the Exception Test have been applied. Paragraphs 5.105 to 5.109 of the NPSNN detail the operation of the Sequential and Exception tests. The NPPG sets out in greater detail how to apply these tests.
- 5.4.4. Paragraph 5.100 of the NPSNN advocates that, for construction works which have drainage implications, approval for the project's drainage system will form part of any development consent issued. The SoS will need to be satisfied that the proposal would comply with any National Standards published by Ministers under Paragraph 5(1) of Schedule 3 to the Flood and Water Management Act 2010. Furthermore, the DCO would need to make provision for the adoption and maintenance of any Sustainable Urban Drainage Systems (SUDS) by the most appropriate body.
- 5.4.5. Paragraph 5.102 of the NPSNN states that reasonable steps should be taken to avoid, limit and reduce the risk of flooding to both the proposed infrastructure and others. However, it acknowledges that the nature of linear infrastructure means that there will be cases where upgrades are

made to existing infrastructure in an area at risk of flooding. Paragraph 5.104 goes on to advise that reasonable mitigation measures should be made to ensure that the infrastructure remains functional in the event of the predicted flooding. Reference is also made to the provision of emergency measures and safe evacuation routes (paragraph 5.99) and being designed and constructed to remain operational in times of flood (paragraph 5.109).

5.4.6. Paragraph 5.113 of the NPSNN advises that the proposed surface water drainage arrangements should ensure that the volumes and peak flow rates of surface water leaving the site are no greater than the rates prior to the proposed project, unless specific off-site arrangements are made and result in the same net effect.

5.4.7. Paragraph 165 of the NPPF states that "*Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate*".

Water Quality

5.4.8. Paragraph 5.222 of the NPSNN advises that, where feasible, projects should take opportunities to improve the quality of existing discharges where these are identified and are shown to contribute towards WFD commitments. Paragraph 5.223 sets out the requirements for ES's in relation to water quality.

5.4.9. The ExA and the SoS should consider proposals to mitigate adverse effects on the water environment and whether appropriate requirements should be attached to any development consent and/ or planning obligations (Paragraph 5.227). The Proposed Development should also "*adhere to any National Standards for SUDS*".

5.4.10. Tables 17.2 of the ES [REP6-088] includes a summary of relevant development plan policies relevant to the water environment. These policies are also listed in Appendix D of this Report.

The Application

5.4.11. Chapter 17 of the ES relates to water resources, drainage and flood risk [REP6-088] and at Appendix 17.1 is a detailed Flood Risk Assessment (FRA) [APP-173 to APP-189]. Associated figures and appendices [APP-037, APP-190, APP-192, REP6-088, REP6-102] relate to water features, WFD compliance, surface water drainage strategies and a flood mitigation plan. An addendum to the FRA was submitted at D6 [REP6-065].

5.4.12. Whilst the application was considered to have satisfied the acceptance tests under s55 of the PA2008, the Planning Inspectorate in undertaking checks at the acceptance stage had a number of observations in relation to the application which included some concerns in relation to the FRA.

5.4.13. Advice in relation to these concerns was issued to the Applicant under s51 of the PA2008 [PD-006]. These concerns related to apparent inconsistencies within the FRA relating to climate change allowances used

in modelled scenarios and how these affected the frequency of incidents of flooding and the potential need for compensation. In response to this advice the Applicant submitted additional information in March 2020 [AS-007].

- 5.4.14. The Proposed Development lies within the catchment of the River Avon, a tributary of the River Severn. It runs along the coastal plain of the North Somerset coast and the left (south) bank of the River Avon. The River Avon is tidal the length of the proposed route and the wider study area [17.4.1 and 17.4.2, REP6-088].
- 5.4.15. The main rivers as defined by the EA are the River Avon and then from Portishead towards Bristol, Portbury Ditch, Drove Rhyne, Markham Brook, Longmore Brook and Colliter's Brook. Other watercourses are classified as ordinary rivers [17.4.3, REP6-088]. There is also an extensive network of small drains and ditches, with a number of culverts under the existing railway track, particularly through the section between Portishead and Pill [17.4.4, REP6-088]. There are no coastal waters within the study area.
- 5.4.16. The study area does not lie within a surface water or ground water Nitrate Vulnerable Zone [17.4.18, REP6-088]. Nor does it lie within a drinking water safeguard zone [17.4.2, REP6-088]. There are no groundwater Source Protection Zones (SPZs) within the study area to protect groundwater abstraction points [17.4.32, REP6-088]. There are several water dependent ecological designations, which are considered in section 5.3 of this Report.
- 5.4.17. Appendix B of the FRA [APP-174 and APP-175] shows that the Proposed Development would be in FZ1 except at the following locations:
- defended FZ3 at the crossing of Portbury Ditch;
 - FZ3 at the crossing of Markham Brook in Pill and Chapel Pill watercourse;
 - partly in FZ2 and defended FZ3 between Portbury Ditch and Royal Portbury Dock Road;
 - partly in FZ2 and FZ3 between Royal Portbury Dock and the M5 Motorway crossing;
 - FZ3 near Paradise Bottom;
 - FZ2 and FZ3 near Bower Ashton; and
 - adjacent to FZ2 at Colliter's Brook culvert entrance adjacent to the Portbury Freight Line and FZ2 at the Portbury Freight Line crossing of Longmoor Brook culvert and adjacent areas.
- 5.4.18. Along the disused railway line from Portishead to Portbury Junction near Pill there are no piped track drains [17.4.41, REP6-088]. There are, however, formation drainage (ditches) at the following locations:
- Harbour Crescent;
 - Partially between Moor Lane and Sheepway Road;
 - Shipway Gate Farm; and
 - Royal Portbury Dock Road to Portbury Station.

- 5.4.19. Information on existing track drainage is presented in Table 17.10 [REP6-088]. In general, the existing highway runoff is collected in the highway drainage and discharged to surface waters.
- 5.4.20. The ES [17.4.47, REP6-088] acknowledges that flood risk is projected to increase because of climate change and sea level rise. It highlights that the biggest risk to the Application would be tidal flood risk resulting from increased sea levels which would also increase the risk of tide locking of inland watercourses and drainage systems. Fluvial and surface water flood risk are also expected to increase [17.4.48, REP6-088].
- 5.4.21. The FRA [APP-076 to APP-092] and Addendum [REP6-065] considered the impacts from climate change and reached the following conclusions:
- Projected climate change and sea level rise during the life of the proposed development (60 years +) are notable, with a projected sea level rise of approximately 0.63 m between 2017 and 2075 (and approximately 1.32 m between 2017 and 2115), applying the upper end allowances in the current NPPF guidance.
 - The most significant flood risk would be tidal flooding from the River Avon near Bower Ashton. With flooding predicted two to three times a year on average by 2075 (based on projected future sea level rise).
 - For the Portishead to Pill section the future modelling indicates that this section would experience coastal flooding less frequently than once every 1000 years by 2075 and once every 200 to 1000 years by 2115.
 - Fluvial flood risk from Portbury Ditch, Drove Rhyne and Easton-in-Gordano stream is not considered to be significant for the future (2075 and 2115) scenarios.
 - For the future scenarios the operational railway would lie outside the Colliter's Brook and Longmoor/ Ashton Brook 50-year return period flood extent and within the 75-year return period flood extent.
 - For the future (2075) scenario, the area which would become the Portishead station and car parks, and the pedestrian crossing of the Portbury Ditch is forecasted to be outside of the 1000-year coastal flood level and for the future (2115) scenario, above the 200-year coastal flood level.
- 5.4.22. To minimise certain operational environmental effects a number of mitigation measures have been incorporated into the design of the Proposed Development [17.5.1, REP6-088].
- 5.4.23. All culverts along the disused section from Portishead to Pill would be refurbished or replaced, as required, with culverts of the same dimensions (ie the same flow capacity). Consequently, the ES advocates that there would be no increase in flood risk due to culvert works [17.5.3, REP6-088]. Culverts under the railway would continue to be managed post construction by NR, the EA, the NSLiDB, NSDC and BCC as appropriate.
- 5.4.24. Where railway ditches are currently overgrown or in poor condition, clearing and refurbishment works would improve surface water management [17.5.3, REP6-088]. Existing railway levels would be

retained in the Bower Ashton/ Ashton Vale area to avoid off site impacts on flooding [17.5.4, REP6-088].

- 5.4.25. Provision of floodplain compensation is proposed at the Clanage Road permanent maintenance compound (Work No 26), to be achieved by lowering the ground levels by approximately 10 cm over an area of about 300 sqm [APP-044].
- 5.4.26. The design for temporary drainage at the construction compounds is based on filter drains, attenuation ponds and outfalls to surface ditches. The ES indicates that these designs would be revised by the appointed contractor to ensure that the site drainage would take account of the proposed layout of the site, including temporary stockpiles for old ballast and new ballast that would be brought to the site [17.5.6, REP6-088].
- 5.4.27. The ES [17.5.7, REP6-088] identifies two options for drainage along haul roads:
- wide ditches with check dams to capture sediment and control runoff discharged to downstream watercourses. If required, the accumulated silt would be removed and disposed of periodically; and
 - where space is constrained shallower and narrower ditches are proposed, with the water piped to detention basins before the discharge to the receiving watercourses.
- 5.4.28. The haul roads would cross existing drainage ditches that, at the request of the NSLIDB, would be culverted during the duration of the works and then reinstated upon completion. Any discharge would be subject to the Environmental Permitting (England and Wales) Regulations 2016 where not exempt [17.5.8, REP6-088].
- 5.4.29. Proposals for permanent highway drainage include attenuation and pollution control prior to discharge to surface waters in accordance with the requirements of the EA and the NSLIDB [17.5.9, REP6-088].
- 5.4.30. Key features of the outline drainage design and surface water drainage strategy for the works between Parson Street Junction and Portishead are set out at Appendix O [APP-186], which was developed in consultation with the EA, NSDC, BCC and NSLIDB.
- 5.4.31. The Master CEMP [REP7-023] requires contractors to produce the following documents as part of their more detailed CEMP, which are subject to approval as part of Requirement 5:
- a Surface Water Management Plan;
 - an Emergency Preparedness and Response Plan;
 - a Flood Plan; and
 - a Pollution Incident Prevention and Control Plan.
- 5.4.32. As the Proposed Development is not currently included in NR's maintenance procedures to safeguard passengers and railway assets in extreme weather conditions, NR have prepared an Outline Draft Flood Plan [Appendix T, APP-189]. This summarises the potential flood risks

which may be faced during operation together with an overview of how flood waters may affect critical scheme infrastructure and the approach that NR would adopt in response to flood warnings and floods themselves [17.5.13, REP6-088].

Assessment of Effects

- 5.4.33. A WFD compliance screening assessment [APP-190] was undertaken with respect to three surface water bodies: Portbury Ditch, the Bristol Avon and the downstream Severn Lower transitional water body. There are three groundwater bodies within the study area. The assessment concluded [17.6.5, REP6-088] that no deterioration to the identified water bodies would occur as a result of the Application and that as a result the Proposed Development would comply with the WFD and no further assessment would therefore be required.

Construction Phase

- 5.4.34. **Water Quality:** The construction works would pose a risk of runoff (with associated contaminants) occurring particularly from earthworks, reprofiling the existing railway drainage ditches, culvert works and generally for any works near a watercourse [17.6.6, REP6-088]. The use of contaminating materials may also occur throughout the Proposed Development but the high risk activities would include areas where works would take place within 10 m of a watercourse and for those earthworks that would include the use of shotcrete to install soil nails. However, the ES considers that impacts would be likely to be temporary or localised [17.6.6, REP6-088], and that the potential for impacts to water quality would be reduced through adhering to measures identified in the master CEMP [REP7-023]. As a result, the ES concludes that the impact on water quality during construction would be negligible resulting in a neutral significance of effect [17.6.7, REP6-088].
- 5.4.35. The ES acknowledges that the migration of pollutants through surface runoff, mobilisation of contaminants in the old ballast during excavation and temporary stock piling, use of polluting substances and risk of accidental spillages during construction would pose a temporary risk to groundwater quality during construction [17.6.10, REP6-088]. However, contamination of the aquifer through the migration of contaminants would be reduced and/ or avoided through the implementation of measures in the master CEMP [REP7-023]. As a result, the ES concludes that there would be a negligible impact upon groundwater quality resulting in a neutral significance of effect [17.6.10, REP6-088].
- 5.4.36. **Water Quantity and Flood Risk:** During construction the adoption of an appropriate Surface Water Management Plan as identified in the master CEMP [REP7-023] and compliance with the Drainage Strategy [APP-192] would reduce and/ or avoid impacts related to discharges of surface water runoff from working areas, haul roads and site compounds on downstream flood risk. The measures would include the use of drains and temporary detention ponds to attenuate flows, trap sediments and control discharge to surface waters [17.6.14, REP6-088].

- 5.4.37. As a result, the magnitude of impact of stormwater drainage from construction sites, haul routes and construction compounds on the low, medium and high value watercourses was assessed to be negligible. The ES concluded [17.6.17, REP6-088] that the significance of effect would therefore be neutral and not significant with regards to the EIA Regulations.
- 5.4.38. All construction compounds would be outside the coastal and fluvial (undefended) floodplain except for the micro-compound under Pill viaduct (Work No 23) which lies within FZ3a and the Clanage Road compound (Work Nos 26 and 26A) which lies within FZ3b.
- 5.4.39. The railway alignment through Bower Ashton crosses FZ3. As a result, in order to avoid increasing the flood risk to third parties it is proposed that the new railway would be built to the same elevation as the existing railway (within construction tolerances of +/- 25 mm).
- 5.4.40. The use of the construction compounds at Pill Viaduct and Clanage Road and the works along the railway within FZ3 would be agreed with the EA and consented through the EP Regulations. Therefore, the ES concludes [17.6.22, REP6-088] that these sites would be managed in such a way that their use would not increase the flood risk resulting in a neutral significance of effect.
- 5.4.41. **Use of Water Resources:** Water required for construction would be sourced from a statutory water undertaker and it would not therefore be necessary to abstract ground water or use surface water. As a result, the ES concludes that the use of water during construction would not have a material effect upon any water features within the study area and therefore the residual effect would be neutral [17.6.23, REP6-088].
- 5.4.42. **Physical Impacts:** The various watercourses along the route of the Proposed Development are given values of low (such as many unnamed ditches), medium (several brooks) and high (River Avon and Easton-in-Gordano Stream). The physical impacts of construction on these watercourses mostly concern culvert works along short sections of low to high value ditches and streams which cross the railway. Consequently, the ES concludes that the impact of the works during construction would be negligible [17.6.26, REP6-088].
- 5.4.43. Where works would be required within 8 m of the top of the bank of a watercourse managed by the EA and 9 m for watercourses managed by the NSLIDB, these would be subject to the consenting process and best practice measures outlined in the master CEMP [REP7-023]. In addition to which for works in, on, or within 8 m of a main river (16 m of a tidal river) or on a floodplain an environmental permit would be required from the EA. For ordinary watercourses, Land Drainage Consent (LDC) would be required from the relevant LLFA. The ES has identified and assessed all likely significant effects. No gaps were identified between appropriate controls under environmental permits/ LDCs and the measures that would be secured through the DCO, nor any effects identified off site that would require controls to be exercised over third party land [17.6.29,

REP6-088]. As such the ES concluded that the magnitude of physical impacts of construction works on the low to high value watercourses would be negligible and as a result the significance of effect would be neutral [17.6.30, REP6-088].

Operation Phase

- 5.4.44. **Water Quality:** Due to the proposals for ballast renewal, track and station drainage, the appropriate management of solid waste at stations and control of wastewater from trains in sealed units there would be little generation of solid or wastewater from the Proposed Development to the environment [17.6.42, REP6-088]. Furthermore, the renewal of existing track drainage and incorporation of an improved track drainage system in some locations would provide long term benefits for water quality. As a result the ES assesses that the magnitude of impact is negligible to minor beneficial, with a neutral significance of effect for low and medium value receptors of the water environment and a slight beneficial significance of effect on high value receptors [17.6.43, REP6-088].
- 5.4.45. Due to the absence of any SPZ or abstraction licences the ES concludes that there would be no impact from operation on public drinking water [17.6.44, REP6-088]. Furthermore, impacts on groundwater quality during operation would be negligible due to the small quantities of pollutants proposed, the localised nature of any contaminants and the presence of the ballast which would aid the removal of contaminants. The ES predicts that the impacts on water quality during the operational phase would be negligible, resulting in a neutral significance of effect [17.6.46, REP6-088].
- 5.4.46. **Water Quantity and Flood Risk:** The ES concludes that runoff rates from the railway line should be no higher than from the existing footprint as there would be no increase in impermeable area [Paragraph 17.6.31, REP6-088]. Runoff rates from the realignment of Quays Avenue, the site of Portishead Station and car parks, Pill Station forecourt and car park and Pill station and viaduct would increase because of the increase in impermeable areas [17.6.32, REP6-088]. However, the design for these areas would incorporate measures to manage drainage discharges and pollution control. As a result, during operation the ES concludes that the effect of highway and railway drainage on the quantity of surface water resources is generally assessed to be neutral.
- 5.4.47. During operation, the ES identifies a number of residual risks in respect of culverts as without maintenance, it would be likely that they would, over time, become blocked which would give rise to a risk of flooding. Any SUDS measures would also require maintenance to remain in sound operational condition [17.6.35, REP6-088].
- 5.4.48. A section of the railway would cross FZ3b in the vicinity of Bower Ashton. Simulation of tidal River Avon flooding indicated that the Proposed Development would be flooded during tidal River Avon floods approximately once every five to ten years for the current year (taken to be 2015), approximately two to three times per year on average in 2075

and approximately eight times per year on average in 2115, applying the upper and projected future sea level rise allowances at Avonmouth [16.6.36, REP6-088]. An Outline Flood Plan for the Operational Phase [REP3-015] sets out an overview of NR's approach to dealing with the flood risk during operations. As a result, the ES concludes that the flooding of the scheme in the vicinity of Bower Ashton would have a negligible impact on passenger safety resulting in a neutral significance of effect [17.6.37, REP6-088].

- 5.4.49. Where the Proposed Development crosses the tidal River Avon in FZ3b near Bower Ashton the proposed railway levels and footprint would remain unchanged (within design and construction tolerances). As a result, the Proposed Development would not result in displaced floodplain storage. However, the Clamage Road maintenance and access compound (Work No 26) which would also cross FZ3b would include a new access ramp from the compound to the railway. As the ramp would displace floodplain storage the design provides compensation for this by lowering compound ground levels [17.6.38, REP6-088].
- 5.4.50. To accommodate an existing cycle path on the Portishead to Pill disused section of line, an increase of approximately 3m in the southern side of the railway embankment footprint within the Easton-in-Gordano Stream floodplain between the M5 Motorway and Marsh Lane would be needed (Work No 16). The additional footprint would result in additional displacement of potential floodplain storage. However, modelling undertaken for the FRA demonstrates that the impact of the Proposed Development on the Easton-in-Gordano floodplain would be negligible and the EA therefore agreed that floodplain compensation would not be required in this location [17.6.39, REP6-088]. As a result, it was deleted from the Application [PD-012].
- 5.4.51. As a result of these and the embedded measures proposed in Table 10.1 of the FRA [APP-173] the ES concludes that the impact upon flood risk during operation would be negligible resulting in a neutral significance of effect; not significant in regards to the EA Regulations [17.6.41, REP6-088].
- 5.4.52. **Physical Impacts:** Several new outfalls would be required, including one into Portbury Ditch, a main river, one to The Cut and several from the drainage catchments where new drainage systems would be installed or repaired. Such outfalls would require consent under other regulatory regimes. The ES [17.6.47, REP6-088] considers that the new outfall structures would have a negligible long-term impact on watercourses resulting in a neutral significance of effect.
- 5.4.53. No new culverting would be required for the medium (Portbury Ditch, Markham Brook, Chapel Pill, Ashton Brook and Colliter's Brook) and high value (River Avon) receptors [17.6.48, REP6-088].
- 5.4.54. The existing culverts at Longmoor Brook and Colliter's Brook would be assessed in the context of the Proposed Development and, if required, be improved to allow for any additional structural loading. Any required

works would be designed in consultation with the EA and subject to other regulatory regimes [17.6.49, REP6-088].

- 5.4.55. The ES concludes that the physical presence of new structures in or along watercourses during the operational phase are predicted to be negligible, resulting in neutral significance of effect [17.6.51, REP6-088].
- 5.4.56. **Maintenance Activities:** Maintenance Activities would be undertaken in accordance with NR standards which are applied across the whole rail network. As such they are considered to have a negligible impact on all aspects of the water environment. The ES therefore concludes that there would be a neutral significance of effect for all potential receptors [17.6.52, REP6-088].

Issues Considered During the Examination

- 5.4.57. Flood risk and drainage was identified by the ExA as one of its IAPI [Annex C, PD-007].
- 5.4.58. The matter was discussed in detail at ISH2 [EV-009], ISH3 [EV-010] and ISH5 [EV-013]. The ExA also asked a number of questions in ExQ1 [FRD.1.1 to FRD.1.7, PD-010] and ExQ2 [FRD.2.1 to FRD.2.7, PD-014].
- 5.4.59. BCC in its RR [RR-001] highlighted the need for flood plain compensation and for a positive drainage system at the Clanage Road compound (Work Nos 26 and 26A) given its location within FZ3, and also highlighted the risk of damage to watercourses, including culverts, and risks to controlled waters and groundwater from land contamination.
- 5.4.60. BCC expanded on these concerns in the LIR [REP1-032] and set out the flood zones. Most notably FZ3 included the proposed Clanage Road construction compound, and the area adjacent to the existing freight line along the Avon Gorge [67, REP1-032].
- 5.4.61. BCC confirmed that as the LLFA it was satisfied with the approach taken to the project and the conclusions of the FRA [Paragraph 68, REP1-032]. Whilst there was a concern that the permanent compound at Clanage Road (Work No 26) would be reliant on water draining through the porous surface into the ground and that this may lead to surface run-off onto the highway, BCC were satisfied that this could be sufficiently addressed through the detailed design of the compound that would be secured by Requirement 4 of the draft DCO [69, REP1-032].
- 5.4.62. With regards to protection of watercourses during construction, BCC advised [87, REP1-032] that it was satisfied that this would be controlled as part of the overarching CEMP and stage specific CEMPs, each of which, in order to comply with Requirement 5, would require a site waste management plan. With regards to the sensitive designated sites along the River Avon and the watercourses BCC considered that these should be managed through site-specific CEMPs which should be agreed with the EA [89, REP1-032].

- 5.4.63. At the end of the Examination the signed SoCG [Section 17, REP7-026] records that all matters with BCC with regards to water resources, drainage and flood risk were agreed.
- 5.4.64. NSDC in its LIR [2.7, REP1-033] advised that as the LLFA, in conjunction with the Somerset Drainage Boards Consortium it had engaged with the Applicant on the local flood risk and drainage of the scheme. Discussions focused on the need to ensure that the scheme did not increase flood risk elsewhere and on the use of SUDS to manage surface water.
- 5.4.65. NSDC advised [2.8, REP1-033] that there would be a need for the Applicant to provide more detailed drainage design information as the proposals progress. These would include drainage system model data, plans, cross sections, levels and structures for the stations, car parks, haul roads and compounds, and could be achieved through an amendment to Requirement 11 of the draft DCO. They also considered that a Requirement would be needed to address detailed technical engineering by possible sub-contractors. NSDC raised no concerns over water quality [2.9, REP1-032].
- 5.4.66. At the end of the Examination the signed SoCG [15.1.1, REP7-026] with NSDC advises that all principal topics are in agreement, and that subject to suggested DCO Requirements around drainage they were satisfied that the relevant details would be settled at the relevant detailed design stage [15.1.2 (f), REP7-026].
- 5.4.67. The area covered by SGC includes part of the designated Severn Estuary upstream of the Proposed Development. While SGC acknowledged the potential for contamination connectivity/ pathways in relation to the Estuary, they deferred to NE in relation to agreeing/ resolving any relationship with/ effects arising from the Proposed Development in relation to the Severn Estuary [4.1, REP1-034].
- 5.4.68. The EA [RR-013] advised that it remained fully supportive of the aims of the proposal. However, it highlighted that it had several concerns regarding various aspects of flood risk management which were compounded by the FRA which it viewed as being deficient.
- 5.4.69. The areas of Flood Risk Management that the EA were particularly concerned about included:
- The potential high frequency flooding of the proposed railway line.
 - The potential increase in flood risk to third parties, particularly in the vicinity of Portishead, Pill, Easton-in-Gordano and Clanage Road.
 - The climate change allowances used in the FRA.
 - Whether the flood plain compensation proposed was adequate and provided on a hydraulically linked level for level basis.
 - Details of the works proposed in the vicinity of and/ or over main river culverts (namely that a '*no additional loading approach*' had not been clarified).
 - The lack of confirmation that the EA's access arrangements could be provided.

- Details regarding associated development in Portishead.
- The lack of confirmation that the EA's Flood Risk Activity Permitting requirements had been fully understood.

- 5.4.70. The EA also raised concerns regarding the approach adopted in respect of potentially contaminated land with particular regard to potential historic contamination. Therefore, the Applicants proposals to further investigate potential areas of concern may not, in the EA's view, be comprehensive enough to determine the risk to the water environment.
- 5.4.71. These concerns were expanded on in its WR [REP2-040] where the EA advised that the Proposed Development would be within FZ's 3b, 3a, 2 and 1 (fluvial and tidal). As a result, there is a high probability of flooding. Furthermore, the FRA submitted with the Application shows that part of the site would be in functional floodplain (FZ3b) and as consequence would currently flood at a return period as low as 1 in 5 years. With the predicted impact of climate change, the frequency of flooding (and flood depth) this would increase to a potential five times a year by 2115.
- 5.4.72. The EA highlighted that the FRA also demonstrated that it would not be possible to mitigate the flood risk on the line without increasing flood risk to third parties. Consequently, the Proposed Development would remain in FZ3b and therefore would not be operational during a flood event. The EA therefore considered that an appropriately detailed Emergency and Evacuation Plan would be essential to ensure the safety of the line and its users.
- 5.4.73. The EA acknowledged that the fundamental nature and objectives of the Proposed Development effectively precludes the use of other sites at a lower risk of flooding. However, whilst the EA accepted that the Application passed the Sequential Test. In relation to the Exceptions Test, based on the submitted FRA it did not consider that it complied with the requirements set out in the NPPG (Flood Risk and Coastal Change). To address this the EA requested the submission of additional information [REP2-040].
- 5.4.74. In addition, the EA stated that it considered that the assessment of contaminated land was based on insufficient information and that this should be addressed through an appropriately worded Requirement. Furthermore, the EA considered that Requirement 17 (Contaminated land and groundwater) did not provide for the submission of a verification plan, which is a standard Agency requirement. Therefore, the EA suggested several amendments to the drafting of Requirement 17 of the draft DCO.
- 5.4.75. In response to this at D3 the Applicant [REP3-36] advised that they had been in regular contact with the EA and had responded to the Agency's D2 WR. The updated SoCG (version 2) [4.3.3, REP3-010] stated that it addressed a combination of the EA's RR and WR as well as other selected issues raised during consultation.

- 5.4.76. Given the outstanding concerns of the EA the ExA considered that the matter warranted further examination at ISH2 [EV-009] and ISH3 [EV-010]. At ISH3 [EV-010] it became clear that the focus of concern related to the proposed compounds at Clanage Road (Work Nos 26 and 26A) and whether these works would or would not fall within the operational floodplain.
- 5.4.77. The EA were of the opinion that based on their floodplain maps these works would fall within the operational floodplain [REP2-070] and as such would pose a flood risk to third parties in the Bower Ashton area. The Applicant, however, advocated that on the basis of their more detailed and site specific FRA and the Bristol Strategic Flood Risk Assessment (BSFRA)[AS-055] the permanent compound (Work No 26) would be outside of the operational floodplain and as such would not pose a risk to these third parties [36, REP4-017].
- 5.4.78. Following the ISH the ExA [Action point 25, EV-010e] tasked the Applicant and the EA to continue discussions to resolve this matter. The ExA reinforced this by asking a number of follow up questions [FRD.2.1 to FRD.2.4, PD-014] in ExQ2.
- 5.4.79. At ISH5 [EV-013] the ExA examined this matter further and were advised that subject to a number of amendments to Requirement 31 (Clanage Road, Bristol) that would require the elevation of the welfare facility (if required) and providing details of the means to remove materials stored at the temporary and permanent compound in the event of flooding [REP6-038] then most of the EAs concerns regarding this element of the scheme had been addressed. This is confirmed in the signed SoCG submitted at D7 [5.1.7, REP2-027].
- 5.4.80. At D7 the signed SoCG with the EA shows that the issue of whether the Clanage Road compound would or would not be within the functional flood plain remained outstanding [5.1.4 to 5.1.6, REP7-027]. However, due to the mitigation proposed by Requirement 31 this only remained an issue in relation to the ground level of the compound.
- 5.4.81. The EA [5.1.7, REP7-027] maintained its objection to the Applicant's proposal for the ground level of the compound to be at 7.4 m Above Ordnance Datum (AOD). It considered that a ground level of 7.3 m AOD would be preferable to mitigate offsite impacts as lowering the ground level to 7.4 m AOD would not provide total coverage for the floodplain compensation which, the EA advocate, 7.3 m AOD would. The Applicant advised [REP2-022] that the increased flood risk at 7.4 m AOD to some properties would be +/- 1 mm as modelled is insignificant and is within model accuracy (the 1 D model convergence limit being +/- 10 mm).
- 5.4.82. Consequently, the SoCG records agreement between the EA and the Applicant that the Sequential Test [5.1.16, REP7-027] is satisfied. However, whilst the Applicant considers that the Exception Test in relation to the Clanage Road compound (Work No 26) is met, this matter remained outstanding with the EA [5.1.17, REP7-027].

- 5.4.83. The SoCG also records [5.1.15, REP7-027] that the use of the BSFRA as being an outstanding matter as the EA consider that there is uncertainty regarding the delivery of the proposals in the BSFRA and therefore they advocate that no assumptions should be made regarding the delivery of flood defences. Conversely, the Applicant is of the view that the measures set out in BSFRA would be delivered and the Proposed Development would therefore likely to be defended by 2030.
- 5.4.84. Finally, the SoCG [5.1.10a, REP7-027] records that whether or not a FRA for Portbury Ditch (Work No 3) would be required remains outstanding. The EA advise that the site falls within fluvial FZ3a and as such a FRA would be required to fully assess the potential impact on the floodplain and/ or how the works would remain safe. To address this the EA have requested a cross section drawing to detail the works, the location and an explanation of the flood risk. The Applicant advocates that due to the topography Work No 3 is elevated above Portbury Ditch and therefore the flood levels in the ditch would be very unlikely to reach the level of the works.
- 5.4.85. The SoCG [REP7-027] records that all other matters regarding flooding are resolved.
- 5.4.86. The SoCG with NSLIDB [REP7-028] records most matters agreed. The outstanding matter regarding the disapplication of byelaws is considered in Chapter 9 of this Report. With regards to the matters of flood risk the SoCG [IDB2.3f and IDB1.1P, REP7-028] records that subject to providing the NSLIDB the opportunity to comment on the detailed design of works in close proximity to The Cut to ensure that they can continue to clear vegetation then the matter is agreed.

ExA Conclusion

- 5.4.87. The NPSNN (paragraph 5.101) states that if the EA continues to have concerns and objects to the grant of development consent on the grounds of flood risk, the SoS can grant consent, but would need to be satisfied before deciding whether or not to do so that all reasonable steps have been taken by the applicant and the EA to try and resolve the concerns.
- 5.4.88. At the end of the Examination the EA maintained its concern regarding the ground level of the permanent compound at Clanage Road (Work No 26) and its belief that a FRA would be required for Work No 3.
- 5.4.89. On the basis of what they have read and heard the ExA are satisfied that the Applicant and the EA have pro-actively tried to resolve these concerns and as a consequence the SoS can be satisfied that the test set by the NPSNN has been met.
- 5.4.90. The NPSNN (paragraph 5.112) advocates that site layout should cope with events that exceed the design capacity of the system so that excess water can be safely stored on the site without adverse impacts. Having considered the difference in opinion regarding the ground level for the permanent compound at Clanage Road, the ExA consider that a

precautionary approach should be adopted. Consequently, the ExA agree with the EA that the compound should have a ground level of 7.3 m AOD as this would ensure that the site would be able to accommodate both the flooding predicted by the FRA and any excess water. Requirement 31 (Clanage Road, Bristol) requires the submission and approval of a flood plan for these works which would include the emergency and evacuation procedures for both the temporary and permanent compound. The ExA are therefore satisfied that the Proposed Development would comply with paragraphs 5.99 and 5.109 of the NPSNN.

- 5.4.91. The ExA are satisfied that such a change would be unlikely to give rise to any materially new or materially different environment effects from those assessed in the ES.
- 5.4.92. To secure this the wording of Requirement 31(3) of the recommended DCO (Appendix C) has been amended from the wording contained within the Applicant's draft DCO [REP7-056]. This matter is covered further in Chapter 9 of this Report.
- 5.4.93. Work No 3 (Portbury Ditch) would consist of a foot and cycle path of 63 m in length together with associated landscaping, lighting, signage, fencing, cables, ducts, troughs, telecommunication apparatus, conduits and apparatus for utilities. The ExA observed on their site visit [EV-002] that there is an existing footpath in this location and that, as highlighted by the Applicant, the footpath is well above the ditch. Therefore, whilst the ExA accept that the site is located within FZ3a the ExA agree with the Applicant that it is unlikely that the new foot and cycle path would flood. Furthermore, if flooding did occur, given the works proposed, the ExA is of the opinion that it would be unlikely to result in floodwater displacement so as to pose a flood risk to neighbouring third parties. As a result, the ExA do not consider that a full FRA for this element of the scheme would be needed.
- 5.4.94. Requirement 4 (Submission and approval of detail design) of the recommended DCO requires that prior to commencement the detail design for Work No 3 must be approved by the relevant planning authority. The ExA consider that the details requested by the EA (a cross section drawing showing the detail and location of the works and an explanation of the flood risk) could be secured through this Requirement. As the relevant planning authority, NSDC, which would discharge this requirement is also the LLFA the ExA is satisfied that it would ensure that Work No 3 would not adversely affect the floodplain and that the works would remain safe.
- 5.4.95. Consequently, subject to the above in terms of Flood Risk, the ExA concludes that the Proposed Development, which is supported by the FRA, would not give rise to any unacceptable risks in terms of flooding. The FRA addresses the Sequential Test as required by the NPSNN and for the reasons set out above the ExA are satisfied that it also addresses the Exception Test. Furthermore, the ExA is satisfied that with the measures contained within the recommended DCO that, as far as possible, the Proposed Development has been designed to remain operational and safe

to users in times of flood in accordance with the NPSNN (paragraph 5.109).

- 5.4.96. In terms of water quality and resources the ExA is satisfied that the Proposed Development would be compliant with the WFD and would have no unmanaged adverse effects.
- 5.4.97. Accordingly, the ExA is satisfied that, subject to the reworded Requirements 4 and 31(3), that mitigation is adequately provided for and secured in the recommended DCO and the Proposed Development would have no likely significant effects on water and flooding. In this respect, the flooding and drainage effects of the Proposed Development attract neutral weight in the planning balance.

5.5. TRAFFIC AND TRANSPORT

- 5.5.1. This section considers the operational effects of the Proposed Development on the local and strategic highway network, car parking, highway safety and the existing operational rail freight line. Traffic and Transport was identified as a principal issue in the ExA's initial assessment of principal issues [PD-007 Annexe C].
- 5.5.2. The effects during construction are considered in Section 5.7 of this Report. Operational effects of train movements on the living conditions of residents in terms of noise are addressed separately in section 5.12. The impacts of the Proposed Development on public rights of way, cycle routes and associated non-motorised users are considered in the section on land use at 5.9.
- 5.5.3. The ExA asked two rounds of questions on the topic and it was discussed in detail at ISH2 [EV-009] and ISH5 [EV-013]. Relevant matters were also raised at the OFH [EV-005].
- 5.5.4. The benefits of the Proposed Development in terms of reduction in traffic and associated emissions are set out in Section 5.2 of this Report.

Policy Context

- 5.5.5. Paragraph 2.2 of the NPSNN sets out the critical need to improve the national networks to address road congestion and crowding on the railways. Paragraph 2.9 seeks for development to address safety problems, enhance the environment or enhance accessibility for NMUs. Paragraph 2.19 draws attention to current and forecast pressures on the road network.
- 5.5.6. With specific reference to rail, paragraphs 2.28 and 2.29 of the NPSNN refers to the importance of railways to the country's transport infrastructure and in offering a safe and reliable route to work, connecting communities and for the transport of freight to and from ports. The importance of rail freight is set out in paragraph 2.34.
- 5.5.7. Paragraphs 5.201 to 5.217 of the NPSNN outline the impacts on transport networks including the need for proportionate and reasonable mitigation,

with a strong expectation that impacts on accessibility for NMUs should be mitigated.

- 5.5.8. Table 16.2 of ES Chapter 16 [REP6-086] sets out the relevant development plan policies in relation to transport issues. These policies are also listed in Appendix D of this Report. Of particular relevance are NSDC's Core Strategy policies CS10 and CS31 which reference the re-opening of the Portishead to Bristol line for passenger services as a priority objective. The Sites and Policies Plan Part 1: Development Management Policy DM22 safeguards land between Portishead and Pill, protecting the railway corridor from inappropriate development.
- 5.5.9. JLTP4 was published in March 2020 after submission of the DCO application. The Proposed Development, together with other elements of the MetroWest programme, is confirmed as a committed project within JLTP4.

The Application

- 5.5.10. Chapter 16 of the ES considers the effects of the Proposed Development on transport, access and NMUs [REP6-086], together with the Transport Assessment (TA) [REP6-125] and a range of associated figures and appendices [REP6-127 to REP6-130, APP-024, APP-026, APP-029, APP-030, APP-034, APP-035, APP-038 to APP-044, APP-157 to APP-169, AS-025, REP6-004 to REP6-007], and the Construction Traffic Management Plan (CTMP) [REP6-138].
- 5.5.11. The methodology for the ES Chapter 16 and the TA is based on guidance and best practice set out in the following documents:
- NPPF (2012 at the time of production of the ES; and as superseded in 2018 and 2019);
 - Transport Evidence Bases in Plan Making and Decision Making (2015);
 - Design Manual for Road and Bridges (DMRB) Volume 12: Traffic Appraisal of Road Schemes – Chapter 6, Section 6.2 (Department for Transport 1997);
 - Guidelines for the Environmental Assessment of Road Traffic (IEMA 1993); and
 - Highways Development Design Guidance (North Somerset Council 2015).
 - Guidance on Transport Assessments (Archived) (Department for Transport 2007); and
 - DMRB Volume 2: Assessment and Preparation of Road Schemes – Section HD 42/05 'Non-Motorised User Audits' (Department for Transport 2005).
- 5.5.12. The relevant versions of DMRB have since been updated. As a best practice guide, use of the superseded HD 42/05 'Non-Motorised User Audits' should not substantially affect methods used and conclusions drawn as set out in the Applicant's answer to ExQ1 TT.1.5 [REP2-013]. The relevant updated documents are referred to in the TA and do not affect the conclusions of the ES in respect of likely significant effects.

- 5.5.13. The location and classification of roads close to the Proposed Development in Portishead, Pill and Ashton Vale are shown in Figures 4.7 to 4.9 of the TA [REP6-125]. The existing baseline conditions within the scheme area are set out at section 4 of the TA [REP6-125], including a review of existing land uses and committed development. Two study areas were defined in assessing transport, access and NMU impacts, strategic and local multi-modal impacts. To assess the wider strategic operational impacts, a combination of outputs was used from the RDM (the modelling process that forecasts demand at new and existing rail stations) and the 'GBATS4' Metro Model for the wider Bristol area. The station catchment areas covered by GBATS4 are shown in Figure 5.1 of the TA [REP6-125].
- 5.5.14. Modelling assumptions are described in detail in Section 5 of the TA. The strategic operational impact assessment at section 6 of the TA includes at section 6.3 a consideration of passenger rail demand. Section 6.5 refers to impacts to the existing rail freight line. The local operational impact assessment is presented in Section 7 of the TA [REP6-125].
- 5.5.15. Level crossing assessments were carried out for the existing crossing at Ashton Vale Road/ Winterstoke Road and are set out at section 7.6 of the TA. The TA also considers on-street parking at a number of specific locations in Portishead and Pill and on Ashton Vale Road, as well as nearby committed developments [REP6-125]. The extent of the study area is summarised in Table 16.4 of ES Chapter 16 [REP6-086]. Proposed mitigation measures are set out in section 9 of the TA [REP6-125] which, in relation to the operational phase, largely relate to proposed parking controls and walking and cycling route enhancements.
- 5.5.16. The 24 infrastructure measures to be implemented are set out at Table 10.1. The principal measures include the realignment of Quays Avenue and construction of a new roundabout at Harbour Road in Portishead (Work No 2), and the extension of the left-turn lane on Winterstoke Road in Bristol, together with upgrade of the traffic signals at the junction with Ashton Vale Road to MOVA (Work No 28) [REP6-125].
- 5.5.17. The Outline CTMP is at Appendix K of the TA [REP6-106], and as a standalone document [REP6-138]. There are outline station travel plans presented at Appendix M [APP-171].

Issues Considered During the Examination

- 5.5.18. Traffic and transport was identified by the ExA as one of its IAPI [Annex C, PD-007]. The matter was discussed in detail at ISH2 [EV-009] and ISH5 [EV-013]. The ExA also asked several questions in ExQ1 [TT.1.1 to TT.1.18, PD-010] and ExQ2 [TT.2.1 to TT.2.7, PD-014].
- 5.5.19. Several representations from IPs were received relating to traffic and transport issues. These can be broken down into traffic and the local highway network, the strategic road network (M5 junction 19), parking around the railway stations at Portishead and Pill, and effects on the Ashton Road industrial estate relating to existing level crossing and

associated works to the junction to Winterstoke Road, access for rail freight, and accesses to permanent compounds at Portbury Hundred, Ham Green and Clanage Road.

Traffic and the Local Highway Network

- 5.5.20. Operational impacts on the local highway network largely relate to the areas around the proposed railway stations in Portishead (Work Nos 2 to 6) and Pill (Work Nos 21 and 22), and access to permanent maintenance compounds at Clanage Road (Work No 26) and Ham Green (Work No 24). The Ashton Vale level crossing (Work No 28) is dealt with separately below at paragraphs 5.5.44 to 5.5.74.
- 5.5.21. The RR from NSDC [RR-002] confirmed the Council's support for the Proposed Development in reducing traffic movements and congestion on the local and strategic highway network and attendant air quality benefits, and its role in increasing the resilience of the sub-regional transport network. No outstanding issues at the end of the Examination in relation to operational traffic were identified in their SoCG [REP7-025].
- 5.5.22. SCC also supported the Proposed Development in its RR [RR-005], in contributing to delivery of their transport policy, business growth, and community benefits from reduction of car usage on the M5 and neighbouring roads through the County. SCC also supported the Proposed Development in enabling a modal shift to sustainable commuting and travel, contributing to combatting climate change and congestion which it considers to be a significant challenge for the north of the County. SGC in its RR [RR-006] also supported the Proposed Development for the same reasons.
- 5.5.23. Support was given to the Proposed Development from a number of RRs in relation to its wider benefits particularly in terms of its impacts in reducing traffic and congestion [RR-007, RR-017, RR-023, RR-028, RR-046, RR-059, RR-079, RR-081, RR-090, RR-099 and RR-122].
- 5.5.24. Portishead Town Council (PTC) supported the re-opening of the railway to improve the connectivity of the town and confirmed their agreement of the diversion and widening of Quays Avenue. PTC sought further integration of the railway station with residential areas, seeking consideration of a bus terminus at the railway station car park (Work No 6) to act as an interchange for feeder services around the town. It also sought adequate taxi and passenger pick up/ drop off space at the station [RR-004].
- 5.5.25. The Applicant's response to PTC [Appendix A, REP1-29] confirmed that the railway station would include full length bus laybys immediately outside the station on Quays Avenue, and the station forecourt has been designed to accommodate full size buses as well as a taxi rank.
- 5.5.26. PTC also suggested additional access to the car parks from Quays Avenue in addition to Harbour Road [RR-004]. The Applicant advised that to do so would result in a severe conflict between pedestrians and cars due to the close proximity of the main pedestrian crossing linking to the station

entrance, and would involve the removal of the north-bound bus layby in this location [Appendix A, REP1-29].

- 5.5.27. At the OFH [EV-005] support was given to the Proposed Development from the Portishead Railway Group and Friends of Suburban Bristol Railway. The ExA heard that there is a single road from Portishead to the M5 and that residents felt trapped by the traffic congestion fuelled by the large growth in population. Portishead Railway Group highlighted comments made by Liam Fox MP in 2005 describing Portishead to parliament as "*the most overcrowded cul-de-sac in the country*".
- 5.5.28. The ExA asked question at ExQ1 [TT.1.8, PD-010] regarding the lack of final detail on proposed infrastructure mitigation measures in the ES. The Applicant responded at D2 [REP2-013] that a number of further infrastructure mitigation measures had now been finalised and are set out at table 16.8 of ES Chapter 16 [REP6-086], including information about how they would be secured and timescales.
- 5.5.29. NSDC in its LIR confirmed that it was agreeable to the principle of the preliminary scheme design layout of highway works. It accepted that there are points of detail that would need to be addressed once the scheme progresses to detailed design ('GRIP5') stage and that this is provided for by requirements 4 and 9 of the draft DCO. NSDC requested further detail on a local junction in Portishead [REP1-033], and in its signed SoCG accepted that the proposed operation of this junction would be tested to demonstrate that it would operate satisfactorily at detailed design stage. Other concerns relating to vehicle movements around Pill station car park would also be dealt with at detailed design stage, to be submitted for Requirement 4 [REP7-025].
- 5.5.30. BCC confirmed in its signed SoCG that the Applicant has given appropriate consideration to the traffic impacts on Winterstoke Road and Ashton Vale Road, and agreement to the approach to modelling and the proposed highway mitigation [REP7-026]. This junction is discussed in more detail in paragraphs 5.5.44 to 5.5.74 below.

Strategic Road Network (SRN)

- 5.5.31. Junction 19 of the M5 is in close proximity to the Proposed Development. Highways England (HE) in its RR [RR-016] set out a number of concerns in relation to construction traffic generation to the M5 junction 19, which are referred to in section 5.7 of this Report. In terms of operational traffic, HE confirmed in their SoCG that they are satisfied there would be no significant adverse transport implications for the SRN once construction is complete and the scheme is operational [REP1-019].

Parking around Railway Stations

- 5.5.32. Parking around the proposed stations at Portishead and Pill was raised as an issue by NSDC in its LIR [REP1-033] and in RRs from PTC [RR-004], Avon and Somerset Constabulary (the Constabulary) [RR-008] and a number of local residents [RR-033, RR-062, RR-065, RR-085, RR-093, RR-102, RR-103, RR-104, RR-111, RR-112, RR-113, and RR-114].

- 5.5.33. PTC sought clarity of the parking arrangements and consideration of more off-street parking for residents of Phoenix Way and the introduction of local parking restrictions [RR-004].
- 5.5.34. The Applicant clarified in their response that Portishead station forecourt would provide for 43 car parking spaces and an additional 13 mobility impaired spaces, as well as 50 undercover cycle parking spaces and motorcycle parking. The main car park on Harbour Road would provide for a further 6 mobility impaired spaces and 200 general parking spaces, giving a total of 273 parking spaces for Portishead Station overall [Appendix A, REP1-029].
- 5.5.35. PTC suggested the use of a multi-storey car park to increase parking density [RR-004]. The Applicant's response sets out that the proposed amount of parking spaces exceeds the forecast demand 10 years after project opening and additional parking is therefore not considered necessary. The car parks would be on land owned by NSDC and this provides opportunities for the Council to explore other land uses and potentially greater parking densities in the future. The Applicant also explained that local residents have opposed parking restrictions in the Phoenix Way/ Fennel Road area of Portishead, but as highway authority NSDC would be able to review the parking situation following opening of Portishead station [Appendix A, REP1-029].
- 5.5.36. No further comments were received from PTC in the Examination and they did not participate in the Hearings.
- 5.5.37. The Constabulary [RR-008] raised concerns about unauthorised parking and potential use of on-street parking controls. In addition, it set out issues of emergency access, diversion routes during construction, access for larger vehicles such as refuse lorries and buses being blocked by parked cars, as well as abnormal loads to Portishead Marina. A SoCG was subsequently agreed with the Constabulary at D1 [REP1-026].
- 5.5.38. The ExA asked a question regarding comments from PTC and the Constabulary relating to on-street parking issues at ISH2 [EV-009]. The Applicant explained that as it would provide more than sufficient spaces at both stations, a residents parking zone is unlikely to be justified as they are expensive to operate and involve a charge for residents. It referred to its experience with other stations and added that such schemes, if subsequently needed, could be considered after opening of the scheme once the demand for parking is known.
- 5.5.39. The ExA also asked questions regarding parking around the stations at EXQ1 [TT.1.12 and TT.1.13, PD-010]. The Applicant referred to ES Chapter 16 Table 16.11 [REP6-086] which identifies impacts on parking in the vicinity of Portishead station as having a potential moderate adverse impact and a minor adverse impact at Pill. Mitigation measures are summarised in Section 9 of the TA [Tables 9.1 and 9.2 REP6-125] and Table 16.8 of ES Chapter 16 which set out the use of double yellow lines and waiting restrictions near to the stations, and post-implementation monitoring of parking. The Applicant clarified that the

local traffic authority has powers to make changes to on-street parking following operation of the scheme, in light of actual parking behaviour. The car parks and both stations would be owned and operated by the Applicant, who intend to operate pay and display parking and would be able to collect data from the parking meters. NSDC also have responsibility for civil enforcement of on-street parking. Regular patrols would take place to monitor use of both the car parks and surrounding roads. The Police would be responsible for enforcement involving dangerously parked vehicles [REP2-013].

- 5.5.40. With particular reference to Pill, Mr Ovel for Pill and Easton-in-Gordano Parish Council raised concerns at ISH2 [EV-009] about whether the 58-space car park would be sufficient. He expressed a wish for the Parish Council to be involved in future discussions regarding parking charges and monitoring.
- 5.5.41. In response, the Applicant referred to Figure 7.29 of the TA [REP6-127] which shows that 10 years after opening the maximum occupancy of the car park is predicted to be 38 cars, giving sufficient future capacity. They confirmed that this accounts for committed housing developments in the area. The Applicant also explained at ISH2 [EV-009] that parking charges have not been decided and this would be the subject of a future report to the relevant Council committee. It said that the situation and demographics in Pill and Portishead are very different and as such Pill could have lower tariffs. Charges would be reviewed on a regular basis.
- 5.5.42. The ExA asked a question to NSDC relating to Travel Plans at ExQ1 [TT.1.16, PD-010], including the method for securing the measures. NSDC confirmed satisfaction that detailed plans could be agreed for the railway stations post-consent and that a Requirement should be added accordingly to refer to both railway stations, including details for monitoring and review. The Applicant's answer to TT.1.13 [REP2-013] explains that Travel Plans would be monitored by a steering group likely to include residents and parish/ town councils together with NSDC, the train operator and the Constabulary.
- 5.5.43. The necessity for a Travel Plan was subsequently added to Requirements 27(6) and 28(5) of the draft DCO [REP7-056], based on the outline station Travel Plans set out at within Appendix M of the TA [APP-171].

Ashton Vale Road Industrial Area

- 5.5.44. An existing level crossing for the operational freight line is located at Winterstoke Road, where the junction forms the single entrance/exit into the Ashton Vale Road industrial area. The Proposed Development in this location includes the extension of the left-turn lane from Winterstoke Road and upgrading of the traffic signals to MOVA to increase the capacity of the junction due to additional down-time of the level crossing (Work no 28).
- 5.5.45. Manheim Auctions Ltd and ETM Contractors Ltd (Manheim and ETM) are two businesses which occupy premises on Ashton Vale Road. Together

they raised concerns about a range of traffic and transport matters affecting the industrial area in a number of submissions [RR-019, REP2-060, REP4-050, REP5-044, AS-063, AS-068, REP6-041 and REP6-042]. They also appeared at ISH2 [EV-009] and ISH5 [EV-013].

5.5.46. Their submissions are summarised as follows:

- Concerns over the validity of the traffic data used to compile the LinSig and VISSIM models in the TA;
- Criticism of the modelling of the Ashton Vale Road junction;
- Lack of consideration to significant variation in traffic conditions on the estate;
- Timing of surveys carried out during road works;
- Surveys were undertaken on a day on which auctions at Manheim were not taking place;
- Increases in traffic queues as a result of the increased closure frequency of the level crossing with consequent negative impacts on business activities presently carried out;
- The level crossing severs the only access to the industrial area which is identified as a Principal Industrial and Warehousing Area as shown on the Policies Map of the Bristol Local Plan;
- Question why proposals for a new access to the rear of the site were dropped by the Applicant;
- The development conflicts with the 'agent of change' as set out in paragraph 182 of the NPPF: '*existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established*'; and
- Future restrictions may be placed on existing businesses wishing to expand because of the implications of the level crossing closures.

5.5.47. Similar concerns relating to the increased frequency and length of level crossing down-time and subsequent effects on businesses and income were also raised on behalf of Cala Trading Estate [RR-018, REP4-049 and REP5-043]. In addition, they raised concerns about the potential risk of vehicles trying to '*beat the barriers*', leading to damage and accidents. The Applicant clarified that '*beating the barrier*' would constitute a failure to comply with the traffic lights which is an offence under Section 36 of the Road Traffic Act 1988. The anticipated barrier down time included in modelling was also clarified as 2 minutes 5 seconds, based on an average freight train movement. Passenger trains are shorter, and barriers may be raised approximately 15 seconds sooner than for an average freight train [REP6-021].

5.5.48. Babcock Integrated Technology Ltd also raised concerns in its RR about access to its premises which are located immediately adjacent to the level crossing [RR-009]. The later advised at D5 that following assurances from the Applicant that access would be agreed with them prior to any works and that Work No 27 (public foot and cycle track ramp from Ashton Road to Ashton Vale Road) was being removed from the Proposed Development, they were minded to confirm support for the scheme [REP5-046].

5.5.49. The Applicant specifically responded to the concerns from Manheim and ETM throughout the Examination [REP1-029, AS-066, REP3-036, REP3-038, REP5-034, REP5-035, REP6-019, REP6-021 and REP7-037]. Their responses can be summarised as follows.

Modelling:

5.5.50. The relevant evidence is contained in the TA [REP6-125] and in particular Appendix N [REP6-130] which at Part 1 includes a Transport Evidence Explanatory Note which summarises all the pertinent information related to the assessment of the Ashton Vale Road/ Winterstoke Road signal controlled junction and level crossing.

5.5.51. The Note provides commentary and explanation of the traffic modelling (LinSig and VISSIM) outputs. Section 5 states that, based on LinSig analyses, the maximum extent of the queue on Ashton Vale Road is expected to increase from 12 to 20 vehicles with an increase in mean delay of circa 38 seconds when considering a short period immediately before, during and two cycles immediately after a closure (weekday PM peak hour). Further detailed real time analysis presented and discussed in the Note based on the VISSIM microsimulation traffic assessment confirms the findings from the LinSig analyses, with results from the two modelling approaches showing a high degree of correlation.

5.5.52. The Applicant pointed out that Manheim and ETM's review of the VISSIM modelling, dated November 2019 [REP2-060], is based on documents from the Preliminary Environmental Impact Report, which pre-dates the final version of the VISSIM assessment in the TA [REP3-036]. The Applicant confirmed that the VISSIM model used was validated to observed data to the relevant guidelines, and pointed out that its further modelling work carried out using LinSIG as reported in the TA was not referenced in Manheim and ETM's analysis [Appendix 2, REP3-038].

5.5.53. The age of the traffic survey data, at around 4 years old, was also highlighted by Manheim and ETM. The Applicant responded that traffic data is regarded as appropriate if it is less than five years old and this was set out in previous versions of Transport Analysis Guidelines (TAG). Whilst this may still be considered good practice, there is no longer any specific guidance on the age of traffic data used in the construction of traffic models [paragraph 4.2, REP5-034].

5.5.54. ETM and Manheim also questioned the robustness of the surveys in terms of the closure at that time (May 2017) of the northbound left turn lane from Winterstoke Road into Ashton Vale Road, together with further questions relating to the enumerators. They provided several Google Streetview extracts of the junction showing images of roadworks around the time of the surveys [REP4-050]. A Senior Transport Policy Officer from NSDC provided a response to this matter [Appendix 1, REP5-035]. The officer confirmed that the lane was closed at the time of the surveys due to the Metrobus overbridge works. The lane can only accommodate 3 or 4 cars when in operation, and as there is no alternative route for users of the Ashton Vale Road industrial estate the turning count would be representative of normal levels of traffic demand.

- 5.5.55. It was also confirmed that the count was undertaken using CCTV cameras on all arms of the junction and then footage was enumerated into a Manual Classified count by a team of experienced enumerators. The Officer confirmed their satisfaction that the count was undertaken in accordance with best practice and that the results are representative of normal traffic conditions. A range of other video surveys taken by the Council at the junction over several years at times when the lane was in operation were referred to. This enabled their understanding of junction demands, operational capacity and congestion and production of a robust assessment for modelling and validation purposes [Appendix 1, REP5-035].
- 5.5.56. No alternative data was put forward by Manheim and ETM to dispute that set out within the TA. Instead, they put forward colloquial evidence that occupiers of the industrial area frequently report encountering significant queuing on exiting the estate, and that it is not unusual for vehicles to wait for more than one traffic signal cycle [paragraph 3.3, REP4-050]. The Applicant responded that these issues are pre-existing, and the installation of a MOVA at the junction would assist in alleviating such issues [REP5-034].
- 5.5.57. Manheim and ETM's review estimates that the capacity for traffic exiting the Ashton Vale Road industrial estate would be reduced by '*at least 30% and potentially more than 50%*' [RR-019] and an increased congestion of over 7 minutes, with the potential for five closures per hour [REP2-060]. It is unclear how the figures were arrived at, taking account of the existing restrictions placed on the industrial estate by the traffic signals and the proposal to upgrade these signals to MOVA.
- 5.5.58. The Applicant responded that the scenario of five closures an hour was presented as a sensitivity case, and in fact the Proposed Development would result in a maximum of three closures per hour. This assumes one freight movement per hour, but realistically there could be two closures per hour given the current infrequency of freight movements. The LinSig modelling of the current situation at the junction suggests that on average traffic on Ashton Vale Road during the PM peak experiences approximately 70 seconds of delay on exiting the industrial estate [REP1-029].
- 5.5.59. Therefore, the quoted seven minutes of delay on Ashton Vale Road exaggerates the likely extra delay that will be experienced by motorists exiting the industrial estate. Instead, the Applicant calculates the maximum delay to be around two and a half minutes (165 seconds), and states that the number of vehicles unable to exit the industrial estate during the first green period is likely to be very few [REP1-029].
- 5.5.60. Taking into account the current peak delays of 70 seconds and the predicted delay of 165 seconds, the Applicant's evidence predicts the absolute worst-case additional delay experienced by a vehicle on Ashton Vale Road to be around a minute and a half (95 seconds), assuming a vehicle is already in the queue or just arriving as the crossing closes. AT the end of the Examination the Applicant [REP5-034 and REP5-035] did

not accept the criticisms made by Manheim and ETM regarding traffic data and modelling, and firmly believed the model is fit for purpose so did not need to carry out any further surveys or modelling.

- 5.5.61. ETM and Manheim retained their position that the model is unfit for purpose [REP4-050, EV-013, REP6-041].

Timing of Surveys:

- 5.5.62. ETM and Manheim queried the robustness of the surveys in terms of the closure at that time (May 2017) of the northbound left turn lane from Winterstoke Road into Ashton Vale Road [REP2-060, REP4-050, EV-009]. They were also concerned that the Applicant's surveys did not include a day when Manheim's auction was open to customers, when traffic volumes almost double [REP4-050].
- 5.5.63. The Applicant's response clarified that traffic data employed in LinSig modelling and the calibration of the VISSIM model was based on surveys carried out on Tuesday 9 May 2017 as set out in Appendix N of the TA [REP6-130]. Further checks to confirm these flows were representative of typical volumes of traffic were carried out using an automatic traffic count between 15 and 28 March 2018. TAG states that Mondays to Thursdays are neutral and that May is a neutral month, therefore there are no issues with the date and month on which the survey was carried out. In addition, TAG states that it is typical practice to carry out a turning count on a single day and as such there is no requirement to survey multiple days to take account of potential variation [REP3-038].
- 5.5.64. The Applicant pointed out that the left turn lane which was closed at the time of the surveys had no impact on the data, because the left turn movement into the industrial estate was still fully available. The temporary works had been considered and allowed for in modelling through the omission of the Winterstoke Road left turn lane during VISSIM model validation [points 2 and 3, paragraph 1.5, REP5-034].
- 5.5.65. The May 2017 data used for modelling has subsequently been compared with other surveys, including both manual and automatic counts, carried out in 2014, 2015, 2016 and 2018 which show consistent volumes and patterns and thus validates the May 2017 traffic count [point 4, paragraph 1.5, REP5-034]. Calibration of the VISSIM model took place to observe turning movements and was validated in compliance with relevant guidance [point 5, paragraph 1.5, REP5-034].
- 5.5.66. Appendix N of the TA [REP6-130] acknowledged that daily variation occurs at the junction, with the ATC data highlighting certain hours when the outflow from Ashton Vale Road is very high at up to 290 vehicles per hour. The Applicant provided a number of responses to the issue of additional traffic on Manheim's auction days [REP3-038 and REP5-034], as well as verbally at ISH5 [EV-013]. When traffic flows are high on Ashton Vale Road due to an auction, the flows on Winterstoke Road are generally lower compared to the weekday AM and PM peak periods modelled, and therefore there would be capacity in the signals to deal with these higher volume outflows, particularly with the operation of

MOVA. There would be greater reserve capacity in the signals and an ability to move 'green time' around when Ashton Vale Road flows are highest (e.g. at times of auctions at Manheim). The proposed MOVA upgrade would overall be more responsive to traffic conditions [REP3-038].

Effects of increased frequency of level crossing down time on future expansion of local businesses:

- 5.5.67. Concerns about the recent and future expansion of businesses within the industrial area were raised by Manheim and ETM [REP2-060, REP4-050, REP6-041]. They were concerned that the model input data assumed no growth for such expansion or changes to businesses on the estate (including use of permitted development rights), resulting in a significant under-estimate of traffic demand and potential for delays at the level crossing and the junction. Specifically in relation to ETM, the ExA heard at ISH5 [EV-013] that ETM has expanded its operations since the surveys were taken and that a new planning application had recently been submitted to increase hours of operation at their site on Ashton Vale Road.
- 5.5.68. The Applicant highlighted that the industrial area is already constrained, and an amount of queuing already exists because of the operation of the existing traffic lights at the junction (without any significant rail movements). Any future occupiers or existing occupiers wishing to expand would be fully aware of the presence of the existing railway where there is no restriction on level crossing use; no occupier can assume that existing rail movements would not increase in the future. The Applicant advocates that this is a clear and lawful position; an increase in daily numbers of trains and thereby frequency in level crossing down time could take place already without the need for planning consent or a DCO [REP5-034].
- 5.5.69. The Proposed Development in this location is works to the junction to improve its capacity (Work No 28) which would be secured by Requirement 18 (to be approved in advance by the relevant planning authority) and substantially in accordance with the Ashton Vale Road and Winterstoke Road Highway Works Plan [REP5-009]. The MOVA signals would provide compensatory green time and could be configured to prioritise particular arms if desired. The actual operation would be for the local highway authority to decide but it gives the potential to significantly benefit owners and occupiers on Ashton Vale Road [REP5-034].
- 5.5.70. The ExA asked questions at ExQ2 [TT.2.4, PD-014] regarding traffic movements to Manheim and ETM specifically. The Applicant's response regarding Manheim is included at REP5-044. There was a disparity in the data provided by Manheim and ETM; a table displaying traffic movements similar to that given for Manheim [Table 4.1, REP4-050] was not provided as requested. Instead a context to ETM's operations was given, with a figure of around 8200 vehicle movements on each weekday being quoted with weighbridge records showing an increase in lorry loads since 2017 when the Applicant's surveys were carried out [page 3, REP5-044].

- 5.5.71. The figure of 8200 movements per day was questioned by the Applicant and subsequently Manheim and ETM confirmed at ISH5 [EV-013] and in their written representation that the terminology relating to the figures given was misleading and related to an entire month, not a daily movements figure. Further context was provided regarding the growth of ETM [AS-063].
- 5.5.72. At ISH5 [EV-013] the Applicant re-iterated their comments that there is no requirement for growth from potential future speculative development to be accounted for in the assessment, and that the railway line has been in existence for some 150 years without restriction on numbers of movements.
- 5.5.73. ETM and Manheim's reference to paragraph 80 of the NPPF is considered by the Applicant to be of limited materiality given the pre-existence of the railway and that the mitigations works would not inhibit future development proposals so that businesses can invest, expand and adapt. The Applicant added that the Proposed Development itself is a scheme that provides opportunity of significant growth for the regional economy in accordance with the national guidance [REP5-034].
- 5.5.74. The Applicant confirmed they intend to work with the local highway authority and occupiers to reduce construction impacts and would continue to keep owners and business occupiers informed of the project timetable [REP5-034].

Alternatives (new access to rear):

- 5.5.75. Manheim and ETM pointed out that an alternative access to the Ashton Vale industrial estate was originally put forward by the Applicant at an earlier stage of pre-application, but this no longer forms part of the scheme [RR-019]. The ExA asked a question on the matter at ExQ1 [TT.1.11, PD-010].
- 5.5.76. The Applicant referred to a report to the West of England Joint Transport Board in their response [REP2-013 and Appx TT.1.11 REP2-028]. This refers to the decision to proceed with an hourly service rather than a half-hourly passenger service, which would have required a double track. This led to a re-assessment of traffic impacts at Ashton Vale Road level crossing as with a single track only scheme there would be recovery time for traffic to pass through the crossing. On this basis the Applicant considers that the alternative access would no longer be required to deal with traffic problems caused by the level crossing [REP6-130].

Agent of Change:

- 5.5.77. Manheim and ETM in their D5 response [page 4, REP5-044] referred to the 'agent of change' principle as set out in paragraph 182 of the NPPF. They submitted that the employment use of the industrial area is precedent, and that the Applicant should be required to clearly demonstrate that any material impact is satisfactorily addressed. A recent planning appeal decision (APP/H5960/W/20/3246208) was submitted to illustrate the point [REP5-044].

- 5.5.78. The Applicant responded that neither planning permission nor development consent would be required to increase services on the existing operational railway. The existing level crossing serves a railway line which has been in place since 1867, which has parliamentary authority to operate without restriction. Consequently, the 'agent of change' is not applicable [EV-013, REP3-036, REP5-035].
- 5.5.79. ETM and Manheim's comments regarding the identification of Ashton Vale Road as a Principal Industrial and Warehousing Area in the Bristol Local Plan and any perceived conflict with Policies BSC8 and DM13 were considered by the Applicant to be of limited relevance, given that the Proposed Development does not propose any development or alternative use within the designation [REP5-034].
- 5.5.80. No changes were made to the TA or the Proposed Development as a result of the submissions by Manheim and ETM and their objections remained outstanding at the close of the Examination.
- 5.5.81. Paragraph 39 of BCC's LIR [REP1-032] sets out that BCC consider the Applicant has given sufficient consideration to the traffic impacts on Winterstoke Road and Ashton Vale Road. The mitigation measures are supported, with the delivery of an hourly train service without detriment to the junction at Winterstoke Road and Ashton Vale Road. It encouraged ongoing consultation with BCC's Network Management Team and advised that the detailed design should be in accordance with BCC's Traffic Signals team [REP1-032]. No issues were raised in its LIR regarding the data, modelling or adverse effects on the occupiers of Ashton Vale industrial estate because of the Proposed Development.
- 5.5.82. The ExA asked BCC to comment on Manheim and ETM's submissions at ExQ2 [TT.2.5, PD-014]. BCC replied that it was satisfied with the Applicant's approach to modelling, the methodology for which had been agreed with their Traffic Signals Team, and that Manheim and ETM appear to rely on a limited set of data rather than the full scope of surveys which are largely consistent in terms of volumes and patterns and considered acceptable to BCC. It was satisfied that a range of surveys had been undertaken across several years both with and without the temporary roadworks affecting the left turn lane into Ashton Vale Road, and that traffic volumes in this location would be unlikely to change significantly as there is no alternative route for traffic into the industrial estate [REP5-038].
- 5.5.83. With regard to the 'Agent of Change' principle, BCC set out that the only element of change would be increased frequency of crossing closures, and this would be dealt with by suitable mitigation in the form of the upgrade to the MOVA system which would help to address any peaks, such as those encountered at auction events or at the AM or PM traffic peaks [REP5-038].
- 5.5.84. In its signed SoCG [REP7-026] BCC re-confirmed its satisfaction set out above with the Applicant's approach and proposed mitigation [REP7-026].

- 5.5.85. The D7 progress update to Consents and Licences required under Other Legislation [REP7-067] sets out that BCC and the Applicant are working towards a completed S278 Agreement under the Highways Act 1980 for the highway works and a copy of the latest draft was submitted at D7 [REP7-040]. The agreement includes a payment for upgrade to the MOVA traffic lights.

Rail Freight Access

- 5.5.86. The BPC was originally granted planning permission for a new section of railway line from the west of Pill into the Port in 2001 and the freight service to RPD opened in 2002. In its RR [RR-010] BPC set out a number of concerns relating to the use of the freight line for passenger services. These included the need to preserve reliable and timely access for rail freight traffic throughout construction and operation. BPC sought adequate protections so as to ensure its service delivery to customers and its other port operations would not be impeded. These are considered further in Chapter 9 of this Report.
- 5.5.87. The TA [Section 6.5, REP6-125] sets out that timetabling analysis has been undertaken to illustrate that rail freight paths can be accommodated alongside the Proposed Development. Modelling has informed the development of a working timetable to include both an hourly passenger train path and an hourly freight train path [paragraph 4.4, Annexe E, REP1-029]. The Applicant's response to BPC's RR [Annexe E, REP1-029] confirmed that the draft DCO contained no powers to impede access to the Port via the highway network, nor to control rail freight paths.
- 5.5.88. The ExA sought clarification of the existing freight movements at ExQ1 [GC.1.12 and CI.1.4 PD-010]. BPC's reply [REP2-065] referred to the planning consents for the freight line in 2000 and 2011 and the relevant condition restricting freight movements. They explained the variations in freight movements due to the link being used for a variety of different cargoes and customers. BPC clarified that rail movements are arranged by the Freight Operating Company (FOC) but not based on a particular timetable. The FOC makes all the necessary arrangements for the end to end journey of the freight trains including the timing and safe operating procedures for the switch between the branch line and the main line [REP2-065]. The Applicant provided a table of figures setting out the average weekly number of commercial freight trains, with an average of 9.7 per week in 2018-19 and 0.7 per week in 2019-20 (0 in 2020-21) [Appendix to GC.1.12, REP3-033]
- 5.5.89. The Applicant's response to GC.1.12 [REP2-013] clarified the role of NR as the regulated operator who, under section 8 of the Railways Act, has a core duty to secure the operation and maintenance of the rail network in accordance with best practice and in a timely, efficient and economical manner so as to satisfy the reasonable requirements of persons providing services relating to railways. BPC may be able to seek compensation from the freight train operators due to the need for them to re-schedule the dates and times of the dispatch of freight trains, or require them to transport the cargo via an alternative mode of transport [REP2-013].

- 5.5.90. At ISH2 [EV-009, REP4-059] there was some debate about the condition on the 2011 planning consent (varying the original 2000 planning consent) which limits freight train movements to one per hour in each direction during any time when the Bristol to Portishead branch line is in use for scheduled passenger services. BPC interpreted the condition as a maximum of 40 trains per day, whilst the Applicant and NR considered it was set at 20.
- 5.5.91. The discrepancy was explained further by BPC following ISH2 [EV-009]. A limit of 40 trains per day is set out in a works agreement between BPC and NR (previously Railtrack plc) dated November 2000 [paragraphs 13 to 14.2, REP4-060]. This restriction is not imposed by the Network Code or otherwise by the application of the Railways Act 1993 [action points 19 and 20, REP4-060]. Whilst there was some confusion over this matter initially, the Applicant accepted in their D5 submission [REP5-049] and again at ISH5 [EV-023] (together with NSDC) that the interpretation of the condition which resulted in a limit of 40 freight movements (20 in each direction) per day in total.
- 5.5.92. The BPC accepted the Applicant's comments that the allocation of rail paths to freight operators is a matter for NR under the Network Code and the Railways Act 1993 and did not suggest that the draft DCO should seek to control that allocation. Instead the BPC sought to ensure that the passenger line must be operated in a way which would ensure that sufficient train paths remain available over the branch line to enable freight traffic to and from Royal Portbury Dock at the levels protected by the works agreement and permitted by the 2011 planning permission. BPC sought to include an additional Protective Provision to this effect [paragraph 5, REP4-060].
- 5.5.93. At ISH5 [EV-013] the BPC further explained its position that it could not rule out in the future an increase in its customers' use of the railway but confirmed that the existing permitted level should be sufficient for its current needs. BPC set out that restricting freight movements could affect investment in the RPD, consequent loss of jobs and the customer choosing instead to move its cargo by road. The Applicant explained that BPC's proposed Protective Provision was unnecessary and inappropriate because all track access arrangements should be dealt with through the Network Code and the DCO was not the appropriate place to deal with future increases in freight train capacity [REP6-021].
- 5.5.94. The BPC also sought for their proposed Protective Provision to control changes to the infrastructure of the railway development or to the operation of the passenger service. This would include the introduction of a half-hourly service without changes to the physical infrastructure [REP6-048 and REP6-052]. The BPC stated that its customers require the confidence that the level of rail access they currently enjoy would remain available to meet the continuing demand for it. The history of the use of the rail link since it was built only goes to prove how unpredictable demand is, and it needs to be in a position to respond to its customers' demands and provide the facilities required [REP6-052].

- 5.5.95. The Applicant considers that there remains considerable unused train path capacity for freight trains to/ from RPD and the currently permitted train movements could be accommodated within their proposals. It stated that there is no intention of causing additional movements to be unreasonably compromised but equally there is no purpose in providing over capacity for freight services which are currently at a level far below that which is permitted by the planning condition [REP6-021].
- 5.5.96. At the close of the Examination BPC [REP7-073] confirmed the extent of the remaining areas of disagreement. At paragraph 10 BPC confirmed that, having received suitable assurances from NR, it no longer seeks the inclusion of a Protective Provision relating to train movements.

Permanent New Accesses at Compounds

- 5.5.97. New or improved accesses proposed for construction compounds are proposed to be made permanent at Portbury Hundred (Work No 12), Ham Green (Work No 24) and Clange Road (Work No 26) compounds.

Portbury Hundred

- 5.5.98. The ExA asked questions [ExQ1 TT.1.13, PD-010 and ExQ2 CI.2.2 PD-014] relating to detail of the access at the A369 Portbury Hundred construction compound, its scale, and the reasoning for the proposal to make it permanent. Details of the access are shown on the Portbury Hundred Construction Compound plan [467470.BQ.04.20-600 Rev I, APP-036] which shows a left in and out only priority junction.
- 5.5.99. The Applicant replied that there is no intention to alter the access in size and specification once the compound is no longer required for construction, because it is required as a farm access. Without it, the farmers' land would be severed by the closure of an existing at-grade crossing over the railway line [REP2-013 and REP5-028]. The ExA had concerns that a large over-engineered access would be unnecessary to access farmland only, particularly given its GB location.
- 5.5.100. The Applicant included in their response to ExQ2 [CI.2.2, REP5-028] an AutoCAD drawing to demonstrate that a tractor and trailer would be of similar scale and manoeuvrability to a low-loader truck that would utilise the access during construction. The Portbury Hundred is a high-speed road and the design of the gated access allows space for large vehicles to pull off the road safely. It was confirmed that the junction would solely form farm access for the landowner and a gate will prevent public access. NSDC in their response [REP5-039] confirmed the works compound access would be appropriate for a permanent agricultural access.

Ham Green

- 5.5.101. A number of submissions were received from IPs [AS-053, AS-060, AS-062, AS-061, REP1-042, REP4-054, REP4-055, REP4-056, REP4-057, REP6-044, REP6-045], raising concerns relating to the safety of NMUs on Chapel Pill Lane at Ham Green where a new vehicular access is proposed to the construction and permanent maintenance/ emergency compound

(Work Nos 24 and 24A). This matter was discussed at ISH2 and ISH5 [EV-009 and EV-013].

- 5.5.102. Chapel Pill Lane is a rural lane to the east of the village which forms part of the NCN 41 cycle route (Avon Trail). It has no footways and there is an existing access track which currently leads onto Hayes Mayes Lane and a gated field. The new access would involve the removal of vegetation and widening of part of Chapel Pill Lane [APP-040].
- 5.5.103. The Applicant confirmed that the temporary construction compound in this location is primarily to enable the construction of the access itself [REP4-033], and that heavy goods vehicle (HGV) movements would be low, at an expected rate of around one per week [ISH5, EV-013]. Operational traffic, for inspection maintenance and emergency access, would be around two to three times per week, using small vans or pickups. Larger vans and trucks would only be required when works are planned that require road rail vehicles or materials, circa two to three times a year. Material deliveries are likely to occur once every 8 to 12 weeks and would be undertaken during the nighttime period to align with track possessions. [REP6-125].
- 5.5.104. An IP [REP4-055] referred to a much higher level of vehicle usage of Chapel Pill Lane (450 vehicles per day) which he considered would double with the Proposed Development. The ExA questioned this at ISH5 [EV-013] and the IP later confirmed that this data was taken from the Draft Abbots Leigh, Ham Green, Pill and Easton-in-Gordano Neighbourhood Plan [REP6-045]. The quote regarding 450 vehicles per day is incorrect - given the cycling data provided by the IP [REP6-045] it appears that these figures refer to cyclists rather than motor vehicles.
- 5.5.105. An alternative route to the Ham Green compound via Pill Road was suggested by an AP at D4 [REP4-057]. The ExA asked a question on this matter [ExQ2 BIO.2.1, PD-014]. The Applicant replied that it would constitute a material change to the DCO and anticipates that its ecological, landscape and visual impacts would be more significant than the proposed access on Chapel Pill Lane [REP5-033].
- 5.5.106. It was also suggested by an IP [AS-053] that a reinforced grass surface 'grasscrete' could be used instead of 'tarmac' for the Ham Green access road. The Applicant responded that 'grasscrete' is not considered appropriate for construction or emergency vehicle access due to the gradient of the site and vehicles may otherwise skid on a grass surface [REP4-033].

Clanage Road

- 5.5.107. Avon and Somerset Constabulary and BCC made submissions in respect of traffic and transport matters at the Clanage Road construction and maintenance compound (Work No 26). The Constabulary highlighted the existence of a weight restriction on Clanage Road and Rownham Hill [RR-008]. The ExA asked a question at ExQ1 [TT.1.9, PD-010] and the Applicant responded that they were aware of the four tonne weight

restriction and confirmed that the 1973 TRO allows for deliveries to and from any site adjoining the length of the road [REP2-013 and REP2-030]. The SoCG with the Constabulary [REP1-026] also sets out that construction traffic would not be routed via Rownham Hill as included in the CTMP.

- 5.5.108. Highway safety concerns were initially raised by BCC in their LIR [REP1-032] specifically relating the visibility of the junction and the traffic speeds on Clanage Road. BCC confirmed at ISH2 [EV-009] and in their SoCG [REP7-026] that it was satisfied that Requirements 4 (design details) and 5 (CTMP) would adequately secure matters of detailed junction design and signage to ensure safety of the junction. The SoCG also sets out that work on the final highway works agreements is ongoing and the approach set out in the draft Section 278 Agreement [REP7-040] is acceptable to BCC.
- 5.5.109. No traffic and transport issues were raised in relation to any of the other permanent compounds.

ExA Conclusion

- 5.5.110. The ExA considers that significant benefits would arise from the operation of the Proposed Development in terms of a faster and viable alternative to travelling by car between Portishead, Pill and Bristol and for connections into the national rail network from there, enabling a modal shift to rail. It would assist in reducing road traffic congestion between the settlements and associated emissions. There is much support from IPs for the Proposed Development in this respect.
- 5.5.111. The ExA is assured by the SoCG with HE which states that there would be no impacts on the SRN from the operational development [REP1-019].
- 5.5.112. The ExA is satisfied with the level of parking provision for both stations and that any issues relating to on-street parking in the vicinity could be dealt with by NSDC if the need arises in the future via the appropriate mechanisms available to them as local highway authority. The Proposed Development also provides covered bicycle parking and provision for motorcycles.
- 5.5.113. The ExA is satisfied that both freight trains and passenger trains would be able to run on the single track with the appropriate controls laid down in other legislation including the Railways Act and the Network Code. A Protective Provision to limit movements is therefore unnecessary in this respect, and the DCO is not the appropriate mechanism to deal with future increases in freight train capacity.
- 5.5.114. The ExA accepts the necessity for the permanent compound accesses at Portbury Hundred, Ham Green and Clanage Road for safety reasons, and the evidence is clear that operational traffic levels to such compounds would be very low. Full details of permanent accesses would be appropriately dealt with post-consent by the relevant planning authorities specifically through the imposition of Requirements 4 and 9.

- 5.5.115. With particular regard to Ham Green, the ExA noted on their USIs [EV-001 and EV-014] that Chapel Pill Lane is a private non-through road to vehicular traffic with very low existing levels of vehicular traffic; there are higher numbers of NMUs in particular cyclists [REP6-045]. The traffic expected both during construction and when operational would be negligible, and consequently risks to and effects on NMUs and the recreational use of the cycle route would also be low. In terms of surfacing at Ham Green, use of 'grasscrete' is unlikely to be appropriate for highway safety reasons given the steep gradient of part of the site. However, the ExA considers that the imposition of Requirement 36 would be appropriate as it would enable surface materials and levels to be reviewed at the detailed design stage given its sensitive location.
- 5.5.116. The concerns from Manheim and ETM regarding the modelling and effects on Ashton Vale Road from increased down-time of the level crossing remain outstanding at the close of the Examination. However, having considered the evidence provided by the Applicant the ExA is satisfied that the modelling and data set out in the TA [REP6-125] is fit for purpose.
- 5.5.117. The ExA consider that the May 2017 traffic count used in the modelling is representative of traffic volumes around Ashton Vale industrial area and do not therefore consider it necessary for the Applicant to collect new data and re-run the model. The ExA accepts that the issue of a left turn filter lane on Winterstoke Road being closed at the time of the surveys has been appropriately accounted for and does not materially affect the use of the data. The ExA agree with the Applicant that the criticisms of Manheim and ETM in this respect have not been backed up with counter evidence and therefore have given them very limited weight when considering this matter.
- 5.5.118. The ExA is satisfied that the Proposed Development would have no more material impact on the Ashton Vale Road industrial area than what could be expected by permitted use of the existing level crossing, which has been in place for a significant period of time. The current infrequency of use of the level crossing could be significantly increased by freight trains at any time without consent and mitigation. The proposed mitigation provided by Work no. 28 and secured by Requirement 18 would provide a general betterment to the junction. The ExA gives the views of BCC as local highway authority significant weight in this conclusion. BCC did not raise concerns either with the modelling or the proposed mitigation at Winterstoke Road and Ashton Vale Road. A draft s278 agreement is in progress [REP7-040] and the SoS may receive an update on this.
- 5.5.119. The ExA concludes that traffic and transport impacts have been robustly dealt with and accords with paragraphs 5.201 to 5.217 of the NPSNN, with proportionate and reasonable mitigation which would be adequately secured in the recommended DCO.
- 5.5.120. The overall effects relating to vehicle traffic and parking issues attract neutral weight in the planning balance, and the benefits of the provision of train service as a viable alternative to the private car and assisting in a

modal shift to rail weighs heavily in favour of the Proposed Development in accordance with paragraphs 2.2, 2.28 and 2.29 of the NPSNN.

5.6. AIR QUALITY, CARBON EMISSIONS AND CLIMATE CHANGE ADAPTION

5.6.1. This section considers air quality, carbon emissions and climate change adaption. However, due to the overlap of this topic these matters are also covered in the following sections of the report:

- principle and need for the development including alternatives in Section 5.2;
- flood risk in Section 5.4;
- traffic and transport in Section 5.5;
- construction impacts in Section 5.7;
- land use (with particular reference to dust and farming) in Section 5.9; and
- the Chapter 6 – findings and conclusions in relation to HRA.

Policy Context

Air Quality and Carbon Emissions

5.6.2. Paragraph 2.35 of the NPSNN identifies that rail transport has a crucial role to play in delivering significant reductions in pollution and congestion. Paragraph 2.4 advises that a modal shift from road and aviation to rail can help reduce transport's carbon emissions and (paragraph 2.41) that the environmental performance of the railway will be improved by continuing to roll out a programme of rail electrification. This is reflected in paragraph 3.6 which states that transport will play an important part in meeting the Government's legally binding carbon targets and other environmental targets through amongst other things promoting lower carbon transport choices.

5.6.3. Paragraph 4.50 states that the ExA and the SoS should assess the potential impacts of processes, emissions or discharges to inform decision making, but should work on the assumption that, in terms of control and enforcement, the relevant pollution control regime would be properly applied and enforced. Paragraph 4.55 refers to a need to ensure that the relevant pollution control authority is satisfied that potential releases can be adequately regulated under the pollution control framework and that the pollution effects with the project would not make that development unacceptable, particularly in relation to statutory environmental quality limits. At paragraph 4.56 it says that consent should not be refused based on regulated impacts unless there is good reason to believe that relevant control permits, licenses or other consents will not subsequently be granted.

5.6.4. Paragraph 5.10 requires the SoS to also consider the air quality effects over the wider area likely to be affected. The NPSNN requires account to be taken of relevant statutory air quality thresholds set out in domestic and European legislation. Paragraph 5.11 notes that air quality considerations are likely to be particularly relevant in relation to AQMAs.

Paragraph 5.12 requires air quality considerations to be given substantial weight where a project would lead to significant air quality effect or where they lead to deterioration in air quality in a zone/ agglomeration.

- 5.6.5. Paragraph 5.9 requires the SoS to be provided with a judgement on the risk as to whether the project would affect the UK's ability to comply with the Air Quality Directive (AQD). Paragraph 5.13 states that:

"the Secretary of State should refuse consent where, after taking into account mitigation, the air quality effects of the scheme will:

- *result in a zone/ agglomeration which is currently reported as being compliant with the Air Quality Directive becoming non-compliant; or*
- *affect the ability of a non-compliant area to achieve compliance within the most recent timescales reported to the European Commission at the time of the decision."*

- 5.6.6. Paragraph 5.14 of the NPSNN requires consideration of whether the mitigation measures are acceptable. Paragraph 5.15 notes that:

"mitigation measures may affect the project design, layout, construction, operation and/ or may compromise measures to improve air quality in pollution hotspots beyond the immediate locality of the scheme. Measures could include, but are not limited to, changes to the route of a new scheme, changes to the proximity of vehicles to local receptors in the existing route, physical means including barriers to trap or better disperse emissions, and speed control. The implementation of mitigation measures may require working with partners to support their delivery."

- 5.6.7. The AQD, AQS and the Clean Air Strategy are described in Chapter 3 of this report. The AQD sets LVs for compliance and control actions in case of exceedance, including for Nitrogen Dioxide (NO₂) and Particulate Matter (PM₁₀ and PM_{2.5}). The AQS set objectives for key pollutants and sets the framework for detailed local plans to address exceedances, including the designation of Clean Air Zones and AQMA.

Climate Change and Carbon Emissions

- 5.6.8. Carbon emissions are addressed in paragraphs 5.16 to 5.19 of the NPSNN. Paragraph 5.16 refers to a system of five year carbon budgets that set a trajectory to cut in greenhouse gas (GHG) emissions by at least 80% by 2050 and says that *"carbon budgets and plans will include policies to reduce transport emissions, taking into account the impact of the Government's overall programme of new infrastructure as part of that"*.

- 5.6.9. The sixth carbon budget was published in December 2020 which requires a 78% reduction in UK territorial emissions between 1990 and 2035. In effect this brings forwards the UK's previous 80% target by nearly 15 years. The budget sets out four key steps to achieve this reduction which includes reducing the demand for carbon intensive activities which includes the goal of travelling fewer miles by car.

- 5.6.10. Paragraph 5.18 advises that any increase in carbon emissions is not a reason to refuse development consent, unless the increase in carbon emissions resulting from the proposed scheme are so significant that it would have a material impact on the ability of the Government to meet its carbon reduction targets. Paragraph 5.19 requires evidence to be provided of mitigation measures and requires the SoS to consider their effectiveness in order to ensure that the carbon footprint is not unnecessarily high.
- 5.6.11. Climate change adaption is addressed in paragraphs 4.36 to 4.47 of the NPSNN. These identify that applicants must consider the impacts of climate change when planning location, design, build and operation and set out how developments have responded to and accommodate the potential effects of climate change using the latest UK climate projections.
- 5.6.12. NPSNN paragraph 4.43 requires applicants to *"demonstrate that there are no critical features of the design of new national networks infrastructure which may be seriously affected by more radical changes to the climate beyond that projected in the latest set of UK climate projections"*, and paragraph 4.44 sets out that *"any adaption measures must themselves be assessed as part of any environmental impact assessment and included in the environment statement, which should set out how and where such measures are proposed to be secured."*
- 5.6.13. Section 104 of the PA2008 states that the SoS must decide an application for a national network NSIP in accordance with the NPSNN unless it is satisfied that to do so would, amongst other things, lead to the UK being in breach of its international obligations. This includes the Paris Agreement which as referred to in paragraph 3.3.16 of this Report, provides a framework for keeping global warming well below 2°C. It was ratified by the UK Government in November 2016, after the NPSNN was designated in December 2014.
- 5.6.14. Table 7.3 of the ES [REP6-074] includes a summary of relevant development plan policies regarding air quality and greenhouse gases. These policies are also listed in Appendix D of this Report.

The Application

- 5.6.15. ES Chapter 7 and its associated figures and appendices relate to air quality and greenhouse gases [REP6-074, AS-033, REP6-112], and Chapter 18 considers in-combination and cumulative effects [APP-113].
- 5.6.16. The Proposed Development has the potential to cause air quality impacts during construction, operation and decommissioning [7.1.2 and 7.1.3, REP6-074]. The EIA has considered impacts on local and regional air quality, and emissions of GHGs. The Applicant has used established guidance and professional judgement in determining the significance of effects on sensitive receptors including human receptors, designated ecological sites and global climate.

- 5.6.17. The Applicant acknowledges [7.6.1 to 7.6.10, REP6-074] that construction activities would be likely to generate dust which has the potential to cause soiling at nearby properties and affect human health if uncontrolled. However, the Applicant proposes to mitigate these effects through the implementation of Best Practicable Means which would be delivered through the CoCP [REP6-109] and the master CEMP [REP7-023] and secured through Requirement 5.
- 5.6.18. In particular the master CEMP would require the provision of an Air Quality and Dust Management Plan which would include amongst other things:
- **General site management:** such as planning the site layout to place dusty activities away from residential areas, erection of hoardings to restrict dust and dust suppression techniques.
 - **Construction plant, vehicles and equipment:** employ measures to reduce emissions such as using plant with lower emissions, operating and maintaining plant in accordance with manufacturer's instructions, switching off plant when not in use and adopting lower speed limits on site.
 - **Transportation, storage and handling of materials:** employ measures to avoid the entrainment of dust and spreading of mud on the roads such as sheeting lorries, location and protection of stockpiles and use of wheel washers at egress points at construction sites.
 - **Excavation and earthworks:** measures to reduce entrainment of dust such as careful soil stripping, minimise drop heights, compaction of materials and revegetation soon after the works are completed.
 - **Conveying, processing, crushing, cutting and grinding:** measures to limit dust pollution from dusty activities, for example by use of temporary enclosures and damping of materials.
- 5.6.19. One of the main objectives of the Proposed Development is to contribute to managing traffic growth. The new railway services would be expected to reduce emissions per passenger kilometre travelled compared with equivalent road transport through enabling a modal shift from car to rail [7.10.3, REP6-074].
- 5.6.20. The Applicant assessed the overall operational impacts from rail and road traffic emissions [7.6.11 to 7.6.36, REP6-074]. The annual mean NO₂ and PM₁₀ were both predicted to be below 75% of the Air Quality Assessment Level (AQAL) (40 µg m⁻³) at all modelled receptors in Portishead and Pill in the Do-Minimum scenario. The ES concluded that the degree of harm to human health is likely to be small at exposures below the air quality objective [7.6.22 to 7.6.25, REP6-074]. The largest predicted change in NO₂ concentration would be a change of 1.2% of the AQAL for a residential property in Chapel Row in Pill (R25) which is located within 10 m of the existing railway line, where there would be additional rail services as a result of the Proposed Development [7.6.18, REP6-074] albeit that the increase in this receptor would still be well below the AQAL.

- 5.6.21. Annual mean NO₂ was predicted to be higher around Parson Street Junction and Bedminster which are located within the BCC AQMA [7.8.10, REP6-074]. However, no exceedances were predicted in the Opening Year 2021 and the impact at all selected 'worse-case' receptors was classified as negligible. The impact results from the additional frequency of passenger trains. The Applicant considers that these changes would be moderate and would be approximately 1% of the AQAL for annual mean NO₂ [Paragraph 7.8.15, REP6-074].
- 5.6.22. The modelled impacts on the Avon Gorge Woodlands SAC [7.6.26 to 7.6.36, REP6-074] show that the Proposed Development would result in a small increase of less than 1 µg m⁻³ NO_x at the closest point to the proposed route. Results show that NO_x concentration would decrease with distance and would be imperceptible at 100m from the railway line. The ES regarded these changes as not significant [7.6.31, REP6-074]. Similar impacts were observed for nitrogen and acid deposition rates [7.6.36, REP6-074]. Further consideration of the implications of air quality on designated habitats is covered in Chapter 6 of this Report.
- 5.6.23. The core analysis undertaken by the Applicant indicates that in the opening year there would be an adverse impact on regional CO₂, NO_x and PM₁₀ emissions as a result of the Proposed Development [Table 7.16, REP6-074]. As a result, the Applicant undertook further refinement of the regional emission calculations [Table 7.17, REP6-074] which showed that adverse impacts on emissions would be lessened when focused on changes in rail and road emissions from just the Proposed Development. Modernisation of the rail fleet would result in further reducing the adverse impacts on NO_x and CO₂ emissions and a net benefit in terms of PM₁₀ emissions [7.6.45, REP6-074]. The ES concluded that overall, the effects of the Proposed Development on the local air quality would not be significant in terms of the EIA regulations. A summary of the effects of the Proposed Development on air quality and GHGs is set out in Table 7.20 of the ES [REP6-074].

Issues Considered During the Examination

- 5.6.24. Air quality and climate change were identified by the ExA as two of its IAPI [Annex C, PD-007]. The topics were discussed in detail at ISH3 [EV-010] and ISH5 [EV-013]. The ExA also asked a number of questions in ExQ1 [AQ.1.1, AQ.1.2 and CC.1.1, PD-010].
- 5.6.25. BCC in its LIR highlighted that the Proposed Development would have the potential to result in air quality impacts during construction and operation. BCC accepted the findings of the ES in relation to air quality and raised no objections subject to the provision of an air quality and construction dust management plan as required by Requirement 5 [60, REP1-032].
- 5.6.26. Following further modelling, BCC acknowledged that the impact for sensitive receptor locations between Parsons Street Junction and Parsons Street Station would be negligible [63, REP1-032]. At the close of the

Examination the signed SoCG [REP7-026] with BCC showed that all matters on air quality were agreed.

- 5.6.27. NSDC in its LIR [2.15, REP1-033] acknowledged that the Proposed Development would have the potential to affect local air quality but that the assessment process indicates that the air quality objectives are not expected to be exceeded in North Somerset. During the construction phase NSDC accept that there may be temporary air quality issues due to the emission of PM₁₀ and PM_{2.5}.
- 5.6.28. NSDC noted that in the operational phase the diesel trains would emit NO_x and PM₁₀ and the combustion of diesel would also generate CO₂ which is a significant GHG. However, it considered [2.15, REP1-033] that due to its scale rail travel is expected to give rise to less pollution per passenger kilometre travelled than road transport. NSDC accepted that there would potentially be a localised increase in the level of emissions due to an increase in road traffic around the station areas of Portishead and Pill. However, the levels were not anticipated to be significant. At the close of the Examination the signed SoCG with NSDC [REP7-025] showed no outstanding issues in relation to air quality, climate change or greenhouse gases.
- 5.6.29. SGC [2.2.6, REP1-034] in its LIR make reference to page 5 of the JLTP4 which aims to ensure that transport is carbon neutral by 2030 and acknowledges that there has to be a substantial shift towards cleaner and greener and more sustainable forms of transport. MetroWest Phase 1 is listed in the projects that together encourage the switch to more sustainable transport modes including public transport.
- 5.6.30. The matters raised by the EA [REP7-027] with regards to climate change related to flooding are considered in section 5.4 of this Report.
- 5.6.31. NE considered that the effects of changes in air quality on the Avon Gorge Woodlands SAC had been adequately considered as part of the HRA [Section 7.2.2, REP6-146]. NE advised that whilst the revised predicted nitrogen deposition of a maximum of 0.1 N kg Ha would represent an increase for the SAC, where critical loads are already exceeded, they were satisfied that the Applicant had provided reasonable justification as to why the effects of the Proposed Development on air quality would be below the 1% threshold increase alone and in combination. At the close of the Examination the signed SoCG with NE [REP6-146] showed that all matters with regards to air quality were agreed.
- 5.6.32. Concerns about dust arising from construction at and around Lodway Compound (Work No 17) are dealt with in section 5.7 of this Report.
- 5.6.33. Effects of during operation were raised by the Woodland Trust [RR-030], who stated that indirect impacts would be likely to occur on the ancient woodland and its wildlife. The ExA sought clarification on their comments at ISH3 [EV-010] however no further comments were received from the Woodland Trust nor did they participate in Hearings. The Applicant failed

to complete a SoCG with them by the end of the Examination for the reasons set out in paragraph 1.4.31 of this Report and in the final Statement of Commonality of SoCGs [REP7-062].

- 5.6.34. The BPC also raised concerns about dust affecting their assets and its customers' cargos during operation of trains [REP4-059]. In their written submissions and at ISH5 [EV-013] the BPC indicated that the retention of existing vegetation adjacent to their perimeter would help to act as a barrier to dust from both construction and operation and that removal of this vegetation should be minimised. The Applicant subsequently confirmed that there were no proposals to remove the vegetation screening alongside the perimeter track [REP7-037].
- 5.6.35. A number of IP's [RR-041, RR-049, RR-108 and RR-120] highlighted concerns regarding the use of diesel trains in relation to GHG emissions, questioned the use of Diesel Multiple Units (DMUs) and advocated that a busway would, amongst other things, be less polluting.
- 5.6.36. The use of DMUs and concerns regarding climate change were the subject of a written question [ExQ1, CC.1.1-PD-010] and was examined orally at ISH3 [EV-010].
- 5.6.37. The Applicant highlighted that the Government has tasked NR with decarbonising the rail network by 2040 which will result in a move away from diesel [24, REP4-017]. To achieve this NR have produced a 'Traction Decarbonisation Network Strategy' (TDNS) [REP2-019] which contributed to the evidence base for the emerging policy set out in the March 2020 DfT policy paper 'Decarbonising Transport: Setting the Challenge' [2.30 to 2.44, REP4-019]. The Applicant advocated that the Government's overarching aim of removing all diesel-only trains by 2040 is likely to be confirmed in their forthcoming Transport Decarbonisation Plan. The TDNS provides the detailed strategy for achieving this target. Consequently, the Applicant believes that when considering the Application, the ExA should give some weight to the TDNS.
- 5.6.38. The Applicant advised that whilst not viable currently [10-1, REP1-029] that future electrification of the branch line would not be prevented by the design of the Proposed Development. Albeit they did [25, REP4-017] acknowledge that conventional overhead line electrification would not be possible between Pill and Bristol due to the existing four tunnels [26, REP4-017]. The Applicant advised [25, REP4-017] that rail technology is in a transitional phase and NR are moving towards non-continuous electrification using bi-modal trains. They advised that bi-modal trains are already used successfully on a number of lines. For the Proposed Development the Applicant advised that the train could be electrified between Portishead and Pill with a battery to take it through the non-electrified sections [25, REP4-017].
- 5.6.39. The Applicant accepts [Table 7.16, REP6-074] that due to the initial use of DMUs that CO₂ emissions in the opening year of the proposed development would, despite the predicted modal shift from car to rail, increase. However, the ES considers that this magnitude of change would

be negligible on a national scale as it would only be 0.003% of the total CO₂ emitted nationally from the transport sector [Paragraph 7.6.40, REP6-074]. Furthermore, the Applicant advocates that based on the TDNS and the evolution of the technology DMUs would only be used for a relatively short period of time [24, REP4-017].

- 5.6.40. Furthermore, the Applicant highlighted that the Proposed Development would build on the regions significant investment programme in the West of England's transport network that aims to cut congestion, improve air quality, provide network resilience, and ultimately reduce carbon emissions from the transport network [10-1, REP1-029]
- 5.6.41. In terms of NSDC declaration of a climate emergency the Applicant [32, REP4-17] referred the ExA to the action plan that accompanied the declaration [23, REP4-042] which aims to encourage a shift from private car use, develop policies that deliver connections to public transport and to encourage the use of public transport.
- 5.6.42. Whilst the busway suggested by a number of IP's [RR-049, RR-108 and RR-120] may be less polluting for the reasons set out in paragraph 5.2.17 of this Report the Applicant does not consider it a viable alternative to the scheme.

ExA Conclusion

- 5.6.43. Whilst the ExA recognises that there would be detrimental effects on air quality during construction these would be temporary and short term impacts which would be reduced to an acceptable level through embedded design and good practice measures that would be secured through the recommended DCO.
- 5.6.44. In considering the effects of the Proposed Development on air quality the ExA has had particular regard to the policies set out in the NPSNN. Consideration has also been given to the relevant sections of the AQD, the AQS, the Clean Air strategy and to the relevant development plan policies.
- 5.6.45. The ExA did not receive any substantive concerns from relevant pollution control authorities about their ability to regulate potential releases under the pollution control framework and as such the ExA considers that paragraph 4.55 of the NPSNN would be satisfied. Furthermore, the ExA have no good reason to believe that, as required by paragraph 4.56, any relevant control permits, or licences or other consents would be withheld.
- 5.6.46. In relation to operation the ExA consider that the Proposed Development would enable the modal shift from road to rail advocated by the NPSNN (paragraph 2.40). The ExA accepts that due to the use of DMUs CO₂ emissions would increase because of the Proposed Development. However, the predicted increase when considered as part of the total CO₂ emissions generated by the transport sector nationally would be exceptionally small. As such the ExA considers that the Proposed Development would not adversely affect air quality or affect the ability of

the Government to meet the carbon reduction targets set by the Climate Change Act 2008 (as amended) and the Carbon Budget Order 2021.

- 5.6.47. Furthermore, the ExA agree with the Applicant that significant weight should be given to the TDNS, particularly given that the Government has now published their transport decarbonisation plan 'Decarbonising Transport: A Better, Greener Britain' (DfT, 14 July 2021). This stipulates the ambition for all DMUs to be removed from the network by 2040, with the rail network achieving net zero by 2050. Consequently, the ExA agree with the Applicant that the use of bi-modal trains and electrification of the line as part of the wider NR strategy could in the future reduce not only CO₂ but NO_x and PM₁₀ emissions that would be generated by the Proposed Development.
- 5.6.48. The ExA is satisfied that the Proposed Development would accord with the relevant parts of the NPSNN. In particular, it would enable a modal shift from road to rail as advocated by paragraph 2.40. The ExA is satisfied that mitigation is adequately provided for and secured in the recommended DCO.
- 5.6.49. For the reasons outlined the ExA consider that in respect of air quality, the Proposed Development would attract neutral weight in the planning balance. In respect of carbon emissions, due to the use of DMU's the Proposed Development would attract a negative weight in the planning balance, albeit that the ExA considers that the SoS can attach significant weight to the likelihood that DMUs would in the long term be removed from the network. In terms of climate change adaptation by enabling a modal shift away from the car the Proposed Development would attract positive weight in the planning balance.

5.7. CONSTRUCTION IMPACTS

- 5.7.1. This section addresses the impacts of the development during the construction phase. It includes reference to construction traffic and use of the various compounds and the associated effects of construction on local communities, businesses and the environment.
- 5.7.2. There is some overlap of this topic with these matters also being covered in the following sections of the report:
- Water quality and resources in Section 5.4;
 - Traffic and transport in Section 5.5;
 - Air quality (with particular reference to dust from construction) in Section 5.6;
 - Land use in Section 5.9; and
 - The historic environment in Section 5.11.
- 5.7.3. Effects of construction work on biodiversity are dealt with in section 5.3, and Chapter 6 of this Report which sets out the ExA's findings in relation to HRA within the Avon Gorge Woodlands SAC.

Policy Context

- 5.7.4. Paragraph 5.81 of the NPSNN recognises that the construction of national networks infrastructure has the potential to create a range of emissions which have the potential to have a detrimental impact on amenity or cause a common law or statutory nuisance. Paragraph 5.83 sets out that some impact for local communities is likely to be unavoidable, but impacts should be kept to a minimum and should be at a level that is acceptable.
- 5.7.5. Paragraph 5.87 states that the SoS should be satisfied that all reasonable steps have been taken, and will be taken, to minimise any detrimental impact on amenity. At paragraph 5.89 the NPSNN goes on to say that the SoS should ensure that the applicant has provided sufficient information to show that any mitigation will be put into place, including whether the Applicant should abide by a scheme of management and mitigation to reduce any loss to amenity which might arise during construction, including use of a construction management plan.
- 5.7.6. Chapter 15 Tables 15.2 and 15.3 of the ES [REP6-084] include a summary of relevant development plan policies regarding construction and associated effects. These policies are also listed in Appendix D of this Report.

The Application

- 5.7.7. The construction phase of the Proposed Development is referred to in each individual chapter of the ES, as well as the TA [REP6-125]. The proposed measures to minimise effects during construction are set out in the Master CEMP [REP6-140], CTMP [REP6-138] and Code of Construction Practice (CoCP) [REP6-109].
- 5.7.8. Section 4.6 of ES Chapter 4 [REP6-072] summarises the construction management associated with the Proposed Development. This section gives particular attention to Chapter 7 Air Quality and Greenhouse Gases [REP6-074], Chapter 12 Materials and Waste [REP6-080], Chapter 13 Noise and Vibration [REP6-082], and Chapter 16 Transport Access and Non-Motorised Users [REP6-084].
- 5.7.9. The Construction Strategy [APP-074] provides possible options for construction at GRIP 4 stage. A detailed construction strategy to be refined as GRIP 5 designs develop would be produced following the Examination by the appointed contractor. Outline details of the main construction compounds are set out at section 4 of the Construction Strategy. These compounds are proposed at:
- Quays Avenue, Portishead (railway station site) (Work No 7D);
 - Sheepway bridge (Work No 10A);
 - Portbury Hundred, Sheepway (Work No 12A);
 - Lodway Farm, Pill (Work No 17);
 - Monmouth Road, Pill (Work No 20B);
 - Ham Green (Work No 24A); and
 - Clanage Road (Work No 26A).

- 5.7.10. The areas of the main construction compounds are set out in Table 4.4 of ES Chapter 4 [REP6-072]. Lodway Compound (Work No 17) and Portbury Hundred (Work No 12A) are by far the biggest at 9.128 ha and 11.39 ha respectively. Smaller 'satellite' compounds are shown at section 5 of the Construction Strategy [APP-074].
- 5.7.11. The outline methodology sets out for works to the disused line [section 6, APP-074], which includes the removal of the rail, sleepers and ballast from the disused railway. A number of potential options for removal of the old track formation are set out, with the exact methodology to be confirmed ahead of construction. It is indicated that approximately 1200 to 1800 vehicle loads would be required over a period of 2 to 3 months to complete the excavation works, and approximately 1,500 to 2,000 vehicle movements for ballast delivery over a 3 to 4-month programme. New rail and sleepers would be delivered in batches to the compounds at Lodway and Portbury Hundred using rail or road haulage, over a period of 2 to 3 months.
- 5.7.12. Indicative methodologies [APP-074] for works at Portishead including the Station and Trinity Bridge, are each expected to take up to 12 months to construct. Other significant construction works would take place at Avon Road in Pill where the underbridge would be demolished and re-built. Here a nearby group of garages are proposed to be demolished to enable the installation of a crane pad and compound. Road deliveries through Pill would be required for this element of the works which would take 3 to 6 months, in very close proximity to local residents.
- 5.7.13. Works at Pill Station would utilise the Monmouth Road compound and a small compound on the site of the building to be demolished. There is a load and width restriction to the railway bridge on Station Road. The tight network of streets in Pill would result in the need for parking restrictions and traffic management, details of which would be confirmed in the CTMP. Works are expected to take 3 to 6 months. Other construction works via the local street network within Pill would be repairs to Pill Viaduct and strengthening of embankments at Avon Road, Hardwick Cutting and Mount Pleasant. This would include construction of retaining walls and soil nailing [APP-074].
- 5.7.14. The methodology for installation of a range of lineside equipment is set out in section 7.7 of the Construction Strategy [APP-074]. This includes Pill Tunnel, for which a site off Chapel Pill Lane at Ham Green would be used as the construction compound and access point (Work Nos 24 and 24A).
- 5.7.15. The methodology for the proposed works to a range of underbridges and tunnels throughout the Avon Gorge as well as the existing track and lineside equipment are set out at section 8 of the Construction Strategy [APP-074]. Section 8.11 refers to the works to stabilise a range of rock faces in the Avon Gorge, including use of rock bolting, netting and catch fencing.

- 5.7.16. Temporary possessions to block freight train movements on the operational railway line would be necessary to complete specific works which would involve night-time and weekend working affecting residents in the Pill area. For the disused section of the railway, most construction works would be undertaken during the daytime [4.6.19-4.6.23, REP6-072].
- 5.7.17. The CoCP [REP6-109] provides over-arching principles for environmental management of the adverse effects that may arise during the construction of the Proposed Development. It comprises a minimum set of principles with which each contractor would need to comply with and forms the basis of the Master CEMP [REP6-140], the final versions of which would be prepared by the individual contractors.
- 5.7.18. The contractor's CEMP for each Stage as defined in Schedule 2 of the DCO would set out any additional detailed measures and standards of work that would be applied by the contractor throughout the construction period. This would provide to control of potential impacts upon people, businesses and the natural and historic environment, and provide the mechanisms to engage with the local community throughout the construction period.

Issues Considered During the Examination

- 5.7.19. The following elements relating to construction of the Proposed Development were specifically examined in detail during the Examination: Construction traffic in Portishead, Pill, Ham Green and Bristol, the Construction Worker's Travel Plan (CWTP), PRoW and cycle route diversions, use of Marsh Lane track and associated effects on operations at RPD, freight line closures, effects on living conditions, and damage to property.

Construction Traffic

Portishead

- 5.7.20. The Royal Mail [RR-027] set out their concerns regarding disruption to the highway network having direct consequences on their operations, including at the Portishead Delivery Office. They requested consultation from the Applicant on any proposed road closures and diversion and the content of the final CTMP. They supported the Proposed Development in that on completion traffic flows in and around Portishead would be improved. The Applicant confirmed that the Royal Mail would be notified in advance of any proposed road closures and diversions, together with alternative access arrangements and hours of working. They would have the opportunity to review the content of the final CTMP, which would include a mechanism to inform major road users about works affecting the local network [REP1-029].
- 5.7.21. Avon and Somerset Constabulary raised concerns regarding access for emergency vehicles, and diversions during construction of the new Quays

Avenue/ Harbour Road roundabout [RR-008]. The Applicant subsequently agreed a SoCG with the Constabulary [REP1-026]. In terms of emergency access, this is considered in both the TA [REP6-125] and the CoCP [REP6-109]. An Emergency Preparedness and Response Plan would provide a full list of management activities and communications channels with relevant parties. The contractors would be required to liaise with the emergency services on the provision of site access points shown on the Compounds, Haul Roads and Access to Works Plans [REP5-006].

- 5.7.22. The construction of the realigned Quays Avenue would be mainly off the existing carriageway. There would be lane closures and restrictions during construction of the roundabout whilst maintaining through routes as much as possible. The Constabulary would be notified of any required road closures and diversions well in advance, which are likely to be along the route suggested in the Constabulary's RR [RR-008] and they would also be notified of the detail in the final CTMP [REP5-006].

Pill

- 5.7.23. The impacts of construction traffic in and around Pill associated with movements to and from the Lodway Compound as well as the railway station and car park were raised in a number of representations from IPs [RR-064, RR-012, RR-032, RR-035, RR-038, RR-039, RR-042, RR-051, RR-052, RR-058, RR-076, RR-077, RR-084, RR-087, RR-103, RR-104, RR-105, RR-107, RR-123, REP4-062 and REP4-063].
- 5.7.24. Concerns include the presence of HGV traffic in the village, impacts on the narrow street network, on-street parking, safety of children travelling to school, transportation of ballast and traffic management in the village. Pill and Easton-in-Gordano Parish Council [REP4-036 to 038, REP6-037] set out similar concerns.
- 5.7.25. In response to the RRs, the Applicant clarified that the main HGV access route would avoid Pill by coming from junction 19 of the M5 onto Royal Portbury Dock Road and Marsh Lane, and then via the existing cycle and pedestrian route (NCN 26) which runs along the southern edge of RPD from Marsh Lane (the perimeter track). Construction should not impact on the part of Lodway where the New Avon Arms crossing is located [REP1-029].
- 5.7.26. The secondary access route into Lodway Compound would be through Easton-in-Gordano via Priory Road, Lodway, The Poplars, Stoneyfields and Trinder Road, primarily for personal vehicles, small vans and minibuses, but there may be a requirement for occasional HGV access. Traffic management would be necessary at times which may include road closures and parking restrictions, which would be communicated to residents and stakeholders in advance. The contractor's final CTMP would need to be agreed with NSDC through Requirement 5. The contractor would also be required to follow their own detailed CEMP based on the Master CEMP [REP6-140] to be approved prior to commencement of development [REP1-029].

- 5.7.27. A road crane may be required to replace the railway bridge at Avon Road. The crane would enter Pill via the A369 and is likely to follow Ham Green, Mount Pleasant, Underbanks and Marine Parade to Avon Road. Where necessary an urban clearway order will be applied for to ensure that there is a clear route [REP1-029].
- 5.7.28. The issue of construction traffic in Pill was discussed at ISH2 [EV-009] and the constraints around the Lodway Compound were acknowledged by the Applicant. The Applicant explained that the CTMP [REP6-138] sets out the principal routes to be used by contractors during construction, all of which are suitable for HGVs and don't include narrow single width lanes.
- 5.7.29. At ISH2 [EV-009] the process for removal of the former railway track and ballast was also discussed, with the IPs preference for this to take place by rail to reduce HGV movements locally. The Applicant explained in their response to Pill and Easton-in-Gordano Parish Council that it is anticipated that the old ballast would be taken from the disused line and temporarily stored at the Lodway Compound ready to be transferred to a NR recycling facility. It would be transferred via HGV to Avonmouth or Portbury Docks ready to be loaded onto freight trains for removal out of the area. Should storage at the Docks not be possible, material would be removed by rail directly from the Lodway Farm compound by relaying a short section of track on the dis-used line with a connection onto the freight line (by reinstating Portbury Junction) [REP1-029].
- 5.7.30. New track and ballast would be brought into the rail sidings at Avonmouth or Portbury Docks, then be transferred by HGV via the access route off Marsh Lane. Should the dock sidings or alternative storage location not be available, the material could be brought in by rail directly to the Lodway Farm compound, also by reinstating Portbury Junction as described above [REP1-029].
- 5.7.31. At ISH5 [EV-013] further submissions were made by Pill and Easton-in-Gordano Parish Council regarding the feasibility of a temporary siding to transport ballast. The Applicant clarified that the use of a siding was being considered but it would not be possible to confirm that this would be an option until a contractor has been appointed. The Applicant confirmed that the ES considers the worst-case scenario of HGV movements. The use of RPD for material movements very much depends on space being available and commercial terms being agreed with BPC. If a purpose-built siding was built to remove ballast, there would be more construction traffic along the Marsh Lane access track to get to the siding from elsewhere along the disused line [REP6-021].
- 5.7.32. At ISH5 [EV-013], NSDC confirmed that its role in terms of construction traffic is as highway authority and to ensure environmental protection. It acknowledged the difficulties in seeking to avoid impacts on traffic from a construction project. It stated that they have overseen and assisted with mitigation for construction works for a number of past projects where mitigation has been successful. NSDC recognised that the siding would

be an attractive option but was aware that there can be very significant technical issues with this kind of option.

- 5.7.33. NSDC acknowledged in its LIR [REP1-033] that there would be traffic impacts on local communities in the vicinity of construction works but accepted that these would be mitigated through the CTMP. The CTMP [6.2.3, REP6-138] sets out that a Traffic Management Working Group (TMWG) would be formed for the construction phase. The contractor would consult with the TMWG regarding traffic management, in particular around Pill. This includes a resolution procedure for disputes relating to traffic management and other traffic related measures to be implemented during the construction.

Ham Green

- 5.7.34. An IP questioned the risks to safety of NMUs using Chapel Pill Lane during construction, the expected amount of vehicle movements, and timescales [AS-053 and REP1-042, REP4-054, REP4-055, REP4-056]. At the OFH [EV-005] the IP queried the intensity of the use of the compound and the Applicant confirmed that it is not intended to operate as a main construction compound and deliveries by HGVs would be limited [REP1-030].
- 5.7.35. Following further comments at ISH2 [EV-009] the Applicant clarified that the temporary construction compound in this location is primarily to enable the construction of the access for the permanent maintenance compound, which would be used for inspection maintenance and emergencies [REP4-033]. The Applicant confirmed that there would be very low usage of the Ham Green compound, with one HGV per day on average during construction. On occasions where larger vehicles need to access the compound, banksmen would be used to ensure that these vehicles could manoeuvre safely [REP5-033].

Bristol

- 5.7.36. BCC and the Avon and Somerset Constabulary's comments regarding the new access to the compound at Clanage Road are set out at paragraph 5.5.107 in this Report. BCC confirmed at ISH2 [EV-009] that they were satisfied that Requirements 4 (design details) and 5 (CTMP) would adequately secure matters of detailed junction design and signage to ensure safety of the new access. Such matters are agreed in the SoCG with BCC at sections 16.1.5 and 16.1.6 [REP7-026]. The SoCG with the Constabulary [REP1-026] sets out that construction traffic would not be routed via Rownham Hill and routing is included in the CTMP.
- 5.7.37. NSDC in their LIR [REP1-033] set out that consideration needs to be given to the potential impact of major events during construction, for example the Balloon Fiesta which would be affected by the Clanage Road compound. Section 3.2.5 of the CTMP states that the contractor would need to engage with the LPA about events to ensure impacts would be minimised. This matter is also dealt with at section 5.12 of this Report.

The Strategic Road Network (SRN)

- 5.7.38. HE in its RR [RR-016] requested further information and clarification regarding construction traffic on the SRN, particularly that associated with ballast/ spoil removal HGV movements and personnel arrivals and departures. A capacity assessment of the M5 junction 19 was requested, and construction traffic management measures to restrict peak hour movements.
- 5.7.39. The assessments are set out in the SoCG with HE [Appendix 1, REP1-019]. The SoCG confirms that concerns previously raised in the RR regarding the assessment of construction related traffic in the outline CTMP [REP6-138] have been addressed by the Applicant. HE agreed that the assessment of construction traffic impact had been progressed as far as is practicably possible prior to the appointment of a contractor.
- 5.7.40. A significant number of construction worker related movements could be expected during the morning peak period and at D2 Requirement 30 (Works affecting M5 Junction 19) was inserted into the draft DCO [REP7-006] to manage this.
- 5.7.41. The need to establish a TMWG to discuss the CTMP and any other related transportation issues resulting from the construction of the scheme has also arisen from the discussions with HE. This would not only cover the M5 junction 19 but also include the relevant local highway authorities and the local highway network. HE would be represented as part of the TMWG, who would consider the final CTMP when submitted as part of the submission of Requirements prior to the construction of the Proposed Development.
- 5.7.42. Heads of Terms for an access agreement have been agreed with HE to ensure they can retain access to land necessary to allow inspection and maintenance of the SRN during both construction and operational phases. This would include works under the M5 bridge [REP1-019].
- 5.7.43. In response to ExQ1 [TT.1.10, REP2-042] HE confirmed their satisfaction that the Proposed Development would be unlikely to result in a severe or unacceptable safety impact on the SRN.

Construction Worker's Travel Plan (CWTP)

- 5.7.44. The use of CWTPs was discussed at ISH1 [EV-009] where BCC questioned whether it needed to be secured in the DCO [REP3-028]. It is also set out in the SoCG with HE [REP1-019].
- 5.7.45. In response to action point 14 following the Hearing, both NSDC and BCC agreed that it should be added to Requirement 5 and be a certified document [REP3-044 and REP3-042]. The final version of the DCO confirms that the CWTPs for each relevant stage would need to be submitted to and approved by the relevant LPA as part of the CEMP secured by part 3(e) of Requirement 5.

PRoW and NCN Diversions

- 5.7.46. A number of RRs set out concerns associated with the closure of the bridleway and NCN routes 26 and 41, predominately in terms of their safety and the suitability of diverted routes [RR-060, RR-070, RR-075, RR-106, RR-129].
- 5.7.47. Parts of the NCN 26 and 41 cycle routes and several PRoW and permissive paths would be temporarily closed and diverted to enable the construction of the Proposed Development. The TA sets out that the most significant link is LA 15/21/20 through RPD, which forms part of NCN 26 and is also a bridleway [Figure 4.49, APP-158].
- 5.7.48. At Royal Portbury Dock Road NMU's would continue to be able to make use of the NCN 26 during construction of the railway line but would have to cross at road level rather than utilise the traffic-free route under the bridge. At Pill junction, a small diversion is proposed through 'Jennys Meadow' to the end of Avon Road [Sheet 6 of 17, APP-029]. Between Marsh Lane and the M5 the route would be completely closed to allow for a haul route to Lodway Farm. Cyclists diverting at Marsh Lane would be directed through the streets of Pill. When sections of the Avon tow path are closed for construction works, the temporary diversion route for cyclists travelling to/ from Bristol would be via Leigh Woods, parts of the A369 Abbots Leigh Road and Ashton Court Estate [APP-030].
- 5.7.49. The Applicant clarified that they are proposing to retain the existing cycle paths post-completion and that the traffic-free routes under Royal Portbury Dock Road and Marsh Lane bridges would be re-instated as soon as possible after construction. The Applicant explained that it would not be safe for pedestrians and cyclists to share the NCN 26 Marsh Lane haul route with HGVs given the limited width of the track. The temporary diversion would be signposted [REP1-029]. Further details of the proposed alterations and enhancements to the NCN 26/ bridleway are included on the National Cycle Network Temporary and Permanent Work Plans [AS-025]. The wider connectivity of the pedestrian and cycle path network has been considered as part of the TA [3.6.4 and section 8 of the TA, REP6-125].
- 5.7.50. RR-075 specifically raised concerns around the impact on the River Avon towpath, part of NCN 41. The Applicant clarified that there would be some closures of the towpath during construction, but diversions would be signposted in advance of any works. Diversions for this area are shown at APP-030.
- 5.7.51. In submissions at ISH2 [EV-009], IPs Pill and Easton-in-Gordano Parish Council and a local resident Mr Berry voiced concerns about the safety of NMUs crossing Royal Portbury Dock Road [REP4-063]. NSDC in its LIR [P1, REP1-033] highlighted that Royal Portbury Dock Road is a busy road to the Dock and a significant proportion of traffic consists of HGVs, and that the NCN 26 diversion would make crossing more difficult. NSDC stated that they welcome a continued dialogue to see if a better solution can be found.

- 5.7.52. The ExA asked at ISH2 [EV-009] if a refuge to the centre of the road had been considered for this crossing. The Applicant stated that they had considered a full 'Pegasus' crossing for horse riders had been considered, but BPC had some concerns and it was not felt that such a crossing could be justified given that the alternative route under the bridge would be available post-construction. The Applicant clarified that Royal Portbury Dock Road has a 30-mph speed limit and that visibility is fairly good with a roundabout at each end of the road. The Applicant could ensure that warning signs are installed to warn motorists of the crossing, if felt necessary by the local highway authority [REP4-009].
- 5.7.53. The Applicant confirmed that the crossing would be permanently improved prior to the start of main construction works, including the clearance of vegetation to improve sightlines and enlarged waiting areas at either side of the road. A separate waiting area and fencing would be provided for equestrians. The outline design [AS-025] has had a Stage 1 Road Safety Audit. Similarly, the detailed design and construction would be subject to road safety audits [REP1-029]. The Applicant considers that such measures need not be provided for in the DCO [REP4-009 and action point 30, REP4-021] and that further permanent measures to the carriageway would be unnecessary because the bridleways are not proposed to be closed for any period of time beyond that which might possibly be necessary to carry out the works proposed in this location. If required, there is sufficient space for the provision of a refuge in the centre of the road for pedestrians and cyclists during the construction works when the only route open would be the bridleway route across the road [REP5-033].
- 5.7.54. The same IPs also raised safety concerns about the proposed diversion route for NCN26 via Marsh Lane, in terms of its narrowness, speeding vehicles, lack of footways and the presence of a blind crest over humpback bridge. They requested that the diversion route should first be made safe with speed reduction measures and appropriate warning signage [EV-009, REP4-037, REP4-063].
- 5.7.55. The Applicant responded that it is not unusual for this type of road to be used on the cycle route. The NCN 26 is a long-distance route comprising both off-road sections and standard highway, some of which uses 60mph roads with no traffic calming measures (such as Sheepway). Both Marsh Lane and Priory Road have lower speed limits and relatively modest levels of traffic so provide a suitable route for pedestrians and cyclists, consistent with the rest of NCN 26. The only other alternative route would be to divert via the A369 Martcombe Road and Junction 19 of the M5 which the Applicant did not consider to be suitable [REP5-033].
- 5.7.56. Whilst there is no specific mention of PRow and NCN diversions in their SoCG [REP7-025], NSDC at ISH2 and ISH5 were satisfied as local highway authority that it could install safety measures (such as warning signage/markings) if deemed necessary and consequently this would not require specific inclusion in the DCO [EV-009 and EV-013].

Marsh Lane Track

- 5.7.57. The BPC put forward concerns throughout the Examination regarding the use of and condition of the Marsh Lane perimeter track through RPD. It would be used as a haul road associated with the proposed Lodway Farm construction compound (Works No's 16A and 17) and traffic and use of HGVs on the track would increase significantly during construction.

Surfacing

- 5.7.58. The BPC pointed out that frequent and heavy use of the track would increase the potential for damage and deterioration of the track both to its surface and sub-surface. This would impede the track's use by others and raise dust and mud issues, causing possible damage to imported vehicles in the compounds immediately adjacent to the track. Photographs of the current state of the track were provided at D4 [Appendix 2, REP4-058], including a section of track which is currently surfaced with unbound material.
- 5.7.59. The BPC do not consider that the CEMP and CTMP took into account the specific issues affecting works on and around the RPD estate and it required appropriate controls over the programming of works around the estate, together with compliance by all contractors with a protocol designed to ensure the continuity of efficient working, protection of the environment and safety. BPC consequently requested a Protective Provision to this effect [REP4-058].
- 5.7.60. Following discussion at ISH5 and in response to action point 26, the BPC provided further comments. They confirmed that existing vehicular use of the track is sporadic, the vast majority of being light vehicles. The BPC went on to say that their experience of building work within the Port has shown that the ground beneath the dock estate generally has a poor capacity to accommodate loads. They specified the need to assess the sub-surface of the track, as it could need reinforcement prior to its use by HGVs. Any deterioration of the track following use by construction vehicles could lead to disruption to the Port and others who need to access the track, and be likely to result in dust damaging the imported vehicles in the adjacent transit storage compounds [paragraphs 10-14, REP6-050].
- 5.7.61. The BPC requested a survey of the track, including its sub-structure, then for the Applicant to provide it with an adequate load bearing capacity and an appropriate sealed wearing course. It wished to be involved in the approval of the design of such works. Any damage caused by construction vehicles would need to be made good and a further condition survey would need to be undertaken at the end of the construction period so that the track could be handed back in good condition. The BPC requested that this be secured in the DCO by way of Protective Provision rather than in Requirement 5 (CEMP/ CTMP) [21, REP6-050].
- 5.7.62. In response, the Applicant stated that it did not believe that resurfacing of the largely already surfaced route would be necessary or justified. At

ISH5 [EV-013] they explained that dust suppression measures are outlined in the CEMP [REP6-140] and secured by Requirement 5. The Applicant would not have the ability under the Order to carry out significant physical works to the track and that the issue of potential damage to the track is ultimately a point of compensation.

- 5.7.63. In further comments following ISH5 the Applicant set out that it believed that the access track has a sealed tarmac surface (except for 80 metres at the Marsh Lane end), and it would be willing to seal the unsealed section prior to construction, if agreed by BPC. It also confirmed agreement to carry out pre and post construction condition surveys of the track and to repair any defects/ potholes within a specified period of time. However, as the track is used by other parties, and damage may be caused by others, it would be difficult to provide for such matters by Requirement. The Applicant put forward a number of amendments to the additional Requirement suggested by the ExA in its final preferred draft DCO to reflect the aforementioned submissions [REP7-038].
- 5.7.64. The Applicant also pointed out that, to carry out BPC's suggestion to build a track sub-base upwards for the whole length of the track would be betterment and this would not be justified for the intended use [REP6-021]. Consequently the Applicant does not propose a Protective Provision in the draft DCO and believes that, if agreement is not possible with BPC then the Applicant's Protective Provisions for BPC and the Compensation Code provide the appropriate processes for dealing with damage to the Port's perimeter access track [REP6-024].
- 5.7.65. Submissions were also made at ISH5 [EV-013] from Mr Berry and Mr Ovel (Pill and Easton-in-Gordano Parish Council) relating to the single-track nature of the haul road to Lodway Compound. This would limit its use to construction vehicles only; staff and smaller vehicles would need to use the existing street network around Pill and Easton-in-Gordano, via Stoneyfields/ Trinder Road.
- 5.7.66. The Applicant advised [REP6-021] that converting the access track into a two-way carriageway is unfeasible because there are watercourses on both sides, and it would involve removal of vegetation which is important for security of the Port's vehicle compounds. The Applicant confirmed the routes in the Outline CTMP [REP6-138] show there is no intention to use the narrow sections of road in the village for regular HGV traffic.

Dust

- 5.7.67. Section 5.6 of this Report refers to dust during operation of the railway line. Concerns about dust from construction from the proposed Lodway Compound (Work No 17) were raised by several IPs [RR-003, RR-032, RR-038, RR-039, RR-076, RR-106 and RR-107].
- 5.7.68. Chapter 4 of the Master CEMP [REP7-023] describes the proposed management of air quality during the construction phase. It states that contractors would be required to prepare an Air Quality and Dust

Management Plan as part of a stage specific CEMP that could amongst other things include [32-2, REP1-029]:

- planning the layout of the compound so that construction plant and dust causing activities would be located away from residential properties, where reasonably practicable;
- dampening down of dust generating vehicles and equipment and roads, with access routes to be kept clean by methods such as brushing and provision of dust suppression;
- storing materials on site in such a way as to reduce dust entrainment for example by erecting temporary hoarding or sheeting as appropriate depending on the height and areas of the stockpiles.

5.7.69. The Woodland Trust raised concerns regarding the impact of dust from on the woodland around the Avon Gorge [RR-030]. The Applicant advised [91-1, REP1-029] that these matters would be dealt with in a SoCG with the Woodland Trust.

5.7.70. In response to the ExA's question [AQ.1.1, REP2-013] relating to dust on ecological receptors, the Applicant referred to the construction dust assessment within the ES Volume 4, Appendix 7.1 [REP6-112]. This identified medium to high risk to ecological sites, depending on their value and proximity to the construction works. The overarching conclusion of the dust assessment was that there would be a large risk of impact on ecological receptors without mitigation, which is already the highest level of risk that can be assigned according to the IAQM guidance. With mitigation, the risk would be reduced to low and not significant [paragraphs 3.6.1 and 3.7.1, REP6-112]. Mitigation measures appropriate to this level of risk are discussed in the Code of Construction Practice [REP6-142] and the Master Construction Environmental Management Plan [REP6-140].

5.7.71. At the end of the Examination for the reasons set out in paragraphs 1.4.31 and 5.6.33 of this Report the Applicant was unable to complete a SoCG with the Woodland Trust who did not participate any further in the Examination. No comments were received on the matter from Natural England or the relevant planning authorities.

5.7.72. The BPC raised concerns about potential damage to the imported new vehicles in the adjacent storage compounds within Royal Portbury Dock from dust and grit arising from the use of the perimeter track by HGVs during construction. Dust deposits may contain materials that react with the body work or infiltrate sensitive internal parts of vehicles. Their interests would not be protected by the implementation of a generic dust management scheme and specific mitigation measures would be required [RR-010, REP2-064, REP3-046, REP5-049, REP6-052].

5.7.73. In their submissions following ISH2 [46, REP4-009] the Applicant referred to the Air Quality Assessment (Appendix 7, AS-034) which concludes that there will be a medium to high risk of dust soiling in this area. It suggested that dust suppression measures along haul routes, provided in an Air Quality and Dust Management Plan to be agreed as part of the CEMP [REP6-140], would provide effective mitigation. Such

measures include temporary surfacing, regular surface dampening with water bowsers, and the erection of temporary hoarding alongside the haul road. Matters relating to the surfacing of the existing track and any necessary surveys/ repairs are set out at above at section 5.7.58 to 5.7.66.

Security

- 5.7.74. BPC raised concerns that use of the Marsh Lane perimeter track as a haul road by significant volumes of construction traffic would create a heightened security risk for RPD, given that contractors would readily have access very close to their security fences in a way that would not otherwise have been the case. This would be exacerbated by any removal of vegetation [REP5-049]. A photograph was provided [Appendix 2, REP4-058].
- 5.7.75. The Applicant confirmed that there were no proposals to remove the vegetation screening alongside the perimeter track [REP7-037].

Freight Line Closures

- 5.7.76. The BPC in its RR [RR-010] requested further information regarding effects on its freight movements during construction and this was followed up by the ExA in ExQ1 [GC.1.12, PD-010]. The Applicant responded that there would be some impacts on BPC during the construction of the scheme, due to the need to take possession of the line for long weekends and also for up to two line blockades each of a duration of approximately one month. However, the Applicant advocated that the low levels of freight train traffic on the branch line indicates these impacts would be largely avoided through negotiation with the port and are not predicted to be significant. It also referred to the possibility of compensation from freight train operators and alternative methods of cargo transport [REP1-029 and REP4-020].
- 5.7.77. BPC then requested that such an agreement to blockades and possessions should be enshrined in the DCO as if rail access is interrupted, this would lead to wider disruption to port operations [REP3-046]. The Applicant believes the provisions of the Railways Act 1993 and NR's licences to operate the national rail network adequately determines how blockades and possessions will be secured and carried out, and this is not a matter for the DCO.

Living Conditions

- 5.7.78. Several local residents and Pill and Easton-in-Gordano Parish Council made representations relating to effects of the construction phase on living conditions and local amenity [RR-003, RR-032, RR-038, RR-039, RR-058, RR-064, RR-069, RR-076, RR-084, RR-092, RR-103, RR-106, RR-107, RR-112, RR-123, RR-128].
- 5.7.79. Concerns relate to noise and disturbance, dust and light pollution arising from use of the construction compounds, works to the railway line and associated construction traffic. The majority were in relation to the

Lodway Compound at Pill (Work No 17), which is bounded to the south-east by residential dwellings along The Breaches and Lodway Close.

- 5.7.80. ES Chapter 18 [Table 18.1, APP-113] sets out the assessment of in-combination effects during construction. In Pill, the construction works are expected to cause temporary large/ very large adverse effects to properties on The Breaches, Lodway Close, Avon Road, Severn Road, Monmouth Crescent, Sambourne Lane and properties on Mount Pleasant, Eirene Terrace and Ham Green Road which adjoin the railway line.
- 5.7.81. The Applicant explained [REP1-029 and REP5-033] the reasoning for the location and size of the compound and stated that with the mitigations proposed it is intended that disruption would be kept to a minimum. Management and monitoring processes would ensure that the effects of construction noise and vibration would be controlled and that best practice measures would be employed during the construction period. The contractor would be required to produce a noise and control plan as part of their detailed CEMP. These include noise management methods and site hoardings, screens or bunds. Examples of noise and vibration management can be found in section 10 of the Master CEMP [REP6-140].
- 5.7.82. Works in the vicinity of Avon Road Bridge and Mount Pleasant would be likely to generate the highest levels of noise and could last for a period of months, however these activities would not be present on a daily basis. Other activities along the railway line adjoining residential properties, such as vegetation clearance and track laying, would also be likely to generate high levels of noise that would cause adverse effects. However, such activities would be transient and would only be present in one location for a matter of days. Mitigation measures have been proposed to reduce the impact from these temporary adverse effects.
- 5.7.83. Lighting would be designed, positioned and directed so as not to intrude unnecessarily on adjacent buildings to prevent unnecessary disturbance to local residents [Section 3, REP6-140] and the LPA would need to approve proposed lighting plans once a contractor has been appointed [Appendix B, REP1-029].
- 5.7.84. At ISH2 [EV-009] Mr Berry and Pill and Easton-in-Gordano Parish Council raised further concerns about the necessity for the size and location of the Lodway Compound and the potential effects on local residents. Further comments by the Parish Council following the hearing set out similar concerns and questioned the storage of contaminated waste where prevailing winds could blow dust over residential areas. It was suggested that any such material to be stored at Lodway Compound and noisy activities should be as far away from housing as possible. The wider use of the area of land under the M5 was suggested as an alternative location to reduce effects on local residents [REP4-038].
- 5.7.85. The Applicant explained at D5 that Lodway Compound would be the principal construction compound for the Proposed Development and would be strategically important for works to both the disused line and to the existing freight line. The size of the compound is normal relative to

the scale of the works. The space next to and under the M5 is unsuitable due to its restricted size and distance away from construction activities within Pill. There are also further environmental restrictions including flood risk and biodiversity considerations. Furthermore, space under the M5 needs to be kept free for HE to access and maintain the M5 bridge [REP5-033].

- 5.7.86. The usable area within the site is reduced by the presence of hedgerows which are being retained except for access and an archaeological feature within the site which would be fenced off to protect it. It would contain site offices, welfare units and parking as well as storage for plant and materials. Ballast would be stored at the compound and it would be managed to control dust. Testing of waste material and preparation of a written statement comprising an investigation and assessment report and verification plan would be secured by DCO Requirement 17. The Master CEMP [REP6-140] sets out measures to manage waste material and pollutants on site [REP5-033].
- 5.7.87. Movement of ballast is dealt with at paragraphs 5.7.30 to 5.7.33 of this Report. Site plans for the layout of the compound as well as an Air Quality and Dust Management Plan, and a Noise and Vibration Management Plan, would all need to be prepared by the contractor taking into consideration the potential impact on neighbouring communities. They would require approval by the LPA as part of the CEMP approval process under Requirement 5 of the DCO [REP5-033].
- 5.7.88. NSDC clarified that the contractor would be required to apply for consent under the Control of Pollution Act for undertaking noisy works prior to commencement of the relevant works. This would detail how noise is to be managed on site and particular attention would need to be paid to issues around Avon Road where the line passes very close to people's homes as well as the proposed railway stations [Action 19, ISH1, REP4-041].

Damage to Property

- 5.7.89. A resident of Mount Pleasant made written submissions [RR-116, REP4-053] regarding the narrowness of the proposed access to the railway embankment via the passage alongside her property and potential for damage. Alternative access via the nearby church or further along the terrace was suggested by the IP. At ISH2 [EV-009] the IP raised the issue of waste from soil nail drilling to the embankment.
- 5.7.90. The Applicant responded that the access via the Church would not be suitable due to the supporting retaining wall and gradient of the embankment at this location. If this access were to be solely used it would potentially result in greater disruption to residents due to the prolonged duration for work at this location [REP5-028].
- 5.7.91. The access at the side of the IP's property would be used for personnel and handheld materials and equipment only. Ahead of any works starting a full survey would take place recording the condition of the private property. Measures such as protective plates and matting could be placed

on the footpath and wooden hoardings erected to protect the wall of the house. After the works have been completed another survey would take place and any damage caused by the works would be made good. The resident would be kept informed of progress and working patterns throughout the works [REP5-028].

- 5.7.92. Soil nails would be used to strengthen and stabilise the embankment and would be drilled in by specialist vehicles with long-reach arms operating from the railway itself, to minimise the amount of work required at the base of the slope (in gardens). Spoil from the process is not expected to be significant and a survey would be carried out before any drilling takes place so that it can be remedied post-construction [54, REP4-009].

ExA Conclusion

- 5.7.93. There will be a range of adverse effects arising during the construction phase of the Proposed Development. Such effects would be felt most markedly in and around the village of Pill. This would be from the construction traffic associated with the Lodway Compound as well as the works to the embankments, station, and overbridge. The compound would be in use for the duration of construction of the Proposed Development, but the ExA are satisfied that issues of noise, disturbance and dust arising from use of the compound and any potential effects on living conditions could be adequately controlled through the CEMP, secured by Requirement 5. In addition, there are controls under other environmental legislation which the Applicant would need a range of permits for.
- 5.7.94. The ExA considers that there would not be any significant adverse effects resulting from the use of the other main construction compounds, due to their location away from residential settlements.
- 5.7.95. The works to the disused railway line and the existing freight line would have some negative effects on the living conditions of occupiers situated alongside the line, but these would largely be transient and short term and the ExA is satisfied that these would be managed appropriately through the CEMP [REP7-023] in Requirement 5. The ExA acknowledge that damage to property during construction would be remedied by the Applicant through use of pre-construction surveys and appropriate measures to protect property as set out in the Master CEMP [REP7-023].
- 5.7.96. The ExA acknowledges that construction traffic would be inevitable in a number of locations, both from HGVs and other vehicles including construction workers, with its effects felt most significantly in Pill. The use of a haul road on the Marsh Lane perimeter track at Royal Portbury Dock, accessed via the M5 and Royal Portbury Dock Road, would significantly reduce the necessity for construction vehicles to use the street network around Pill and Easton-in-Gordano. Whether a temporary rail siding or road haulage is used to transport new and waste ballast and other materials would be decided by the successful contractor in accordance with a CTMP to be agreed as part of Requirement 5. The ExA

is satisfied with either option and do not seek to limit the type of transport used.

- 5.7.97. The use of CWTPs as required by Requirement 5 (3e) would assist in mitigating the number of and effects from construction travel workers' vehicles on the village road network. Effective traffic management would be necessary to accommodate larger heavy vehicles in Pill and could be appropriately secured by the CTMP.
- 5.7.98. The ExA consider the proposed diversions of the NCN and PRoWs to be a reasonable alternative and whilst the routes would not be predominately traffic-free as they are presently, safety measures such as warning signage could be utilised by the local highway authority if deemed necessary and it is unnecessary to include such measures in the DCO.
- 5.7.99. The ExA are satisfied that any damage to the RPD perimeter track and dust transfer to the vehicle compounds adjacent to the track could be adequately dealt with by Requirements 5 (CEMP) and 35 (Perimeter Track).
- 5.7.100. With regards to the concerns raised by the Woodland Trust the ExA note that the ES [7.6.6 and 7.6.7, REP6-074] concludes that there would be no significant effects on designated sites from dust. The ExA also note that NE [REP6-146] are satisfied that there would be no significant air quality effects on any designated sites. The CoCP [4.1, REP6-142] and the schedule of mitigation [7.1, REP7-021] contain measures to ensure that any dust that would be generated would be minimised and managed. These measures would be adequately secured through Requirement 5 of the recommended DCO.
- 5.7.101. Temporary and occasional closures of the existing freight line would be necessary to enable works to be carried out safely. The ExA consider that it is not necessary to include any relevant agreements to blockades and possessions in the recommended DCO, as provisions of the Railways Act 1993 and NR's licences to operate the national rail network would be the appropriate method in which to deal with such matters.
- 5.7.102. Overall, the ExA is satisfied that the Proposed Development would accord with the parts of the NPSNN relating to construction management and mitigation, and that mitigation would be adequately secured in the recommended DCO. Overall construction effects attract negative weight in the planning balance, particularly within Pill. However, construction would be for a temporary period and, in most locations would be short-term in length, so the ExA consider that limited weight is afforded to such effects.

5.8. DESIGN AND LANDSCAPE AND VISUAL

- 5.8.1. This section covers design, landscape and visual matters which relate to the permanent built aspects of the Proposed Development, specifically the railway stations and associated infrastructure at Portishead and Pill, the Trinity Primary School foot and cycle bridge at Portishead (Trinity Footbridge) and fencing.

- 5.8.2. Since the proposals encompass urban as well as semi-rural settings, townscape as well as longer distance views are considered. Given the proximity of many of the proposals to existing residential occupiers, effects on their living conditions are also dealt with in this section. Consideration of effects on the Green Belt and historic environment are included in sections 5.9 and 5.11 of this Report.

Policy Context

- 5.8.3. The NPSNN establishes that projects need to be designed carefully, taking account of the potential impact on the landscape. Having regard to siting, operational and other relevant constraints, the aim should be to avoid or minimise harm to the landscape, providing reasonable mitigation where possible and appropriate (paragraph 5.149).
- 5.8.4. Paragraph 5.156 advises that landscapes may be highly valued locally and protected by local designations. Local landscape designations, based on landscape character assessment, should be given particular consideration, but should not be used in themselves as reasons to refuse consent. The SoS should also consider whether *“the project has been designed carefully, taking account of environmental effects on the landscape and siting, operational and other relevant constraints, to avoid adverse effects on the landscape or to minimise harm to the landscape, including by reasonable mitigation”* (paragraph 5.157).
- 5.8.5. Paragraph 5.158 states that the SoS will have to judge whether the visual effects on sensitive receptors, such as local residents, and other receptors, such as visitors to the local area, outweigh the benefits of the development.
- 5.8.6. With regard to mitigation, paragraph 5.159 of the NPSNN advises that changing the operation, or reducing the scale, of a proposal can help to avoid or mitigate visual and landscape effects, but that such changes may result in a significant operational constraint and reduction in function. Paragraph 5.160 recognises that adverse landscape and visual effects can be minimised through the careful consideration of the siting, design, choice of materials and landscaping scheme for the proposal.
- 5.8.7. The National Infrastructure Strategy encourages proponents to embed good design in all infrastructure projects, and section 12 of the NPPF provides further advice on designing high quality buildings and places. Table 11.2 of the Landscape and Visual Impact Assessment (LVIA) [APP-106] includes a summary of the development plan policies relevant to landscape and design (these policies are also listed in Appendix D of this Report).

The Application

- 5.8.8. The LVIA is contained at ES Chapter 11 and its associated figures and appendices [APP-106, REP7-015, REP6-123].
- 5.8.9. The Applicant’s main case in relation to the design of the Proposed Development is set out in the Design and Access Statement [APP-196].

The Design and Access Statement describes the wider context, background, opportunities and constraints and how these factors were considered in developing the design of the Proposed Development. It also describes the main alternatives to the proposals that were considered, how the design of the Proposed Development has evolved in response to consultation and presents the illustrative designs. It has particular focus on Portishead and Pill Railway Stations (parts 4 and 5).

Approach to Landscape and Visual Impacts Assessment

- 5.8.10. The Applicant's approach to LVIA treats landscape effects and visual effects as separate but interlinked topics. The LVIA follows the good practice professional guidance set out in the third edition of Guidelines for Landscape and Visual Impact Assessment (2013).
- 5.8.11. The study area is set out at paragraphs 11.3.7 to 11.3.14 of the LVIA [APP-106]. It considers the landscape at both NE's national character areas (NCA) and the relevant local authorities' local landscape character areas (LCA) levels. The LCAs are shown at Figure 11.1 of the ES [REP7-015]. The Proposed Development passes through two NCA's which are described at paragraphs 11.4.39 to 11.4.55 of the LVIA [APP-106]:
- NCA 106 Severn and Avon Vales (Portishead to Pill disused section of railway line); and
 - NCA 118 Bristol, Avon Valleys and Ridges (Portbury Freight Line).
- 5.8.12. There are six LCA's within North Somerset as defined by NSDC in their Landscape Character Assessment SPD 2018. These are described at paragraphs 11.4.58 to 11.4.88 of the LVIA [APP-106]. The freight section of the railway also sits within the Cumberland Basin character area of BCC's Central Area Context Study, which is described at paragraphs 11.4.90 to 11.4.92 of the LVIA [APP-106].
- 5.8.13. A zone of theoretical visibility was considered to be of limited value due to the screening effects of vegetation and buildings particularly around the urban areas of Portishead and Bristol. It showed large numbers of visual receptors would not actually experience a view to the railway line, therefore it was not included in the ES [paragraph 11.3.12, APP-106].
- 5.8.14. A site-specific assessment was undertaken within a 500 m study area of the Proposed Development and is shown at Figure 11.2 of the ES [REP7-015]. The visual envelope extends to beyond 500 m in a small number of locations, in particular at Sheepway and Portbury Hundred where the landscape is more open [Figure 11.3, sheet 1 of 5, REP7-015].
- 5.8.15. These smaller scale character areas allow consideration of the potential landscape character effects at the smaller scale of the site and its immediate surroundings. Ten site specific landscape areas are described at paragraphs 11.4.94 to 11.4.153 of the LVIA [APP-106]:
- Commercial Portishead;
 - Residential Portishead;
 - Sheepway;

- Royal Portbury Dock;
- Pill;
- Ham Green;
- Sea Mills;
- Avon Gorge;
- Ashton Gate; and
- Ashton Vale.

5.8.16. Visual receptors are in locations where people are likely to experience a significant change in view towards the Proposed Development. These include private residential and commercial properties, publicly accessible areas of open space, PRoW, designated features and other features from where views are afforded such as roads. Section 11.7 of the LVIA [APP-106] summarises the assessment of visual effects, both during construction and operation.

5.8.17. Appendices 11.3 and 11.4 of the ES [REP6-123] sets out the detailed Visual Impact Assessment (VIA), listing the visual receptors where it is considered that there would be a significant change in view because of the Proposed Development. It describes the existing views, the impacts during construction, operation impacts after 1 year, and operational impacts after 15 years which takes into consideration illustrative mitigation planting. It was updated at D6 to include reference to the Harbour Residential Care Centre in Portishead following a question by the ExA at ExQ2 [DE.2.2, PD-014].

5.8.18. Section 11.6 of the LVIA [APP-106] sets out the Applicant's assessment of landscape effects. The landscape and visual impacts were also considered in combination with other projects which are listed in Appendix 18.2 of the ES [APP-191] and those within 500 m of the Proposed Development are identified on Figure 18.1 of the ES [REP6-104]. Section 11.9 of the LVIA summarises such effects in combination with several other developments and Table 11.10 summarises the environmental and planning designations which have a bearing on the landscape character and visual receptors within the DCO Scheme study area. Table 11.21 summarises the assessment on landscape and views [APP-106].

Issues Considered During the Application

5.8.19. Design was identified by the ExA as one of its IAPI [Annex C, PD-007]. Design and landscape matters were discussed in detail at ISH2 [EV-009], ISH3 [EV-010] and ISH5 [EV-013]. The ExA also asked a number of questions in ExQ1 [DE.1.1 to DE.1.10, PD-010] and ExQ2 [DE.2.1 to DE.2.5, PD-014].

5.8.20. The following elements of the Proposed Development were specifically examined in detail during the Examination for their design, landscape and/or visual effects:

- Portishead railway station;
- Trinity Footbridge;
- Pill railway station and car park; and

- fencing both within the Avon Gorge and elsewhere.

Portishead Railway Station

- 5.8.21. The ExA requested further information at ExQ1 [DE.1.1, PD-010] and at ISH2 [EV-009] relating to the design approach for the new station at Portishead, with particular reference to the criteria in section 4.31 of the NPSNN. In particular, the ExA sought for an explanation of what would make the design of the station a 'gateway feature'.
- 5.8.22. The Applicant responded that the 'gateway feature' is achieved by including a station building rather than a basic station platform and shelter, which would respond to the urban context of the site. It highlighted the selection of materials in response to the context of the site, and the presence of a buffer enclosure to provide a prominent new feature along Quays Avenue. The contemporary nature of the adjacent buildings and urban landscape was referred to. The fully detailed design of the station would be carried out at 'GRIP 5' stage after completion of the Examination. However, the Applicant confirmed that it is not anticipated that the detailed design would result in any material changes to the design of the station as the layout is already very constrained [REP2-013 and REP4-009].
- 5.8.23. The ExA also asked why the GSM-R mast could not be incorporated into the design of Portishead Station so as to minimise its visual impact [ExQ1 DE.1.5 PD-010]. The Applicant explained the need for the mast to be at ground level for maintenance and safety reasons [REP2-103]. In responding to ExQ2 [DE.2.1, REP5-028] the Applicant advised that the antenna would be a monopole or lattice form no more than 12 m in height, and its base would be screened by the proposed landscaping and fencing to the east of the station building.
- 5.8.24. At ISH2 [EV-009] NSDC agreed that Requirement 4 would be sufficient to secure a high quality design of the railway station, and specific details including the buffer end stop, any flexibility of internal layout (e.g for a small commercial unit) and a possible public art feature could be agreed post-consent. NSDC also highlighted the requirement in their local plan for energy efficiency and micro-generation methods to be incorporated in the station design.
- 5.8.25. In terms of micro-generation, the Applicant clarified in their answer to ExQ2 DE.2.3 that such measures could be incorporated into the station design, the most appropriate being the installation of solar panels on the station roof [REP5-028]. It was subsequently added to Requirement 27 of the draft DCO, which requires a range of specific details for Portishead Station.

Trinity Footbridge

- 5.8.26. Trinity Footbridge would be located between the proposed Portishead railway station and Trinity Anglican Methodist Primary School (Trinity School). It would replace an existing permissive path which crosses over

the disused railway which links the housing estates and open spaces at Tansy Lane to the north and Galingale Way to the south.

5.8.27. Residents of Peartree Field appeared at the OFH [EV-005] and ISH2 [EV-009] and submitted representations [REP2-049 and REP4-051]. A resident of Galingale Way also appeared at ISH2 [EV-009] and submitted representations [REP2-057 and REP6-046]. The residents would be directly affected by the proposed Trinity Footbridge, which at its closest point the footbridge ramp would be between some 10 and 16 m from their properties [REP6-151]. Concerns raised are summarised as follows:

- no clear justification for the footbridge which is unnecessary;
- question the value of building such a large structure when to walk around via the new footpaths would only be an additional 100 metres, which would not be an issue for the mainly recreational walkers or cyclists;
- the route via the footpaths would be lit and level and not at height, and could be easier for wheelchair users than a ramp;
- cyclists would prefer to stay on the flat and not have to navigate the turns and incline on the footbridge;
- question who the bridge is for, and inadequate information on existing usage;
- the footbridge ramp nearly overlaps with the station platform;
- Trinity School catchment is to the north of the railway line and there would be minimal numbers of schoolchildren using the bridge;
- significant privacy and noise issues for multiple properties;
- overlooking to windows, garden and conservatory;
- negative visual impact;
- the existing path is not a PRoW;
- inadequate detail and cross sections of the bridge;
- trees would need to be removed and new tree planting is unclear;
- potential crime and anti-social behaviour and misuse of the bridge;
- possibility of compensation claims;
- impact on local residents appears to have very little weight;
- the railway tracks are already raised approximately 2 metres above the land height of the houses;
- the new footpath could reduce the route to the High Street and the secondary school;
- suggest relocating the bridge further east; and
- loss of property value.

5.8.28. A number of other local residents raised concerns about the bridge at the pre-application stage, as set out in the Consultation Report [APP-058]. There was pre-application support for the footbridge from North Somerset Local Access Forum who pointed out that a 600 m diversion for the footpath would be unacceptable for young children. Sustrans raised concerns about the alignment of ramps which would add significantly to the distance for walkers and cyclists. Transport Focus set out that careful consideration of the footbridge is essential as the proposals may concern some in the local community [Table 14.2, APP-109].

- 5.8.29. The ExA requested further information at ExQ1 [DE.1.2 and DE.1.3, PD-010] on the detail of the bridge, including indicative visuals, colour and any mitigation to reduce its visual impact as well as a clarification of the consideration of alternatives.
- 5.8.30. In their response, the Applicant clarified the evolution of the design and location of the bridge [REP2-013] and explained that tree planting mitigation would be limited by the lack of space and presence of utility constraints. The colour of the bridge would be holly green, to be agreed by the LPA through the discharge of Requirement 4. Lighting would be contained within the handrails to avoid the need for lighting columns. The Applicant subsequently provided updated photomontages of the bridge, to include privacy screens and the green colour [REP4-011].
- 5.8.31. The following alternatives were considered by the Applicant during the early stages of the scheme design:
- an underpass;
 - a footbridge with circular ramps;
 - an alternative location for the footbridge; and
 - do nothing.
- 5.8.32. The alternatives were discounted for the reasons as set out in the Applicant's response to ExQ1 [DE.1.3, REP2-103] and the ES [Table 3.2, REP6-070]. The option of 'do nothing' was considered, but discounted due to long term risk of trespass onto a live railway as well as health and equality impacts that would arise from increased severance as a result of closure of the existing permissive crossing.
- 5.8.33. Figure DE.1.3-1 [REP2-013] sets out the approximate horizontal distances across the track for each route as follows:
- Walking route 1 via the new footpaths either side of the track and around the end of the station at Quays Avenue – 480 m
 - Walking route 2 via the bridge steps – 28 m
 - Walking route 3 via the bridge ramps – 288 m

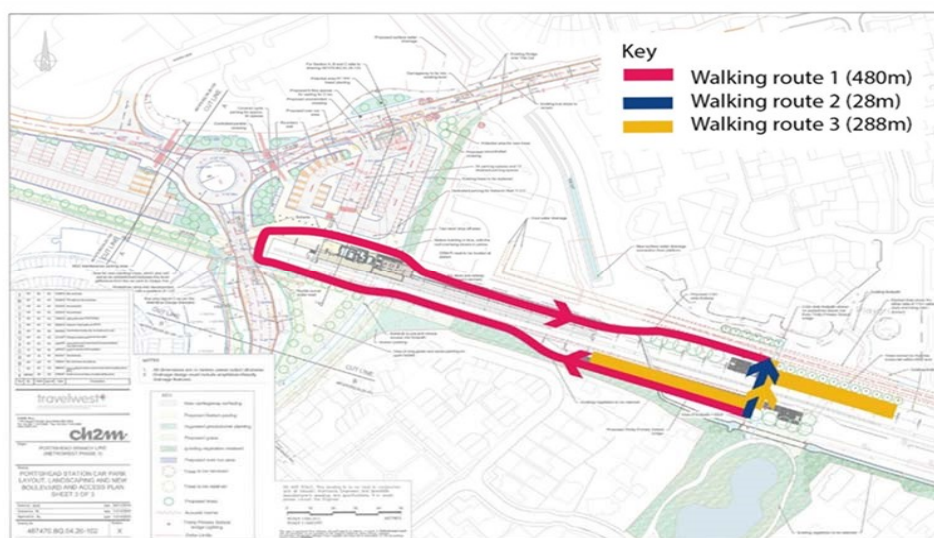


Figure 5.2: Trinity Footbridge alternative walking routes [Figure DE.1.3-1, REP2-013]

- 5.8.34. At ISH2 [EV-009] the ExA requested further justification for the bridge and consideration of alternatives. The Applicant put to the ExA that the permissive path was well used, and that there would be substantial severance if a bridge were not provided. Surveys carried out in 2014 were referred to which indicated that there were around 500 trips per day by NMU's over the crossing [Table 4.20, REP6-125].
- 5.8.35. The inconvenience of the alternative route around Portishead station via the new footpaths and the risk of trespass by people who may become frustrated with having to walk around were put forward as further justification for the footbridge by the Applicant. In addition, incidences of trespass and vandalism of fencing at other locations was mentioned by NR at ISH2 [EV-009].
- 5.8.36. The Applicant confirmed at ISH2 [EV-009] that the surveys were taken by video cameras and users were not questioned regarding their destinations. The IPs questioned the value of these surveys in this respect given the wide range of reasons for people using the crossing. In the experience of the resident of Galingale Way, both during the Covid pandemic and beforehand the majority of users were not school children or commuters but recreational users [EV-009]. The Applicant advised that further surveys were unnecessary as it was considered that there had been no change in local circumstances since 2014. Furthermore, the Applicant considered that to carry out additional surveys now would not be representative due to the Covid pandemic restrictions [REP4-009].
- 5.8.37. At ISH2 [EV-009], NSDC accepted that there would be adverse impacts from the footbridge, but that additional mitigation such as privacy screens and planting could assist in reducing effects. Further information was requested on the usage of the path and what difference its removal would make. NSDC also raised concerns about the relocation of existing trees, stating that it would prove difficult to re-establish and relocation tended to have a high failure rate.
- 5.8.38. The Applicant referred at ISH2 to another bridge in Bristol where privacy screens have been successfully installed and provided photographs of the bridge at Stapleton Road railway station in Bristol [REP4-010]. The ExA visited this bridge as part of their USI [EV-015].
- 5.8.39. NSDC in their post-hearing response [REP4-042] considered there would be moderate adverse impacts on a small number of occupiers in Galingale Way, Peartree Field and Tansy Lane, and it would have a moderate visual impact in local views being a large complex metal structure. Tree planting may filter views but would take time to mature. Whilst NSDC accepted that privacy screens could mitigate overlooking, it highlighted that this would likely to be at the cost of increasing the bulk and overbearing impact of the structure. The emphasised bulk was confirmed by the additional photomontages [REP4-011]. NSDC requested a daylight and sunlight assessment and cross sections so it could make a full assessment. It also pointed out that screening may encourage misuse, anti-social behaviour or vandalism which would potentially add to the effects experienced by nearby residents [REP4-042].

- 5.8.40. NSDC recognised that the bridge would have some safety benefits and would provide for replacement of a longstanding pedestrian route, however it acknowledged that much of the movement across the line would be for less time-sensitive trips for recreation or leisure. NSDC pointed out that for some prospective users who would have to negotiate the ramps the bridge may be regarded as an obstacle [REP4-042].
- 5.8.41. NSDC recognised that the railway station was originally proposed further to the west nearer to Portishead town centre where the extent of detour for pedestrians would have been clear, but these journey time benefits are more marginal in the current scheme. They stated that it should be possible by design to give priority to create a safe environment where pedestrians would need to walk around the station [REP4-042].
- 5.8.42. NSDC concluded that the public benefits including safety, direct routing and prevention of severance arising from provision of a bridge were clear and indisputable, but the intrusion to public and private views of the bridge make its benefits more marginal than they would have been previously. NSDC considered that the disadvantages of omitting the bridge from the DCO appear to be relatively minor and capable of being addressed [REP4-042].
- 5.8.43. The Applicant's response to ExQ2 DE.2.5 [REP5-028] gave additional information relating to privacy screens and provided additional sections and visualisations [REP5-030]. At D6, a daylight and sunlight assessment was provided [REP6-153], together with a marked-up layout plan to show distances between the footbridge and adjoining properties [REP6-151], further cross-section plans [REP6-152], and photomontages [REP6-154]. Additional justification for the footbridge was also provided by the Applicant [REP5-033] in its response to Mr and Mrs Sanders [REP4-051] and NSDC's [REP4-042] D4 submissions.
- 5.8.44. At ISH5 [EV-013] the Applicant re-iterated its position regarding severance in the NPSNN and accepted that the footbridge would have a visual impact as well as some impact on adjacent properties but maintained that the inclusion of the footbridge in the Application was the right approach to take.
- 5.8.45. NSDC gave further detailed oral submissions at ISH5 [REP6-030] stating that the visual and overbearing impacts may be slightly less severe than it had feared previously. It also confirmed its satisfaction that overshadowing would unlikely to be a significant issue following receipt of the daylight and sunlight assessment [REP6-153].
- 5.8.46. NSDC referred to the Local Cycling and Walking Infrastructure Plan 2020-2036 [REP6-034] which includes a number of improved walking and cycling routes for Portishead including some which need to be carried out and considered in conjunction with the proposed railway works [W20 and C22, REP6-034]. NSDC stated that the removal of the current crossing would effectively sever a popular route between residential areas, running counter to the Council's commitment to a sustainable transport agenda [REP6-030].

- 5.8.47. NSDC provided a map extract [REP6-030] to show the walking time/ distance between the Vale pond on Galingale Way and Trinity School (10 minutes/ 0.5 miles). With the existing surface crossing, the journey takes 4 minutes on foot. However, it should be noted that the 10-minute route utilises the existing footpath network and does not take account of the proposed new footpaths either side of the railway track nor the re-aligned Quays Avenue.
- 5.8.48. In response to the IPs comments regarding the school catchment area being north of the railway line, the home locations for the 446 pupils currently on roll at Trinity School figures were provided by NSDC. These show that the vast majority of pupils and nursery class live north of the railway line [REP6-030].
- 5.8.49. The ExA visited two existing footbridges in their USI [EV-015] which were referred to by the Applicant and NSDC. The footbridge at Stapleton Road railway station in Bristol [REP4-010] provides an example of the use of perforated screen panels, and Worle Moor Road in Weston-super-Mare [REP6-031] is an example of a more recently constructed footbridge painted green (with no privacy screens). Both are located in close proximity to existing dwellings.
- 5.8.50. In the ExA's consultation draft DCO [PD-017], the ExA sought views on a potential new requirement for the submission of details of lighting, colour finish and privacy screens prior to commencement of Work No 7. The Applicant included this Requirement, with some minor amendments to wording, in its final preferred draft DCO [REP7-038]. NSDC also agreed to the proposed requirement in their signed SoCG [REP7-025].
- 5.8.51. In Table 8.2 of the signed SoCG [REP7-025] NSDC sets out that it has provided evidence of its views on the impact of the proposed footbridge, and that this would be a matter for the SoS to determine. It concludes [paragraph 15.1.2 (f), REP7-025] that the impacts of new structures should be proportionate, and not have unacceptable adverse impacts on the living conditions or neighbours and other land uses. If the SoS decides to include Trinity Footbridge in the authorised works then NSDC would work with the Applicant on the detailed design [REP7-025].

Pill Railway Station and Car Park

- 5.8.52. The ExA asked at ExQ1 for further information about the proposed structures at Pill station [DE.1.6, PD-010], which would not have an enclosed station building like that proposed at Portishead. Illustrative details of the proposed shelter were provided in the Applicant's response, together with an explanation of how the station design would comply with the Equality Act 2010. This would include appropriate measures to assist persons with disabilities and reduced mobility [APP-038].
- 5.8.53. At ISH2 [EV-009] Pill and Easton-in-Gordano Parish Council queried the size and design of the shelter at Pill station and the Applicant responded at D4 that it would be of modular design widely used by the rail industry. The design shown on the submitted plan [APP-020] would be sufficient to accommodate 20 to 25 people. The Applicant estimates that in opening

year the maximum number of people forecast to use Pill station in the 8.00-9.00am peak would be 30 and stated that it is not common practice to provide shelter capacity for the peak passenger flows [REP4-009].

- 5.8.54. The ExA requested further details of the fencing around Pill station car park, and how views from properties in the area of Severn Road/ Monmouth Road could be mitigated at ISH2 [EV-009]. The Applicant replied it is intended to retain or replant the existing vegetation around the car park. Existing bankside vegetation would also be retained to provide screening of the station platform. The Applicant later confirmed that the car park would be gated and fenced but the type and detail such as colour would be subject to further design details [REP4-009].

Fencing

- 5.8.55. Whilst there is fencing of various types in place along the existing freight line much of it requires upgrade to accommodate the greater security requirements of a passenger line and greater frequency of trains, as well as acoustic mitigation in two locations. Various types of fencing are proposed depending on the location of the railway line in proximity to features such as roads, dwellings, and PRoWs.
- 5.8.56. Further detail of the proposed acoustic fencing at Portishead and Portbury was requested by the ExA at ExQ1 [DE.1.7, PD-010] and discussed at ISH2 [EV-009]. Acoustic measures are also discussed at section 5.12 of this Report. The fence at Peartree Field in Portishead would be 2 m in height and up to 210 m in length. The Applicant explained that the fence was moved approximately 20 m away from the nearest properties following consultation with residents. This would allow the retention of more of the existing vegetation to reduce visual impacts [REP2-013].
- 5.8.57. Old Station House lies in very close proximity to the track, with the former platform of Portbury Station forming part of its curtilage. The acoustic fence would be between 35 and 55 m in length, and of close-boarded timber design. Following consultation with the occupiers and concerns regarding effects on their light the fence was moved off the platform and to the trackbed. This resulted in a greater height of 2.4 m and it was extended in length in the final version of the DCO at the request of the Applicant [REP2-013, REP4-009]. No representations were received from the occupiers of Old Station House during the Examination. The final design of both acoustic fences would be secured by Requirement 26 of the draft DCO [REP7-056].
- 5.8.58. At ISH2 [EV-009] the ExA referred to comments from NSDC in its LIR regarding the visual effects of fencing both within the Avon Gorge and elsewhere and requested further information. Visuals of the Avon Gorge from the Clifton Suspension Bridge area with the proposed fencing in place were subsequently provided to enable a more detailed assessment of its visual effects [REP4-012].
- 5.8.59. A mix of palisade (grade 1 high security), paladin (grade 2) and post and wire (grade 3) fencing is proposed. Revised General Arrangement plans

were submitted at D5 [REP5-005] indicating the locations of the different fence types. Specific use of and examples of the different types of fencing was later confirmed at D6 [REP6-026], including use of paladin fencing at Clanage Road (Work No 26).

- 5.8.60. Increased use of paladin rather than palisade fencing was discussed at ISH2 [EV-009]. The Applicant confirmed that the majority of new fencing would be paladin, and NR clarified that some existing fencing along the existing freight line would be replaced on a like for like basis. Further clarification was sought by the ExA at ISH5 [EV-013] for the Avon Gorge area given its sensitive location. The Applicant explained that the selection of railway fencing grades is driven by the environment or by the security requirements laid down by the DfT. Fencing design is largely decided by NR and controlled by rail industry guidance and legislation [REP6-021].
- 5.8.61. At ISH5 the Applicant requested a review of the relevant Requirements to allow for NR to alter fencing should they need to for safety/ operational reasons, whilst ensuring that any changes would remain within the scope of the ES particularly in terms of landscape and visual impact. Amendments to Requirements 14 and 25 were set in the D6 version of the draft DCO [REP6-008].
- 5.8.62. The ExA in its consultation draft DCO [PD-017] suggested that the colour of fencing should be included as part of the location/ siting/ design details to be submitted and agreed by the relevant planning authority, and that any variation required for railway operational safety reasons should follow the written consent of the relevant planning authority. In its response the Applicant [REP7-038] agreed to the insertion of colour details but not to the agreement of any variation to fencing for operational safety reasons. This is covered in Chapter 9.
- 5.8.63. NSDC [REP7-045] in its response to the ExAs recommended DCO and its SoCG [Appendix 5, REP7-025], and BCC in its SoCG [Appendix 5, REP7-026], both agreed with the Applicant regarding any changes to be made for railway operational safety reasons.
- 5.8.64. Effects of fencing on the setting of heritage assets and the openness of the Green Belt are dealt with in sections 5.9 and 5.11 of this Report.

ExA Conclusion

- 5.8.65. The ExA are satisfied that the Applicant has applied adequate good design principles to Portishead and Pill railway stations, which would secure a suitable framework for the final detailed design of these buildings which would form the most publicly visible parts of the Proposed Development. Consideration has been given to a range of design aspects, including sustainability, inclusivity, micro-energy generation and appropriate use of materials. The context of the surroundings for both stations, together with operational and other relevant constraints, has been satisfactorily considered and applied to the proposals. Full regard has been had to the Equality Act 2010 in the

station design and they would both meet the SoS's PSED. Visual impacts would be localised to a small area of each of the settlements with limited harm to the wider landscape. The ExA considers that the visual effects of the proposed stations attract neutral weight in the planning balance.

- 5.8.66. The ExA acknowledges that the proposed security and safety fencing is functional in appearance and, in some locations, would have negative visual effects. However, the ExA is satisfied that the effects would diminish over time as vegetation re-establishes itself and subsequently soften the appearance of the fencing. Effects would also be minimised by the application of Requirements 14 and 25 which require details of fencing to be agreed in advance by the relevant planning authority, including the colour. The ExA suggested in its recommended DCO that any change to the fencing for safety and security reasons would first need approval by the relevant planning authority however adequate reasoning has been given by the Applicant for the wording of Requirements 14 and 25. The ExA acknowledges that Part 8 Class A of the GPDO gives railway undertakers permitted development rights on their operational land, which would include such alterations. Overall, the visual effects of the fencing attract neutral weight in the planning balance.
- 5.8.67. The ExA raised concerns with the Trinity Footbridge early on in the Examination. It would represent a large metal structure with long ramps which would appear discordant with its surroundings, residential dwellings and open spaces. The suggestion of a holly green colour would assist in mitigating its appearance to some degree. The ExA accepts that the application of perforated screens would assist in reducing overlooking to residents' gardens and windows, however they would also increase the bulk and adverse visual effects of the bridge.
- 5.8.68. The ExA considers that visual effects would be significant and detrimental to the living conditions of residents of the nearest properties on Peartree Field, Galingale Way and (to a lesser degree) Tansy Lane. Landscape mitigation would have a minimal effect on mitigating its appearance given the height of the bridge and the limited space available to carry out additional planting. The ExA also acknowledge NSDC's doubts that relocation of existing mature trees would be successful, and the presence of underground services which further reduce the space available for planting.
- 5.8.69. The ExA appreciates that the views of the bridge would be localised to a relatively small number of properties, but also considers that the presence of the school, footpaths and green spaces would increase the number and range of sensitive receptors. The ExA also recognises the benefits of the footbridge in maintaining the existing permissive route across the railway line and in avoiding severance, in accordance with paragraph 3.22 of the NPSNN.
- 5.8.70. The ExA have considered the evidence and IPs and visited the area of the proposed footbridge and railway station on its USIs [EV-002 and EV-003]. Consequently, the ExA take the view that use of the proposed new

footpaths alongside each side of the railway line and areas of open space would not significantly increase journey times for NMU's, representing a credible and pleasant alternative route to the proposed footbridge ramps and steps.

- 5.8.71. The ExA have also had regard to s149 of the Equality Act 2010 in its conclusions and consider that people with a protected characteristic (disability) would not be disadvantaged if there was no footbridge. This is because the alternative route, whilst marginally longer, would be more usable given that it is on a level surface. In turn, the ExA has applied its PSED. The ExA noted on their USIs [EV-002 and EV-003] that the existing permissive path does not form a direct route to shops and services to the west which residents are likely to access on foot, and the evidence indicates that the use of the permissive path is largely recreational.
- 5.8.72. The Applicant's submission that the 'do nothing' scenario would result in risk of trespass onto a live railway is noted by the ExA. However, the ExA do not accept that there would be significant trespass issues in this particular location, which would benefit from security fencing and natural passive surveillance from existing housing and the school. The removal of the footbridge would also allow a greater amount of existing vegetation to be retained adjacent to the railway line.
- 5.8.73. The Trinity Footbridge does not meet the criteria for good design as set out in the NPSNN, and the ExA is not satisfied that it could be effectively mitigated by the proposed green coloured finish, application of perforated screens and planting/ re-location of trees. Visual effects on sensitive receptors, most significantly to adjoining occupiers of dwellings and their living conditions, would not be outweighed by the benefits of the Proposed Development in avoiding severance and connecting the housing areas. To address this, the ExA recommend to the SoS that the proposed public foot and cycle track bridge (Trinity Footbridge) that form part of Work No 7 should be deleted from the Proposed Development.
- 5.8.74. If the SoS agrees with the ExA, then they would need to request relevant amended plans to reflect the removal of the footbridge (as set out in paragraph 9.7.3 of this Report). The plans should show the retention of the continuous public foot and cycle track south of the railway line (Work No 7B) connecting through to the existing path through the open space at Galingale Way, together with any amendments to fencing, lighting, and retained and proposed landscaping which would arise as a result of the removal of Trinity Footbridge. The ExA is satisfied that such amendments would be minor and would have no significant environmental effects, whilst representing an improvement for the amenities of neighbouring residents.
- 5.8.75. Subject to the removal of the Trinity Footbridge from Work No 7, the ExA is satisfied that the Proposed Development would be acceptable in relation to design and landscape and visual matters in accordance with the NPSNN, and that where necessary appropriate mitigation would be

secured in the Recommended DCO. Overall, design and landscape and visual impact would attract a neutral weight in the planning balance.

5.9. LAND USE

- 5.9.1. This section considers land use including open space, green infrastructure and GB. However, due to the overlap of this topic these matters are also covered in air quality in section 5.6 and construction impacts in Section 5.7.

Policy Context

- 5.9.2. The NPSNN advises that applicants should identify existing and proposed land uses near the proposed project (paragraph 5.165); mitigate any impact on open space, sports and recreational land and buildings (paragraph 5.174); minimise impacts on the best and most versatile agricultural land (paragraph 5.176); minimise impacts on soil quality (paragraph 5.168); safeguard mineral resources (paragraph 5.169) and the proposed development should not result in inappropriate development in the GB unless Very Special Circumstances exist (paragraphs 5.170, 5.171 and 5.178).
- 5.9.3. The NPSNN highlights (paragraph 5.184) that PRoW and National Trails are important recreational facilities. Any adverse effects need to be mitigated and where a PRoW is to be extinguished the SoS needs to be satisfied that an alternative has been or will be provided or is not required.
- 5.9.4. Chapter 15 Tables 15.2 and 15.3 of the ES [REP6-084] include a summary of relevant development plan policies regarding green infrastructure, GB, site allocations and safeguarded land, recreational facilities and local green space.
- 5.9.5. Chapter 16 Table 16.2 of the ES [REP6-086] sets out the relevant development plan policies relating to PRoW.

The Application

- 5.9.6. The effect of the Proposed Development on land use is considered in ES Chapter 15 - Soils, Agriculture, Land Use and Assets, version 2 [REP6-084]. The effect of the Proposed Development on PRoW is considered in ES Chapter 16 [REP6-086] and the TA [REP6-125].

Farms, soils and agricultural land quality

- 5.9.7. The Proposed Development would affect several agricultural holdings due to TP for construction compounds and haulage roads and permanent acquisition for access and maintenance compounds; the loss of informal crossings and the effects of construction activities such as dust, noise and lighting and operational noise.
- 5.9.8. The ES [15.4.19 to 15.4.22, REP6-084] classified the soils around Sheepway and Portbury as Newchurch soils resulting in an Agricultural

Land Classification (ALC) of Grade 4 (poor quality land). Whimple soils are found around Pill, Ham Green and Chapel Pill which results in an ALC of Grade 3a (good quality land) for these areas.

- 5.9.9. Construction work would largely be within the boundary of the disused or operational railway [15.6.1, REP6-084]. As a result, the Applicant advocates that most of the disturbance to agricultural land would be of small extent and temporary in nature.
- 5.9.10. Some 22.47 ha of agricultural land would be required for temporary occupation during construction (compounds, haul roads and accesses). A further 12.20 ha would be acquired permanently (for permanent access and maintenance sites). Agricultural land occupied temporarily during construction would be returned to agricultural use at the end of the construction programme. In terms of permanent loss 9.31 ha would be Grade 3a and 2.89 ha would be Grade 4. The Applicant considers that the loss of the Grade 3a land would be assessed as minor and the loss of the Grade 4 as negligible. Such losses are not considered to be significant in relation to the EIA Regulations [15.6.2, REP6-084].
- 5.9.11. Fencing would be installed to prevent livestock straying onto the line and as a consequence the significance of effect on livestock was assessed as neutral in the ES [15.6.3, REP6-084] and not significant in relation to the EIA Regulations.
- 5.9.12. The closure of three at grade accommodation crossings over the disused railway would affect the operation of two farm units and would be addressed by improving an existing access off Sheepway (for the two crossings serving Shipway Gate Farm) (Work No 11) [APP-043] and providing a new access off the Portbury Hundred (Work No 12) [APP-039].
- 5.9.13. Risks to farmland would arise from the construction compounds and haul roads and soil compaction, accidental spillages of hydrocarbons, pollution from contaminated ballast on agricultural land quality and dust deposition due to the handling of aggregate and waste ballast. The Applicant considers that these impacts could be reduced through good site management as set out in the Master CEMP [REP7-023]. Any residual contamination or compaction would be rectified, and the land returned in a condition no worse than when it was acquired. As a result the ES concludes that there should be no residual adverse effects on surrounding farmland at the end of the construction phase and the significance of effect on the local farm business is assessed to be neutral and not significant in relation to the EIA Regulations [15.6.8, REP6-084].
- 5.9.14. The ES acknowledges that there may be some indirect impact on crops from dust deposition. However, the majority of agricultural land in and around the Proposed Development is currently under pasture. Dust would be managed through the Master CEMP [REP7-023]. The ES concludes that the significance of effect on local crops due to dust deposition and vegetation clearance is assessed to be neutral and not significant in relation to the EIA Regulations [15.6.9, REP6-084].

- 5.9.15. The ES accepts that noise from construction may disturb livestock and farm workers. However, the Applicant proposes, through the measures in the Master CEMP [REP7-023] to liaise with farmers to enable them to move livestock to quieter parts of the farm. Consequently, the ES considers that the significance of effect of construction noise on livestock and farm workers would be neutral and not significant in relation to the EIA Regulations [15.6.10, REP6-084].
- 5.9.16. In terms of operation existing fences along the railway would be replaced and as a result there would be little or no risk of livestock getting onto the operational railway [15.6.23, REP6-084]. Following construction there would be no new impacts on severance or farm operations [15.6.24, REP6-084]. The introduction of passenger train services is not predicted to change the quality of water draining from Pill tunnel into Ham Green fishing lakes [15.6.25, REP6-084]. The ES concludes that the operation of the Proposed Development on agricultural land and farm units would have a neutral significance in relation to the EIA Regulations.

Land Acquisition, Demolition and Other Effects on Private Property (excluding farmland)

- 5.9.17. The Proposed Development would result in the demolition of No 7 Station Road, Pill to enable the creation of a new station forecourt and entrance at Pill (Work No 22). No 7 was the former station building and is a private property comprising one (unoccupied) residential unit and two commercial units. Commercial property is designated as a high value and as a consequence demolition of commercial property is a major magnitude impact. As a result, the significance of effect would be large to very large. However, the Applicant has already purchased the property and it is currently leased back to the previous owner, as a consequence the ES considers there to be a neutral significance of effect and not significant in relation to the EIA Regulations [15.6.11, REP6-084].
- 5.9.18. In Pill it may be necessary to demolish a small section of garden wall at a property on Marine Parade and a row of 12 garages to provide sufficient space to bring in a large crane to lift in pre-cast sections of the new Avon Road Bridge. The garden wall would be rebuilt. The ES concludes that the impact of the demolition of the wall would be neutral [15.6.12, REP6-084]. The garages would be compulsorily purchased and therefore freeholders would be compensated. However, the loss of the use of the garages by a small number of tenants is assessed in the ES to be a minor impact on a medium value resource resulting in a slight adverse significance of effect. The effects are not considered to be significant in relation to the EIA Regulations.
- 5.9.19. For health and safety reasons the works to widen and strengthen the railway embankment in Pill would require the use of heavy equipment in close proximity to the rear gardens of properties in Mount Pleasant. As a result, as a precautionary safety measure for the duration of the works the Applicant would impose temporary restrictions on access to the rear gardens. The ES considers this to be a negligible impact on a medium value resource resulting in a neutral significance of effect which would not be significant in relation to the EIA Regulations.

- 5.9.20. Permanent acquisition of a yard off Monmouth Road would be required to enable construction of the station car park in Pill. The ES considers that this would be a negligible change of use for a low value resource resulting a neutral significance of effect.

Community Land

- 5.9.21. Permanent and temporary land acquisition would be required on the north and south side of the proposed Trinity Footbridge (Work Nos 7, 7A, 7B and 7C) to construct the access ramps and connecting footpaths and protect the pond on the south side of the railway from construction activities. Residents and pedestrians may use this space for walking through the residential area or informal recreation. Land known as The Vale on the south side of the disused railway is designated as Local Green Space. As a result of the Proposed Development some of the land would become a PRoW, so the Applicant advocates that whilst the status would change it would remain publicly accessible. As a local resource, the land in this area is given a low value and the temporary and permanent land acquisition is very small with a negligible magnitude of impact resulting in a neutral significance of effect [15.6.18, REP6-084].
- 5.9.22. Temporary and permanent land acquisition is proposed for the construction and maintenance compound at Clanage Road (Work Nos 26 and 26A). This land is privately owned but is used for recreational uses, with informal parking for Aston Gate stadium and occasional car boot sales. Bedminster Cricket Club and a day nursery are located to the south of the site. Land used by the community is given a low value and the Applicant therefore considers [15.6.19, REP6-084] that the change of use for this small site would be negligible, resulting in a neutral significance of effect.
- 5.9.23. BCC has designated the railway corridor as Important Open Space (Local Plan Policies BCS9 and DM17). The Applicant advocates that this designation relates to the value of this land as a wildlife corridor as public access to the railway corridor is prohibited for health and safety reasons. The railway corridor is also included on the Bristol Wildlife Network Sites. The effect of the Proposed Development on ecology and biodiversity is considered in Section 5.3 of this Report.
- 5.9.24. The ES acknowledges that some community assets adjoining the scheme such as Trinity Primary School, Jenny's Meadow, Victoria Park, Watchhouse Hill, Leigh Court, Clifton Suspension Bridge, Bedminster Cricket Club and grounds, Ashton Court estate and a number of allotment gardens in the vicinity of Bower Ashton may be affected by disturbance during construction and operation.

Development Land

- 5.9.25. The Proposed Development would not require temporary or permanent land acquisition or occupation from development land identified in either the NSDC or BCC Local Plans for housing [15.6.21, REP6-084]. Furthermore, the railway corridor has been protected in the local plans for many years and therefore the Applicant advocates any developer for

land close to the railway would be aware of the Proposed Development and should have taken that into account when developing their proposals.

- 5.9.26. NSDC Core Strategy (2017) safeguards land at Court House Farm, Easton-in-Gordano/Portbury for port uses, subject to demonstrable need for those uses that cannot be accommodated elsewhere within the Port estate. The Applicant was initially seeking the permanent acquisition of part of this land (plots 05/75 and 05/85) however with the removal of Work Nos 16B and 16D the Applicant is now only seeking a permanent right over part of the plot in order to be enable access for maintenance. The Applicant advised [7, REP7-042] that it would be willing to be flexible in the routing of the right to enable the development of this land.
- 5.9.27. The ES concludes that the significance of effect of the Proposed Development on development land would be neutral and not significant in relation to the EIA Regulations.

Green Belt

- 5.9.28. Much of the countryside between Portishead, Pill and Bristol lies in the GB [Figure 6.1, APP-116] within which there are restrictions on inappropriate development.
- 5.9.29. The use of land for temporary construction compounds and haul roads would be for a temporary period only. Any compound areas would be returned to their former state on completion of the Proposed Development, except where part of the site would become a permanent maintenance and emergency access compound [15.6.34, REP6-084].
- 5.9.30. The Applicant advocates that the Proposed Development by virtue of being local transport infrastructure which can demonstrate a requirement for a GB location would be appropriate development for the purpose of the NPPF (Paragraph 146). Moreover, as it utilises an existing railway alignment which has been safeguarded in the development plan there is no viable alternative route [15.6.48 to 49, REP6-084].
- 5.9.31. The ES concludes that the potential harm to the GB from construction and operation of the Proposed Development is clearly outweighed by the other important and relevant considerations in relation to the need for the Proposed Development [15.6.50, REP6-084].

Public Rights of Way

- 5.9.32. There are several PRoWs and permissive paths located in the vicinity of the Proposed Development [REP6-006], including the Sustrans NCN 26 and NCN 41. The PRoWs between Portishead and Pill are indicated at Figure 4.49 of the TA [APP-158]. The most significant link is LA 15/21/20 which is not only a bridleway but also forms part of NCN route 26.
- 5.9.33. Section 4.10 of the TA considers NMU provision, including an assessment of the existing walking and cycling networks in Portishead, Pill, between Portishead and Pill and at Ashton Vale. The NMU survey counts are set

out in Appendix C of the TA [Table 2.1, APP-161]. Results of NMU audits at Portishead and Pill are set out in Tables 7.22 and 7.23 of the TA [REP6-125]. Section 8.5 summarises the impacts of the Proposed Development on local and designated pedestrian and cycling paths in the vicinity of the scheme.

- 5.9.34. The majority of the impacts would be during construction, and this is covered in section 5.7 of this Report. The permissive path in Portishead is dealt with in section 5.8 of this Report, in considering the proposed Trinity Footbridge.
- 5.9.35. Temporary and permanent works to the NCN are shown at APP-033. Table 10.1 of the TA [REP6-125] sets out the permanent infrastructure measures to be implemented including re-alignment of the existing NCN 26 between Sheepway and Pill, improvements to the existing bridleway uncontrolled crossing point at Royal Portbury Dock Road, a replacement new bridleway under the M5 bridge [APP-034], and closure of the existing pedestrian crossing across the operational railway at Barons Close, with a replacement route to Ashton Vale Road.
- 5.9.36. Chapter 16 of the ES sets out that the effects of the Proposed Development on walking and cycling networks after 10 years as negligible to slight adverse; not significant in relation to the EIA Regulations [Table 16.11 and 16.15, REP6-086].

Issues Considered During the Application

- 5.9.37. The effect of the Proposed Development on the GB; whether it would constitute inappropriate development and if it would, whether a case of Very Special Circumstances would exist and the effect of the Proposed Development on users of PRoW were identified by the ExA in its IAPI [Annex C, PD-007]. Land use was also the subject of several written questions at ExQ1 [PD-010] and ExQ2 [PD-014] and was discussed at ISH2 [EV-009], ISH3 [EV-10] and ISH5 [EV-013].
- 5.9.38. Land use was not a matter covered by BCC in either its RR [RR-001] or LIR [REP1-032]. The signed SoCG with BCC recorded that there was no objection to the approach to manage soils, agriculture, land use and assets [15, REP7-026]. It also records that BCC agrees that the Proposed Development would be local transport infrastructure and that the proposed compound at Clanage Road would be essential infrastructure that would not represent unacceptable encroachment into the countryside [18.1.3, REP7-026]. Notwithstanding the fact that BCC considered that the compound would not adversely affect the openness of the GB, BCC agreed with the Applicant that Very Special Circumstances exist to justify its location in the GB.
- 5.9.39. In its LIR NSDC [2.2, REP1-033] advises that much of the route lies within the GB but that paragraph 5.171 NPSNN recognises that linear infrastructure will often have to pass through GB land. As an engineering project and a significant local transport infrastructure project NSDC considered that the Proposed Development had demonstrated a need for

its GB location in accordance with the NPPF. The LIR highlights that Policy DM22 of the North Somerset Sites and Policies Plan Part 1 safeguards the route. Finally, the proposed stations lie within the settlement boundaries of Portishead and Pill and therefore NSDC consider that they are acceptable in principle.

- 5.9.40. In terms of PRow [2.6, REP1-033] NSDC advise that it considers that the mitigation proposals are generally satisfactory but that it had some remaining concerns with specific locations.
- 5.9.41. NSDC considered there to be no significant permanent local impacts on soils, agricultural, land use and assets [2.14, REP1-033]. Furthermore, it was satisfied that mechanisms exist to minimise any impacts during the construction phase. At the close of the Examination the signed SoCG with NSDC [REP7-025] does not record any matters as outstanding with regards to land use, GB or PRow.
- 5.9.42. Concerns regarding land use were raised by a number of IPs and these are referred to in the relevant sections below.

Farms, soils and agricultural land quality

- 5.9.43. Mr Crossman [RR-056, REP2-048, REP3-049] farms Shipway Farm at Sheepway. He objected to the proposed closure of two at grade crossings as he considered that this would sever the farm and lead to the disruption of his farming enterprise. He considered that the initial alternative provision of a bridge had been dropped by the Applicant on cost grounds and the access that would be 'improved' (Work No 11) in his opinion had already been improved as part of the Hinkley Connector works. Furthermore, even with an improved access he considered that moving animals and crops would still involve considerably more time and cost.
- 5.9.44. The matter was the subject of written questions [GC.1.9, PD-010 and CA.2.1, PD-014] discussed at CAH1 [EV-008] and CAH2 [EV-012]. The ExA also visited the site [EV-002].
- 5.9.45. The Applicant advised [CA.2.13, REP5-028] that they had been in discussions with Mr Crossman in relation to the cost of providing an alternative stock building, facilities and equipment on the south side of the railway so that the existing railway crossings could be closed off. The Applicant indicated that they hoped that agreement could be reached before the end of the Examination. Mr Crossman advised that he was still in negotiation with the Applicant, progress had been made but no agreement had been reached [REP5-045].
- 5.9.46. At the close of the Examination the Compulsory Acquisition Schedule [AG-68, REP7-063] indicates that agreement remains outstanding but that the Applicant would continue to negotiate terms with the landowner to try and agree a voluntary agreement with them.
- 5.9.47. RR-042 raised concerns about the level of damage to farmland and the effect that this would have on wildlife and the natural environment. The

Applicant [106-1, REP1-029] advised that ecological impacts were a key consideration during the evolution of the scheme and to address this detailed ecological surveys had been undertaken. A number of mitigation measures were proposed to ensure that any impacts would be minimised.

- 5.9.48. RR-051 and RR-052 asked for confirmation that the land at Lodway Compound would return to its original use. The Applicant advised [82-4, REP1-029] that at the end of construction the compound would be reinstated to its previous condition and agricultural use. This would be delivered through the Master CEMP [REP7-029] which would be secured by Requirement 5.

Land Acquisition, Demolition and Other Effects on Private Property (excluding farmland)

- 5.9.49. The BPC [RR-010] raised a number of objections to the acquisition of their land but in particular it was concerned about the ability to access parts of its operational land across the railway close to Court House Farm; the amount of land to be taken, whether this would need to be permanently acquired, the acquisition of land that was safeguarded for the expansion of RPD in the NSDC Local Plan and the effect that this would have on BPC's ability to carry out its duties as a Statutory Undertaker.
- 5.9.50. The concerns raised by the BPC were the subject of written questions at ExQ1 [PD-10] and ExQ2 [PD-014] and examined at CAH1 [EV-008], CAH2 [EV-012], ISH2 [EV-009] and ISH5 [EV-013]. The ExA also visited the site [EV-001 and EV-014].
- 5.9.51. The amount of land to be taken and whether this would need to be permanently acquired is considered in Chapter 8 of this Report.
- 5.9.52. BPC has recently created a storage area west of Court House Farm on land to the south of the disused railway line. Vehicles stored there are currently driven into the main port facility via an at grade crossing over the disused rail line. Under the terms of the planning permission [Condition 16, REP6-32] this at grade crossing would need to be replaced by a vehicular bridge so as not to prevent the Proposed Development.
- 5.9.53. BPC [16, REP6-048] acknowledge that it does not wish to impede the actual construction of the Proposed Development. The issue is the requirement that it could lose its current rights to use the at-grade crossing and be obliged to incur the expenditure of building the bridge at a point when it is not certain the that the DCO scheme would go ahead. Full funding for the Proposed Development would be available to the Applicant only on approval of the Full Business Case (FBC) [14, REP6-048] and BPC therefore consider that the Court House Farm easement, which allows the at grade crossing, must not be terminated until, at the earliest 15 months from the approval of the FBC. BPC have suggested the use of a Protective Provision [17, REP6-048] to secure this.

- 5.9.54. The Applicant advised [37, REP6-021] that they intended to give notification under the Court House Farm Easement to terminate the access at the point when it would be required but that they were in discussion with BPC and anticipated that the Applicant's construction works could largely occur at the same time as the construction of the bridge. This matter remained unresolved at the end of the Examination.
- 5.9.55. The owners of the site of the proposed depot at Clanage Road (Work Nos 26, 26A and 26B) [REP1-041] advised that the site is currently used for several community purposes, car boot sales, competitive sporting events, car parking for Ashton Court festivals and Ashton Gate stadium. They raised concerns regarding the amount of land that was being sought by the Applicant and advised that as a result, the current uses would be substantially and unnecessarily curtailed. The car boot would no longer be viable and car parking would not be possible without access to the current exit point.
- 5.9.56. The Applicant advised [3.1, REP2-032] that the amount of land sought is the minimum necessary that would enable NR to access and use the proposed compound to support the construction and maintenance of the Proposed Development. In relation to the on-going viability of the car boot sales the Applicant advised [Paragraph 3.1.6, REP2-032] that this would be a matter that could be resolved by way of compensation. With regards to the car parking, Work No 26B would provide a new exit point to provide an in/ out arrangement to replicate existing arrangements.
- 5.9.57. The Applicant considered alternative locations for the compound [4.8, REP2-032], but in order to ensure the safe operation and proper support of the Proposed Development once operational considers that the access needed to be located as close to the Clifton Suspension Bridge/ Avon Gorge as possible.

Community Land

- 5.9.58. RR-044 raised concerns about the loss of fields at Lodway Farm which they used for walking their dogs and REP4-062 was concerned about the loss of green space at the same location. The Applicant advised [111-3, REP1-029] that the field is not accessible by right by the public and that in any event at the end of construction the compound would be reinstated to its previous condition.
- 5.9.59. The concerns raised by the owners of the site at Clanage Road (Work Nos 26, 26A and 26B) regarding the community uses and the Applicants response to these are set out above.
- 5.9.60. Concerns raised by an IP relating to use of registered public open space at Hayes Mayes Lane [REP4-056] is dealt with in section 5.10 of this Report.

Development land

- 5.9.61. PTC [RR-004] wrote in support of the scheme as they considered that the location of the station in Portishead (Work No 5) would foster economic

development of the area east of Quays Avenue and south of Harbour Road, including the existing Portishead and Gordano Gate Business Parks. It envisaged that the station would encourage further business, retail and residential regeneration of this strategically important area of Portishead with higher density mixed use development.

- 5.9.62. In terms of concerns about safeguarded land this related to an area of land to the south of the disused railway and the east of Marsh Lane which would be required to deliver Work Nos 16B and 16D. However, as the Examination progressed the Application was amended and Work Nos 16B and 16D were removed from the Application [PD-012 and PD-013]. As a result, the Applicant is now only seeking a permanent right of access over a much-reduced area of land in this location. The Applicant advised [124-23, REP1-029] that this would only be accessed occasionally and that it would be willing to agree both an alternative route and "lift and shift" arrangements with BPC to reduce impacts on the BPC. The Applicant therefore considered that the BPC would not be compromised in the carrying out of its Statutory Undertaker duties and there would be no justification for alternative land being provided to the BPC.

Green Belt

- 5.9.63. A number of RR [RR-032, RR-038, RR-039, REP2-058, REP4-062] raised concerns regarding the proposed compound at Lodway Farm (Work No 17) given its location in the GB and concerns that this may result in a future designation as 'brownfield' land [RR-047 and RR-107].
- 5.9.64. The Applicant advised [32-4, REP1-029] that the use of Lodway Farm as a construction compound would not change the status of this land from agricultural land in the GB. At the end of construction, the land would be reinstated to its previous condition and ownership would remain with the freehold owner.
- 5.9.65. REP1-042 raised concerns regarding the proposed compound at Ham Green (Work Nos 24 and 24A) as amongst other things the site is located within the GB. Construction impacts on the GB [3, REP4-054] were also an area of concern. The IP referred the ExA to an application in 2021 to retain a track in this location to provide access to the adjoining fishing lakes which was dismissed at appeal due to its location within the GB citing it as setting a precedent.
- 5.9.66. The IP was also concerned that the Proposed Development would enable the development of the adjoining site (also within the GB) for housing and that this could set a precedent for speculative applications for other sites within the GB at other locations within Easton-in-Gordano and Ham Green.
- 5.9.67. In terms of the access track [3.1, AS-053] the IP suggested that the use of grasscrete on the access track would be a more sustainable solution to protecting the openness of the GB and its visual amenity.
- 5.9.68. The effect of the Proposed Development on the GB was the subject of written questions at ExQ1[PD-010] and ExQ2 [PD-014] and was

examined by the ExA at ISH3 [EV-010] and ISH5 [EV-013]. The ExA also visited the sites of the proposed compounds at Ham Green and Clanage Road [EV-014].

- 5.9.69. In response to ExQ1 [GC.1.10, PD-010] the Applicant advised that the bulk of the structures comprised within the Order limits and within the GB already exist. The only additional construction works within the GB would be the new embankment to support the permanent compound at Ham Green (Work No 24) and the ramp at Clanage Road both of which would be permanent works. The Applicant considers that these works are a necessary part of a local transport scheme and would be suitably landscaped. Therefore, it considered that they would not impact on the openness of the GB and would not therefore be inappropriate development.
- 5.9.70. However, the Applicant advised that if the ExA were to conclude that the works would be inappropriate development then it considers [6.5.154 to 6.5.161, REP6-134] that the economic, local transport, social and environmental benefits that the scheme would deliver would mean that 'very special circumstances' exist that would outweigh any harm to the GB.
- 5.9.71. The Applicant advised [11, REP4-033] that in terms of operation NR already has statutory authority to undertake works to the operational railway at any time day or night. In terms of the concerns regarding enabling development at Ham Green, this is dealt with at paragraphs 4.2.13 to 4.2.14. Matters regarding the type of materials to be used for the access including the IPs request for use of 'grasscrete' are covered in sections 5.10 and 5.12.

PRoW

- 5.9.72. Concerns were raised regarding the introduction of an extra 'dog leg' bend into NCN 26, failure to take advantage of opportunities to remove existing bends under the bridge by smoothing the alignment to improve visibility and an inconsistent level of detail in the application [RR-070].
- 5.9.73. The Applicant responded [REP1-029] that the current NCN route occupies sections of the disused railway and consequently the route requires adjustment to accommodate the reopening of the railway. In one location, the diversion of the cycle route results in a 'T' junction (the dog leg) to the north east of Marsh Lane bridge. This has been designed to improve visibility at this junction for the safety of users, and bollards are proposed to slow cyclists and prevent vehicular access. The proposed outline design for the changes to the NCN route have had a Stage 1 Road Safety Audit and the final design would also be subject to further Road Safety Audits to ensure the safety of users. The Applicant also confirmed that some improvements to the alignment of NCN 26 under the bridges would take place to improve visibility, but additional works would be difficult to justify under the Order [REP1-029].
- 5.9.74. Other IPs [RR-075 and RR-102] raised general concerns about the impacts on the NCN including the route along the River Avon to Bristol.

The Applicant clarified that the Avon Gorge towpath would be largely unaffected except for some temporary closures required during construction [REP1-029].

- 5.9.75. The BPC highlighted in its RR [8.10, RR-010] that various works would affect the network of public bridleways and cycleways which it has created in and around the RPD estate, including proposals to add to that network by creating and imposing further PRoWs over their land. It noted that the routes provide a complete route towards Pill and on completion of the works the paths would continue to be available as they are now and no works to supplement them would be necessary.
- 5.9.76. Approximately 40 m of path north of the railway to the east of Marsh Lane would be permanently diverted (Work No 16), due to a short section of the existing NCN 26 as it passes under the Marsh Lane bridge being located on top of the disused railway track. The BPC accepted the works on condition that it remained a permissive route only [REP4-058 and REP4-059]. In response to ExQ2 [TT.2.7, PD-014] the Applicant clarified that the realignment of the existing permissive cycle route NCN 26 (Work No 16) would remain a permissive path and that works to upgrade the existing bridleway crossing on Royal Portbury Dock Road are required for highway safety and visibility reasons [Annexe E, REP1-029].
- 5.9.77. The Applicant also pointed out that the current permissive route under the road, whilst having been used by horse riders for a long time, would be reduced by the railway line and secure fencing. This would make it unsuitable for horse riders due to the considerable risk of horses being startled and becoming out of control in a confined space. This concern was raised by the British Horse Society and North Somerset Local Access Forum in their pre-application consultation responses [APP-058]. Impacts on highway safety at Royal Portbury Dock Road are dealt with in Section 5.5 of this Report.
- 5.9.78. There are similar reasons for the proposed bridleway extension under the M5 bridge (Work No 18), as the existing permissive path would be reduced in width and would therefore not be safe due to the proximity of passing trains to horse riders which pose a risk of horses becoming startled. Pill and Easton-in-Gordano Parish Council raised concerns at ISH2 [EV-009] regarding use of the permissive path under the M5 by cyclists and pedestrian in close proximity to noise from trains. At ISH5 the Parish Council accepted the situation would be monitored and that there would be an alternative route via the extended bridleway [EV-013].
- 5.9.79. The BPC stated that it would be prepared to agree to the new path created by Work No 18 under the M5 on condition that it would be created as a public bridleway by dedication [REP4-058 and REP4-059]. At ISH5 [EV-013] there was some discussion regarding whether the new bridleway extension could be acquired or dedicated. NSDC confirmed that if it was to be dedicated by BPC it could add the route into the PRoW network. The Applicant confirmed it would be content for the new PRoW to be established by a deed of dedication on appropriate terms and that

NSDC as local highway authority would assume responsibility for its future maintenance [REP5-028, REP6-021 and REP6-052].

- 5.9.80. The BPC's comments regarding CA of its land in order to provide additional/ diversions of PRow are dealt with in Chapter 8 of this Report. Its concerns regarding impact of construction traffic on port operations and use of and potential need for re-surfacing of the Marsh Lane track are considered in Sections 5.6 and 5.7 of this Report.
- 5.9.81. Babcock Integrated Technology Ltd in their RR [RR-009] set out concerns relating to the pedestrian/ cycle ramp at Ashton Vale road (Work No 27). BCC in its LIR [REP1-032] referred to the localised effects of the ramp. At the CA Hearing [EV-008] the ExA questioned the need for Work No 27 given that the Applicant had indicated to Babcock [REP2-018] that it did not envisage that the ramp would be constructed as part of the main programme of works but would follow later if needed. BCC agreed [REP4-039] that the work would provide no tangible benefit and that its removal would not impact on the effectiveness of the Applicant's proposed mitigation for Ashton Vale Road. As a result, the Applicant submitted a change request at D4 [REP4-027], and the ExA agreed [PD-013] to the removal of Work No 27 from the Application.
- 5.9.82. BCC in its SoCG [REP7-026] noted the Applicant's submissions regarding the removal of Work No 27. They gave support to the dedication of the new PRow route at Winterstoke Road/ Ashton Vale Road as set out on the Ashton Vale Road and Winterstoke Road Highway Works Plan [REP5-009] and the Permanent and Temporary Stopping up and Diversion Plan [REP6-004].

ExA Conclusion

- 5.9.83. Land use is an overarching subject. Consequently, many of the concerns raised under land use are also covered in other sections of this Report.
- 5.9.84. The ExA accepts that the main effects on land use to residential and commercial property, as well as land safeguarded or set aside for development, would be mainly limited and restricted to temporary and short-term construction activities as set out in section 5.7. Matters concerning CA are discussed in Chapter 8 of this Report. The ExA accepts that for the same reasons and subject to the measures contained within the CoCP and master CEMP which would be secured through Requirement 5 of the recommended DCO, there would be no likely significant effects to agriculture.
- 5.9.85. The ExA agree that the closure of the at-grade crossing at Shipway Farm would result in the need to alter farming practices at the Farm. However, whilst it would result in a longer journey time the fields would remain accessible. The farmer would also be compensated for this inconvenience through the CA process.
- 5.9.86. The ExA accepts that the Proposed Development would amount to an engineering operation and that given that it follows the route of existing and former railway infrastructure (with the exception of the construction

and maintenance compounds and works) it would not adversely affect the openness of the GB nor conflict with the purposes of including land within it.

- 5.9.87. With regards to the construction and maintenance compounds and other temporary works the ExA is satisfied that they would not fall within the exceptions for new buildings as prescribed by Paragraph 145 of the NPPF. Due to their nature and size openness would be harmed and as such they would be deemed to be inappropriate development. As set out in Section 5.2 of this Report the ExA have accepted that there is a need for the Proposed Development. The ExA are satisfied that taken with the temporary nature of the majority of the works and the measures secured in the recommended DCO to minimise harm to openness or ensure no permanent damage or harm, that Very Special Circumstances exist that would outweigh the harm to openness that would result from these elements of the Proposed Development.
- 5.9.88. The majority of the works required for permanent diversions of PRowS would be relatively minor and necessary for safety reasons. In particular, the ExA is satisfied that the proposed bridleway extension (Works No. 18) would provide an alternative route under the M5 so that horse riders and other NMU's do not need to travel in close proximity to trains under the existing road bridge forming part of NCN 26.
- 5.9.89. For the reasons set out above the ExA is satisfied on the basis of what it has read and heard that, in relation to land use, the Proposed Development would accord with the requirements of the NPSNN (paragraphs 5.173 to 5.178).
- 5.9.90. Accordingly, the ExA is satisfied that the Proposed Development would have no likely significant effects on land use and that mitigation would be adequately provided for and secured in the recommended DCO. Consequently, the ExA is of the opinion that due to the positive benefits that the Proposed Development would bring to development land that the Proposed Development attracts a benefit in the planning balance. The ExA draw this conclusion even though the construction and maintenance compounds would harm openness of the GB, given that it is satisfied that the Applicant has demonstrated that Very Special Circumstances would exist that would outweigh any harm to the GB.

5.10. SOCIO-ECONOMIC

- 5.10.1. This section considers the effects of the Proposed Development on socio-economics and the local community, including tourism and employment. Socio-economic impacts were identified as a principal issue in the ExA's initial assessment [PD-007].
- 5.10.2. The need for the development and its range of benefits have been set out at section 5.2 of this Report. Effects on the community arising from the construction of the Proposed Development in the section on 5.7 of this Report and matters relating to local land uses are addressed in section 5.9.

Policy Context

- 5.10.3. Sections 2.1 to 2.2 of the NPSNN highlight the role of well-connected and resilient networks in meeting the country's long-term needs and support a prosperous economy, in order to better support social and economic activity. Section 2.9 sets out the need to enhance accessibility for non-motorised users.
- 5.10.4. For the national rail network, the Government's vision is for the transport system as a driver of economic growth and social development to offer safe and reliable routes to work, facilitate increases in both business and leisure travel, and to connect communities with public services, workplaces and each other (section 2.29).
- 5.10.5. Section 3.3 of the NPSNN requires Applicants to provide evidence that they have considered reasonable opportunities to deliver environmental and social benefits as part of schemes. The SoS is required to take into account potential environmental, safety, social and economic benefits, including the facilitation of economic development, job creation, housing and environmental improvements together with potential adverse impacts (sections 4.3 to 4.4).
- 5.10.6. Green infrastructure and access to high quality open spaces and the countryside as well as opportunities for sport and recreation is covered at sections 5.174 and 5.175. The need to avoid and minimise significant adverse effects on health and quality of life are set out at section 5.195 of the NPSNN.
- 5.10.7. NPPF paragraph 80 states that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. Paragraph 83 requires policies to encourage the retention and development of accessible local services and community facilities such as sports venues and open space with paragraph 93 reinforcing this aim by advising policies to guard against the unnecessary loss of valued facilities and services.
- 5.10.8. Applicable development plan policies are set out in the ES [2.2.14, APP-154] and included at Appendix D of this Report.

The Application

- 5.10.9. Volume 4 Appendix 14 of the ES [APP-154] sets out the Applicant's case with regard to socio-economics and economic regeneration, and there are references to socio-economics in a range of the chapters of the ES.
- 5.10.10. Appendix 1 of the Statement of Reasons [REP7-011] sets out the benefits of the Proposed Development, which are broken down into economic growth, accessibility, resilience and quality of life and these include:
- Economic growth
 - Provide high value for money;

- Deliver substantial benefits for the local economy including new direct permanent jobs and further temporary jobs and additional GVA during the construction phase;
 - Support the sub-regional growth agenda for the delivery of new homes and creation of new jobs; and
 - Deliver productivity and competitiveness benefits for business by increasing the catchment of the skilled workforce within a half hour commute to key employment sites.
- Accessibility
 - Deliver 2 stations at Portishead and Pill, giving 50,000 people direct access to the rail network, fully accessible with step free access and accessible routes between modes for onward travel options;
 - Interchange options with links to park and rides and onward rail journeys; and
 - Extend the UK passenger train network.
 - Resilience
 - Deliver substantial long-term journey time savings to both users and non-users, that won't be eroded over time and address some transport network resilience problems;
 - Provide the foundations for building a comprehensive local rail network over the medium term, as core element of the sub-regional transport strategy;
 - Yearly car trip reductions on strategic corridors; and
 - Wider regional links with the South West, South Wales, Gloucester and Wiltshire and associated benefits.
 - Quality of life
 - Contribute to a reduction of NO_x in Clean Air Zones; and
 - More reliable and punctual journeys during peak hours when compared to car and bus resulting in a better work life balance.

5.10.11. Section 3 of Volume 4 Appendix 14 of the ES [APP-154] sets out the methodology and approach to the Equalities Impact Assessment, a legal obligation under the Equality Act 2010 which requires public bodies under the PSED to identify and consider the potential adverse impacts of major developments, strategies and policies on sections of the local community particularly those with protected characteristics.

5.10.12. Section 4 covers the baseline data used in the assessment, including demographics, economy and employment, ethnicity, disability, and religion or beliefs. The 'Lower Super Output Area' locations within the study area of the Proposed Development are set out at table 3.1 [APP-154], including at Portishead, Pill, the Avon Gorge and Ashton Junction. Characteristics of the study area are assessed within section 4.1, and access to amenities and services at section 4.2 [APP-154].

5.10.13. Section 4.4 of the ES [APP-154] describes the existing transport situation in the study area, which is set out in further detail in the TA [REP6-125].

A summary of pre-application consultation with various community groups and local services is provided at Table 5.1 [APP-154].

- 5.10.14. Measures incorporated into the design and implemented during construction and operation are set out at Section 6 [APP-154], which aim to avoid, reduce, and remedy the potential adverse impacts of the Proposed Development on the identified protected characteristic groups. Such measures include step-free access to the railway stations, fully accessible station buildings and other measures to assist users and enhance personal safety. Use of public realm and links to services and other modes of transport including buses is set out at section 6.1 [REP6-125].
- 5.10.15. Section 7.3 table 7.2 sets out the effects of the operational development on each protected characteristic group at various locations along the route, and cumulative effects are covered at section 7.4 [APP-154].

Issues Considered During the Application

- 5.10.16. A number of representations were received in support of the Proposed Development and can be broadly summarised as follows:
- Reduction in vehicle congestion between Portishead and Bristol;
 - reduction in vehicle emissions;
 - reduction in commuting time;
 - sustainable transport and choice of mode of travel;
 - enable transport links further afield;
 - catalyst for regeneration of Pill;
 - boost to the wider economy;
 - stations providing a community focus;
 - social benefits to Pill and Portishead; and
 - boost to local tourism.
- 5.10.17. NSDC in its LIR [REP1-033] highlighted the economic value and positive benefits of the Proposed Development through increased capacity, improved connectivity and journey resilience for Bristol, North Somerset and the wider South West. NSDC fully supports the proposal, believing it would 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, particularly through improving accessibility to the Temple Quarter growth hub in Bristol and providing access to job opportunities. NSDC also recognised the impacts on existing businesses during the construction period as an important consideration, in considering temporary changes to the road network [2.3, REP1-033].
- 5.10.18. BCC in its LIR supported the principle of the development, and its role in enhancing rail capacity for the local rail network providing a reliable and frequent public transport service linking Bristol to Portishead and Pill. It would contribute to the delivery of an integrated transport system and accord with transport user priorities set out in JLTP4 by reducing the need to travel by private car. Enhanced transport links to Bristol City

Centre and the Temple Quarter are also highlighted by BCC with associated employment benefits, supporting the economic performance of Bristol and helping to promote the City as a place to invest [REP1-032].

- 5.10.19. SCC in its RR [RR-005] and SoCG [REP1-024] supported the Proposed Development, stating that positive socio-economic and environmental effects are expected to arise both for Somerset and the wider Peninsula area.
- 5.10.20. At the OFH [EV-005] support was given to the Proposed Development from the Portishead Railway Group and Friends of Suburban Bristol Railway. The ExA heard that there is a single road from Portishead to the M5 and that residents felt trapped by the traffic congestion fuelled by the large growth in population. Portishead Railway Group repeated comments made by Liam Fox MP in 2005 describing Portishead to parliament as "*the most overcrowded cul-de-sac in the country*". Benefits for tourism and employment opportunities were also highlighted by both IPs [EV-005].
- 5.10.21. PTC [RR-004] supported the re-opening of the railway to improve the connectivity of the town.
- 5.10.22. Comments on potential negative effects on existing businesses from the operation of the passenger line [REP2-060, REP4-050, REP6-041] principally related to the increase in down-time of the level crossing at Ashton Vale Road, and this matter is dealt with in Section 5.5, paragraphs 5.5.87 to 5.5.96, of this Report.
- 5.10.23. An IP [RR-081] submitted that an area under examined by the business case is the potential for increased tourism within Portishead upon the construction of the railway. The IP highlighted that the port marine development already draws in day trip tourists to "*our Rivera scene*" and considered that the railway would unlock the potential for more frequent visitors and would be a catalyst for future placemaking in Portishead.
- 5.10.24. The ExA asked a question regarding tourism at ExQ1 [SE.1.1, PD-010] and the Applicant confirmed in their answer that an assessment of tourism benefits at Portishead and Pill had not been undertaken [REP2-013]. Tourism potential was considered in the Outline Business Case [APP-202 and APP-203] as part of the study to assess the demand for the railway, and the forecasts include an element of additional demand to reflect that a rail link to Portishead could attract more trips, but the assumption was that the initial forecasts do not include tourism trips. Chapter 14 of the ES [14.6.54, APP-109] identifies the potential for an increase in internal tourism within the region as well as attracting additional external tourists through the provision of more seamless connectivity throughout the sub-region.
- 5.10.25. Increased demand for car parking around Pill railway station raised concerns with some IPs in relation to access for users with limited mobility [RR-033, RR-084, RR-092, RR-107]. They sought consideration

of parking difficulties by such users (including the potential removal of existing dedicated disabled parking bays) and the safety of children. The Applicant advised that the impact and disruption to local communities would be minimised through the CTMP, and that any relevant traffic management measures would be communicated to residents in advance. There were no proposals to move the relevant allocated disabled parking bays, and an additional three dedicated disabled parking spaces would be provided within the proposed station forecourt [REP1-029].

- 5.10.26. The effects of diverting PROs and permissive pedestrian and cycle routes during construction is considered in Section 5.9 and when operational at Section 5.5 of this Report. The impact on communities relating to severance between the two housing estates in Portishead as a result of the removal of the permissive path between Tansy Lane and Galingale Way is dealt with at Section 5.8 of this Report.
- 5.10.27. As set out in Section 5.9 of this Report (paragraphs 5.9.58 to 5.9.60) regarding land use, concerns were raised regarding loss of green space [REP4-062] and being unable to walk dogs on the fields at Lodway Farm [RR-044]. The Applicant advised [111-3, REP1-029] that the field is private and not accessible by right by the public and that in any event at the end of construction the compound would be reinstated to its previous condition.
- 5.10.28. The ExA asked a question at ExQ1 [GC.1.8, PD-010] relating to the status of the open space around Tansy Lane and Galingale Way. The Applicant responded that the land would remain accessible by the public and will retain its existing primary function, being amenity land used by the residents of the housing estates as well as the wider public [REP2-013].
- 5.10.29. Concerns from the owner of the land at Clanage Road relate to loss of space for events and resultant effects on economic activity, as well as the effects on amenity and security issues to the adjacent children's nursery [REP1-041], which are detailed at paragraphs 5.9.55 to 5.9.57 of this Report. The applicant responded [REP2-032] that effects on existing car boot sales and events is a matter that could be resolved by way of compensation. Paragraph 15.6.19 of ES Chapter 15 [REP6-084] states that the change in land use would be negligible; and is given a low value given that does not have a public open space designation. This matter is dealt with in more detail at in Chapter 8. Effects on major events during construction would be included in the CTMP [REP6-138].
- 5.10.30. It was submitted by an IP [REP4-056] that Hayes Mayes Lane in Ham Green is subject to a restrictive covenant as public open space and this would prevent its use by the Applicant and NR. The Applicant responded that the lane is currently used informally by NR for maintenance access, and the new compound and access would provide a superior access point. Use of the lane during construction and for maintenance would have significantly more ecological impact, would result in loss of trees subject to TPO and potential effects on local residents [REP5-033]. Only a small part of the access onto Chapel Pill Lane forms part of the

Proposed Development and its continued recreational use would be unaffected. The occasional use by NR of the lane for access does not in any event breach the restrictive covenant set down by the developer of the adjoining housing estate [ExQ2 TT.2.3 REP5-028 and REP5-033].

- 5.10.31. Effects on health and quality of life, including disturbance from potential anti-social behaviour resulting from inappropriate use of the proposed Trinity Footbridge (Work No 7) were raised by local residents in WRs [REP2-049, REP2-057, REP4-051 and REP6-046] as well as at the OFH [EV-005] and ISH2 [EV-009]. The matter of the effects of the Trinity Footbridge on living conditions is covered in Section 5.8 of this Report. Any significant anti-social behaviour was discounted by the Applicant due to its location and surveillance by existing properties [EV-009]. It is proposed to install handrail lighting on the stairs and ramp to reduce light overspill to neighbouring properties and signage would prevent use by motorised bicycles. If skateboarding on the ramps was an issue, measures could be fitted retrospectively [REP3-036].
- 5.10.32. Other effects on health and quality and life were raised in relation to noise from trains and the public address system at the railway stations [AS-002, EV-009, REP2-057]. These matters are dealt with in section 5.12 of this Report.

ExA Conclusion

- 5.10.33. During construction there would be some harmful effects on the community as set out in Section 5.7 of this Report but the ExA is satisfied that these would be short-term and localised. The Applicant has proposed what the ExA considers to be reasonable measures seeking to mitigate and manage the impacts.
- 5.10.34. The ExA acknowledges the benefits arising from the operational use of the railway, particularly in reducing journey times into and out of Bristol to Portishead and Pill and providing a choice of transport modes and gives them significant weight. Resultant effects in improving air quality and reducing traffic congestion from the predicted reduction in car journeys would also prove a positive weight in the planning balance.
- 5.10.35. The Proposed Development would deliver 1,441 temporary jobs during construction and 514 permanent jobs post the scheme opening (47 directly employed with the remaining jobs indirectly employed through increased local service provision and supply chain) [Appendix 1, REP7-012]. The ExA considers the economic benefits in terms of employment provision both during construction and operation would also have positive benefits, weighing in favour of the Proposed Development.
- 5.10.36. The ExA has carefully considered the representations of businesses in the Ashton Gate area, particularly on Ashton Vale Road, whose day-to-day operations would be affected by the increased frequency of down time of the level crossing to the junction of Winterstoke Road. The impact on businesses is difficult to quantify. However, mitigation measures

including the extension of the holding lane and provision of MOVA signals would improve the existing situation when the level crossing is raised.

- 5.10.37. Whilst tourism wasn't directly assessed by the Applicant the ExA acknowledged from their site inspection [EV-001] that the railway line passes through attractive landscapes in particular the Avon Gorge, which provides the potential for the railway to become an attraction in itself. Effects on tourism activity and spending are difficult to quantify but Portishead in particular would be likely to benefit from a potential future increase in visitor numbers.
- 5.10.38. Access to high quality open spaces and opportunities for recreation is promoted at sections 5.174 and 5.175 of the NPSNN. Any effects during the construction period on events in the Clanage Road/ Bower Ashton area, such as the balloon festival, would be minimised by measures in the CEMP to be secured by Requirement 5. The permanent compound at Clanage Road would reduce the area of land available for car boot sales and other events at the playing fields. The useable areas of open space around Tansy Lane and Galingale Way would be reduced in size both during construction and operation as a result of the proposed Trinity Footbridge and footpath links. Use of Hayes Mayes Lane for recreation would be primarily unaffected by the operation of the Proposed Development, which would utilise an alternative emergency and compound access to the tunnel portal (Work No 24).
- 5.10.39. Consequently, matters relating to open space and recreation would have some negative weight but due to the largely temporary nature of these effects the ExA considers them to be neutral in the planning balance.
- 5.10.40. Diversion to existing PRowS and permissive paths would also be largely temporary and therefore of neutral weight in the balance. If the SoS removes the Trinity Footbridge from Work No 7 the ExA accept that there would be severance to an existing well used route between housing areas. However, the ExA is satisfied that there would be an appropriate alternative route on a level surface, suitable for all types of NMUs and in accordance its PSED.
- 5.10.41. The mitigation measures embodied in the Proposed Development, including acoustic fencing and landscaping proposals would minimise significant adverse effects on health and quality of life as set out at section 5.195 of the NPSNN. The potential anti-social behaviour resulting from inappropriate use of the Trinity Footbridge (Work No 7) adds further negative weight to the ExA's concerns regarding this particular element of the Proposed Development.
- 5.10.42. The ExA are satisfied that the Proposed Development would have no likely significant effects on socio-economic matters. The ExA consider that where mitigation would be needed this would be adequately provided for and secured in the recommended DCO. The Proposed Development would deliver significant economic benefits in terms of employment and as a result would attract a positive weight in the planning balance.

5.11. THE HISTORIC ENVIRONMENT

Policy Context

- 5.11.1. The Infrastructure Planning (Decisions) Regulations 2010 provides at Regulation 3 that:
- 1) *When deciding an application which affects a listed building or its setting, the [Secretary of State] must have regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses.*
 - 2) *When deciding an application relating to a conservation area, the [Secretary of State] must have regard to the desirability of preserving or enhancing the character or appearance of that area.*
 - 3) *When deciding an application for development consent which affects or is likely to affect a scheduled monument or its setting, the [Secretary of State] must have regard to the desirability of preserving the scheduled monument or its setting.*
- 5.11.2. Paragraphs 5.120 to 5.140 of the NPSNN advises on the assessment of effects of NSIPs on the historic environment. Paragraph 5.128 and 5.129 advise the SoS to seek to identify and assess the particular significance of any heritage asset, including setting, that may be affected by the proposed development. Paragraph 5.130 states that the SoS should take into account the desirability of sustaining and where appropriate enhancing the significance of heritage assets, including the contribution of their setting.
- 5.11.3. The NPSNN advises (paragraph 5.131) that great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Any harmful impact on the significance of a designated heritage asset should be weighed against the public benefit of development, recognising that the greater the harm to the significance of the heritage asset, the greater the justification that will be needed for any loss (paragraph 5.132). Where the proposed development would lead to substantial harm to or total loss of significance then, subject to a number of caveats, the SoS should refuse consent (paragraph 5.133). Where the proposed development would lead to less than substantial harm, this harm should be weighed against the public benefits of the proposal, including securing the optimal viable use (paragraph 5.134).
- 5.11.4. The NPPF sets out broadly similar policies relating to the historic environment. Table 8.2 of Chapter 8 of the ES [REP6-084] include a summary of relevant development plan policies regarding cultural heritage which are also listed in Appendix D of this Report

The Application

- 5.11.5. The most relevant elements of the Application to the consideration of the historic environment are contained in ES Chapter 8 [REP6-076] and accompanying figures and appendices [APP-118, APP-132 and REP6-092].

- 5.11.6. ES Chapter 8 Cultural Heritage [REP6-076] and associated Figures [APP-118 and REP6-092] and Appendices [APP-132] provided a detailed description of the significance of the heritage assets that would be affected by the Proposed Development and the contribution of setting to that significance. They also provided details of all heritage assets within a study area based on a range of desk-based data sources, supplemented by site and archaeological geophysical surveys [8.3.7 to 8.3.23, REP6-076].
- 5.11.7. The study area for designated heritage assets was defined as an area extending 500 m from the centreline of the Proposed Development and for non-designated heritage assets an area within 50 m of the permanent land take and temporary occupation of the land during construction. Designated heritage assets outside of the study area but within 1 km of the Order Limits were also included in the baseline so that effects to the setting could be assessed. Where topography would result in inter-visibility with the Proposed Development, designated features beyond the 500 m buffer were considered [8.3.8, REP6-076].
- 5.11.8. The historic environment was considered in terms of designated assets: Scheduled Monuments (SM), Conservation Areas (CoA), listed buildings and structures and RPG, non-designated assets (archaeological remains, built heritage features and historic railway assets) and historic landscape (the route passes through a number of historic landscape character (HLC) areas which provide the wider landscape context for the setting of the existing railway which was constructed in the 1860s) [8.3.6, REP6-076].
- 5.11.9. The Applicant used the DMRB criteria for assessing the value of heritage assets [Table 8.4, REP6-076] and for assessing the magnitude and significance of impact [Tables 8.5 and 8.6, REP6-076].
- 5.11.10. There are no SMs within 500m of the Proposed Development between Portishead and Pill [8.4.1, REP6-076] nor are there any CoAs along this section of the proposed route [Paragraph 8.4.2, REP6-076]. Whilst there are no listed buildings or structures within the Proposed Development between Portishead and Pill there is one Grade I (St Mary's Church), one Grade II* (Church of St George) and eight Grade II listed buildings within 500 m of the Proposed Development. The ES considers [8.4.6, REP6-76] that there are 14 non-designated heritage assets which lie along, intersect or abut the disused railway line and four non-designated heritage assets which lie along, intersect or abut the area of temporary land occupation for construction [8.4.8, REP6-076].
- 5.11.11. For the remaining section of the proposed route from Pill there are three SMs within 500m of the proposed route [8.4.18, REP6-076] and eight CoAs [8.4.20 to 8.4.30, REP6-076]. There are over 60 listed buildings and structures within 500 m of this section of the Proposed Development including the Clifton Suspension Bridge (Grade I) and nine which are Grade II* including the swing bridges and Brunel entrance to the lock in the Bristol Docks area. The existing freight line passes through the north eastern edge of Leigh Court, a Grade II RPG. Ashton Court, a Grade II*

RPG abuts Clangage Road and at its closest point lies about 20 m west of the existing freight line. There are 17 non-designated archaeological monuments and historic structures along this section of the proposed route [8.4.40, REP6-076] and nine non-designated cultural heritage assets which lie along, intersect or abut the areas of land required for temporary occupation to enable construction [8.4.42, REP6-076].

- 5.11.12. The historic railway corridor is a 'Large Scale Utility Landscape' HLC [8.4.16, REP6-076]. In addition, the route of the Proposed Development passes through or abuts a number of other HLC areas [8.4.17 and 8.4.48, REP6-076]. Whilst the HLC are not receptors as such [8.4.50, REP6-076] and cannot be assigned a heritage value they are used for establishing the 'time-depth' of various areas when combined with other historic environment information.
- 5.11.13. The ES [8.10.1, REP6-076] found that the Proposed Development would have a direct slight adverse effect on non-designated heritage assets during the enabling works and construction as the Application would require the removal of known historic railway features such as buffers, rails and sleepers and the remains of the original Pill station that are associated with the original 1867 railway [8.6.2 to 8.6.11, REP6-076]. The main impact would be the removal of much of the historic railway architecture at Pill Station and the demolition of Station House, 7 Station Road, Pill both of which are considered to be assets of low value by the Applicant. A Historic Building Record for Station House has been carried out [Appendix 8.2, APP-132] which the Applicant advocates reduces the effect to neutral with regard to this asset [8.6.11, REP6-076].
- 5.11.14. The Proposed Development would result in the need to repair/ update some of the existing railway infrastructure such as Pill Viaduct, bridges and retaining walls [8.6.12 to 8.6.14, REP6-076]. The ES considers that the significance of effect on these assets would be neutral or slightly beneficial which is not significant in relation to the ES Regulations.
- 5.11.15. During construction, the significance of effect of the proposed development on designated heritage assets, through the removal of vegetation and visibility of plant, compounds, machinery etc was assessed by the ES to be slight adverse for a number of built structures including Grade I (Clifton Suspension Bridge), Grade II* and Grade II listed buildings and structures located within the visual envelope of the proposed works, CAs and Leigh Woods and Ashton Court RPG. However, these adverse effects were considered to be not significant in relation to the EIA Regulations [8.6.53, REP6-076].
- 5.11.16. The construction activities at the greenfield construction compounds could have a significant impact on unknown archaeological assets [8.6.54 to 8.6.77, REP6-076]. The significance of these impacts is difficult to assess as the value of any resource that may be present is as yet unknown. A worst-case scenario suggests that given previous archaeological finds in the area, the value of the resource may reach medium and the magnitude of impacts during construction would be moderate adverse which would be considered significant under the EIA

Regulations. However, the ES advocates that taking into account the likely previous impacts from sustained agriculture across the proposed compound areas, it can reasonably be concluded that any surviving unknown archaeological assets present will already have been subject to a high level of truncation from past ploughing and a low asset value is therefore considered more likely. Consequently, the Applicant advocates that this would result in a slight adverse effect. Furthermore, any soil stripping works would be done under a watching brief and a 5 m buffer would be deployed around the embankments north of Lodway Farm (HER47401) to prevent construction impacts. As a result, the ES concludes that the significance of effect would be reduced to neutral assuming either the absence of archaeological features or preservation by record of any discovered matters.

- 5.11.17. The need for floodplain compensation at the proposed compound at Clanage Road (Work No 26) would involve shallow excavations to lower the current ground levels by about 10 cm to provide flood storage. The ES advises that there are no known heritage assets at this site but that it is located within the Bower Ashton CA. Requirement 10 (Archaeology) would require a watching brief during soil stripping for this site. Consequently, the ES concludes [8.6.79, REP6-076] that, subject to what is found on site, this could result in a slight adverse effect.
- 5.11.18. The ES concluded [8.6.15 to 8.6.53, REP6-76] that the effect of the Proposed Development on the setting of designated heritage assets, along the proposed route during construction and operation would generally be neutral and not significant in regard to the EIA Regulations. This results largely from the fact that there is a lack of inter-visibility between the Proposed Development and heritage assets [8.10.2, REP6-076].
- 5.11.19. The ES concludes that the cumulative effects of the Proposed Development with other projects is assessed as neutral and not significant in relation to the EIA Regulations. Table 8.7 of the ES [REP6-076] contains a summary of the effects of the Proposed Development on heritage assets.

Issues Considered During the Application

- 5.11.20. Cultural heritage was identified by the ExA in their IAPI [Appendix C, PD-007]. It was also the subject of several written questions at ExQ1 [PD-010] and ExQ2 [PD-014] and was discussed at ISH5 [EV-013].
- 5.11.21. In its LIR BCC confirmed [79, REP1-032] that a number of designated heritage assets are within proximity of the project. The most significant of these being Clifton Observatory, Clifton Suspension Bridge, The Paragon, The Colonnade and Brunel's swing bridge (listed buildings or structures); The Clifton Down SM and the Shirehampton, Sea Mills, the Downs, City Docks and Bower Ashton CoAs.
- 5.11.22. BCC Conservation and Archaeology Officer considered the assessment undertaken by the ES and the conclusions that it reached to be

acceptable [80, REP1-032]. BCC advised that it was satisfied that the Proposed Development would not result in unacceptable harm to designated heritage assets in accordance with Policies BCS22 and DM31 of its development plan [84, REP1-032]. BCC considered that they would have a sufficient level of control through Requirement 10 of the draft DCO. At the end of the Examination the signed SoCG with BCC [9, REP7-026] recorded that all matters in relation to archaeology and cultural heritage issues were agreed.

- 5.11.23. In its LIR NSDC [2.10, REP1-033] advised that overall, despite the scale of the project, there would be relatively little impact either directly or on their setting of the registered and unregistered heritage assets within 500 m of the Proposed Development. NSDC was satisfied that site specific programmes of monitoring and recording areas of archaeological interest would be appropriate and proportionate mitigation to the significance of any archaeology present. With regards to historic buildings or structures that would be lost these would be subject to building recording and preserved by record. NSDC considered that the reinstatement of the historic railway line would be a positive benefit to the area's heritage. At the end of the Examination the signed SoCG with NSDC [Section 9, REP7-025] recorded that all matters in relation to cultural heritage were agreed. A signed SoCG with Historic England [REP1-020] confirms agreement of all matters.
- 5.11.24. The NT [RR-021] is the custodian of Leigh Woods which is adjacent to the Proposed Development. Close to the station at Pill, the NT owns a small estate at Failand as well as the Victorian Tyntesfield Estate. In Bristol the NT owns land at Shirehampton which overlooks the Avon Gorge. The NT broadly supports the upgrading of the railway line and raised no objections on heritage grounds. The signed SoCG [REP7-060] does not refer to heritage matters.
- 5.11.25. Two IPs [RR-060 and REP1-041] raised concerns regarding the historic environment. RR-066 questioned whether Tarr Bridge and Station Bridge, which they advised were listed, could take the weight of construction traffic. REP1-041 was concerned that the proposed compound at Clanage Road (Work Nos 26 and 26A) would affect the setting of the Clifton Suspension bridge, Clifton, Sion Hill and Ashton Court.
- 5.11.26. In response to ExQ1 [HE.1.1, PD-010] the Applicant advised [REP2-029] that neither of the bridges were listed nor were they non-designated heritage assets. Furthermore, the two bridges had been surveyed and works had been identified to repair and improve them prior to the start of the main construction phase. The works would include strengthening works to ensure that the bridges could take the weight of construction traffic. The bridge surveys were not included within the application documentation as these structures are owned by NSDC and it is anticipated that these works would be done at an early stage, potentially prior to the DCO approval decision.
- 5.11.27. The ExA asked a number of further questions at ExQ2 [HE.2.1 to HE.2.3] regarding the effect of the proposed Clanage Road compound (Work Nos

26 and 26A) on the historic environment. Additional visuals with views from the Clifton Suspension Bridge area were then submitted to enable a more detailed assessment of its visual effects [REP4-012].

- 5.11.28. The matter was also examined further at ISH5 [EV-010]. BCC [REP5-038] advised that they considered that the compound would be located further north than indicated by the IP and would therefore be much closer to the tree line which would mean that the depot would be largely concealed by the trees. Furthermore, the depot would be screened with further soft planting which would further reduce the visual impact and as a result they did not raise any objections.
- 5.11.29. At ISH5 [EV-010] BCC raised a concern, given the proximity of the Bower Ashton CA, about the proposed use of palisade fencing at the Clanage Road compound. In response to Action Point 17 [EV-013e] the Applicant reviewed the use of palisade fencing in this location and confirmed that paladin fencing could be used instead. BCC advised [REP5-038] that they supported this revision and were satisfied that as a result there would be no unacceptable harm to the character and appearance of the Bower Ashton CoA.
- 5.11.30. Following the concerns raised by REP1-041 the ExA [EV-014] visited the location of the proposed compound at Clanage Road. The ExA also visited the Clifton Suspension Bridge and the Observatory to view the route of the Proposed Development and fencing through the Avon Gorge, the location of the Clanage Road compound and its relationship with the surrounding heritage assets.

ExA Conclusion

- 5.11.31. This section has had regard to the LSE resulting from the Proposed Development on heritage assets, including archaeological sites, historic buildings and structures, SM, CA and historic landscapes. It has considered the effects of the potential physical disturbance and indirect effects on settings in terms of the overall effects. As required by paragraph 5.126 of the NPSNN, the Applicant has undertaken an assessment of any likely significant heritage impacts as part of the ES.
- 5.11.32. The ES [REP6-074] concluded that, no likely significant effects are predicted during construction, subject to the potential discovery of archaeological finds during earthworks in relation to the proposed compounds. However, should archaeological finds be discovered they would be protected, recorded or preserved as secured by Requirement 10 (Archaeology) of the draft DCO [REP7-056].
- 5.11.33. The ES [REP6-074] concluded that there would be no likely significant effects on heritage assets during operation. From what was observed on site the ExA agree with BCC that the permanent compound at Clanage Road (Work No 26) would be largely screened by existing trees which combined with the proposed additional planting that would be secured through Requirement 31(2) (Clanage Road, Bristol) [REP7-056] would ensure that the proposal would not have a significant adverse effect on

the character and appearance of the Bower Ashton CA or the setting of the surrounding listed buildings and structures and Ashton Court RPG.

- 5.11.34. Likewise, new fencing alongside the operational railway which runs proximate to the Clifton Suspension Bridge and other heritage assets would not have significant effects on such assets, subject to the final design and colour being agreed by the relevant planning authority as part 3 of recommended DCO Requirement 14. The ExA also notes the presence of vegetation which provide an acceptable degree of screening of the fencing when viewed from the nearby heritage assets.
- 5.11.35. Although some residual effects were identified in the ES [REP6-074], these were assessed to be negligible or slightly adverse. Addressing paragraphs 5.131 to 5.135 of the NPSNN the ExA consider that there would be no substantial harm from the construction or operation of the Proposed Development, either physically or on the setting of any archaeological remains, historic buildings or structures, CA or HLC in the surrounding area, nor would there be any total loss of any heritage assets as a result of the Proposed Development.
- 5.11.36. On the basis of the evidence and the proposed mitigation as secured through the draft DCO [REP7-056], the ExA consider that all impacts have been addressed in a manner that complies with the historic environment elements of the NPSNN such that the Proposed Development would not harm the historic environment and that the overall effect of the Proposed Development on the historic environment would be neutral.
- 5.11.37. Accordingly, the ExA are satisfied that the Proposed Development would have no likely significant effects on the historic environment and is satisfied that mitigation would be adequately provided for and secured through the recommended DCO (Appendix C). In this respect the Proposed Development attracts neutral weight in the planning balance.

5.12. OTHER POLICY AND FACTUAL ISSUES

- 5.12.1. A number of other issues were more briefly covered by the ExA in the Examination, including the following:
- Land instability and contaminated land;
 - Nuisance (common law nuisance and statutory nuisance): Dust, odour, artificial light, smoke, steam, and noise and vibration;
 - Civil and military aviation and defence interests;
 - Safety and security;
 - Pollution control and other environmental protection regimes; and
 - Decommissioning.

Policy Context

- 5.12.2. Paragraphs 5.116 to 5.119 of the NPSNN refer to land instability, the effects of which may result in landslides, subsidence or ground heave. ES Chapter 10 table 10.2 sets out the local policy regarding such matters.
- 5.12.3. Common law nuisance and statutory nuisance are set out in paragraphs 4.57 to 4.59 of the NPSNN which explain that s158 of the PA2008 provides a defence of statutory authority in civil or criminal proceedings for nuisance. This defence does not extinguish the local authority's duties under Part III of the Environmental Protection Act 1990 to inspect its area and take reasonable steps to investigation complaints of statutory nuisance. Paragraphs 5.81 to 5.89 consider possible sources of nuisance from dust, odour, artificial light, smoke and steam.
- 5.12.4. Noise and vibration considerations are set out in paragraphs 5.186 to 5.200 of the NPSNN. It refers to the Noise Policy Statement for England, which promotes good health and good quality of life through effective noise management and requires developments to be undertaken in accordance with statutory requirements for noise. Mitigation measures should be proportionate and reasonable.
- 5.12.5. The SoS should be satisfied that effects on civil and military aviation and other defence assets have been addressed by the Applicant and that any necessary assessment of the proposal on aviation or defence interests has been carried out (paragraphs 5.46 to 5.66 of the NPSNN). Safety and security considerations are set out at paragraphs 4.67 to 4.78 of the NPSNN. Paragraph 4.67 expects opportunities to be taken to introduce the most modern and effective safety measures on railways, and paragraph 4.70 sets out the SoS's expectation that the Applicant should have complied with all relevant regulations, industry guidance and regulatory guidance from the ORR, and that development consent should not be granted unless the SoS is satisfied that all reasonable steps have been taken, and will be taken, to minimise risk and contribute to an overall improvement in societal safety levels. In terms of security, proportionate protective measures are expected to be designed into the development.
- 5.12.6. Pollution control and other environmental protection regimes are set out at paragraphs 4.48 to 4.56 of the NPSNN. Paragraph 4.56 notes that the SoS should not refuse consent on the basis of regulated impacts unless there is good reason to believe that any relevant necessary operational pollution permits, or licences or other consents will not subsequently be granted.

Issues Considered During the Application

Land Instability and Contaminated Land

- 5.12.7. ES Chapter 10 Table 10.7 sets out the potential construction and operational impacts and effects on the identified resources and receptors, indicating the likely potential mitigation and residual impacts [APP-105].

Contaminated land investigations and assessment are set out in ES Volume 4 Appendices 10.1 and 10.2 [APP-144 to APP-150].

- 5.12.8. Any impacts that may arise from the underlying ground conditions would be dealt with at the construction phase and secured within the CEMP. Such impacts may arise from contaminants within the underlying soils or from the chemical nature of the soils themselves. During the operational life of the Proposed Development there would be some incidental contamination of the underlying trackbed from leaks and spillages, but this is not predicted to be significant for the purposes of the EIA Regulations. Operational impacts were scoped out of the ES as no likely significant effects were predicted [APP-105]. The Master CEMP [REP6-140] (which would be secured by Requirement 5) provides details of the Applicant's approach to construction and investigations where appropriate.
- 5.12.9. The Coal Authority pointed out that part of the development falls within their defined Development High Risk Area and did not raise any objections, but highlighted that building over or within the influencing distance of a mine entry should wherever possible be avoided and advised that a Coal Authority Permit would be required for any intrusive activities in such areas [RR-011]. The Master CEMP [REP6-140] was updated at paragraphs 7.2.15 to 7.2.17 to reflect their advice.
- 5.12.10. The EA made a number of comments in relation to contaminated land and hazardous waste matters [RR-013] and such matters are dealt with in section 6 of its SoCG [REP6-144]. At D6 the Applicant amended Requirement 17 (Contaminated land and ground water) to reflect the comments made by the EA. The only requested change not accepted by the Applicant was a request from the EA that current operational railway land should not be excluded. The Applicant advised [001345-D6-002, REP7-037] that NR routinely carry out maintenance and other works to its operational railway land under its permitted development rights. Existing processes and safeguards apply which include carrying out pre-work trials to identify any contaminants and then using the results of these trials to determine how matters are managed. These processes and safeguards would apply to any works on operational land carried out in connection with the Proposed Development. As a result, the Applicant considers that it would not be appropriate or necessary for different requirements to apply merely because works are being carried out in connection with the Proposed Development.
- 5.12.11. At ISH5 [EV-013] NSDC and BCC confirmed that they were satisfied with the issues of land instability and contaminated land.

Nuisance (common law nuisance and statutory nuisance): Dust, odour, artificial light, smoke, steam, and noise and vibration

- 5.12.12. This section relates to nuisance resulting from the operational use of the railway. The matter of the noise and dust from construction is considered in more detail in section 5.7 of this Report. Effects during both construction and operation are considered within ES Chapter 13 [REP6-082].

- 5.12.13. A resident of Portishead raised concerns regarding adequacy of the noise surveys for occupants of properties around Fennel Road, particularly in relation to trains accelerating out of Portishead station [AS-002]. The ExA asked a number of questions [NV.1.1 to NV.1.3, PD-010] at ExQ1 in relation to concerns regarding noise and the adequacy of the survey work. The Applicant confirmed that the assessment took into account the fact that trains would be accelerating as they departed Portishead Station and that the increase in noise that would result from the Proposed Development would meet the criteria for noise mitigation as set out in the ES [APP-153].
- 5.12.14. A resident of Pill raised the issue of noise to their property in close proximity to the railway line [RR-104]. In relation to the properties at Pill the Applicant [NV.1.2, REP2-013] advised that the effect of the change between Lowest Observable Adverse Effect Level and the Significant Observed Adverse Effect Level would be below that where mitigation would be required. NSDC confirmed that it agreed with the methodologies used [REP2-038]. Noise and vibration effects to NMU's on the NCN 26 which runs alongside the railway ISH2 is dealt with at Section 5.9 of this Report.
- 5.12.15. Another resident of Portishead questioned light and noise pollution arising from the new station, and details of the public address system at Portishead [REP2-057]. Effects from the Trinity Footbridge were also raised, and these are dealt with in Section 5.8 of this Report. The Applicant replied that an acoustic fence would be provided at this location to mitigate against the effects of trains pulling out of the station. With regard to the public address system, further details were provided of a typical type of system including their height and alignment away from residential properties to avoid noise pollution where possible [REP4-009]. The public address systems for both stations have been included in the noise modelling at ES Appendix 13.3 Table 3.1 [APP-152].
- 5.12.16. NSDC and BCC confirmed at ISH5 [EV-013] that they had no further concerns and were satisfied with the noise modelling, and that the relevant Requirements would adequately deal with matters of dust and artificial lighting.

Civil and military aviation and defence interests

- 5.12.17. A representation from National Air Traffic Services (NATS) was received [AS-005] but no concerns were raised. At ISH5 [EV-013] the Applicant confirmed there were no issues in relation to the topic of civil and military aviation and defence interests.

Safety and Security

- 5.12.18. The Health and Safety Executive (HSE) noted that the Proposed Development area falls within HSE public safety zones associated with a major hazard installation (former Coleman UK site at Portishead) and two major accident hazard pipelines (natural gas) in the vicinity of the proposed compound at Lodway Farm. Due to the low sensitivity of the proposed changes to the highway in Portishead no concerns were raised.

The HSE referred to Wales and West Utilities (WWU) as operators of the gas pipelines but did not raise concerns providing appropriate separation distances were put in place [RR-015]. The ExA asked the Applicant for further comments at ISH5 [EV-013] and it confirmed that the matter would be dealt with by the protective provisions in the DCO, which are dealt with in chapter 8 of this Report.

- 5.12.19. Matters relating to safety and security fencing are addressed in section 5.8 of this Report. The Proposed Development is not classed as potentially 'critical' infrastructure for the purpose of paragraph 4.75 of the NPSNN.

Pollution control and other environmental protection regimes

- 5.12.20. Section 5.6 of this Report deals with issues relating to emissions affecting air quality, and noise and dust during construction is dealt with at section 5.7. The SoCG with the EA [REP6-144] sets out the agreed matters in relation to pollution prevention of the water environment. The Master CEMP which would be secured through Requirement 5 which includes the need to produce plans to prevent pollution during construction [REP6-140].
- 5.12.21. The final version of the Applicant's summary of Consents and Licencing required under Other Legislation [REP7-067] sets out the latest updates to such matters, where the anticipated applications are all expected to be submitted post-DCO.

Decommissioning

- 5.12.22. The ExA asked a number of questions on this matter [PD-010]. Decommissioning impacts were not assessed. The Applicant explained in the Report to Inform Habitats Regulations that due to the nature and purpose of the Proposed Development, it is not intended that it would be decommissioned in the foreseeable future. Passenger services would continue for as long as there is a business case for doing so. Railways are not designed to be decommissioned, and in the event that the train operating company decides to cease services on the line, it is likely that the railway assets would remain in place. Railway formation would remain available either for re-development over time or finding an alternative transport use which would be subject to their own assessment. An abandoned railway would naturally re-vegetate as it has done on the disused line. Any closure would be subject to a regulated process overseen by the ORR [3.2.69 to 3.2.75 and 5.2.3 of REP6-063].
- 5.12.23. NSDC, BCC and NE considered that reasonable justification for not assessing the decommissioning of the railway had been provided by the Applicant. NE recorded specific agreement with the Applicant on the approach taken to decommissioning at item 5.2.13 of the SoCG between the two parties [REP6-146].

ExA Conclusion

- 5.12.24. Regarding land stability and contaminated land, the ExA is satisfied that the Applicant's assessment was robust. The Master CEMP [REP6-140] would appropriately secure the Applicant's approach to construction and investigations. The relevant planning authorities are satisfied with these matters. Whilst the EA have not confirmed satisfaction with the amendment to Requirement 17 the ExA is satisfied with the Applicants explanation as to why operational land should be excluded. Overall, risks posed by the Proposed Development with respect to land instability and contaminated land would be minor at worst and attract neutral weight in the planning balance.
- 5.12.25. The ExA is satisfied that matters of nuisance including artificial light, noise and vibration in the operational phase; civil and military aviation and defence interests; safety and national security matters and decommissioning had been adequately addressed by the Applicant and did not consider it necessary to examine the matters further in the Examination. Such matters do not weigh significantly for or against the DCO being made.
- 5.12.26. The ExA is satisfied that the Master CEMP [REP6-140] which would be secured by Requirement 5 of the recommended DCO would ensure the production of plans to prevent pollution during construction. The Applicant's summary of Consents and Licencing required under Other Legislation [REP7-067] gives adequate assurances that such matters under other environmental protection regimes would be dealt with appropriately post-DCO without any opposition being expressed by the relevant statutory agencies, including the EA. This matter attracts neutral weight in the planning balance.
- 5.12.27. The ExA accepts that an assessment of decommissioning is unnecessary given the nature of the Proposed Development and its expected lifespan. This does not weigh significantly for or against the DCO being made.

5.13. CONCLUSIONS

- 5.13.1. The ExA is satisfied that there has been a thorough consideration of the principal and other issues in the Examination. The ExA applies the planning balance in Chapter 7 of this Report following consideration of the HRA matters outlined in Chapter 6 of this Report.

6. FINDINGS AND CONCLUSIONS IN RELATION TO HABITATS REGULATIONS ASSESSMENT

6.1. INTRODUCTION

- 6.1.1. This Chapter sets out the ExA's analysis, findings and conclusions in relation to HRA to assist the SoS to perform the duties of a Competent Authority under the Habitats Regulations before reaching a decision on the Application.
- 6.1.2. Regulation 63 of the Habitats Regulations states that if a plan or project is likely to have a LSE on a European site designated under the Habitats Regulations (either alone or in combination with other plans or projects), then the competent authority must undertake an appropriate assessment (AA) of the implications for that site in view of its conservation objectives. As a matter of policy, the Government applies the same procedures to a number of other internationally designated sites, including Ramsar sites; these are all referred to in this report hereafter as European sites. Consent can only be granted if the AA concludes that the integrity of European sites would not be adversely affected, subject to Regulation 64 (considerations of overriding public interest).
- 6.1.3. During the course of the Examination, the Habitats Regulations were amended by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 which came into force on Implementation Period Completion Day, 31 December 2020. These amendment regulations reflect the arrangements in light of the UK's departure from EU, as discussed in section 3.3 of this Report, including the introduction of new terminology with reference to the National Site Network rather than the Natura 2000 network (which remains the collective term for sites in the European Union).
- 6.1.4. The ExA has been mindful throughout the Examination of the need to ensure that the SoS has such information as may reasonably be required to carry out his duties as the Competent Authority. Evidence has been sought from the Applicant and the relevant IPs, including NE as the Statutory Nature Conservation Body (SNCB), through the ExA's written questions [PD-010, PD-014] and ISHs [EV-010, EV-013].

6.2. REPORT ON THE IMPLICATIONS FOR EUROPEAN SITES

- 6.2.1. The ExA produced a Report on the Implications for European Sites (RIES) [PD-015] which compiled, documented and signposted HRA-relevant information provided in the DCO application and Examination representations up to D6 of the Examination. The RIES was issued to ensure that the ExA had correctly understood HRA-relevant information and the position of the IPs in relation to the effects of the Proposed Development on European Sites at that point in time. The RIES was published on the Planning Inspectorate's website on 29 March 2021.

- 6.2.2. Consultation on the RIES took place between 30 March 2021 and 14 April 2021 and comments were received from the Applicant [REP7-041] but no other IP's responded. The Applicant's comments at [REP7-041] have been considered in the drafting of this Chapter. The RIES is not updated following consultation.
- 6.2.3. The ExA's recommendation is that the RIES, and consultation on it, represents an appropriate body of information to enable the SoS to fulfil their duties of consultation under regulation 63(3) of the Habitats Regulations.

6.3. PROJECT LOCATION AND HRA IMPLICATIONS

- 6.3.1. The Proposed Development is described in Chapter 2 of this Report. It would reintroduce passenger services along the disused railway corridor between Portishead and Pill, and then with associated works along the existing operational railway line. The background to the scheme is described further in section 1.2 of the Planning Statement [REP6-134].
- 6.3.2. The Applicant submitted a Report to Inform Habitats Regulations Assessment (HRA Report). The HRA Report was submitted as part of the ES at Volume 4 Appendix 9.12 [REP6-120] as well as a standalone document [REP6-063]. The standalone document [REP6-063] is hereafter referred to for ease of reference. The HRA Report was provided as part of the original application [APP-072] together with screening and integrity matrices in accordance with the Inspectorate's Advice Note Ten (AN10).
- 6.3.3. The spatial relationship between the Order Limits of the Proposed Development and European sites is set out in Chapter 5 and Figures 1 and 2 of the HRA Report [REP6-063]. The HRA Report states that a 3.8 km stretch of the existing railway line lies within the Avon Gorge SAC, and that the disused line near Pill is around 80 m from the Severn Estuary SAC, SPA and Ramsar sites at its closest point.
- 6.3.4. The Applicant states that the Proposed Development is not directly connected with, or necessary to, the management of a European site [0.1.4, REP6-063], and the ExA is satisfied with this position. Therefore, the implications of the Proposed Development with respect to adverse effects on potentially affected sites must be assessed by the SoS.
- 6.3.5. The Applicant's HRA Report identified LSE on the North Somerset and Mendip Bats SAC and the Avon Gorge SAC, and following further assessment concluded that an adverse effect on the integrity of the Avon Gorge Woodlands SAC from habitat loss and degradation during the construction of the Proposed Development could not be ruled out. The DCO application therefore contained an assessment of alternative solutions, a case for IROPI, and details of proposed compensation measures [REP6-063].
- 6.3.6. In response to the ExA's questions, at ISHs, and representations made by IPs during the Examination, the Applicant provided updated versions of its HRA Report (version 2) during the pre-examination period [AS-027] and a third version at D6 [REP6-063]. These were supported by a legal

opinion [REP6-133]. Unless otherwise stated, subsequent references to the Applicant's HRA Report in this recommendation report are made to this most recent iteration of the document [REP6-063].

6.4. HRA MATTERS CONSIDERED DURING THE EXAMINATION

6.4.1. The main HRA matters raised by the ExA, NE and other IPs and discussed during the Examination include:

- The Applicant's assessment of effects on the North Somerset and Mendip Bats SAC (in relation to severance of foraging routes due to vegetation clearance and lighting) and identification of mitigation measures in order to reach a conclusion of no Adverse Effect on Integrity (AEoI) of the site;
- The extent, efficacy and delivery mechanisms of the compensatory measures proposed in respect of the following features of the Avon Gorge Woodlands SAC (for which the Applicant was not able to exclude the possibility of AEoI):
 - semi-natural dry grasslands and scrubland facies on calcareous substrates;
 - tilio-Acerion forests of slopes, screes and ravines; and
 - rare whitebeam trees (some of which are endemic to the Avon Gorge) and are a component of the SAC woodland qualifying feature.

6.4.2. Matters which were undisputed by any parties were:

- the Applicant's identification of potential pathways of impacts between the Proposed Development and European site(s); and
- the methodology and outcomes of the Applicant's assessment of LSE (including the identification of relevant plans and projects considered by the Applicant as having the potential for in combination effects with the Proposed Development).

6.4.3. These matters are discussed in the following sections of this Recommendation Report.

6.5. ASSESSMENT OF LSE

6.5.1. Under regulation 63 of the Habitats Regulations, the Competent Authority must consider whether a development will have LSE on a European site, either alone or in combination with other plans or projects. The purpose of this test is to identify any LSE on European sites that may result from the project and to record the ExA's conclusions on the need for an AA and its reasons for including activities, sites or plans and projects for further consideration.

6.5.2. The Applicant excluded any LSE from any sites located beyond 10 km of the Proposed Development (and beyond 30 km where bats are a qualifying feature), as set out in paragraphs 5.1.1 of the HRA Report [REP6-063] and paragraphs 2.1.4 and table 2.1 of the RIES [PD-015].

- 6.5.3. The sites screened in as being within 10 km of the Proposed Development are:
- Avon Gorge Woodlands SAC;
 - Severn Estuary SPA;
 - Severn Estuary SAC;
 - Severn Estuary Ramsar site;
 - North Somerset and Mendip Bats SAC; and
 - Chew Valley Lake SPA.
- 6.5.4. The following were also screened into the assessment (in respect of bat qualifying features alone) on the basis of their being within 30 km of the Proposed Development:
- Wye Valley Woodlands SAC;
 - Wye Valley and Forest of Dean Bat Sites SAC;
 - Mendip Limestone Grasslands SAC;
 - Bath and Bradford-on-Avon Bats SAC; and
 - Mells Valley SAC.
- 6.5.5. The relevant sites listed above are illustrated at section 5.3 of this Report and were summarised in Table 2.1 of the RIES [PD-015], Table 5.1, and figures 1 and 2 of the HRA Report [REP6-063].
- 6.5.6. NE [REP2-045], NSDC [REP2-038] and BCC [REP2-036] did not identify any other UK European site or European site features that could be affected by the Proposed Development beyond those identified by the Applicant. Section 5.1 of NE's SoCG [REP6-146], confirms agreement with Applicant's HRA screening process and that the relevant European sites had been identified and considered.
- 6.5.7. The ExA has considered the Applicant's screening assessment and is satisfied that the correct European sites and qualifying features have been identified and considered.

6.6. LSE FROM THE PROJECT ALONE

- 6.6.1. The Applicant has described how it has determined what would constitute a 'significant effect' within its HRA report [section 1.3, REP6-063]. This appears to follow current best practice and was updated to reflect the Government's updated HRA guidance published during the examination on 24 February 2021², as set out in section 2.1 of the RIES [PD-015].

² <https://www.gov.uk/guidance/habitats-regulations-assessments-protecting-a-european-site>

<https://www.gov.uk/guidance/duty-to-protect-conserve-and-restore-european-sites>

<https://www.gov.uk/government/publications/habitats-regulations-assessment-derogationnotice>

6.6.2. The potential impacts identified are described in Section 5.2 of the HRA Report [REP6-063] and paragraph 3.1.1 of the RIES [PD-015], summarised as follows:

- Construction;
 - temporary habitat loss as a result of construction works;
 - permanent habitat loss where vegetation removal is needed;
 - disturbance of fauna; and
 - damage to flora and fauna (e.g. air and water pollution).
- Operation;
 - disturbance due to increased train frequency;
 - disturbance from permanent maintenance compounds;
 - vegetation clearance and management, plus inspections and period maintenance of assets as part of standard Network Rail practice; and
 - increase in recreational disturbance.

6.6.3. Decommissioning impacts were not assessed. Due to the nature and purpose of the Proposed Development, it is not intended that it would be decommissioned in the foreseeable future and that the passenger services will continue for as long as there is a business case for doing so, with any closure subject to a regulated process overseen by the ORR [3.2.69 to 3.2.75 and 5.2.3 of REP6-063].

6.6.4. The ExA asked a number of questions on this matter [PD-010]. NSDC, BCC and NE considered that reasonable justification for not assessing the decommissioning of the railway had been provided by the Applicant. NE's SoCG records specific agreement on the approach taken to decommissioning [5.2.13, REP6-146]. No other IP's disputed the Applicant's consideration of the relevant pathways of impact to European sites.

6.6.5. The ExA is satisfied that the relevant pathways of effect to European sites from the Proposed Development have been considered. NE have set out their agreement with the extent of the impact pathways considered as part of the HRA Report, particularly that "*Natural England is satisfied that the HRA has identified all potential impact pathways for European sites and their qualifying features*" [5.1.1, REP6-146].

6.7. LSE FROM THE PROJECT IN COMBINATION

6.7.1. The Applicant addressed potential in combination effects within section 7.2, and a list of relevant plans and projects included for consideration presented in Table 7.2 of the HRA Report [REP6-063]. The approach taken in identifying relevant plans and projects was consistent with that described in the cumulative impact assessment as presented in Chapter 18 of the ES [APP-113, APP-191].

6.7.2. The relevant projects considered were summarised in section 3.2.2 of the RIES [PD-015], and the locations of the relevant projects set out in Figure 18.1 of the ES [APP-124].

- 6.7.3. The ExA asked questions at ExQ1 as to whether the delay between the acceptance of the Application and the start of the Examination affected the assessment of in combination effects, and whether IP's had any concerns in this regard [G.C.1.1, PD-010].
- 6.7.4. The Applicant concluded that the assumptions made, and conclusions reached in the HRA in combination assessment remained valid [REP2-013]. No material updates were made to the HRA in combination assessment in the updated HRA Reports (through to the latest iteration at [REP6-063]).
- 6.7.5. NSDC and BCC identified additional planning applications that had been received since the submission of the DCO application, although both parties concluded that they would be unlikely to affect the HRA in combination assessment in their respective SoCGs [REP7-025 and REP7-026].
- 6.7.6. The ExA sought clarification as to potential for in combination effects with forestry works being undertaken by Forestry England in Leigh Woods (observed during the USI [EV-001]). The Applicant clarified at [REP2-013] that the felling works were carried out in line with Forestry England's long-term Leigh Woods Forest Design Plan 2011-2021 and would not contribute towards potential adverse effects on the Avon Gorge Woodlands SAC, as set out in paragraph 3.2.9 of the RIES [PD-015].
- 6.7.7. NE raised no concerns in respect of the in-combination assessment in their RR [RR-022], responses to ExA's written questions [REP2-045 and REP5-042] or in their SoCG with the Applicant [REP6-146].

6.8. LSE ASSESSMENT OUTCOMES

- 6.8.1. Section 3.3 of the ExA's RIES summarises the LSE assessment outcomes and clarifications that were sought during the examination in respect of these conclusions [PD-015] and the Applicant provided comments at D7 [REP7-041]. No other IP made any comments in response to the RIES. The following section therefore summarises the ExA's conclusions on the European sites screened out as having no LSE, which take into account comments made by the Applicant at [REP7-041], as relevant.

Severn Estuary SAC, SPA and Ramsar site

- 6.8.2. The Applicant considered that the potential for impacts on the Severn Estuary SAC, SPA and Ramsar would primarily be via noise and visual disturbance of SPA and Ramsar-qualifying bird species and possible contamination/ pollution events (hydrological and air quality effects) on the qualifying habitats of the SAC. These considerations are set out in paragraphs 3.3.1 to 3.3.14 of the ExA's RIES [PD-015].
- 6.8.3. The ExA accepts the Applicant's clarification at [REP7-014] that, although the existing disused rail line near Pill is around 80 m from the Severn Estuary SAC, SPA and Ramsar site at its closest point, there are no works within the designated sites and the closest functionally linked habitat

used by SPA and Ramsar-qualifying species is the southern pools and lagoons associated with the Portbury Wharf Nature Reserve, approximately 650 m from the disused railway line.

- 6.8.4. The ExA agrees with the conclusions of the Applicant in respect of potential disturbance to qualifying features of the SPA and Ramsar site. The construction and operation of the Proposed Development is unlikely to have a LSE (alone or in combination) due to increased levels of disturbance, given that the existing environment is dominated by noise from the M5 and operations in and around RPD.
- 6.8.5. Effects on the Severn Estuary SAC and Ramsar were considered in terms of habitat degradation due to run-off of pollution and air quality effects. The ExA asked questions as to potential run-off/ pollution to the Severn Estuary SAC and Ramsar, as set out in paragraphs 5.3.10 and 5.3.18 to 5.3.21 of the HRA Report [REP6-063]. The potential for LSE was ruled out on the basis that there would be no hydrological connectivity between the Proposed Development and the closest qualifying habitat (and that any run-off would be rapidly diluted due to the nature and scale of the estuarine environment even if there were linkages). At D2 [REP2-013], the Applicant clarified that further consideration of these issues of hydraulic connectivity was provided in ES Chapter 9 [AS-031] and ES Appendix 17.3 [APP-190].
- 6.8.6. Air quality changes at the Severn Estuary SAC and Ramsar site due to the Proposed Development were considered to be minimal with existing nitrogen deposition rates "*well below*" the relevant critical load thresholds for the relevant habitats.
- 6.8.7. The ExA is satisfied that there would be no LSE during construction or operation in terms of run-off pollution or air quality effects. In respect of the hydrological connectivity, the ExA agrees that the Applicant has demonstrated the absence of such pathways of effect, and that any run-off would be rapidly diluted due to the nature and scale of the estuarine environment even if there was a linkage.
- 6.8.8. NE stated its agreement that there is no pathway of hydrological impact between the Proposed Development and the Severn Estuary SAC [REP2-045] and items 5.1.2 and 5.1.3 of its SoCG with the Applicant [REP6-146] record its agreement that there would be no LSE (alone or in combination) on the Severn Estuary SAC, SPA and Ramsar sites.
- 6.8.9. The ExA therefore concludes that LSE to the Severn Estuary SAC, SPA and Ramsar sites can be excluded. No IP's have disputed these conclusions during the examination.

Wye Valley Woodlands SAC, Wye Valley and Forest of Dean Bat Sites SAC, Mendip Limestone Grasslands SAC, Bath and Bradford-on-Avon Bats SAC and Mells Valley SAC

- 6.8.10. Only the bat qualifying features of these SACs are screened in for further consideration given that there are no potential effects (direct or indirect)

on any of the qualifying habitat features, as described in paragraphs 5.3.22 to 5.3.23 of the HRA Report [REP6-063].

- 6.8.11. Annex D of the HRA Report [D7 to D11, REP6-063] lists all of the qualifying features associated with each of these European sites. Only lesser and greater horseshoe bats were identified within the Proposed Development's bat survey study area (paragraph 6.4.1 of [REP6-063]). The citation of these two species between the above listed sites was set out in paragraph 3.3.16 of the ExA's RIES [PD-015].
- 6.8.12. The ExA agrees with the Applicant's conclusions as set out in paragraphs 7.3.6 to 7.3.8 of the HRA Report [REP6-063] that, on the basis of the separation distances between these sites and the Proposed Development, no LSE to bat qualifying features alone or in combination would occur. Moreover, the Applicant's conclusions of no LSE for any qualifying features of the any of these SACs has not been disputed by any IPs during the Examination. NE specifically agreed to the conclusions of no LSE for these sites in item 5.1.2 of its SoCG [REP6-146].

Chew Valley Lake SPA

- 6.8.13. As set out in paragraphs 3.3.20 to 3.3.21 of the ExA's RIES [PD-015], the Chew Valley Lake SPA is designated for a single qualifying feature - shoveler. Although shoveler have been recorded at the Portbury Wharf Nature Reserve (functionally linked habitat to Severn Estuary SPA and Ramsar site), the Applicant considers any linkages between the populations at Chew Valley and the Severn Estuary are unlikely due to the 9 km separation distance.
- 6.8.14. The ExA agrees with this and notes that LSE for the Severn Estuary SPA and Ramsar shoveler populations can be excluded, which further supports the conclusion of no LSE (alone or in combination) at the Chew Valley Lake SPA. NE agreed with the Applicant's conclusions of no LSE on the Chew Valley SPA alone or in combination with other plans and projects at item 5.1.2 of its SoCG [REP6-146]. These conclusions have not been disputed by any other IPs during the Examination.

North Somerset and Mendip Bats SAC

- 6.8.15. The Applicant identified LSE in relation to severance of greater and lesser horseshoe bat foraging routes due to vegetation clearance and lighting during construction and operation of the Proposed Development. As listed in Table 5.1 of the HRA Report [REP6-063], there are also Annex I qualifying habitats of the North Somerset and Mendip Bats SAC, although there are no direct effects on any of the qualifying Annex I habitats given the 9 km separation from the Proposed Development.
- 6.8.16. The ExA agrees with the Applicant's conclusion that there would be no LSE (alone or in combination) on the semi-natural dry grasslands, *Tilio-Acerion* forests and caves qualifying features. This conclusion has not been disputed by any IP during the examination.

6.8.17. The Applicant provided information to inform an AA in relation to greater and lesser horseshoe bat qualifying features of the North Somerset and Mendip Bats SAC at paragraphs 8.3.23 to 8.3.40 of the HRA Report [REP6-063]. This is discussed further later in this chapter and at section 5.3 of this Report.

Avon Gorge Woodlands SAC

6.8.18. A 3.8 km stretch of the existing railway line lies within the Avon Gorge Woodlands SAC, and paragraph 3.1.1 of the RIES [PD-015] sets out the relevant pathways of effect considered by the Applicant, and for which the ExA has concluded as being appropriate for the purposes of assessment. Table 3.1 of the RIES summarised the Applicant's conclusions as to where LSE could be excluded [PD-015]. Where they were not excluded, the Applicant provided information to inform an AA, and these matters are considered in the following sections of this Report.

6.8.19. The Applicant ruled out LSE (alone or in combination) for both of the qualifying features of the Avon Gorge Woodlands SAC as follows:

- Construction:
 - Habitat fragmentation.
- Operation:
 - Changes in NO_x concentrations and nutrient nitrogen deposition from train engine emissions plus associated habitat degradation; and
 - Habitat loss and fragmentation.

6.8.20. The status of the qualifying feature habitat in the Avon Gorge Woodlands SAC is as follows:

- *Festuco-Brometelia* grassland (non-priority natural habitat).
- *Tilio-Acerion* woodland (priority natural habitat).

6.8.21. In terms of habitat fragmentation during construction and operation, the ExA agrees with the conclusions of the Applicant at Table 7.1 of the HRA Report [REP6-063]. No further habitat fragmentation is anticipated to occur as the route of the line already exists and any additional vegetation removal would be away from the line itself and limited to individual trees on rock faces. This has not been disputed by any IPs during the examination, and the ExA agrees that LSE of habitat fragmentation can be excluded on the basis of the description of the vegetation clearance and management works to be undertaken.

6.8.22. In terms of operational air quality effects of train engine emissions, the ExA sought clarification at ExQ1 [AQ.1.2, PD-010] as to predicted increases in nitrogen deposition rates during operation where critical loads are already exceeded, as set out in paragraphs 3.3.30 to 3.3.35 of the RIES [PD-015]. NSDC as the LPA raised a concern in response to this question that LSE could not be excluded where critical loads are already exceeded [REP2-038], and NE sought additional clarification from the Applicant in support of its conclusions.

- 6.8.23. The Applicant undertook additional work to revise the original air quality modelling calculations for the SAC as presented in the ES [APP-102] and HRA Report [APP-075] in response to NE's comments [REP2-045]. The revisions to the assessment were set out in a series of tables [REP3-031] and in an updated ES air quality chapter [REP6-074 and REP6-112] and the HRA Report submitted at D6 [REP6-063]. The Applicant's position in light of the revisions was unchanged; that process contributions of NO_x, nitrogen deposition and acid deposition are below a 1% threshold of significance as stipulated in NE's guidance on the assessment of road traffic emissions under the Habitats Regulations³ and in the Institute of Air Quality Management (IAQM) nature conservation sites assessment guidance⁴. On this basis LSE could be excluded.
- 6.8.24. NE agreed in its SoCG that there was reasonable justification as to why the effects of the Proposed Development on air quality would be below the 1% threshold increase, alone or in combination [7.2.2, REP6-146]. NE therefore supports the conclusions of no LSE for all qualifying features from air quality impacts during operation. NSDC did not comment further on this issue during the Examination in response to the Applicant's additional work presented at Deadline 3 [REP3-030, REP3-031] and deferred to NE on this particular matter [REP2-038].
- 6.8.25. The ExA is satisfied that the Applicant's assessment demonstrates that any increases in nitrogen concentrations and nutrient nitrogen deposition during operation are so small so as to be within tolerances of normal variations in background concentrations as set out in REP3-030 and paragraphs 6.2.19 to 6.2.25 of [REP6-063]. Industry standard guidance from NE and IAQM also supports this position and the ExA is satisfied that a conclusion of no LSE on all qualifying features from air quality effects during operation can be reached.

6.9. SUMMARY OF EXA'S FINDINGS IN RELATION TO LSE

- 6.9.1. The ExA is satisfied that LSE from the Proposed Development alone or in combination can be excluded for all qualifying feature of the following European sites:
- Severn Estuary SPA;
 - Severn Estuary SAC;
 - Severn Estuary Ramsar site;
 - Chew Valley Lake SPA;
 - Wye Valley Woodlands SAC;
 - Wye Valley and Forest of Dean Bat Sites SAC;
 - Mendip Limestone Grasslands SAC;
 - Bath and Bradford-on-Avon Bats SAC; and
 - Mells Valley SAC.

³ <http://publications.naturalengland.org.uk/publication/4720542048845824>

⁴ <https://iaqm.co.uk/text/guidance/air-quality-impacts-on-nature-sites-2020.pdf>

6.9.2. LSE for greater and lesser horseshoe bat populations of the North Somerset and Mendip Bats SAC have been identified where severance of navigational routes due to vegetation removal and lighting would occur, as set out in paragraphs 8.3.23 to 8.3.29 of the HRA Report [REP6-063]. The ExA is satisfied that LSE to the North Somerset and Mendip Bats SAC for all other qualifying features can be excluded.

6.9.3. LSE on the Avon Gorge Woodlands SAC during construction and operation cannot be excluded from the following impact pathways, as set out in paragraphs 8.3.2 to 8.3.22 of the HRA Report [REP6-063]:

- Construction:
 - direct loss of qualifying habitats (and component features particularly rare whitebeam species); and
 - habitat degradation due to the risk of invasive species and pathogen transfer and via incursions and accidental spillages of pollutants from construction material and equipment.
- Operation:
 - increased susceptibility of woodland habitat to windthrow due to removal of edge trees; and
 - operational rock-face maintenance during operation and consequential impacts on supporting grassland habitat.

6.9.4. Paragraph 6.6.2 above sets out those potential pathways of impact on the Avon Gorge Woodlands SAC for which the ExA conclude that LSE can be excluded. The following sections of this Recommendation Report therefore consider the ExA's findings in relation to AEOI on the North Somerset and Mendip Bats SAC and the Avon Gorge Woodlands SAC.

6.10. CONSERVATION OBJECTIVES

6.10.1. The conservation objectives for all of the European sites for which the Applicant has provided information to inform an AA were provided in section 8.2 of the HRA Report [REP6-063]:

- North Somerset and Mendip Bats SAC [8.2.11 to 8.2.14, REP6-063] including reference to:
 - the Site Improvement Plan for the SAC; and
 - condition assessment data for the component SSSI of the SAC;
- Avon Gorge Woodlands SAC – [8.2.5 to 8.2.8, REP6-063] including reference to:
 - NE's supplementary advice on conserving and restoring site features [Table 8.1, REP6-063];
 - the Site Improvement Plan for the SAC; and
 - the condition assessment of the Avon Gorge SSSI (the single component SSSI of the SAC).

6.10.2. Section 8.2 of the HRA Report [REP6-063] provides links to the official versions of the above documents on the NE web pages.

- 6.10.3. The ExA considers that the Applicant has provided the SoS with the relevant conservation objectives (and supporting information) in order to carry out their duties under Regulation 63(3) of the HRA Regulations. No IP's have raised any concerns in this regard during the Examination.

6.11. FINDINGS IN RELATION TO ADVERSE EFFECTS ON THE INTEGRITY (AEoI)

North Somerset and Mendip Bats SAC

- 6.11.1. The Applicant could not exclude LSE for greater and lesser horseshoe bat populations that are potentially associated with the SAC. As set out in paragraphs 8.3.23 to 8.3.29 of the HRA Report REP6-063] LSE could occur as a result of severance of navigational routes due to vegetation removal and lighting impacts.
- 6.11.2. Individual bats associated with the SAC were found to use habitats within the area and surroundings of the Proposed Development (although out with the designated area of the SAC itself), and potential effects from severance of commuting routes is considered to exist along the disused railway section specifically around Portbury Dock (including in combination effects with the recently developed Court House Farm site). No other plans or projects were identified as being relevant to the assessment of effects on the North Somerset and Mendip Bats SAC.
- 6.11.3. The Applicant identified the potential importance of the freight line between Pill Viaduct and Avon Road, past Pill station [sheet 6 of the works plans, AS-013] as a sheltered corridor that could also be an important navigational route for horseshoe bats in paragraphs 8.4.60 to 8.4.63 of the original HRA Report [APP-075] and the Ecology chapter of the ES [APP-104].
- 6.11.4. As set out in paragraphs 4.2.4 to 4.2.6 of the RIES [PD-015] and section 5.3 of this Report, the Applicant gathered additional bat activity survey information between May 2019 and March 2020 around Pill Station and the disused line. Details of the bat survey are presented in Appendix 11 of ES Appendix 9.2 [AS-036].
- 6.11.5. The Applicant concluded that activity at, or close to Pill Station, is not strongly associated, or connected, with the SAC bat population. The Applicant cites NSDC guidance for the North Somerset and Mendip Bats SAC [8.5.13, REP6-063], and distances of the Proposed Development from the closest component of the SAC in supporting its conclusions.
- 6.11.6. In summary, whilst the Proposed Development could impact upon individual greater and lesser horseshoe bats (some of which may be associated with North Somerset and Mendip Bats SAC populations), the Applicant concludes that these would likely be in small numbers and not result in an AEoI of the SAC as a whole, alone or in combination with other plans and projects (including the Court House Farm development).

- 6.11.7. A number of embedded mitigation measures are proposed by the Applicant to further reduce the potential for adverse effects on bat populations as a protected species under the WCA 1981 which are set out in detail in paragraphs 8.4.50 to 8.4.59 of the HRA Report [REP6-063]. Further details of mitigation that provides benefit for bats are also set out in paragraphs 9.7.2 to 9.7.17 and 9.7.53 to 9.7.57 of ES Chapter 9 [REP6-078], and these matters are considered further in Section 5.3 of this Report.
- 6.11.8. The ExA asked a number of questions at ExQ1 [BIO.1.25 to BIO.1.27, PD-010] regarding the delivery of mitigation measures in respect of bats. As set out at paragraph 4.2.10 of the RIES [PD-015] and 8.4.50 of the HRA Report [REP6-063], the Applicant states that the mitigation measures are provided primarily to address legal requirements for bats (to address roost loss, disturbance and killing/injury of bats) and are separate from the conclusions of no AEOI on the North Somerset and Mendip Bats SAC.
- 6.11.9. In Section 5.3 of its SoCG [REP6-146], NE agreed that "*Subject to the identified mitigation being secured, an adverse effect on the integrity of the North Somerset and Mendip Bats SAC can be avoided*". NE has not raised any concerns regarding the mechanism for securing these measures during the Examination.
- 6.11.10. As also noted in Section 5.3 of this Report (and not directly relevant to HRA considerations), NE has provided a LoNI to the granting of a bat mitigation licence to the Applicant should the DCO be granted [REP3-041].
- 6.11.11. NSDC raised some general concerns in relation to the protection of bats from potential impacts of the Proposed Development [REP1-033, REP1-016 and REP2-038], although none of those concerns disputed the Applicant's conclusions of no AEOI on the North Somerset and Mendip Bats SAC.
- 6.11.12. In terms of the conclusions of AEOI on the North Somerset and Mendip Bats SAC, the ExA is satisfied that the magnitude of potential effects on greater and lesser horseshoe bats that could be associated with the SAC are small, as demonstrated by the results of the bat surveys. Various mitigation measures would be delivered as part of the design of the Proposed Development and secured by requirement, including:
- General protective measures to be delivered via the CEMP under Requirement 5. CEMPs for each stage must be approved in accordance with the principles set out in the ES, the Master CEMP [REP7-023] and the CoCP;
 - Adherence to a landscaping scheme for the disused railway (Requirement 6) in accordance with the principles of the railway landscape plans [APP-017];
 - Requirement 24 for the protection of bats, which includes;

- details of proposed tree planting to be approved by the relevant planning authority in consultation with NE (and in accordance with [APP-049]; and
 - installation of artificial bat roosts and grilles as per the environmental masterplan [REP6-055].
- Operational lighting at Pill Station must include measures to minimise light spillage to be approved by the relevant planning authority in consultation with NE (Requirement 28). Lighting levels on the northern platform must not be above 0.5 lux as a result of the permanent lighting or lighting screens.
- 6.11.13. These mitigation measures for the benefit of bats are also summarised in items 7.1 and 9.1 to 9.21 of the Schedule of Mitigation [REP7-021].
- 6.11.14. Whilst the ExA notes the Applicant's position that not all of the specified mitigation measures are necessary for the conclusions of no AEOI on the North Somerset and Mendip Bats SAC, the ExA is satisfied that the measures set out above are adequately secured, and that with them in place, no AEOI on the European site would occur as a result of the Proposed Development, alone or in combination with other plans and projects.

Avon Gorge Woodlands SAC

- 6.11.15. The Applicant identified pathways for potential adverse effects on the integrity of the Avon Gorge Woodlands SAC during construction and operation, as set out in paragraphs 8.3.2 to 8.3.22 of the HRA Report [REP6-063].
- 6.11.16. In respect of all aspects, the Applicant ruled out any other plans or projects acting in combination with effects from the Proposed Development on the Avon Gorge Woodlands SAC. As set out in section 3.2 of the RIES [PD-015] the conclusions of the in-combination assessment have not been disputed by any IPs.
- 6.11.17. The ExA is satisfied with the scope of the Applicant's consideration of other plans and projects that could act in combination with the Proposed Development to affect the Avon Gorge Woodlands SAC, as set out in section 6.7 of this Report. The ExA agrees with the conclusions in the Applicant's HRA Report [REP6-063] which demonstrate that there are no such plans or projects that could act in combination on the Avon Gorge Woodlands SAC given the nature and location of the works associated with the Proposed Development. The rest of this section therefore considers AEOI from the Proposed Development alone.
- 6.11.18. Table 3.1 of the RIES [PD-015], and matrix E1 of the HRA Report [REP6-063] set out the pathways of effect for which information to inform an AA has been provided (where LSE could not be excluded), and the identification of pathways of effect taken forward to AA have not been disputed during the Examination. The agreement of NE in this regard for the Avon Gorge Woodlands SAC is recorded at items 5.2.1 to 5.2.3 of its SoCG [REP6-146].

Operational Effects

- 6.11.19. The Applicant concludes that there would be no AEOI on any of the qualifying features of the SAC during operation from either potential windthrow effects or habitat degradation. For the operational effects considered by the Applicant [8.3.21 to 8.3.22, REP6-063], whilst the need for ongoing vegetation management during operation was acknowledged, the total extent of clearance is considered to be no greater than that already cleared as part of the construction phase.
- 6.11.20. Operational management measures in respect of the Avon Gorge Woodlands SAC are described in paragraphs 8.4.44 to 8.4.49 of the HRA Report [REP6-063]. These largely relate to the vegetation management responsibilities of NR under the terms of their existing SMS and Vegetation Management Plan (VMP) [AS-041].
- 6.11.21. The ExA posed questions at ExQ1 [PD-010] in order to fully understand the relationship between the Applicant's own Avon Gorge Vegetation Management Plan (AGVMP) [REP6-136] and the ongoing duties of NR under their SMS and existing VMP. The Applicant responded at D2 [REP2-013]. This was effectively to understand how vegetation management activities would differ as a result of the Proposed Development, and whether such differences had the potential for AEOI on the SAC beyond those associated with existing management practices.
- 6.11.22. The AGVMP [REP6-136] is agreed at item 5.2.9 of the SoCG with NE as being "*to complement the existing Site Management Statement (SMS) and Vegetation Management Plan (VMP)*" [REP6-146]. No other IP's raised any concerns in light of the Applicant's response.
- 6.11.23. The ExA is satisfied that operational impacts of the Proposed Development are limited to indirect habitat loss. The AGVMP would complement existing management practices of the SAC that are the responsibility of NR. The ExA therefore concludes that the making of the DCO would not have an AEOI on the qualifying features of the Avon Gorge Woodlands SAC during operation of the Proposed Development.

Construction Effects

Habitat Loss (including rare Whitebeams)

- 6.11.24. Paragraphs 4.3.8 to 4.3.14 of the RIES [PD-015] and paragraphs 8.3.4 to 8.3.15 and Table 8.3 of the HRA Report [REP6-063] set out the Applicant's quantification of habitat loss effects associated with the Proposed Development during construction. The loss of Tilio-Acerion woodland (semi-natural ancient woodland and secondary (recent) woodland) is considered by the Applicant as follows:
- Total vegetation clearance of 0.79 ha (0.52% of the total area within the SAC):
 - 0.06 ha loss of grassland habitat (0.84% of the SAC total); and

- 0.73 ha of qualifying woodland habitat (45% secondary or recent woodland and 55% semi-natural ancient woodland). 0.73 ha equates to 0.69% of the SAC total.
- 6.11.25. The losses include for geotechnical works required on rock faces at the “general locations” shown on Figure 2 of the HRA Report [REP6-063]. The Applicant adopted a series of realistic worst-case assumptions to determine the potential impact of these works as set out in Annexes D and E of the AGVMP [REP6-136].
- 6.11.26. The Applicant explained that preparation of five ‘micro’ construction compounds within the Avon Gorge would be required in areas where either no vegetation clearance is required, or where only low value vegetation is present (and which are therefore excluded from the calculations of SAC habitat loss). Although neither the Applicant nor NR have provided specific details of proposed locations of these compounds, DCO requirement 14(4) states that any temporary works within the Avon Gorge Woodlands SAC must not commence before the location and other details have been approved by the relevant planning authority in consultation with NE. The ExA is therefore content that these provisions would avoid any additional loss of qualifying habitat beyond that considered by the Applicant.
- 6.11.27. The Applicant considers the loss of rare whitebeam species specifically in paragraphs 8.3.16 to 8.3.18 and Table 8.4 of the HRA Report [REP6-063]. These were also presented in paragraphs 4.3.11 of the RIES [PD-015]. The Applicant emphasised in their comments on the RIES [REP7-041] that five of the tree losses assessed are for contingency purposes; they are not predicted to be lost but have been included for completeness in the event that any unexpected losses occur through detailed design and construction. The ExA therefore understands the impact on whitebeam specimens to comprise the loss or coppice of 27 trees as follows:
- 12 Avon whitebeams (10 removed, 2 coppiced), equating to 29% of the world and SAC population;
 - 1 Wilmott’s whitebeam removed, equating to 1% of the world and SAC population;
 - 6 Leigh Woods whitebeams removed (1 of which accounted for as contingency), equating to 2% of the world and SAC population;
 - 1 Grey-leaved whitebeam removed (accounted for as contingency), equating to 0.2% of the world population and 2% of the SAC population;
 - 5 round-leaved whitebeams (4 removed ((1 of which accounted for as contingency) and 1 coppiced), equating to 0.6% of the world population; and
 - 2 Bristol whitebeams (1 removed (accounted for as contingency) and 1 coppiced), equating to 0.7% of the world and SAC populations.
- 6.11.28. As set out in paragraph 4.3.12 of the RIES [PD-015] the location of the whitebeams to be removed is described and shown in Figure 1, Annex F of the HRA Report [REP6-136]. Table 8.4 of the HRA Report [REP6-063] sets out the justification for their removal on an individual basis.

6.11.29. The Applicant concludes that although mitigation measures are proposed (primarily in the form of the CoCP [REP6-142], Master CEMP [REP7-023] and AGVMP [REP6-136]) that “*there is unavoidable loss of woodland and grassland qualifying features*” and that an AEOI due to the loss of these habitats (including rare whitebeams) cannot be excluded (8.5.4 to 8.5.11, REP6-063).

Habitat Degradation

6.11.30. The Applicant identified the potential for LSE during construction works from inadvertent incursion or accidental pollutant spillages (airborne and hydrological) to qualifying habitats as well as the works potentially facilitating the spread of non-native invasive species.

6.11.31. Section 8.4 of the HRA Report [REP6-063] and paragraph 4.3.16 of the RIES [PD-015] set out the proposed mitigation measures in response to these potential pathways of LSE:

- General best practice measures embedded into the design [8.4.1 to 8.4.20, REP6-063];
- Provisions within the CoCP [REP6-132], Master CEMP [REP7-023] and AGVMP [REP6-136], certified documents under DCO schedule 17 and secured by Requirements 5 and 14 of the draft DCO [REP7-056]; and
- Specific measures proposed in relation to Avon Gorge Woodlands SAC [8.4.23 to 8.4.43, REP6-063] which are “*routinely carried out*” by NR as part of current practices (under the existing SMS and VMP).

6.11.32. The Applicant concludes that during construction, impacts relating to habitat degradation via invasive species and pollution/ incursions in qualifying habitats could be mitigated by preventative measures secured through the DCO as set out above. The mitigation measures and their securing mechanism relevant to the Avon Gorge SAC are also summarised in the Applicant’s Schedule of Mitigation [REP6-131].

6.11.33. The Applicant therefore concludes no AEOI on the SAC from habitat degradation during construction of the Proposed Development. These conclusions are supported by NE at items 5.2.14 and 5.4.2 of its SoCG [REP6-146]. No IPs have disputed the Applicant’s conclusions in this regard.

6.11.34. The ExA is satisfied that the necessary mitigation measures set out by the Applicant are adequately secured as part of the provisions within the DCO (in particular adherence by Requirement to certified documents under DCO Schedule 17 in the form of the CoCP, Master CEMP and AGVMP). With these mitigation measures in place, the ExA is satisfied that a conclusion of no AEOI to the Avon Gorge Woodlands SAC from habitat degradation is supported. In this respect, the ExA also notes the relatively limited duration of the construction works (anticipated to be for a maximum period of 20 months).

Outcomes Regarding AEoI

- 6.11.35. The Applicant's HRA Report concluded that AEoI could not be ruled out beyond reasonable scientific doubt in relation to the Avon Gorge Woodlands SAC. This is due to the loss of 0.73 ha of *Tilio-Acerion* woodland and 0.06 ha of *Festuco-Brometalia* grassland habitat during the construction of the Proposed Development, which cannot be fully mitigated. The Applicant therefore acknowledges the process that must be followed by the competent authority under Regulation 64 of the Habitats Regulations, including consideration of alternative solutions, IROPI and compensatory measures. Information on these matters is provided sections 9 to 11 of the HRA Report [REP6-063].
- 6.11.36. In respect of habitat degradation during construction and all operational effects, the HRA Report concludes that AEoI will not arise from changes in air quality, water quality, the spread of non-native invasive plant species or other disturbances to the qualifying features of the Avon Gorge Woodlands SAC.
- 6.11.37. These conclusions are supported by NE at items 5.2.14 and 5.4.2 of its SoCG [REP6-146]. The Applicant's conclusions in this respect were not disputed by any IPs during the course of the Examination. Instead, the discussions and representations made during the Examination in respect of the Avon Gorge Woodlands SAC were largely around the compensatory measures proposed by the Applicant. These matters are considered in the following sections of this RIES.
- 6.11.38. The ExA is satisfied that the AEoI on the North Somerset and Mendip Bats SAC can be excluded and is satisfied that the necessary mitigation measures would be adequately secured by the provisions of the DCO.

6.12. CONSIDERATION OF ALTERNATIVE SOLUTIONS

- 6.12.1. The Applicant's assessment of alternative solutions to deliver the objectives of the Proposed Development are set out in section 9 of the HRA Report [REP6-063] and summarised in section 5 of the RIES [PD-015].
- 6.12.2. Paragraphs 9.2.14 and 9.2.15 of the HRA Report [REP6-063] summarise the principal objectives of the Proposed Development as part of the wider MetroWest Phase 1 programme (and supporting objectives).
- 6.12.3. The consideration of alternatives in the HRA Report is set out under the following headings [9.2 to 9.6, REP6-063]:
- Alternative transport modes;
 - Alternative railway alignments;
 - Frequency of train services;
 - Opportunities (in design and operation) to avoid or have a lesser effect on the European site; and
 - A 'do nothing' scenario.

- 6.12.4. Paragraph 9.2.17 of the HRA Report [REP6-063] concludes the Applicant's position that *"numerous studies and reports have concluded that reopening of the Portishead Branch Line for heavy rail services is fully justified on the grounds of reducing congestion and increasing mobility. No feasible alternatives to a heavy rail railway as the transport mode for achievement of the project's objectives have been identified. The Portishead Branch Line track bed is in situ and large parts are existing operational railway. There is no realistic alternative that will achieve the aims of promoting mobility, reducing congestion and thereby benefiting human health and the environment"*.
- 6.12.5. The Applicant also concludes that, *"No possible, less-damaging alternatives to the DCO Scheme have been identified that would meet the Scheme objectives with any lesser effect on the integrity of the Avon Gorge Woodlands SAC."*
- 6.12.6. Alternatives to the Proposed Development have been discussed in a wider sense during the Examination by some IPs and these matters are discussed in particular in Section 5.2 of this Report. However, no representations have been made by NE or the LPAs querying or disputing the Applicant's consideration of alternative solutions in the HRA Report or its conclusions.
- 6.12.7. Having considered the Applicant's information on alternative solutions in section 9 of the HRA Report [REP6-063], the lack of representations on the matter, (and as the ExA have already considered in Section 5.2 of this Report re. busways) the ExA is satisfied that no feasible alternative solution exists that would represent a lesser adverse effect than the Proposed Development and satisfy the project's objectives. The ExA considers that sufficient information has been provided by the Applicant to allow the SoS as the competent authority to consider alternative solutions to the Proposed Development in accordance with the requirements of the Habitats Regulations.

6.13. IROPI

- 6.13.1. The Applicant sets out information to support the SoS making a case for IROPI in section 10 of the HRA Report [REP6-063]. This is summarised in section 6 of the RIES [PD-015].
- 6.13.2. During the course of the Examination on 24 February 2021, Defra published new guidance titled 'Habitats Regulations Assessments: Protecting a European site' which discusses derogation notices and the duty to protect, conserve and restore European sites. The Applicant's updated HRA Report at D6 [REP6-063] refers to this updated guidance.
- 6.13.3. The Applicant's information to inform IROPI sets out the different tests that it considers should be applied in respect of priority and non-qualifying habitats which are defined by the Habitats Regulations. Not all qualifying features of European sites are priority habitats under this definition. In respect of the Avon Gorge Woodlands SAC (as explained in

section 10.1 of the HRA Report [REP6-063]), the status of the qualifying feature habitat is as in the preceding section of this report at follows:

- *Festuco-Brometelia* grassland (non-priority natural habitat). The IROPI may include social or economic issues; and
- *Tilio-Acerion* woodland (priority natural habitat). The IROPI may only be considered under Regulation 64(2)(a) as those relating to human health, public safety or beneficial consequences of primary importance to the environment. Social or economic benefits may also be considered as “any other reasons” IROPI at the discretion of the competent authority under Regulation 64(2)(b).

6.13.4. The Applicant sets out its IROPI considerations in sections 10.3 to 10.6 of the HRA Report [REP6-063] including the following:

- **Public Safety** – Emergency services, transport modes, railway line safety through Avon Gorge;
- **Human health** – Air quality considerations, modal shifts and accessibility for active travel;
- **Overriding environmental benefit** – contribution of the Proposed Development towards wider MetroWest strategic aspirations including tackling car dependency and realising other wider environmental benefits; and
- **Overriding socio-economic benefit** – positive cost/ benefit ratio of the overall MetroWest programme.

6.13.5. In its comments on the ExA’s RIES [REP7-041], the Applicant clarified the ExA’s understanding of over-riding socio-economic benefits. Socio-economic reasons can now satisfy the IROPI tests for non-priority and priority habitat, as set out in the updated HRA guidance published by Defra in February 2021 (subject to getting “*the opinion of the relevant national government in England and Wales*”). This is also set out by the Applicant in the bullet points listed under paragraph 10.7.1 of the HRA Report [REP6-063]. These are matters for the SoS as the Competent Authority in respect of the Proposed Development.

6.13.6. The Applicant concludes at paragraph 10.7.1 of the HRA Report [REP6-063] that, in its view, “*consent for the DCO Scheme may be granted as the benefits outweigh the harm to the European site*”, listing a number of “*unusual*” circumstances in respect of the Proposed Development itself which support its IROPI case, summarised as follows:

- The impacts on habitats are not caused by the need to locate any part of the NSIP within the SAC, rather that the specific measures in the SAC are necessary to protect public safety by reducing the risk of accidents/ incidents on the existing line;
- The Applicant considers that the Proposed Development is one where the public good warrants consideration of social and economic reasons as IROPI;
- The upgrading of the railway line to accommodate passenger trains is a reversion to a service pattern that existed between 1867 and 1964 and does not change the existing rail line in its nature and the works required are mostly temporary in nature;

- The vegetation management required is cutting back rather than permanent removal, and on completion of the works it is expected that much of the vegetation that has been cut back would re-establish rather than be permanently lost;
- The Proposed Development offers considerable opportunity to improve the wider management and conservation of the SAC through greater collaboration between NR and the FC through the AGVMP [REP6-136]; and
- The grant of the DCO would provide an opportunity for the extension of the SAC boundaries to include areas of positive woodland management proposed adjacent to the SAC, in line with updated Defra guidance published in February 2021.

6.13.7. No IPs made representations or raised concerns directly around the IROPI case made by the Applicant in the HRA Report (including the relevant planning authorities and NE).

6.13.8. As set out in paragraph 6.0.7 of the RIES [PD-015], the ExA notes that the IROPI case put forward by the Applicant refers to other important application documents that support its position, in particular:

- The TA [APP-155 to APP-172];
- Outline Business Case [APP-201 to APP-203];
- Relevant sections of the ES:
 - Chapter 7 - Air Quality and Greenhouse Gases (and supporting Appendix 7.5 Climate) [REP6-074 and REP6-112]; and
 - Chapter 14 - Socio-Economics and Economic Regeneration [APP109], supporting appendices 14.1 (Equality Impact Assessment) and 14.2 (Health Impact Assessment)) [APP-154].

6.13.9. During the course of the Examination, various representations were made, and questions posed by the ExA [PD-010 and PD-014] around matters presented as part of these documents which relate to the wider consideration of the case for development consent. As stated above, none of these submissions challenged the basis for the Applicant's information to inform an IROPI case (if required).

6.13.10. The Applicant also provided a legal opinion on the HRA Report [REP6-133]. Paragraph 55 of that opinion deals with IROPI matters, concluding that *"Specifically, it is relevant [to the Secretary of State in deciding whether an IROPI case is made] that this is a scheme promoted by a consortium of local authorities for public good.....which will provide long term benefit for the public and the environment and which will contribute to overcoming and increasingly unsustainable highway links with attendant adverse consequences for social mobility, economic growth, public health and climate change"*.

6.13.11. Taking into account the policy context of the project under the NPSNN, the information surrounding the need case for the scheme, together with the environmental, human health and socio-economic benefits of the Proposed Development put forwards by the Applicant in sections 10.3 to 10.6 of the HRA Report [REP6-063], the ExA is of the opinion that the

SoS has sufficient information to inform a case for IROPI in respect of the Proposed Development which affects the Avon Gorge Woodlands SAC.

6.14. COMPENSATORY MEASURES

- 6.14.1. As set out above, much of the examination of HRA matters and representations made by NE [RR-022, REP2-045, REP3-017 and REP5-042] focused on the adequacy, delivery and efficacy of the compensatory measures proposed by the Applicant, as they evolved during the examination through hearings, further discussion and updated iterations of the HRA Report [APP-075, AS-027 and REP6-063].
- 6.14.2. Section 11.2 of the HRA Report [REP6-063] presents an overview of the compensation packages proposed by the Applicant, with the AGVMP [REP6-136] central to the delivery of these measures (to be a certified document under the DCO and compliance with the AGVMP to be secured under DCO requirement 14):
- Compensation for loss of *Tilio-Acerion* Woodland habitat (1.45 ha to be provided);
 - Whitebeam replacement planting (54 trees to be planted); and
 - Grassland compensation (0.15 ha to be provided).
- 6.14.3. The Applicant's initial proposed compensatory provisions for the loss of *Tilio-Acerion* Woodland and Whitebeam replacement planting related to measures to be implemented within four areas of land under the ownership of NR. This became referred to as 'Package 1'.
- 6.14.4. However, in response to further discussions with stakeholders during examination, a preferred alternative compensation proposal was formed that used FC land for some of the replacement whitebeam planting (sections 2.1 and 2.2, Annex H of the AGVMP [REP6-136]) and FC land for all of the positive woodland habitat management (section 4.1, Annex M of the AGVMP [REP6-136]). This was referred to as 'Package 2'.
- 6.14.5. These distinctions are set out here for context and to aid the reader in understanding the detail of the further consideration of these matters in the following sections.

***Tilio-Acerion* Woodland**

- 6.14.6. Section 7.1 of the ExA's RIES [PD-015] summarised the Applicant's position in respect of compensation for the loss of *Tilio-Acerion* Woodland.
- 6.14.7. The loss of 0.73 ha of *Tilio-Acerion* woodland as a result of the Proposed Development is considered by the Applicant to represent a worst-case estimate which is likely to be minimised during the GRIP5 detailed design process [11.3.1, REP6-063].
- 6.14.8. The specifics of the woodland compensatory measures are set out in section 11.3 of the HRA Report [REP6-063]. It principally requires the positive management of woodland habitat (both ancient semi-natural and

secondary recent woodland) over a total area of 1.45 ha, a figure agreed as being appropriate with NE at 6.1.8 of its SoCG [REP6-146].

- 6.14.9. The physical measures/ works proposed as part of this active management have not been subject to particular dispute during the Examination, however representations were made by NE relating to the location and legal specifications of the measures as set out below.
- 6.14.10. At ISH3 [EV-010], NE raised concerns about the location of the 'positive management measures' proposed by the Applicant in the Application version of the HRA Report [APP-142]. NE's concerns primarily related to the provision of woodland compensation on NR owned land and the difficulty of distinguishing between measures that are in connection with the Proposed Development and any positive management that NR is already obliged to carry out under the Habitats Regulations. NE stated in its WR [REP2-045] that the proposed active management and compensation needed "*to be clearly over and above what would normally be expected of the site owner to achieve favourable condition*".
- 6.14.11. As set out above at paragraph 6.11.21, the ExA asked questions at ExQ1 [PD-010] to fully understand the relationship between the Applicant's AGVMP and the ongoing duties of NR under their SMS. The Applicant's response [REP2-013 and REP4-018] set out its view that the '*positive management measures* [set out in the Avon Gorge Woodlands SAC Site Improvement Plan (SIP)] *therefore, for whatever reason are not occurring in the form envisaged in these documents and there is no reason to suppose that situation would change. There is no detail on how they would be achieved or assurance that they will be*'. This is in contrast with (in the Applicant's view) "*clear, focused and targeted management in specific areas*" as proposed by its AGVMP for the Proposed Development [REP4-018].
- 6.14.12. This prompted further questions to NE at [PD-014] who responded at [REP5-042], concluding that whilst "*little progress has been made to date on implementing agreed measures in the SMS and VMP*", this should not "*be taken to be grounds for authorising similar positive management measures on NR land within the SAC as compensation*" for the Proposed Development.
- 6.14.13. Following ISH3 [EV-010] the Applicant's clarified its position at D4 [REP4-017] and D5 [REP5-028], stating that NR agrees that the AGVMP [REP6-063] had been prepared in collaboration with the Applicant and that it would "*aid in drawing distinction between requirements specifically related for the DCO scheme and the day-today activities NR and NE have agreed under the terms of the current SMS*".
- 6.14.14. The ExA notes that paragraph 32 of the legal opinion submitted on behalf of the Applicant [REP6-133] explains that the updated Defra HRA guidance "*does not as a separate requirement refer to the [compensatory] measures not being additional to normal practice*".

- 6.14.15. The delivery of compensatory measures within NR land ownership was intended to provide NE with flexibility to approve whichever of the areas of compensation on NR and FC land identified by the Applicant that it considered would best compensate for the predicted harm. As further discussions between the Applicant and NE advanced during the examination process the Applicant referred to this as an 'adaptive approach' to delivery of compensation in respect of sites on both NR and FC land.
- 6.14.16. In paragraphs 11.1.4 to 11.1.5 of the HRA Report [REP6-063], the Applicant's view remained that the SoS could be satisfied with the security of the compensatory measures and also that the woodland conservation measures that NR is required to take in order to maintain or restore favourable conservation status within its SAC ownership would be delivered in accordance with existing management plans independently of the DCO Scheme.
- 6.14.17. However, during the course of the Examination in consultation with NE, the Applicant identified that all of the proposed woodland compensation could be provided on FC land and that this was NE's preferred option because it would allow measures connected with the Proposed Development to be better distinguished from the positive management that NR is already obliged to carry out.
- 6.14.18. At D7 the Applicant submitted a copy of its final, executed agreement with the FC allowing for the delivery of the proposed woodland compensation entirely on FC land [REP7-064]. The location of the FC land to which the agreement relates is shown at Annex M of the AGVMP [REP6-136] and as Appendix 1 to the agreement itself.
- 6.14.19. Under the terms of the agreement "*The DCO Scheme will deliver the agreed level of compensation for the SAC by improving an equivalent area of land on FC property adjacent to but outside the SAC rather than undertaking woodland compensation on NR land within the SAC*" [REP7-064].
- 6.14.20. Although both options for positive management (either on FC Land, or NR land) are retained in the DCO by the Applicant and could be delivered under the AGVMP (section 4.1.2, REP6-136], the Applicant's comments on the ExA's RIES [REP7-041] clarified the intention of the Applicant as detailed in the agreement [REP7-064]:
- Requirement 14 and the AGVMP [REP6-136] commit the Applicant to delivery of the positive woodland management measures entirely on FC land (4.1.2 and 8.1.5 of the AVGMP);
 - The formal execution of the agreement was not possible until an advanced stage of the Examination, hence the option of using NR land for some or all of the positive woodland management was necessarily retained in case the agreement was not able to have been executed.
 - Although it would be possible to progress some woodland compensation on NR land:

- NE has expressed a clear preference for delivery of compensation solely on FC land (as per the agreement, and set out in 6.1.8 of the SoCG [REP6-146]) and it expresses reservations regarding the delivery of the compensation if located within NR land either in whole or in part (as set out in the ExA's RIES [7.1.3 to 7.1.5, PD-015]; and
 - The delivery of woodland compensation in whole or in part on NR land is not the preferred outcome of the Applicant and may necessitate amendments to Requirement 14 [REP7-041].
- 6.14.21. The legal opinion provided on behalf of the Applicant states that *"unless the Secretary of State specifies otherwise in determining the DCO application, all compensatory positive woodland management will be undertaken on land adjacent to the SAC which is owned by the Secretary of State for Environment, Food and Rural Affairs and managed by the FC, in accordance with the detailed woodland management plan and monitoring at Annex M to the AGVMP"* [REP6-133].
- 6.14.22. The legal opinion also explains that the FC land compensation option no longer relies on an "adaptive" approach as was allowed for in the original version of the AGVMP submitted as part of the Application, which was the subject of questioning at ExQ1 [PD-010].
- 6.14.23. The Applicant would be responsible for the delivery of the AGVMP regardless of whether the NR or FC land would provide the woodland compensatory measures (including implementation and monitoring provisions in paragraphs 48, 51 and 52 of the legal opinion [REP6-133]).
- 6.14.24. Consequently, the ExA is satisfied that the woodland compensatory measures are adequately secured as part of the DCO provisions and sufficiently detailed in the AGVMP [REP6-136], a certified document under DCO schedule 17. The total area required for positive management in woodland habitat (estimated at 1.45 ha), is more than double the area lost as a result of the Proposed Development. The ExA agrees with the Applicant's conclusions that, once the ongoing proactive woodland management is in place as part of the AGVMP, there would be no further net loss of priority habitat and that the quality and condition of retained qualifying habitat would likely increase and improve the condition of the SAC qualifying features.
- 6.14.25. The executed legal agreement [REP7-064] provides sufficient certainty that the woodland compensatory measures would be delivered by the Applicant on FC land, and this is the preferred option of both NE and the Applicant.
- 6.14.26. The ExA sees no reason to recommend to the SoS anything other than the woodland compensatory measures as secured under the executed agreement [REP7-064], particularly as to do so would go against the advice of NE and is not the preferred solution of any party. The ExA's recommendation is therefore based on the delivery of woodland compensatory measures entirely within land owned by FC as shown at Annex M of the AGVMP [REP6-136] and as Appendix 1 to the agreement [REP7-064].

6.14.27. Paragraph 2.4.10 of the HRA Report [REP6-063] explains that under the February 2021 revised HRA guidance that, if an area providing compensatory measures is not within the European site, it should become designated as part of the European site and that it is protected under government policy until that happens. The legal opinion also cites these points at paragraphs 13 and 42 [REP6-133]. However, it is noted that any extension of the SAC to include the positive woodland management compensation does not fall within the scope of the ExA to recommend or the SoS to consider in its role as consenting authority for the Proposed Development under the PA2008. Such matters would be at the discretion of the SoS for Defra to consider separately from the DCO process. No account has been taken of the future status of the FC land as a European site in this Report.

Whitebeam Replacement Planting

- 6.14.28. The Proposed Development is predicted to result in the loss of up to 27 rare Whitebeam trees that are key species of the *Tilio-Acerion* forest qualifying feature (as set out in paragraph 6.11.24 of this Report).
- 6.14.29. The Applicant explained that although the general positive management of existing *Tilio-Acerion* woodland would contribute towards compensating for the loss of whitebeams, additional compensation is proposed for the anticipated loss of individual trees [11.5.1, REP6-063].
- 6.14.30. The proposed compensatory package comprises planting of 54 whitebeam saplings to replace those lost (a 2:1 replacement ratio). This includes for contingency provision for trees which the Applicant has (on a worst-case basis) has assessed as being lost but for which they hope to be able to retain.
- 6.14.31. The nature of the compensation measures has not been subject of dispute during the Examination, however representations were made by NE relating to the location of two of the proposed planting sites located on NR land [REP2-045, REP3-017, REP5-042]. These comments were made based on the HRA Report versions [APP-075] and [AS-027] prior to further discussions and revisions to the planting site provision during the examination.
- 6.14.32. The programme of whitebeam conservation is explained in Section 5.7 and Annex H of the AGVMP [REP6-136]. A programme of seed collection and propagation has been in place since 2016 to provide sufficient saplings to compensate for those lost. The issues and challenges associated with propagation of particular species, was considered through the ExQ1 [PD-010], which responded to the Applicant's description in section 5.7 of the AGVMP that "*Not all species can be replanted on a two for one basis, however, due to some species such as Avon whitebeam being more difficult to propagate*". In particular, the ExA sought to understand the adequacy of the compensation package if the Applicant was unable to replant all types of species on a 2 for 1 basis.

- 6.14.33. NE recognised the difficulties associated with the approach to successful propagation of the species involved, and that *“the applicant is exhausting all possibilities to maximise the number of these species planted as part of the compensation. Given this we are satisfied that the compensation package will be as optimal as it can be in terms of species of Whitebeam used”* [REP2-045]. NE’s agreement in this regard is set out in its signed SoCG with the Applicant [6.1.4, REP6-146], and it is also considered specifically at paragraph 50 of the Applicant’s legal opinion [REP6-133].
- 6.14.34. As referred to above, NE expressed concern with two of the proposed whitebeam planting sites included in the Application version of the HRA Report [APP-075] and AGVMP [APP-141]. NE considered that the Miles Dock and one of the two Nightingale Valley sites (part of the original package 1 compensatory provisions as set out at 11.5.4 to 11.5.13 of [APP-075]) were inappropriate locations for whitebeam planting because they could adversely affect existing habitat features that are associated with the SAC/SSSI. This issue was also discussed at ISH3 [EV-010]. At D4 of the Examination the Applicant noted that discussions were ongoing with the FC and NE regarding the whitebeam compensation sites but maintained that their original approach with regard to the Miles Dock and Nightingale Valley sites was justifiable against the Habitats Regulations in their view [REP4-018].
- 6.14.35. As a result of these further discussions modifications were made to the whitebeam planting proposals towards the end of the examination, including the addition of a new site (as described in paragraph 11.5.5 of the HRA Report [REP6-063]).
- 6.14.36. The revised planting proposals comprised two alternative packages, set out in Annex H to the AGVMP [REP6-136];
- **Package 1** – the original planting sites detailed in the Application version of the HRA Report [APP-142] (but with minor modifications), all within NR land; and
 - **Package 2** - a new planting site on FC land plus two of the original sites identified on NR land, removing the Nightingale Valley 1a site and the Miles Dock site in response to NE concerns over aspects of package 1.
- 6.14.37. The proposed planting packages are summarised in Table 11.1a of the HRA Report [REP6-063], showing that sites identified as site 1a, 1b, 2 and 3 are associated with package 1, and sites 1b, 3 and 4 are associated with package 2. The characteristics of these sites are summarised in paragraph 11.5.5 and 11.5.9 to 11.5.14 of the HRA Report [REP6-063] and described further in Annexes H of the AGVMP [REP6-136] (including location plans at Figures 2-6 of Annex H).
- 6.14.38. The RIES [7.2.8, PD-015] set out the understanding that the DCO (if made as drafted) would allow for the delivery of either package under the AGVMP as secured by DCO requirement 14. At ISH 3 [EV-010] the ExA asked a number of questions as to whether or not a ‘hybrid’ solution between packages 1 and 2 could be delivered.

- 6.14.39. In the Applicant's comments on the RIES [REP7-041], it confirmed that, under the terms of the AVGMP [REP6-136] it is committed to delivering whitebeam planting package 2 (on FC land) "*unless the Secretary of State determines otherwise*" (paragraphs 4.1.2, 5.7.5 and 8.1.5 of [REP6-136]). Similar to the *Tilio-Acerion* Woodland compensatory measures, the combination of DCO Requirement 14, the AGVMP [REP6-136] and the executed agreement relating to FC land [REP7-064] commits the Applicant to the delivery of whitebeam planting package 2.
- 6.14.40. The agreement between the Applicant and the FC securing package 2 is the preferred option for NE and the Applicant as set out in 6.1.7 of the SoCG: "*Natural England is satisfied that Whitebeam Planting Package 2 can deliver compensation that will meet the relevant legal requirements*" [REP6-146]. Item 6.1.6 of the SoCG refers to package 1 and records agreement that "*the SAC qualifying features at the Miles Dock Embankment and Nightingale Valley 1a sites will not be adversely affected*" but that NE retain concerns about the potential impacts of whitebeam planting on the features associated with the Avon Gorge SSSI within these sites, hence package 2 remains NE's preferred option.
- 6.14.41. The ExA is satisfied that the measures proposed by way of whitebeam replacement planting are appropriate to compensate for the loss of key species of the *Tilio-Acerion* forest qualifying feature. Table 11.1a of the HRA Report [REP6-063] demonstrates, for example that 12 Avon *whitebeam S. avonensis* trees will be lost (to be replaced with five specimens) and five Round-leaved whitebeam specimen trees would be lost (to be replaced with twenty-seven specimens). In short, although an overall 2 for 1 replacement ratio is secured, this is not equally proportioned across whitebeam species, due to difficulty of propagating certain species (such as Avon whitebeam) compared with others [section 5.7, REP6-136].
- 6.14.42. However, the ExA is satisfied that the Applicant is exhausting all possibilities to ensure the compensation package would be as optimal as it can be in terms of species of whitebeam used based on the relative successes of individual species propagation. This conclusion is also supported by NE [6.1.4, REP6-146]. In the view of the ExA, these measures would satisfy the relevant tests under Regulations 63 and 64 of the Habitats Regulations.
- 6.14.43. As set out above in respect of the woodland compensatory measures, the ExA sees no reason to recommend to the SoS anything other than the approval of replacement planting package 2 as secured under the executed agreement [REP7-064], particularly as to do so would go against the advice of NE and is not the preferred solution of any IP. In particular, NE retain concerns about the potential impacts of whitebeam planting package 1 on the features associated with the Avon Gorge SSSI. The ExA's recommendation is therefore based on the assumption that compensation would be delivered under package 2, within land owned by FC as shown at Annex M of the AGVMP [REP6-136] and in Appendix 1 to the agreement [REP7-064].

***Festuco-Brometalia* Grassland Compensation**

- 6.14.44. The loss of 0.06 ha of grassland habitat that is a qualifying feature of the Avon Gorge Woodlands SAC relates to:
- a temporary site compound in the former quarry site (Quarry 2) (0.04 ha);
 - clearance of grassland along the new railway fence line (0.008 ha); and
 - loss of grassland as a result of geotechnical work on rock-faces (0.008 ha).
- 6.14.45. As set out in paragraph 8.5.6 of the HRA Report [REP6-063], the loss is estimated at 0.84% of the total grassland habitat within the SAC, and this has been considered as a worst case given the Applicant's acknowledgement that the "*temporary losses*" would occur over a number of years during the construction phase and that it would take time for the habitat to regenerate and restore after completion of the 20 month construction period.
- 6.14.46. The general protective mitigation measures set out in paragraphs 6.6.32 of this Report and section 4.3 of the ExA's RIES [PD-015] would be for the general the benefit and protection of the SAC. These measures include the provisions within the CoCP [REP6-132], master CEMP [REP7-023] and AGVMP [REP6-136] secured through Requirements 5 and 14 of the recommended DCO.
- 6.14.47. In addition to these general provisions, the Applicant has proposed compensatory measures in the form of specific improvements to the condition of existing areas of *Festuco-Brometalia* grassland through positive vegetation management including scrub control, removal of non-native species and a conservation strategy for Bristol rock-cress *Arabis scabra* (to include micro-siting provisions for the detailed design phase and potential translocation).
- 6.14.48. The location of positive management areas is shown in Annex F of the AGVMP [REP6-136] and the management prescriptions for each of the areas are set out in Annex G. A separate conservation strategy is provided for Bristol rock-cress in Annex K of the AGVMP.
- 6.14.49. As set out in paragraphs 7.3.5 to 7.3.7 of the RIES [PD-015], NE suggested that the Applicant needed to explore alternative locations for offsite grassland compensation for the same reasons set out in relation to the positive woodland management; that proposed compensation measures should be over and above those that ought to be undertaken anyway by NR under its statutory duties [EV-010 and REP5-042].
- 6.14.50. The Applicant responded to these points at ISH3 [REP4-017] and [REP4-018]. In its view compensation for the loss of the grassland (in the form of positive management) could only be provided for on NR and/ or NT land as this grassland qualifying feature of the SAC does not occur on FC land to which the woodland and whitebeam replanting compensatory provisions relate.

- 6.14.51. Items 6.1.9 and 6.1.10 of the SoCG between NE and the Applicant [REP6-146] demonstrate agreement of the grassland compensation package (including specific measures for the protection and management of the Bristol rock-cress, a species listed under Schedule 8 of the WCA). The agreement is understood to be based on the following:
- 0.04 ha of the 0.06 ha loss would be temporary (for the duration of the construction phase);
 - the positive management would benefit an area greater than double the area of the combined temporary and permanent loss; and
 - the area of loss is considered to be small relative to the total extent of the SAC and grassland habitat therein (6.93 ha total within the SAC, [8.2.4, REP6-063]).
- 6.14.52. The ExA is satisfied that the compensatory package for *Festuco-Brometalia* grassland is adequately defined and could be secured and delivered under the provisions of the AGVMP [REP6-136]. The ExA is of the view that, as set out above, the positive management would benefit an area greater than double the area of the combined temporary and permanent loss and that, in any case, the loss is considered to be in the order of 1% of the total grassland extent of the SAC (based on a worst case 0.06 ha loss calculation). The ExA is satisfied that the compensation proposed has the overall potential to improve the condition of existing areas of SAC qualifying grassland on NR land.
- 6.14.53. The ExA agrees with the Applicant's position that compensatory grassland measures can only be provided for on NR and/or National Trust land as this grassland qualifying feature of the SAC does not exist on the separate FC land to which other compensatory provisions relate. This position is supported by NE's SoCG with the Applicant [6.1.9 and 6.1.10, REP6-146] regarding the grassland compensatory provisions and specific proposals for the conservation of Bristol rock-cress in Annex K of the AGVMP [REP6-136].

6.15. HRA CONCLUSIONS

- 6.15.1. The Applicant's HRA Report [REP6-063] and accompanying submissions (including a legal opinion [REP6-133]) have been considered carefully, along with the evidence and submissions discussed in this Chapter of this Report in order to form the ExA's assessment of the Proposed Development's implications for European sites.
- 6.15.2. The Proposed Development is not directly connected with, or necessary to, the management of a European site, and therefore the implications of the project with respect to adverse effects on potentially affected sites must be assessed by the SoS.
- 6.15.3. Two European sites were considered in the Applicant's assessment as having the potential for LSE as a result of the Proposed Development. The ExA is satisfied that the correct European sites and qualifying features have been identified for the purposes of assessment, and that all potential impacts which could give rise to significant effects have been identified.

- 6.15.4. The ExA's findings are that, subject to the mitigation measures to be secured in the DCO, AEOI on the North Somerset and Mendip Bats SAC when considered alone or in combination with other plans or projects can be excluded. Similarly, potential effects of habitat degradation during construction and all operational effects on the Avon Gorge Woodlands SAC would not result in AEOI alone, or in combination.
- 6.15.5. AEOI on the Avon Gorge Woodlands SAC from habitat loss from the Proposed Development alone during construction cannot be excluded.
- 6.15.6. The Applicant has submitted an assessment of alternative solutions, a case for IROPI, and proposed compensation measures. The alternative solutions and IROPI were not disputed during the examination. The compensatory measures were given substantial consideration during the Examination and are supported by NE, NSDC and BCC in their SoCGs with the Applicant [REP6-146, REP7-025 and REP7-026].
- 6.15.7. The ExA is satisfied that no feasible alternative solution exists that would represent a lesser adverse effect to the Proposed Development and satisfy the project objectives. The findings of the Examination are that the compensation package as proposed is feasible and appropriate and is adequately secured in the recommended DCO (Appendix C). The ExA sees no reason to recommend to the SoS anything other than the approval of woodland management and replacement planting package 2 as secured under the executed agreement [REP7-064] for the reasons set out above. Given the evidence available, with regards to the case for IROPI the ExA is of the opinion that IROPI for the Proposed Development could be established.
- 6.15.8. The ExA considers that there is sufficient information before the SoS to enable them to undertake an AA; to apply the derogation tests of the Habitats Regulations in respect of alternative solutions, IROPI and compensation; and to fulfil his duty under the requirements of the Habitat Regulations.

7. CONCLUSION ON THE CASE FOR DEVELOPMENT CONSENT

7.1. INTRODUCTION

- 7.1.1. This Chapter considers the overall planning merits of the Proposed Development and the case for development consent. It brings together the legal and policy context set out in Chapter 3 and the matters, issues and findings determined in relation to the planning issues in Chapter 5. Whilst the HRA has been considered separately in Chapter 6, relevant matters are taken fully into account.
- 7.1.2. Examination library references are not included in this summary, but the full references are available from the corresponding sections of Chapters 5 and 6 of this Report.

7.2. SUMMARY OF THE PLANNING ISSUES AND COMPLIANCE WITH NATIONAL POLICY

The Principle and Need for the Proposed Development including Alternatives

- 7.2.1. The ExA is satisfied that the Proposed Development is an NSIP under s14(1)(k) and s25 of the PA2008 as the construction or alteration of a railway. This is a decision that falls to be determined under s104 of the PA2008 for which the NPSNN is the designated NPS, providing the primary basis for making such decisions. Paragraph 2.36 of the NPSNN concludes that at a strategic level there is a compelling need for development of the national rail network to meet the need set out in paragraphs 2.28 to 2.29.
- 7.2.2. Due to the nature of the project, which follows the route of both an existing and former railway, there are very limited alternatives available in terms of route options or alternative methods of transport. The ExA is therefore satisfied that it has met the requirements as prescribed in the EIA Regulations.
- 7.2.3. The ExA is satisfied that the Proposed Development would contribute to the established need for alternative modes of travel and would provide a viable alternative to travelling by car. The transport-related benefits of the Proposed Development and its resultant conformity with the NPSNN weigh heavily in favour of the Proposed Development. The principle of and need for the Proposed Development therefore attracts positive weight in the Planning Balance.

Biodiversity, Ecology and the Natural Environment

- 7.2.4. The ExA is satisfied that the Applicant has updated the wildlife surveys where necessary (including the most recent surveys on toads), and that the mitigation measures would be appropriately secured by Requirement 5 of the recommended DCO. The ExA is satisfied from the updated bat

surveys and proposed mitigation measures that there would be no likely significant effects on the integrity of the North Somerset and Mendip Bats SAC populations. Effects on GCN would be appropriately managed by the use of DLL and mitigation measures set out in the Master CEMP.

- 7.2.5. Tree losses (outside the Avon Gorge Woodlands SAC) would be appropriately offset by new tree planting in a number of locations, together with a financial contribution via a mechanism which has been agreed by BCC.
- 7.2.6. The likely effects on European Sites are dealt with below at paragraphs 7.2.56 to 7.2.60. For all other aspects, the ExA concludes that in terms of biodiversity and the natural environment the Proposed Development would not give rise to any unacceptable effects and all relevant matters have been addressed during the Examination. The SoCG's with NE and the EA as well as NSDC and BCC confirmed that the parties were in agreement on these matters.
- 7.2.7. The Proposed Development would accord with the NPSNN, in particular paragraphs 5.24 to 5.38. The ExA considers the overall effect of the Proposed Development on the natural environment to be neutral in the planning balance.

Flood Risk and Water Quality and Resources

- 7.2.8. The ExA concludes that with the exception of the proposed permanent compound at Clanage Road (Work No 26) the Proposed Development would not give rise to any unacceptable risks in relation to flooding. The FRA has addressed both the Sequential and Exception tests required by the NPSNN. In terms of water quality and resources the ExA is satisfied that the Proposed Development would be compliant with the WFD and have no unmanaged adverse effects.
- 7.2.9. In terms of Work No 26 should the SoS be minded to grant the Order the ExA consider that Requirement 31(3) (Clanage Road, Bristol) would need to be amended to require that the level of the flood mitigation area is set at 7.3m AOD in accordance with the request of the EA. Without the amendment the ExA consider that there would be the potential for flooding from this site which would result in a negative effect in the planning balance.
- 7.2.10. In terms of Work No 3 the ExA consider that this site would be unlikely to flood and that the level of detail requested by the EA could be secured through an addition to the wording of Requirement 4.
- 7.2.11. These changes have been included in the recommended DCO and therefore the ExA consider that the Proposed Development would accord with the NPSNN, and that mitigation is adequately provided for and secured in the recommended DCO. The ExA is satisfied that the Proposed Development would have no significant effects on water and flooding and that there would be a neutral effect in the planning balance.

Traffic and Transport

- 7.2.12. The Proposed Development would offer a faster and viable alternative to car travel, enabling a modal shift to rail and assisting in reducing road traffic congestion and associated emissions. There would be no impacts on the SRN from the operational development as agreed by HE in its SoCG.
- 7.2.13. The ExA is satisfied with the level of parking provision for the proposed railway stations and that any future on-street parking issues could be properly dealt with by NSDC via the appropriate mechanisms available to them as local highway authority.
- 7.2.14. The ExA is satisfied that both freight trains and passenger trains would be able to run on the single railway track with the appropriate controls laid down in other railway legislation.
- 7.2.15. The ExA acknowledges that operational traffic movements to permanent compounds would be negligible, and consequently accepts that effects on NMUs would also be low. Full details of the permanent accesses, including surfacing materials at Ham Green and junction arrangements at Clanage Road and Portbury Hundred compounds, would be appropriately dealt with post-consent by the relevant planning authorities specifically through the imposition of Requirements 9 and 36.
- 7.2.16. The ExA acknowledges the concerns of Manheim and ETM and other IPs regarding increased down-time of the level crossing at Ashton Vale Road, but is satisfied that the modelling and data set out in the TA is fit for purpose, being representative of traffic volumes around the Ashton Vale industrial area. The proposed mitigation provided by Work No 28 and secured by Requirement 18 would provide a general betterment to the junction with Winterstoke Road.
- 7.2.17. The ExA acknowledges that the relevant local authorities are satisfied with all operational traffic and transport aspects of the Proposed Development. This is subject to submission of acceptable design and technical details in accordance with DCO Requirements 4, 9, 18, 30 and 36. The ExA concludes that traffic and transport impacts have been robustly dealt with and would accord with paragraphs 5.201 to 5.217 of the NPSNN. The overall effects relating to vehicle traffic and parking issues attract neutral weight in the planning balance, but the long-term benefits of the provision of train service as a viable alternative to the private car weighs heavily in favour of the Proposed Development in accordance with paragraphs 2.2, 2.28 and 2.29 of the NPSNN.

Air Quality, Carbon Emissions and Climate Change Adaption

- 7.2.18. The ExA recognise that there would be detrimental effects on air quality during construction but accept that these temporary short-term impacts would be reduced to an acceptable level through embedded design and

good practice measures secured through the recommended DCO. This would attract a neutral weight in the planning balance.

- 7.2.19. The ExA accept that due to the proposed use of DMUs CO₂ emissions would increase because of the Proposed Development. However, the ExA is satisfied that when considered as part of the total CO₂ emissions generated nationally by the transport sector the predicted increase would be exceptionally small and would not adversely affect air quality or the Government's ability to meet the carbon reduction targets set by the Climate Change Act 2008 (as amended) and the Carbon Budget Order 2021.
- 7.2.20. Furthermore, the ExA consider that significant weight can be given to the TDNS and, on the basis of the evidence that it has read and heard, consider that it is more than likely that in the medium to long term NR would introduce bi-modal trains and/ or electrify the line which would not only reduce CO₂ emissions but NO_x and PM₁₀ emissions. Furthermore, the Proposed Development would enable the modal shift from road to rail advocated by the NPSNN paragraph 2.40.
- 7.2.21. Accordingly, the ExA consider that in respect of air quality, the Proposed Development would attract neutral weight in the planning balance. In respect of carbon emissions, due to the use of DMU's the Proposed Development would attract a negative weight in the planning balance, albeit that the ExA considers that the SoS can attach significant weight to the likelihood that DMUs would in the long term be removed from the network. In terms of climate change adaption by enabling a modal shift away from the car the Proposed Development would attract positive weight in the planning balance.

Construction Impacts

- 7.2.22. The ExA acknowledge the range of adverse effects that would arise during the construction phase of the Proposed Development. Whilst the use of the other main compounds has not raised any significant concerns, effects would be felt most markedly in and around the village of Pill and the Lodway Compound. The ExA is satisfied that such effects would be temporary and issues of noise, disturbance and dust and any potential effects on living conditions could be adequately controlled through the CEMP to be secured by Requirement 5. The ExA also acknowledges that damage to property during construction could be appropriately remedied by the Applicant through use of pre-construction surveys and measures to protect property as set out in the Master CEMP.
- 7.2.23. Construction traffic effects would also be felt most significantly in Pill, but the ExA is satisfied that the use of a haul road on the Marsh Lane perimeter track at RPD would significantly reduce the necessity for construction vehicles to use the street network in this area, whether a temporary rail siding or road haulage is used to transport ballast and other materials.

- 7.2.24. The ExA is satisfied that the use of CWTPs (as secured by Requirement 5(3e)) would assist in mitigating the number of and effects from construction travel workers' vehicles on the local road network, and the CTMP would control movements of larger heavy vehicles in Pill.
- 7.2.25. The ExA are satisfied that any damage to the perimeter track through RPD and potential dust transfer to the vehicle compounds adjacent to the track could be adequately dealt with via Requirements 5 and 35.
- 7.2.26. The ExA consider the proposed diversions of PRoWs and permissive paths to be reasonable alternative routes during construction, with appropriate safety measures including signage to be utilised by the local highway authority if deemed necessary.
- 7.2.27. The ExA are satisfied that measures in the CoCP and schedule of mitigation would ensure that any dust generated which might affect trees would be secured through Requirement 5, and note that NE are satisfied that there would be no significant air quality effects on any designated sites.
- 7.2.28. Occasional closures of the existing freight line to enable works to be carried out safely could be dealt with through other legislation, therefore the ExA consider it is unnecessary to include any relevant agreements to blockades and possessions in the Recommended DCO.
- 7.2.29. Overall, the ExA is satisfied that the Proposed Development would accord with the parts of the NPSNN relating to construction management and mitigation, and that mitigation would be adequately secured in the recommended DCO. Overall construction effects attract negative weight in the planning balance, particularly within Pill. However, construction would be for a temporary period and, in most locations would be short-term in length, so the ExA consider that limited weight is afforded to such effects.

Design and Landscape and Visual

- 7.2.30. The ExA are satisfied that the Applicant has applied adequate good design principles to Portishead and Pill railway stations, which would form the most publicly visible parts of the Proposed Development. Visual impacts would be localised to a small area of each of the settlements with limited harm to the wider landscape, and therefore the ExA considers that the visual effects of the proposed stations attract neutral weight in the planning balance.
- 7.2.31. The ExA acknowledges that the appearance of the proposed fencing is functional in terms of security and safety, however it is satisfied that the visual effects would diminish over time with vegetation growth. Details of the fencing design including its colour would need to be agreed in advance by the relevant planning authority. Accordingly, it attracts neutral weight in the planning balance.
- 7.2.32. The ExA considers that there would be significant visual harm arising from the proposed Trinity Footbridge. It would represent a large metal

structure which would appear discordant with its surroundings, residential dwellings and pleasant open spaces. The effects would be detrimental to the living conditions of residents of the nearest properties.

- 7.2.33. The ExA recognises the benefits of the footbridge in maintaining the existing permissive route across the railway line and in avoiding severance, in accordance with paragraph 3.22 of the NPSNN. However, the alternative routes via the new footpaths alongside each side of the railway line would not significantly increase journey times for NMU's, representing a credible and pleasant alternative route to the proposed footbridge ramps and steps. The ExA considers that the level surface of the route would satisfy the PSED.
- 7.2.34. The ExA do not accept that there would be significant trespass issues in this particular location, which would benefit from security fencing and natural passive surveillance from existing housing and the school. The removal of the footbridge would also allow a greater amount of existing vegetation to be retained adjacent to the railway line.
- 7.2.35. The ExA is not satisfied that the bridge structure could be effectively mitigated by a coloured finish, application of perforated screens and tree planting. It attracts negative weight in the planning balance and as such the ExA recommend that Trinity Footbridge should be deleted from Work No 7.
- 7.2.36. Subject to the recommended DCO where Trinity Footbridge has been deleted from Work No 7, the ExA is satisfied that the Proposed Development would otherwise be acceptable in relation to design and landscape and visual matters, and that where necessary appropriate mitigation could be secured in the recommended DCO. Overall, design and landscape and visual impact would attract a neutral weight in the planning balance.

Land Use

- 7.2.37. The ExA is satisfied that the Proposed Development would not cause any significant harm to residential, commercial and community land. The ExA is equally content that the effects on agriculture would be short-term and temporary and would suffer no long-term damage. The Master CEMP, to be secured by Requirement 5, would ensure that adequate management and mitigation measures are in place to minimise any harm.
- 7.2.38. The ExA accepts that the Proposed Development would amount to local transport infrastructure which can demonstrate a requirement for a GB location and that, with the exception of the temporary and permanent compounds and works, the Proposed Development would not adversely affect the openness of the GB or conflict with the purposes of including land within it.
- 7.2.39. With regards to the temporary construction compounds and other temporary works the ExA considers that the such developments would not fall within the exceptions for new buildings as prescribed by Paragraph 145 of the NPPF. Their very nature and size would harm

openness and as such these works must be deemed to be inappropriate development. However, the ExA is satisfied that given their modest scale and the temporary nature of the works, together with the measures secured in the recommended DCO there would be no permanent damage or harm. The ExA therefore concludes that Very Special Circumstances would exist that would outweigh the harm that would result from these elements of the scheme.

- 7.2.40. With regards to the permanent works (Work Nos 24, 26 and 26B), the ExA is of the opinion that whilst such developments would be defined as local transport infrastructure which can demonstrate a requirement for a GB location and would not conflict with the purposes of including land within it, they would not preserve its openness (paragraph 146 of the NPPF). However, the ExA is satisfied that it has been demonstrated that the works have been designed to minimise their impact on openness and that they would be necessary to support the Proposed Development and could not be located elsewhere. Therefore in relation to the GB the ExA concludes that Very Special Circumstances would exist that would outweigh the harm that would result from these permanent works.
- 7.2.41. The majority of the works required for permanent diversions of PRowS would be relatively minor and necessary for reasons of safety. In particular, the ExA is satisfied that the proposed bridleway extension (Work No. 18) would provide an alternative route under the M5 so that horse riders and other NMU's would not need to travel in close proximity to trains under the existing road bridge forming part of NCN 26.
- 7.2.42. Accordingly, the ExA is satisfied that the Proposed Development would have no likely significant effects on land use and would accord with the NPSNN, and mitigation is adequately provided for and secured in the recommended DCO. As a whole due to the opportunities and benefits that the scheme would deliver the ExA consider that in relation to land use the weight in the planning balance would be positive.

Socio-Economic

- 7.2.43. The ExA consider that significant benefits would arise from the operational use of the railway, particularly in reducing journey times and providing a choice of transport modes and gives this positive weight in the planning balance. Economic benefits in terms of employment provision both during construction and operation would also have positive benefits, weighing in favour of the Proposed Development.
- 7.2.44. The ExA acknowledges the representations of businesses in the Ashton Gate area but accepts that the railway line and level crossing have been in place for a considerable length of time and considers that the mitigation measures would provide a general betterment to the junction. These matters are neutral in the planning balance.
- 7.2.45. Whilst tourism wasn't directly assessed by the Applicant, the ExA acknowledges that effects on tourism activity and spending are difficult

to quantify but Portishead in particular is likely to benefit from a potential future increase in visitor numbers.

- 7.2.46. Any effects during the construction period on local events such as the balloon festival would be minimised by measures in the CEMP to be secured by Requirement 5. Matters relating to loss of some areas of open space and recreation have some negative weight but due to its largely temporary effects the ExA considers them to be neutral in the planning balance. Diversion to existing PRoWs and permissive paths would also be largely temporary and therefore of neutral weight in the balance.
- 7.2.47. The mitigation measures embodied in the Proposed Development would minimise significant adverse effects on health and quality of life as set out at section 5.195 of the NPSNN.
- 7.2.48. Accordingly, the ExA is satisfied that the Proposed Development would have no likely significant effects on socio-economic matters and would accord with the NPSNN. Necessary mitigation is adequately provided for and secured in the recommended DCO. Overall, the ExA considers there would be positive weight in the planning balance.

The Historic Environment

- 7.2.49. The ExA is satisfied that there would be no substantial harm from the construction or operation of the Proposed Development either physically or on the setting of any archaeological remains, historic buildings or structures, RPG, HLC or Conservation Areas in the surrounding area, nor would there be the total loss of any heritage assets as a result of the Proposed Development. The measures set out in Requirement 10 (Archaeology) would ensure that no residual impacts resulting in significant effects on heritage assets are predicted.
- 7.2.50. Accordingly, the ExA is satisfied that the Proposed Development would have no likely significant effects on the historic environment and paragraphs 5.131 to 5.135 of the NPSNN have been addressed.
- 7.2.51. The ExA is satisfied that mitigation is adequately provided for and secured in the recommended DCO. Consequently, the weight in the planning balance would be neutral.

Other Policy and Factual Issues

- 7.2.52. The ExA considers that the CEMP, secured by Requirement 5, would appropriately secure the Applicant's approach to construction and investigations for contamination. Whilst the EA have not confirmed satisfaction with the amendment to Requirement 17 the ExA is satisfied with the Applicants explanation as to why operational land should be excluded. Overall, risks posed by the Proposed Development with respect to land instability and contaminated land would be minor at worst and attract neutral weight in the planning balance.
- 7.2.53. The ExA is satisfied that matters of nuisance including artificial light, noise and vibration in the operational phase; civil and military aviation

and defence interests, safety and national security matters have been adequately addressed by the Applicant and did not consider it necessary to examine the matters further in the Examination. Such matters do not weigh significantly for or against the DCO being made.

- 7.2.54. The Applicant's summary of Consents and Licencing required under Other Legislation gives adequate assurances to the ExA that such matters under other environmental protection regimes would be dealt with appropriately post-DCO without any opposition being expressed by the relevant statutory agencies, including the EA. This matter attracts neutral weight in the planning balance.
- 7.2.55. The ExA accepts that an assessment of decommissioning is unnecessary given the nature of the Proposed Development and its expected lifespan. Consequently, this has neutral weight for the DCO being made.

Habitats Regulations Assessment

- 7.2.56. HRA is a matter for the SoS to undertake as the Competent Authority in respect of the Proposed Development.
- 7.2.57. The Examination has considered the LSE that the Proposed Development would have on the Avon Gorge Woodlands SAC, Severn Estuary SPA, SAC and Ramsar site, North Somerset and Mendip Bats SAC and Chew Valley Lake SPA.
- 7.2.58. The ExA finds, that with the implementation of the mitigation measures secured in the recommended DCO, AEOI on the North Somerset and Mendip Bats SAC when considered alone or in combination with other plans or projects can be excluded. Similarly, the ExA is satisfied that potential effects of habitat degradation during construction and all operational effects on the Avon Gorge Woodlands SAC would not result in AEOI alone, or in combination.
- 7.2.59. AEOI on the Avon Gorge Woodlands SAC from habitat loss from construction of the Proposed development cannot be excluded. However, the ExA is satisfied that no feasible alternative solution exists that would represent a lesser adverse effect to the Proposed Development and still satisfy the project objectives. The ExA considers that the compensation package as proposed is feasible, appropriate and is adequately secured in the recommended DCO. Consequently, the ExA is satisfied that the IROPI for the Proposed Development can be established.
- 7.2.60. The ExA considers that there is sufficient information before the SoS to enable them to fulfill their duty under the requirements of the Habitats Regulations, to undertake an AA, and to apply the derogation tests in respect of alternative solutions, IROPI and compensation.

7.3. COMPLIANCE WITH S104 OF THE PLANNING ACT 2008 AND THE PLANNING BALANCE

- 7.3.1. In examining this Application, the ExA has been mindful of the legal framework within which the SoS must make a decision. S104(2) and

s104(3) of the PA2008 require the SoS to have regard to, and to decide the Application in accordance with any National Policy Statement, any LIR and any other important and relevant matters. This is except to the extent that one or more of subsections (4) to (6) and (8) apply in terms of a breach of any international obligations or any duty or enactment or any condition prescribed for deciding an application otherwise in accordance with a NPS. Subsection (7) of s104 relates to the planning balance which is considered below.

- 7.3.2. The NPSNN is applicable and it sets out the need for railway infrastructure in general and identifies the importance of railways to the country's transport infrastructure, highlighting the crucial role that rail transport has to play in delivering significant reductions in pollution and congestion by, amongst other things, enabling a modal shift from road. The NPSNN emphasises how improvements and expansion to rail infrastructure would also enable economic growth and improve user satisfaction.
- 7.3.3. In terms of balance of benefits and adverse impacts required to be considered by s104(7), the ExA concludes that the Proposed Development meets the need as established in the NPSNN. There would be significant benefits arising from the operational use of the railway, particularly in reducing journey times into and out of Bristol to Portishead and Pill and providing a credible alternative transport mode. Resultant effects in reducing traffic congestion from the predicted reduction in car journeys would also have positive benefits overall. Economic benefits in terms of employment provision both during construction and operation as well as the future potential for tourism opportunities also weigh positively in favour of the Proposed Development.
- 7.3.4. In terms of adverse impacts, the ExA has identified that harm would occur from the construction of the Proposed Development as a result of the potential for flooding from Work No 26, an increase in CO₂ emissions from the use of DMUs, and loss of a number of rare whitebeam trees.
- 7.3.5. A number of harmful effects would also arise from Trinity Footbridge which fails to meet the criteria for good design as set out in the NPSNN, and the ExA does not consider that it could be effectively mitigated. The ExA is not satisfied that the visual effects on sensitive receptors, including on their living conditions, would be outweighed by the benefits of the footbridge in avoiding severance given the presence of a suitable alternative foot/cycle path route. This route would be marginally longer but being on a level surface it would meet the needs of all NMUs including persons with protected characteristics. As a result, the ExA is recommending that Trinity Footbridge should be deleted from Work No 7.
- 7.3.6. Other matters bring both benefits and adverse effects, but none of those, either individually or cumulatively, lead the ExA to a different conclusion in terms of the overall balance of benefits and adverse impacts.
- 7.3.7. The ExA is satisfied that the identified adverse effects would be mitigated as far as reasonably possible and that the necessary measures could be

properly secured through the recommended DCO and the associated control documents, such that the identified adverse effects, particularly during construction, would be time-limited. The compensation measures identified in the HRA are feasible and appropriate and could be adequately secured. The ExA considers that the case for IROPI could be established.

- 7.3.8. In applying the overall planning balance, the ExA consider that the adverse impacts of the Proposed Development caused by the very limited increase in CO₂ emissions from the use of DMUs and the loss of the Whitebeam trees would not outweigh the numerous benefits which the Proposed Development would deliver including the substantial need for the Proposed Development in accordance with the NPSNN. Accordingly, s104(7) does not apply.
- 7.3.9. The ExA therefore concludes that the case for development consent is made.

8. COMPULSORY ACQUISITION AND RELATED MATTERS

8.1. INTRODUCTION

8.1.1. The Application includes proposal for the compulsory acquisition (CA) of the freehold of land, the CA of rights over land, the creation of new rights in land and temporary possession (TP) of land [6.1 to 6.5, REP5-016].

8.2. LEGISLATIVE REQUIREMENTS

8.2.1. CA powers can only be granted if the conditions set out in s122 and s123 of the PA2008, together with relevant guidance contained in "Guidance related to Procedures for the Compulsory Acquisition of Land", DCLG, September 2013 (the former DCLG CA Guidance) (the 2013 Guidance) are met.

8.2.2. Section 122(2) of the PA2008 requires that land subject to CA must be required for the development to which the development consent relates or must be required to facilitate or be incidental to the development. In respect of land required for the development, the land to be taken must be no more than is reasonably required and be proportionate.

8.2.3. Section 122(3) of the PA2008 requires that there must be a compelling case in the public interest to acquire the land, which means that the public benefit derived from CA must outweigh the private loss that would be suffered by those whose land is affected. In balancing public interest against private loss CA must be justified in its own right, but this does not mean that the CA proposal can be considered in isolation from the wider consideration of the merits of the project. There must be a need for the project to be carried out and there must be a consistency and coherency to the decision-making process.

8.2.4. Section 123 of the PA2008 requires that one of three conditions must be met by the proposal namely:

- that the application for the order includes a request for compulsory acquisition of the land to be authorised;
- that all persons with an interest in the land consent to the inclusion of the provision; or
- that the prescribed procedure has been followed in relation to the land.

8.2.5. A number of general considerations also need to be addressed, either as a result of following application guidance or in accordance with the legal duties on decision makers. Namely that:

- all reasonable alternatives to CA must have been explored;
- the applicant must have a clear idea of how it intends to use the land subject to CA powers;

- the Applicant must be able to demonstrate that funds are available to meet the compensation liabilities that might flow from the exercise of CA powers; and
- the decision-maker must be satisfied that the purposes stated for the CA are legitimate and sufficiently justify the inevitable interference with the human rights of those affected.

8.2.6. The PA2008 requires that if changes are sought to the application, whether material or non-material, then the ExA must consider whether to accept them into the Examination. If the changes require additional land then if the consent of persons with an interest in that land is not obtained by the Applicant, the procedures prescribed in regulations 5 and 19 of the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 would apply.

8.2.7. Further to Part 1 of Schedule 5 of the PA2008 at paragraph 2, TP powers are capable of being within the scope of a DCO. PA2008 and the 2013 Guidance do not contain the same level of specification and tests to be met in relation to the granting of TP powers, as by definition such powers do not seek to permanently deprive or amend a person's interests in land.

8.2.8. The Neighbourhood Planning Act 2017 (NPA2017) has been enacted and contains provisions which amount to a codification of new TP practice. In recognition of the greater extent to which TP is being sought by scheme promoters and of the extended durations to which TP can be sought, the NPA2017 provisions in general terms provide for enhancements to the rights of APs subject to TP, with a view to ensuring that they have equivalent or proportionate rights to notice and to relevant compensation to those already available to APs subject to CA. However, at the submission of this Report to the SoS, the relevant provisions had not yet commenced.

8.2.9. The ExA has taken all relevant legislation and guidance into account when considering this matter and relevant conclusions are drawn at the end of this Chapter.

8.3. THE REQUEST FOR CA AND TP POWERS

8.3.1. The Application for Development Consent [APP-002] states that the CA of land or an interest in land or right over land issues is relevant to this Application. Articles in the submitted draft DCO [APP-052] seek both permanent and temporary powers to construct, operate and maintain the Proposed Development. Consequently, the Applicant is seeking the CA of land and rights over land, and powers for the temporary use of land both for construction and operation [6.6, REP5-016].

8.3.2. The Order Limits of the draft DCO establish the extent of the land that would be affected by the CA and TP powers sought along the proposed route.

8.3.3. At the commencement of the Examination, the Application was accompanied by:

- A Statement of Reasons (SoR) [APP-055];
- A Funding Statement [APP-056];
- A Book of Reference (BoR) [APP-057];
- Land Plans [APP-008];
- Special Category Land Plans [APP-011];
- Crown Land Plans [APP-012]; and
- Public Rights of Way Plans [APP-028].

8.3.4. Taken together, these documents set out the land and rights sought by the Applicant together with the reasons for its requirement and the basis under which compensation would be funded. Where the Examination and due diligence processes required changes to this documentation, new versions were submitted. By the close of the Examination the most up-to-date versions of these documents were as follows:

- SoR [REP7-012];
- Funding Statement [APP-056];
- BoR [REP7-013];
- Land Plans [REP5-003];
- Special Category Land Plans [APP-011];
- Crown Land Plans [REP7-044]; and
- Public Rights of Way Plans [REP6-066].

8.3.5. These documents taken together form the basis for the analysis in this Chapter. Reference to the BoR and the Land Plans in this Chapter from this point should be read as reference to the latest revisions cited above.

8.3.6. The SoS should be aware that the ExA has identified a number of anomalies in the BoR [REP7-013]. The ExA is however satisfied that it has considered all APs who objected to CA or who have participated in the Examination.

8.3.7. Land over which CA and/ or TP powers are sought is referred to in this Chapter as Order land.

8.4. THE PURPOSE FOR WHICH LAND IS REQUIRED

8.4.1. The Application is for development consent for the construction of a new railway on the trackbed of the former branch line from Bristol to Portishead. The Applicant stated that if the SoS makes a DCO in respect of the scheme it would be necessary for the DCO to contain powers to enable the Applicant to acquire compulsorily land and rights over land, and to take possession of land temporarily, to enable the construction and delivery of the scheme. This is because, whilst the Applicant already owns large sections of the proposed route, land that is presently owned or occupied by persons other than the Applicant is required for the carrying out of works. The Applicant states that without acquisition and temporary use of the land, the scheme could not be delivered [APP-208].

8.4.2. The BoR [REP7-013] identifies all the plots of land required and these are also shown on the Land Plans [REP5-003] comprising 23 sheets. The Land Plans submitted by the Applicant were revised and amended as the Examination proceeded to accommodate the non-material changes

referred to below including reduction or removal of plots that were no longer required. Changes to the Application in respect of CA are described below.

- 8.4.3. The powers sought in the Recommended DCO relate to the acquisition of rights and the temporary possession of land. The BoR [REP7-013] sets the various categories of rights which are being sought which are:
- The permanent acquisition of land (451 plots which are coloured pink on the Land Plans);
 - The permanent acquisition of new rights in land (49 plots which are coloured blue on the Land Plans);
 - The permanent acquisition of new rights in the sub-soil and TP at surface level (25 plots which are coloured pink with green cross hatching on the Land Plans);
 - The permanent acquisition of land and structures together with the CA of new rights (1 plot which is coloured pink with blue cross hatching on the Land Plans)
 - The temporary possession of land for the purposes of access and/ or use as temporary construction compounds (246 plots which are coloured green on the Land Plans)
- 8.4.4. In addition, 11 plots (plots 01/101, 06/540, 06/615, 07/115, 07/120, 07/125, 07/155, 07/160, 07/170 and 07/180) are shown on the Land Plans and listed in the BoR but no CA of these plots is proposed. The relevant land has been included within the Order limits for traffic regulation purposes only. The plots that are coloured orange on the Land Plans would also be the subject of TP for the purpose of carrying out the Proposed Development.
- 8.4.5. Schedule 1 of the SoR [REP7-012] describes the proposals for the use and development of the land and the purposes for which powers are sought. The table included within the schedule sets out on a plot by plot basis the nature and purpose of the proposed acquisition of interests in the land or the need for TP.
- 8.4.6. The SoR explains that rights are sought over Crown land. Part 4 of the BoR [REP7-013] identifies the plots within which the Crown has an interest in 63 plots, and these are shown on the Crown Land Plans [REP7-044]. The interests in the land are held by the Ministry of Defence (MoD) (23 plots); Defra (17); Department for Transport (DfT) (2) and the Department for Health and Social Care (DHSC) (20). In addition, there is 1 plot of escheat land (plot 06/240) for which even though the Crown Estate has transferred the land to the Applicant it continues to retain an interest in the form of a restrictive covenant.
- 8.4.7. The route of the Proposed Development would also require the CA and TP of land which falls into a "special category"; land forming part of a common, open space, NT land or fuel or field garden allotment. Part 5 of the BoR [REP7-013] identifies 65 plots that fall within this definition.
- 8.4.8. Statutory undertakers (SUs) land and electronic communication code operators land is involved along the proposed route and powers are

sought to acquire land, interfere with interests and remove apparatus. All the land involved is listed in Parts 1 to 3 of the BoR [REP7-013].

8.4.9. The recommended DCO grants the power to acquire such land as is required for the Proposed Development, or to facilitate it, or is incidental to it (Article 24) and the power to acquire existing rights and restrictions to create new rights and restrictions over the Order land as described in the BoR [REP7-013] and shown on the Land Plans [REP5-003].

8.4.10. The recommended DCO (Article 30) incorporates the provisions of the Compulsory Purchase (General Vesting Declaration) Act 1981.

8.4.11. The recommended DCO (Article 33) seeks powers to enter and take temporary possession of land specified in Schedule 12 to the recommended DCO to enable the Applicant to:

- remove buildings and vegetation from the land;
- construct temporary works (including the provision of the means of access), security fencing and buildings on that land;
- construct any works as are mentioned in Schedule 1 (authorised development) of the recommended DCO;
- carry out any other mitigation, ground or rock stability, catch fencing, geotechnical or strengthening works on that land; or
- provide any temporary car parking or storage facilities on that land.

8.4.12. It also includes the powers of TP (Article 34) for the purposes of maintaining the authorised development.

EXAMINATION OF THE CA AND TP CASE

8.4.13. CA and TP were both identified by the ExA in the IAPI prepared under s88(1) of the PA2008 and set out in Annex C of the ExA's Rule 6 Letter [PD-007] dated 7 September 2020.

8.4.14. In its letter of the 26 October 2020 [PD-009] the ExA set out its ExQ1 [PD-010] which included a number of questions relating to CA and TP. Questions were not only asked of the Applicant, but of the SUs and a number of individual landowners. Responses, including from the Applicant [REP2-013] were submitted at D2.

8.4.15. In light of the responses to ExQ1, other written submissions, and matters raised at the hearings the ExA asked a number of further written questions (ExQ2) [PD-014] on CA and TP to which the Applicant responded at D5 [REP5-028].

Hearings

8.4.16. A CAH was requested by APs. There were 16 objections to the request for the grant of CA powers.

8.4.17. A CAH (CAH1) was held on the 4 December 2020 [EV-008]. At CAH1 representations were made by a number of APs. In addition, the ExA pursued a number of matters with the Applicant as set out on the agenda

[EV-008]. The ExA published a list of action points that had arisen during the CAH [EV-008b]. A written summary of the oral case presented at CAH1 was submitted by the Applicant at D3 [REP3-022].

- 8.4.18. A second CAH (CAH2) was held on the 3 March 2021 [EV-012]. In addition to providing updates with regards to how negotiations with landowners were progressing the ExA heard evidence and asked questions regarding the outstanding concerns of the NT and SUs. The ExA published a list of action points that had arisen as a result of the discussions [EV-012d]. A written summary of the oral case presented at CAH2 was submitted by the Applicant at D6 [REP6-022] along with a response to the action points [REP6-025].

Changes to the Application

Change Request A

- 8.4.19. At D2 [REP2-001] the Applicant submitted a request to remove Work No 16D (Change Request A). Work No 16D would have provided a flood mitigation area of 4078 sqm in an area shown on sheet 5 of the works plans [AS-013], to the south side of the disused Portishead branch line and west of M5 special road, Easton in Gordano. The work would be located within plot 05/85 which also included a number of other works.

- 8.4.20. At CAH1 [EV-008] and ISH1 on the draft DCO held on 7 December 2020 [EV-007] the ExA sought additional information and asked a number of questions in relation to the change request. As a result of this action point 25 [EV-007b] required that the Applicant seek a separate letter from the EA confirming that it had no objection to the proposed change request.

- 8.4.21. The EA confirmed that it found the proposed change to be acceptable in its D3 response [REP3-043]. The BPC [AS-052] confirmed that it had no objection to the proposed change. At CAH1 the owner of plot 05/85 was made aware of the proposed change and confirmed that they did not object to the change request but that they maintained their objection to the compulsory acquisition of their land.

- 8.4.22. The ExA deemed the proposed changes to be non-material and accepted them into the Examination [PD-012].

Change Request B

- 8.4.23. At D4 [REP4-001 and REP4-057] the Applicant submitted another request for a further four changes to the Application. These are summarised in Table 8.1 below:

Table 8.1: Change Request B

Work No	Description of Work	Land and Work Plan Reference/ Plot No
10C	Pond of 586 sqm in area within Portbury Wharf Ecology Park, Portbury	Sheet 2 Plots 02/31 and 02/32
12B	Pond and associated ecological works to the North of Work No 1 and to the south of the highway of Sheepway, Portbury	Sheet 3 Plots 03/30, 03/32 and 03/33
16B	Pond and associated ecological works to the south of the disused Portishead Branch Line railway and to the west of the M5 Special Road, Easton-in-Gordano	Sheet 5 Plot 05/85
27	Foot and cycle track and ramp of 140 m in length from the A370 classified road known as Ashton Road to Ashton vale Road to the west of Parson Street to Royal Portbury Dock railway, Ashton together with alterations to utilities apparatus, drainage, fencing, lighting and landscaping	Sheets 15 and 16

- 8.4.30. Following agreement between the Applicant and NE [REP3-045] to use DLL for the GCN rather than a specific European Protected Species Licence the three ponds and associated ecological works (Work Nos 10C, 12B and 16B) proposed as mitigation would no longer be required and the Applicant therefore asked for them to be withdrawn from the Application.
- 8.4.31. At CAH1 [EV-008] the ExA had questioned the need for Work No 27 given that the Applicant had indicated to Babcock International [REP2-018] that it did not envisage that the works would be constructed as part of the main programme of works but would follow later if needed. BCC agreed [REP4-039] that the work would provide no tangible benefit and that its removal would not impact on the effectiveness of the Applicant's proposed mitigation for Ashton Vale Road.
- 8.4.32. The ExA examined the matter further at ISH2 and ISH3 [EV-009 and EV-010] additional information was submitted by the Applicant and BCC at D4.
- 8.4.33. Having considered the matter, the ExA deemed the proposed changes to be non-material and accepted them into the Examination [PD-013].
- 8.4.34. By D6 the Applicant submitted complete and up to date versions of the draft DCO [REP6-008], the EM [REP6-011], the SoR [REP6-014], the

Land Plans [REP5-003], the Work Plans [REP5-004], the BoR [REP5-018], relevant sections of the ES and all other documents that needed to be amended to omit reference to Work Nos 10C, 12B, 16B and 27 to reflect these changes and any other amendments that occurred during the Examination.

- 8.4.35. Throughout the Examination the Applicant engaged with landowners in order to try and complete a voluntary land agreement. However, by the close of the Examination only one objection to the grant of CA powers was withdrawn [AS-003].

8.5. THE APPLICANT'S CASE

- 8.5.1. The Applicant's case is set out in the SoR [REP7-012] which was accompanied by the Funding Statement [APP-056], Land Plans [REP5-003] and a BoR [REP7-013].
- 8.5.2. Detailed supporting information is set out in the Planning Statement [REP6-134] and the ES where in Chapters 3 [REP6-070] and 4 [REP6-072] the project description and design evolution (including consideration of alternatives [Sections 3.3 and 3.4, REP6-070]) are set out.
- 8.5.3. During the course of the Examination the Applicant also provided additional information in response to ExQ1 [PD-010] and ExQ2 [PD-014]; IP and AP submissions and submissions in response to s127, s135, s138 and s139 issues in relation to Crown land and SUs.

Requirements for the CA of land

- 8.5.4. The need for the Proposed Development is covered in greater detail in the SoR [Section 7, REP7-012] and in Chapter 4 of the Planning Statement [REP6-134]. The need for the Proposed Development is assessed in Chapter 5 of this Report in the section titled the principle and need for the Proposed Development including alternatives.
- 8.5.5. The Applicant is seeking the powers of CA and TP to enable it to acquire land and interests in land that would be needed to construct, operate and maintain the Proposed Development. The acquisition of the land is therefore needed for the purposes of the DCO as without this land the scheme could not be delivered in the timescales to meet the need if at all [7.10, REP7-012].
- 8.5.6. The Applicant has already acquired some of the additional land required for the Proposed Development and has throughout the Examination continued to seek to agree purchases, conditional on the DCO being made [Paragraphs 2.22 and 6.24 to 6.26, REP7-012].
- 8.5.7. The Application is supported by the Land Plans [REP5-003] which show the land and interests required and the Works Plans [REP5-004] which indicate the works to be carried out. Schedule 1 of the SoR [REP7-012] sets out the nature and purpose of the proposed acquisition of interests in the land or the need for TP for each plot and why it is needed.

Alternatives

- 8.5.8. In Chapter 3 of the ES [REP6-070] the Applicant explored alternative options for the scheme. These included a 'do nothing' scenario, improvements to the highways network and a Bus Rapid Transit on the operational rail line or via the A4 Portway between Portishead and Avonmouth. The Applicant also considered alternative alignments.
- 8.5.9. The Applicant concluded [3.3.18, REP6-070] that there is no realistic alternative to the Proposed Development that would achieve the aims of promoting mobility, reducing congestion and thereby benefiting human health and the environment. Furthermore, [3.3.25, REP6-070] there is no viable alternative railway alignment between Portishead and Bristol that could be identified as a credible alternative to the Proposed Development. Therefore, the existing railway corridor would be the only feasible option because:
- NSDC and NR between them own the land forming the former railway corridor and therefore the permanent land take required from third parties would be relatively small;
 - all the principal structures required for the Proposed Development are already in place;
 - the railway is on a relatively straight alignment between Portishead and the connection to the existing rail network at Portbury Junction, thereby reducing the land potentially affected by the Proposed Development;
 - since the 1860s the physical presence of the railway corridor has influenced the pattern of development in Portishead and Pill; and
 - the corridor has been reserved for transport proposals in the relevant planning policy documents.
- 8.5.10. The Applicant therefore advocates that the land proposed to be required for the scheme would be no more than is reasonably needed for it to occupy and for the construction, mitigation and ongoing maintenance of the scheme.

Funding

- 8.5.11. The Funding Statement [APP-056] sets out how the Applicant proposes to fund the scheme. The total cost of the project would be £116.4 million [Table 1, APP-056] which would be funded by the MetroWest Phase 1 co-funding partners and a contribution from the DfT via the Rail Network Enhancements Pipeline.
- 8.5.12. The Applicant estimates that the total costs of payments for acquiring land, land rights, incentive payments, disturbance, injurious affection and related professional fees would be £3.416 million [Paragraph 5.3, APP-056]. This includes the cost of land already acquired by the Applicant and the estimated cost of the compensation likely to be due as a result of the exercise of CA and temporary use powers, as well as claims under Part 1 of the Land Compensation Act 1973 [Appendix 6, APP-056].

- 8.5.13. The Applicant considers [Paragraph 6.1, APP-056] that it would have more than sufficient funds allocated to discharge its obligation to pay compensation to persons interested in land. Consequently, it advocates that its request for CA powers would meet the tests in s122 of the PA2008 and be in conformity with the requirements of paragraphs 9, 17 and 18 of the CA Guidance.
- 8.5.14. The Applicant advises that there is no reason to believe that, if the Order is made, the Proposed Development would not proceed due to there being insufficient funding [Paragraphs 6.3 and 10.5, APP-059].
- 8.5.15. The Applicant therefore considers [Paragraph 6.3, APP-056] that the SoS can be satisfied that funds are likely to be available to meet the capital expenditure for:
- the cost of the Proposed Development;
 - the cost of acquiring the land identified in the draft DCO; and
 - the cost of compensation otherwise payable in accordance with the draft DCO.

Applicant's justification for seeking powers of CA

- 8.5.16. The need for the Proposed Development has been set out by the Applicant [Chapter 4, REP6-134] and is supported by the NPSNN.
- 8.5.17. The Applicant advocates that the CA of land and rights would be necessary to deliver the Proposed Development and that the extent of the rights sought has been drawn with regards to avoiding any unnecessary interference with, or extinguishment of, third party rights [Section 7, REP7-012]. Consequently, the Applicant considers that it has taken a proportionate approach to the proposed acquisition of land and rights mindful of the potential impact on affected landowners.
- 8.5.18. Where possible the Applicant has sought to acquire the minimum rights necessary to enable the Proposed Development. Permanent land rights would be limited and would be proportionate with the expected design life of the scheme.
- 8.5.19. Wherever possible, particularly for short term activities such as those during construction, the Applicant has opted to seek temporary possession.

Statutory Undertakers land – Sections 127 and 138

- 8.5.20. The Applicants draft DCO proposes to acquire land from a number of SUs a significant number of which submitted representations in respect of the Proposed Development.
- 8.5.21. Throughout the Examination the Applicant sought to reach agreement with these undertakers and has included Protective Provisions with the final preferred draft DCO [Schedule 16, REP7-056] to protect their interests. By the end of the Examination none of the SUs who had submitted a RR or WR had withdrawn their objections to the Application.

- 8.5.22. Consequently, s127 of the PA2008 applies. These outstanding objections along with the s127 position statement [REP7-042] submitted at D7 by the Applicant will be considered later in this Chapter.
- 8.5.23. The Proposed Development would also result in the extinguishment of rights or the removal of statutory undertakers' equipment and consequently s138 of the PA2008 would also be engaged.

Special Category Land

- 8.5.24. Special Category Land is defined in Regulation 2 of the Infrastructure Planning (applications: Prescribed Forms and Procedure) Regulations 2009 as "*land identified as forming part of a common, open space, NT land or fuel or field garden allotment*". The Applicant is seeking rights over Special Category Land for open space and NT land. The affected plots are set out in the SoR [REP7-012] and shown on the Special Category Land Plans [APP-011].
- 8.5.25. Section 130 of the PA2008 refers to NT land. It relates to land that is held by the NT inalienably. Section 131 and s132 of the PA2008 apply to the CA of open space. In both of these cases the PA2008 indicates that an order granting development consent would be subject to Special Parliamentary Procedure (SPP) unless the SoS can be satisfied that one of the relevant subsections applies and that fact is recorded in the Order. Details of the CA sought for these land categories is set out in the SoR [REP7-012].

Open space

- 8.5.26. A number of plots within the Order Land are or could be viewed as open space as defined in the Acquisition of Land Act 1981. These plots are listed in Appendix 5 of the SoR [REP7-012].
- 8.5.27. The locations of the open spaces that would be subject to the Order are:
- Portishead – in the vicinity of the Trinity Primary School;
 - a small area of land forming part of the Portbury Wharf Ecology Park;
 - a small area of land at Victoria Park, Pill, over which the Pill Railway Viaduct passes;
 - an existing path connecting the Portishead Railway Line with the highway network at Watch House Hill, Ham Green, Pill; and
 - land in the Leigh Woods area to the south and west of the Avon Gorge, scheduled as access land for the purposes of the Countryside and Rights of Way Act 2000.
- 8.5.28. The Applicant is only seeking the permanent acquisition of open space in Portishead.

Plots 01/213 and 01/223

- 8.5.29. Both these plots are located in close proximity to the proposed location of the new station in Portishead. Both plots would be needed for the creation of a new PRow (cycle track). The Applicant considers that the

function of these plots would change only to provide more formal cycle and walking routes between Galingale Way and Tansey Lane, as well as the new routes to the diverted Quays Avenue. The land would therefore remain publicly accessible, but its status would change from open space to a PRoW. Part of plot 01/233 would remain part of the open space but would be subject to additional planting.

8.5.30. The Applicant considered [Paragraph 4.7, Appendix 5, REP7-012] that SPP would not be required as s131(5) of the PA2008 would apply as the area of land involved would be less than 200 sqm and that the giving of exchange land would be unnecessary as the lands are intended to be transferred to the Applicant in its capacity as owner and manager of the open space by the existing owners whilst the interests of the public would not be adversely affected due to the intended use of the plots as a PRoW.

8.5.31. The Applicant is also seeking permanent new rights in open space for plots 01/231, 01/252, 02/19, 07/71 to 07/74, 07/77 and 07/78.

Plot 01/231 (land at Tansy Lane, Portishead)

8.5.32. Plot 01/231 would be needed for the installation of underground electrical equipment. It is currently used as amenity grassland and is subject to a s106 agreement requiring its transfer to the Council as open space. The public would be excluded from using the land whilst the cables were installed after which the land would be restored to its previous condition and would be available for its current use.

Plot 01/252 (land north of Galingale Way, Portishead)

8.5.33. This plot is an existing path that would be needed on an occasional basis to provide access to a proposed ecological mitigation area (plot 01/299). It is subject to a s106 for transfer to the Council as open space. The Applicant considers that the infrequent use of the path would not impose an additional or unreasonable burden on users of the path, its owners or the public.

Plot 02/19 (land forming part of Portbury Wharf Ecology Park)

8.5.34. This plot would be needed to enable access for culvert and rhyme clearance. The Applicant advocates that this right would not disadvantage the existing owners or the public. Furthermore, due to local ground conditions the rhynes are effectively inaccessible to the public in this location.

Plots 07/71 to 07/74 (inclusive) and plots 07/77 and 07/78 (Watch House Hill, Ham Green, Pill)

8.5.35. Watch House Hill is owned and managed by NSDC and forms an important amenity for local residents. The proposed new rights would enable NR to use the existing cycle path from the highway of Ham Green to access the proposed new junction at Pill next to Watch House Hill. No additional works are proposed, and the use of the route would be occasional with a limit on the size of the vehicles that would use it.

- 8.5.36. The Applicant considers that for each of the proposed areas for which new rights are proposed there would be no impact on existing owners or the rights of the public to use the affected land as open space. In each case the use of the land as open space would continue unaffected by the existence of the new right. Therefore, the Applicant considers that exchange land would not be required and that s132(3) of the PA2008 would apply.
- 8.5.37. With regards to the remaining 22 plots of open space these would only be required on a temporary basis to enable construction of the Proposed Development and therefore the Applicant considers that neither s131 nor s132 of the PA2008 would apply.

NT land

- 8.5.38. The NT land within the Order Limits concerns plots 11/61, 11/75, 11/80, 11b/15, 12/07, 12/10, 12/20, 12/21, 12/30, 13/07, 13/31, 13/32, 13/55 and 14/05. These are located on the western side of the Avon Gorge.
- 8.5.39. With the exception of plots 11b/15 and 12/10 which would be required for access and to provide a compound and working space the remaining plots would be needed on a temporary basis to clear vegetation, undertake rock scaling and insert bolts into the rock faces to stabilise the rocks in an area of known rock instability. Whilst the Applicant acknowledges that the NT have objected to the works on its land, it considers that SPP would not apply as it is seeking temporary powers. The Applicant therefore considers that the relevant works could be carried out without removing the special category land from the protections of NT's ownership.
- 8.5.40. As a result, the Applicant advocates that the land would continue to be held inalienably by the NT [10.44, REP7-012]. Furthermore, Protective Provisions have been included in the final preferred draft of the DCO [Part 10, Schedule 16, REP7-056] for the protection of the NT.

Crown land

- 8.5.41. The Applicant accepts [REP7-012] that s135 of the PA2008 would apply to the Articles of the DCO as they would include provision authorising the CA of an interest in Crown land owned otherwise by or on behalf of the Crown and so the consent of the appropriate Crown Authority would be required.
- 8.5.42. Part 4 of the BoR [REP7-013] lists the land in which a Crown interest exists.
- 8.5.43. The only Crown freehold land in the Order Land is within the Avon Gorge and Leigh Woods area which is managed by the FC and owned by Defra. Temporary access would be required for these plots to enable vegetation clearance, access, environmental mitigation and some rock scaling.
- 8.5.44. The remaining plots in Part 4 of the BoR comprise Order Land that the Applicant has secured from the relevant Crown interest by agreement but

over which the relevant Crown interest has retained a covenant restricting use of the land for railway purposes.

Order land in which the Crown holds an interest in Portishead

8.5.45. Plots 01/205, 01/242, 01/245 and 01/305 were previously owned by the SoS for Defence. The plots have been acquired by the Applicant. It is included in Part 4 of the BoR because a restrictive covenant controlling future use to railway purposes was imposed when the land was transferred from the SoS to the Applicant. The Applicant considers that the covenant would not be breached by the Proposed Development [10.5, REP7-012].

8.5.46. In addition, historic reservations of rights and covenants in favour of the SoS of Defence subsist in plots 01/120, 01/125, 01/135, 01/130, 01/235, 01/290 and 01/296. They also apply to the titles of plots 01/15, 12/20, 02/27, 02/30, 03/35, 02/36 and 02/37 located in the Portbury Wharf Nature Reserve. The Applicant considers that the relevant grants and covenants would not be breached by the intended use of the relevant plots, but in any event the Applicant proposes to seek a release from the SoS for Defence. The Applicant advocates that the covenants would be unaffected by the proposed provisions of the Order [10.6, REP7-012].

Order land in which the Crown holds an interest in Pill

8.5.47. Plot 06/240 forms part of the original Pill Station Goods Yard. In the 1980s the land was acquired by a private company which was subsequently dissolved without the title being transferred to another entity. As a consequence, the land became subject to "escheat"⁵.

8.5.48. The Applicant has acquired the freehold of this land from the Crown. A restrictive covenant requiring the land to be used only for transport related purposes has also been placed on this land. The Applicant is satisfied that the intended use of the plot would not breach this covenant [10.8, REP7-012].

Order land in which the Crown holds an interest in Watch House Hill, Ham Green

8.5.49. The Ham Green Hospital Estate (plots 06/710, 07/61, 07/71, 07/72, 07/73, 07/74, 07/77, 07/78, 07/118, 07/119, 07/130, 07/135, 07/145, 07/160, 07/165, 07/170, 07/175, 07/180 and 07/195) was previously owned by the SoS for Health. When the site was redeveloped a number of rights and covenants were retained by the SoS. The Applicant considers that none of these would be breached by the construction or operation of the Proposed Development. The Applicant advised that it

⁵ Escheat is where a property or land has remained vested in a company on dissolution, has become Bona vacantia and then disclaimed by the Treasury Solicitor where it becomes subject to escheat and fell to be dealt with by the Crown Estate.

would seek release from the SoS. In addition, the same covenants apply to plot 08/11 in Chapel Pill Lane.

Order land in which the Crown holds an interest in Leigh Woods, Abbots Leigh

- 8.5.50. Temporary use of plots 10/35, 11/06, 11/07 and 11a/05 would be needed for rock picking and ecological works. Plots 11/70, 11a/10, 11a/15, 11b/05, 11b/10, 11b/15, 11b/20, 11b/25, 11b/30, 11b/35, 11c/05 and 11c/10 are included within the Order land to enable access to the top of the Avon Gorge for these works. To access these areas routes from the A369 Abbots Leigh road to the Order lands are also included within the Order land. The relevant plots include 10/10 which is a sandstone tunnel and from which the Crown interest is excluded from acquisition.
- 8.5.51. In addition, Defra has the ability to access its land by passing through a bridge under the railway in plot 11/31. Subject to any short interruptions for bridge repairs, this Applicant advises that this would be unaffected by the Proposed Development.
- 8.5.52. As the land is held by a Government Department CA powers against the freehold owner cannot be secured. Consequently, the Applicant is in negotiations with the FC and Defra in relation to the necessary licences required for the proposed de-vegetation and rock picking works [10.12, REP7-012].
- 8.5.53. Finally, these plots have also been designated as access land for the purposes of the Countryside and Rights of Way Act 2000. It is therefore also treated as open space.
- 8.5.54. Throughout the Examination the Applicant was engaged in active discussions with the relevant Crown Authorities. At the end of the Examination all relevant Crown Authorities had provided consent under s135:
- Department of Health and Social Care [REP6-027];
 - DfT [REP7-071];
 - MoD [REP7-044]; and
 - Defra/ the FC [REP7-070].
- 8.5.55. In relation to the Escheat land consent was granted at D3 [AS-004].

The Human Rights Act 1998

- 8.5.56. The Applicant has considered [Paragraphs 7.24 to 7.29, REP7-012] the potential infringement of the European Convention on Human Rights (As codified in the Human Rights Act 1998) as a consequence of the CA and TP powers included within the draft DCO.
- 8.5.57. The Applicant believes [7.24, REP7-012] that there would be very significant benefit arising from the grant of development consent for the scheme. The benefit can only be realised if the development consent is

accompanied by the grant of powers of CA or TP [7.25, REP7-012]. Moreover, those affected by the exercise of CA or TP would not be disproportionately burdened as they would be entitled to compensation for any loss suffered which the Applicant has proven they have the funding to provide. Consequently, the Applicant considers that for persons with property rights in land there would not be disproportionate interference with these rights under Article 8 and Article 1 of the First Protocol.

- 8.5.58. In relation to Article 6 the PA2008 process provides for all persons affected by CA to be consulted; to make representations both in writing and orally at hearings and, should the SoS grant the Order, the ability to challenge in the courts and in the case of disputes about compensation the right to apply to the Upper Tribunal (Lands Chamber) for an independent tribunal.
- 8.5.59. For the above reasons the Applicant considered that the inclusion of powers of CA and TP in the DCO would not constitute any unlawful interference with the Convention Rights and further it would be appropriate and proportionate for the SoS to make the Order including the grant of CA powers [7.29, REP7-012].

Summary of Applicant's Case

- 8.5.60. The Applicant considered that there is a compelling case in the public interest for the inclusion in the DCO of CA powers that would enable it to secure any outstanding land interests and rights, which it cannot agree by voluntary agreement and which would be required to facilitate the delivery of the Proposed Development. Its case is set out in detail in the SoR [REP7-012] and is evidenced further in the wider application documentation.
- 8.5.61. Furthermore, the Applicant advocated that there is also justification for the inclusion of TP powers in the DCO to facilitate the works required to construct the Proposed Development.

8.6. THE ExA's RESPONSE TO THE APPLICANT'S CASE

- 8.6.1. The ExA's approach to the question of whether CA powers should be granted and if so what it should recommend to the SoS to grant has been to seek to apply the relevant sections of the PA2008, notably s122 and s123, the 2013 Guidance and the Human Rights Act 1998. In addition, in light of the representations received and the evidence submitted to consider whether a compelling case has been made in the public interest, balancing the public interest against private loss.
- 8.6.2. There are representations from SUs that were not withdrawn before the end of the Examination and therefore s127 of the PA2008 is engaged. There are also relevant SU rights and apparatus on land that is the subject of CA of new rights under the draft DCO. Section 138 of the PA2008 is therefore also engaged and the ExA has considered the Application and the representations accordingly.

- 8.6.3. However, the ExA recognises that the final preferred draft DCO submitted at D7 [REP7-056] dealt with both the Proposed Development itself and CA powers. The case for CA powers cannot properly be considered unless and until the ExA has formed a view on the case for development overall, and the case for CA issues must be consistent with that view. The ExA has shown in the conclusions to Chapter 7 of this Report that it has reached the view that development consent should be granted. The question therefore that now needs to be considered is the extent to which, in light of the factors set out above, the case is made for the CA powers that would be needed to enable the Proposed Development to be implemented.

Need

- 8.6.4. On the basis of what the ExA has read and heard the ExA accepts that there is a national need for the provision of new rail infrastructure (Paragraph 2.36 of NPSNN). The ExA is satisfied that the provision of a rail link between Portishead and Bristol would help to deliver an opportunity for a modal shift from road to rail which in the long term would help to deliver reductions in pollution and congestion.

Alternatives

- 8.6.5. The 2013 Guidance requires:

"The promoter should be able to demonstrate to the satisfaction of the decision maker that all reasonable alternatives to compulsory acquisition (including modifications to the scheme) have been explored" (Paragraph 8)

- 8.6.6. The SoR [Paragraphs 7.9 to 7.12, REP7-012], Chapter 3 of the ES [REP6-070] and Chapter 4 of the Planning Statement [REP6-134] set out the alternative options that the Applicant considered, explaining how the Proposed Development that is the subject of this Application was selected.

- 8.6.7. As discussed in Chapter 5 of this Report the Applicant considered a number of alternatives, apart from the 'do nothing' scenario, improvements to the highways network, a Bus Rapid Transit or an alternative alignment would all require the acquisition of land either temporarily for construction or to enable the development. As a result, these alternatives would not remove the need for the use of CA powers.

- 8.6.8. Furthermore, in re-using the existing rail alignment the Application that is before the ExA would result in the minimum land take and would therefore require the least CA. Wherever possible the Applicant has sought to utilise existing land agreements or easements and to use TP rather than CA.

- 8.6.9. The ExA is therefore satisfied that the land for which CA powers is being sought is no more than would be reasonably required to enable the construction, operation and maintenance of the Proposed Development.

Therefore, the ExA accept that there would be no alternative to the use of CA powers, where required.

Adequacy of Funding

- 8.6.10. The ExA asked a number of questions with regards to funding [CA.1.5, PD-010 and CA.2.4, PD-014]. The matter was also discussed at CAH1 [EV-008].
- 8.6.11. The ExA is satisfied that the Applicant is of sound financial standing and that the necessary funds would be available to finance the project, including CA. Consequently, should the SoS grant the Order the ExA consider that the Applicant would be able to meet all the liabilities arising from acquisition of land and rights and compensation claims.

Justification for seeking powers of CA

- 8.6.12. The effect of s122(1) and s122(2) of the PA2008 is to provide that land to be subject to CA must amongst other things be required to facilitate or be incidental to that development to which the development consent relates. Effectively that land needs to be acquired, or rights over, or under it acquired or impediments upon it removed, in order that the development can be carried out. However, this is conditional on there being a compelling case in the public interest for that land to be acquired compulsorily (s122(3)).
- 8.6.13. This was the subject of detailed discussions at CAH1 [EV-008] and CAH2 [EV-012] where the ExA challenged the need for the proposed land take in relation to a number of plots. As a result of these discussions the Applicant confirmed that Work No 27 would not be required and this was subsequently deleted from the Application [PD-013]. In addition, having determined that it would deal with GCN through DLL the Applicant identified that it would no longer need Work Nos 10C, 12B and 16B and these too were deleted from the Application.
- 8.6.14. On the basis of the evidence submitted by the Applicant the ExA is satisfied that in the event of the grant of a development consent for the Proposed Development, as applied for, there would be the need to acquire the rights and interests in the Order land and the powers sought in the draft DCO would be required to implement the development.
- 8.6.15. With regard to s122(3), there are a number of issues to be considered in balancing the public interest against the private loss which would occur through the granting of CA.
- 8.6.16. In relation to the overall planning case this is considered in detail in Chapters 5 and 7 of this Report. The ExA has recorded in its conclusion in Chapter 7 that the case for making the DCO as recommended is made overall.
- 8.6.17. The ExA is satisfied that the Application aligns with the Government's strategic policy objectives which are set out in NPSNN to have networks:

- with the capacity and connectivity and resilience to support national and local economic activity, facilitate growth and create jobs;
- which support and improve journey quality, reliability and safety;
- which support the delivery of environmental goals and the move to a low carbon economy; and
- which join up our communities and link effectively to each other.

8.6.18. The Applicant has set out in detail the need for the scheme [Section 7, REP7-012] and the wider public benefits that it would deliver including improving journey times between Portishead and Bristol and enabling a modal shift from road to rail which in the medium to long term would help reduce carbon emissions. The ExA agrees with this assessment.

8.6.19. Consequently, in accordance with NPSNN, the ExA is satisfied that the public benefits associated with the construction and operation of the Proposed Development would be clear, substantial and compelling.

8.6.20. Later on in this Chapter when the ExA considers the objections submitted by APs, the ExA will consider whether overall, the public benefits associated with the Application as provided for and set out in NPSNN would in the view of the ExA outweigh the private loss which would be experienced by those whose land would need to be acquired to enable the Proposed Development to proceed.

Statutory Undertakers land

8.6.21. There remained outstanding objections from SUs at the close of the Examination and as a consequence s127 and s138 of the PA2008 applies. These objections, the s127 case and the ExA's conclusions on these matters are considered in detail later in this Chapter.

Special Category Land

8.6.22. The ExA received objections in relation to the use of special category land which are considered later on in this Chapter. The ExA conclusions in relation to the s131 and s132 tests are set out in that section.

Crown land

8.6.23. There were no objections to the CA of Crown land and by the end of the Examination all the relevant Crown Authorities had provided their written consent for the use of their land.

8.7. CONSIDERATION OF INDIVIDUAL OBJECTIONS AND ISSUES

8.7.1. Although this section of the report specifically considers objections raised by AP's the ExA appreciates that these represent only a proportion of the 783 plots of land that would be affected. Even though a specific objection may not have been raised in relation to a particular plot of land, the ExA has nevertheless applied the relevant tests to the whole of the land that would be subject to the powers of CA or TP in reaching its overall conclusions.

8.7.2. 26 objections regarding the request for the grant of CA and TP powers were submitted to the ExA.

8.8. THE APPLICANT'S RESPONSE TO OBJECTIONS

8.8.1. The Applicant has responded to CA objections throughout the course of the Examination. It has actively pursued discussions with objectors to seek to address, where possible, specific issues and concerns. At various points throughout the Examination the Applicant provided the ExA with an update on progress on negotiations by submitting a Compulsory Acquisition Schedule [REP2-031, REP3-021, REP5-027, REP6-017, REP7-034 and REP7-063]. It split the status of negotiations into seven categories which range from option agreements signed and exchanged to heads of terms in negotiation.

8.8.2. The CA Schedule submitted at D7 [REP7-063] advised that there were:

- 28 cases where acquisition was concluded, or option agreements had been signed and exchanged;
- 7 cases where legal agreements were being finalised or had been agreed and exchange was expected shortly;
- 14 agreements that were in the process of being drafted and the Applicant considered that there were no issues of note;
- 14 agreements which had been started but little progress had been made;
- 27 agreements where heads of terms were in negotiation;
- 28 cases where temporary licence agreements would be used; and
- 5 cases where agreement would not be required.

8.9. THE OBJECTIONS AND THE ExA's RESPONSE

8.9.1. The ExA has read through all the objections set out in RR and WR, subsequent submissions and submissions made orally at CAH1 and CAH2. Many of the issues raised by objectors have been considered by the ExA in Chapter 5 when considering the planning issues. As a result, the objections are considered here only in the context of the application for the grant of CA powers.

8.9.2. Turning now to the objections themselves and related matters, the ExA has considered them in the following order:

- acquisition concluded or option agreement signed and exchanged;
- legal agreement finalised/ agreed and exchange expected shortly;
- legal agreement being drafted with no issues of note;
- legal agreement started but little progress made;
- heads of terms in negotiation;
- temporary licence agreements;
- agreement not required;
- category 3 parties;
- statutory undertakers;
- Special Category Land; and
- Crown land.

Acquisition concluded or option agreement signed and completed

- 8.9.3. The table in the final CA Schedule [Section 1, REP7-063] shows that the Applicant has either concluded the acquisition or an option agreement has been signed and completed in 28 cases in relation to 60 plots.
- 8.9.4. No objections were received by the ExA in relation to these plots.
- 8.9.5. Given the parties with an interest in the land have either allowed their interest to be acquired or entered into a voluntary agreement with the Applicant the ExA consider that there are no remaining objections to the CA and TP of these plots and that in any event the public benefits of the scheme would outweigh any private loss. The ExA therefore recommend the grant of the CA and TP powers sought in relation to these plots.

Legal agreement finalised/ agreed and exchange expected shortly

- 8.9.6. The CA schedule [Section 2, REP7-063] shows that there are seven land agreements in relation to 22 plots that have been finalised/ agreed but which have not been exchanged before the close of the Examination.
- 8.9.7. Two of these AP's wrote to the ExA.

RR-014 – Town Legal LLP on behalf of Freightliner

- 8.9.8. Freightliner is a major rail freight and transport logistics company who has a long leasehold interest in a rail freight terminal based at South Liberty Lane in Bristol. The Applicant is seeking TP of part of its site for a construction compound with rail freight facility (Work No 29). The terminal is currently used as an intermodal rail freight terminal primarily for the import, export and storage of shipping containers. Parts of the site are sublet on an interim basis to a containerised self-storage facility and for use as a rail depot for storing, handling and distributing aggregates.
- 8.9.9. Freightliner does not object in principle to the scheme but does object to the TP of its land. The relevant plots are 17/05, 17/10, 17/15 and 17/20. Plots 17/05 and 17/20 would be used as construction compounds for which plots 17/10 and 17/15 would provide the access. Freightliner raised a particular concern in relation to plot 17/15 which if it was to be exclusively used by the Applicant it considered it would have a serious and unacceptable adverse effect on Freightliner's commercial operations as it would prevent it being able to access parts of its depot. Freightliner considered that TP would not be necessary as the Applicant could get the access it required through an agreement. Freightliner also raised concerns regarding the uncertainty over the length of time for which the TP was being sought.
- 8.9.10. The ExA asked questions at ExQ1 [CA.1.11, PD-010] and ExQ2 [CA.2.1, PD-010] in relation to the TP of these plots. The matter was also

discussed at CAH1 [EV-008] and CAH2 [EV-012] where it was the subject of action points [4, EV-008b]. The ExA also visited the site [EV-015].

- 8.9.11. At D6 [REP6-043] Freightliner advised the ExA that it had agreed heads of terms with NR for an agreement for a lease and that it had agreed in principle the outline for an agreement which would resolve the issues between them. It advised that it hoped to progress the agreements so that it could withdraw its objection before the close of the Examination. The CA schedule [AG-34, REP7-063] confirms this position. As does a SoCG that is signed by the Applicant but not by Freightliner which was submitted at D7 [REP7-061]. However, at the close of the Examination the objection had not been withdrawn.
- 8.9.12. The ExA recommends that the SoS may wish to seek an update with regards to the completion of these agreements. However, should the agreement remain incomplete the ExA is satisfied that the plots would be needed to enable the Applicant to undertake the proposed works to the adjacent Parson Street Junction. The final preferred draft of the DCO [REP7-056] has been amended to reflect that the Applicant would not seek exclusive possession of plots 17/10 and 17/15.
- 8.9.13. Therefore, the ExA is satisfied that Freightliner and its tenants would be able to continue to access the other parts of the site for the duration of the works. The ExA considers that any private harm to the Objector would be outweighed by the public benefit from the Proposed Development. Therefore, the ExA recommends the grant of TP sought in relation to these plots.

REP4-057 – Waddeton Park Ltd on behalf of Alvis Brothers Ltd

- 8.9.14. The BoR [REP7-013] lists Alvis Brothers Ltd as having an interest in 35 plots. At D4 the agent for the Alvis family wrote to the ExA to suggest that rather than use the proposed route along Chapel Pill Lane as a construction route that a direct access route be constructed from Pill Road to the railway in order to avoid very significant environmental damage and local disturbance. The plots affected would be 08/11, 08/12, 08/13, 08/21, 08/22, 08/23, 08/24, 08/70, 08/71 and 09/11. With the exception of plots 08/12 and 08/13 where the Applicant is seeking to acquire a permanent new right and plot 08/70 which it is seeking to CA the Applicant is seeking to temporarily possess the remaining plots.
- 8.9.15. The ExA, at ExQ2, asked the Applicant and the AP to comment/ provide further detail in relation to this suggestion [BIO.2.1, PD-014] and the matter was discussed at CAH2 [EV-012]. The Applicant [REP5-028] advised that Chapel Pill Lane would be used as a temporary construction access to the railway north of the Avon Gorge and whilst it has not assessed in detail the impacts of the proposed alternative access it would anticipate that its ecological, landscape and visual impacts would be more significant than using the existing access. The proposed alternative would require the formation of a new junction with Pill Road which would require the removal of existing hedges and the proposed alternative route would cut across several fields which would have the potential to cause disruption to agricultural operations. The alternative route would

cross the landscape overlooked by Leigh Court a Grade II* listed building and Leigh Court RPG and consequently would have a short-term impact on the landscape and setting. It would cut through part of the River Avon SNCI and would be in open GB. Furthermore, the alternative access would require the TP of additional land and would be a material change to the DCO which the Applicant would not wish to bring into the Examination at this stage [D5]. As a consequence, the Applicant did not consider the alternative suggested would be appropriate.

8.9.16. The ExA visited both Chapel Pill Lane and the location of the proposed access on Pill Road [EV-014] where limited views across the fields down towards the railway were available. The ExA agrees with the Applicant that the introduction of an alternative access would give rise to greater ecological, landscape and visual impacts than would arise from construction traffic using Chapel Pill Lane. It agrees that the provision of a new road in the GB when an existing road suitable for the Applicant's purposes would be considered to be inappropriate development which would not preserve the openness of the GB. It would conflict with the purposes of including land within it and this harm would not be outweighed by other material considerations which would justify the application of Very Special Circumstances.

8.9.17. The ExA is therefore satisfied that plots 08/11, 08/12, 08/13, 08/21, 08/22, 08/23, 08/24, 08/70, 08/71 and 09/11 would be needed to enable the construction of the Proposed Development and any private harm to the Objector would be outweighed by the public benefit from the Proposed Development. As the Objector has not raised concerns in relation to the other plots in which they have an interest the ExA considers that they do not object to the CA and TP of these plots.

8.9.18. The ExA recommends the grant of TP and CA sought in relation to these plots.

Legal drafting progressing no issues to note

8.9.19. Section three of the CA schedule [REP7-063] shows that at the close of the Examination there were 14 land agreements in relation to 61 plots which the parties were in the process of drafting.

8.9.20. The ExA received two representations from APs with this status, albeit that both APs held interest in the same plots.

RR-045 – Greenslade Taylor Hunt on behalf of Stephen Bullock and RR-067 – Greenslade Taylor Hunt on behalf of Susan Freestone

8.9.21. The objections relate to the CA of plots 05/85, 05/86, 05/151 and 05a/05. Mrs Freestone (who was also acting on behalf of her brother Mr Bullock) advised [PDA-003] that they were concerned about a lack of engagement with the land agents acting for the Applicant and that their land had been mistitled which had led to a confusion over what was being proposed. Whilst they accepted that there was a compelling case in the public interest for the CA of the land, rights and powers sought they

questioned whether the extent of the land sought was reasonable or appropriate. They considered that the proposed use of their land (as a new receptor), and timescale it was required for, represented an unreasonable infringement. They suggested that an alternative plot of land would be more appropriate. Finally, they were concerned about how the Application may affect their ability to dispose of the land.

- 8.9.22. The matter was discussed at the PM [EV-003], CAH1 [EV-008] and CAH2 [EV-012]. It was also the subject of a written question at ExQ1 [CA.1.12, PD-010] and ExQ2 [CA.2.11, PD-014].
- 8.9.23. Work No 16D, a proposed flood mitigation area which would have been located on plot 05/85, was deleted from the scheme due to Change Request A [PD-012]. Furthermore, Work No 16B (the pond and ecological works), also located on plot 05/85, was also deleted from the scheme because the Applicant chose to use DLL for managing GCN [PD-013]. As a result, this plot was reduced in size. Rather than seeking the CA of all estates and interest the Applicant now only seeks a permanent new right in the plot in order to enable it access to the south side of the rail track and Cattle Creep Bridge for the purposes of construction and maintenance.
- 8.9.24. At CAH2 [EV-012] Mrs Freestone confirmed that the parties were still in negotiations over which parts of their land would be required but stated that they were satisfied with the position on this and the effort being made by the parties.
- 8.9.25. At D7 the CA Schedule [AG-79, REP7-023] advised in relation to all four plots that the heads of terms had been signed and that both parties had instructed solicitors to progress with legal drafting.
- 8.9.26. The ExA recommends that the SoS may wish to seek an update as to whether these agreements have now been completed. However, should the agreement remain unsigned the ExA is satisfied that the amount of land requested would be the minimum necessary to enable the Applicant to undertake the construction, operation and maintenance of the Proposed Development and that the permanent acquisition of a right in the land is necessary. The ExA therefore consider that any private harm to the Objectors would be outweighed by the public benefit from the Proposed development. Consequently, the ExA recommends the grant of CA sought in relation to these plots.

Legal Agreement started but little progress

- 8.9.27. Section four of the CA schedule [REP7-063] shows that at the close of the Examination there were 14 agreements in relation to 30 plots that had been started but where little progress had been made.
- 8.9.28. The ExA received one representation from an AP with this status.

RR-026 – Anya Bigwood

- 8.9.29. The objection relates to plots 06/295 and 06/300 where the Applicant is seeking the CA of new rights in the subsoil and TP at surface level. These rights are sought in order to install soil nails into the existing railway embankment. The objector was concerned that they had insufficient information about what proportion of their land would be required and what rent would be paid.
- 8.9.30. At CAH1 [EV-008] Ms Bigwood reiterated the concerns raised in her RR and that she was also concerned about privacy/ security as a mature hedge at the bottom of her garden may need to be removed and she was concerned as to how the Applicant proposed to access her land. The Applicant advised [REP3-022] that they had provided contact details to Ms Bigwood to enable her to have a meeting to discuss what is proposed and how it would affect her property.
- 8.9.31. At CAH2 [EV-012] the Applicant provided an update advising that they had met with Ms Bigwood and that engrossments had been issued to her and her solicitor in mid-February 2021 [REP6-022]. At D7 the CA Schedule [AG-51, REP7-063] shows that despite chasing by the Applicant no further progress had been made.
- 8.9.32. The ExA recommends that the SoS may wish to seek an update as to whether this agreement has been completed. However, if the agreement remains outstanding the ExA is satisfied that the land would be required to insert soil nails to ensure that the cutting works on this side of Pill Station would be robust. Furthermore, the ExA is satisfied that there is a process in place so that the objector would be appropriately compensated. The ExA therefore consider that any private harm to the Objector would be outweighed by the public benefit from the Proposed development. Consequently, the ExA recommends the grant of CA and TP for these plots.

Heads of Terms in Negotiation

- 8.9.33. Section five of the CA Schedule [REP7-063] shows that at the close of the Examination there were 27 agreements where heads of terms in relation to 254 plots were in negotiation.
- 8.9.34. The ExA received nine representations from APs with this status. The NT [RR-021] objections are considered later on in this section under the Special Category Land heading and BPC [RR-010] is considered in the section dealing with SUs.

RR-040 - Eleanor Blaney

- 8.9.35. The objection relates to plots 06/646 and 06/647. The Applicant is seeking to acquire a permanent new right in plot 06/646 and TP of plot 06/647. The objector [RR-040] sought clarification on how long access to their land would be needed and what equipment would be used.

- 8.9.36. According to the SoR [Schedule 1, REP7-012] plot 06/646 would be required to provide access to Pill Viaduct for maintenance/ repairs and plot 06/647 was needed temporarily to access the abutment of Pill Viaduct.
- 8.9.37. At CAH2 [EV-012] the Applicant advised that NR were proposing to undertake some core sampling work in this location on 6 April 2021 to refine the construction methodology in this location and that the heads of terms would be reviewed once the results of the viaduct surveys and core sampling works had been collated. However, the results of this sampling and survey work was not available before the end of the Examination.
- 8.9.38. The ExA recommends that the SoS may wish to seek an update as to whether progress has been made and a voluntary agreement completed following the sample and survey work. However, if the agreement remains outstanding the ExA is satisfied that the land would be required to enable access to repair and maintain the viaduct. The ExA therefore considers that any private harm to the Objector would be outweighed by the public benefit from the Proposed Development. Consequently, the ExA recommends the grant of CA and TP for these plots.

RR-056 – Colin Crossman

- 8.9.39. Colin Crossman farms Shipway Gate Farm at Sheepway, Portbury. He holds an interest in 17 plots. The Applicant is seeking the permanent acquisition or permanent rights in plots 02/18, 02/55, 02/115, 02/117, 02/121 and TP of plots 02/35, 02/37, 02/41, 02/45, 02/116, 02/118, 02/120 and 02/122. Mr Crossman has a freehold interest in respect of subsoil to half the width of the highway for Plots 02/50, 02/53 and 02/101 and a right of access in relation to Plot 02/90 for which the Applicant is seeking to CA.
- 8.9.40. Mr Crossman's key concern relates to severance of his farm by the stopping up of two existing at grade crossings which enable him to directly access the fields to the southern side of the disused railway line. The Applicant advised that for safety reasons the ORR applies a policy of no new crossings unless in exceptional circumstances. The ORR advise that there would only be exceptional circumstances where there is no reasonably practicable alternative to a crossing on the level at the location in question where an at grade crossing would be allowed. The Applicant considers that the nearby road bridge over the railway together with improvements to an existing agricultural access (Work No 11, Plot 02/55) would provide sufficient and reasonably practicable alternative access to the existing at grade crossings [8, REP3-022].
- 8.9.41. The Applicant advocated that a replacement accommodation bridge would not be appropriate as due to the size of the footprint of such a structure the impact on Shipway Gate Farm would outweigh any benefit it would deliver.
- 8.9.42. The matter was the subject of questions at ExQ1 [GC.1.9, PD-010] and ExQ2 [CA.2.13]. The matter was also discussed at CAH1 [EV-008] and

CAH2 [EV-012]. The ExA also visited Sheepway [EV-002] where it observed Shipway Gate Farm, the disused rail line and the field access.

- 8.9.43. The Applicant advised [CA.2.13, REP5-028] that they had been in discussions with Mr Crossman in relation to the cost of providing an alternative stock building, facilities and equipment on the south side of the railway so that the existing railway crossings could be closed off. The Applicant indicated that they hoped that agreement could be reached before the end of the Examination. Mr Crossman advised that he was still in negotiation with the Applicant, progress had been made but no agreement had been reached [REP5-045].
- 8.9.44. At the close of the Examination the CA Schedule [AG-68, REP7-063] indicates that agreement remains outstanding but that the Applicant would continue to negotiate terms with the landowner to try and agree a voluntary agreement with them.
- 8.9.45. Mr Crossman also raised a concern with regards to the potential conflict between the Proposed Development and the National Grid (Hinkley Point C Connection Project) Order 2016 and Correction Order 2017 (the HPCC Order). The HPCC project is currently under construction and the ExA observed that various works in association with this project were in place on the fields surrounding Shipway Gate Farm [EV-002].
- 8.9.46. The HPCC Order would provide for a new right for a cable under the railway and surface access over plots 02/55 and 02/121 for WPD to maintain it. The Applicant advised [REP3-022] that together with WPD it would be willing to negotiate an access agreement from Sheepway to WPD's cable easement, which would include 'lift and shift' provisions or an alternative route that is reasonably acceptable to WPD that is less direct.
- 8.9.47. The issue of the potential conflict between the HPCC Order and the Proposed Development was also raised by both National Grid Electricity Transmission Plc (NGET) and WPD and is considered in detail later in this chapter in the section on SUs.
- 8.9.48. In terms of the effect of CA on Mr Crossman the ExA recommends that the SoS may wish to seek an update as to whether a voluntary agreement has been completed. However, if the agreement remains outstanding as set out in Section 5.9 of this Report the ExA agree that the closure of the at-grade crossing at Shipway Farm would result in the need to alter farming practices at the Farm. Whilst it would result in a longer journey time the fields would nevertheless remain accessible and Mr Crossman would be compensated for this inconvenience through the CA process. The ExA therefore consider that any private harm to Mr Crossman would be outweighed by the public benefit from the Proposed Development. Consequently, the ExA recommends the grant of CA and TP for these plots.

RR-089 – Mrs Jane Fear on behalf of Mr Michael James Lee (deceased)

- 8.9.49. Mr Lee owns three plots which would be needed for working space and ecological mitigation work (plot 04/20), drainage clearance, maintenance and new fencing (plot 04/21) and to create a new hard standing to provide access and parking spaces for NR maintenance vehicles (plot 04/35). The Applicant is seeking to CA plots 04/21 and 04/35 and TP plot 04/20.
- 8.9.50. Mrs Fear raised a concern regarding future access to an adjacent field that was also owned by Mr Lee. She requested that either the right of way into the field via the current track should be retained or that the Applicant should create a new access from the Portbury Hundred into the field. If the field were to be rendered inaccessible, she was concerned that this would affect its value.
- 8.9.51. The Applicant advised [12-1, REP1-029] that a right of access would be retained by Mr Lee to enable continued access to other areas of land owned by him. The matter was also discussed at CAH1 [EV-008].
- 8.9.52. At the close of the Examination the CA Schedule [AG-75, REP7-063] indicates that heads of terms were exchanged between the parties in March 2021 and that the Applicant will continue to negotiate terms to try and reach a voluntary agreement.
- 8.9.53. The ExA recommends that the SoS may wish to seek an update as to whether a voluntary agreement has been completed. However, if the agreement remains outstanding then the ExA is satisfied that access to the adjoining fields would be maintained and that the plots would be required to enable the construction, operation and maintenance of the Proposed Development and any private harm would be outweighed by the public benefit that would be delivered by the proposed Development. Consequently, the ExA recommends the grant of CA and TP for these plots.

RR-100 – Mr and Mrs Money

- 8.9.54. Mr Money and his wife have an interest in plot 06/633 which the Applicant is seeking to TP in order to access works to Pill Viaduct. Whilst Mr and Mrs Money were fully supportive of the railway they were concerned about the potential use of their access for a three year period which could detrimentally impact on the occupants of the property which they rent out which may lead to them either moving out or asking for a reduction in rent.
- 8.9.55. The Applicant advised [26-1, REP1-029] that in January 2021 heads of terms were issued to Mr and Mrs Money along with details of the works to the viaduct. Albeit, it acknowledged that the level of detail was not available at that stage to provide the assurances that the Money's sought.

- 8.9.56. The matter was discussed at CAH1 [EV-008] where the Applicant advised that a meeting had been held in November 2020 as a result of which the Applicant was proposing to carry out further surveys. However, these surveys were not carried out until 6 April 2021 and as a result the results of these surveys and the implications for CA were not available before the close of the Examination.
- 8.9.57. The CA Schedule [AG-83, REP7-063] indicates that the Applicant will continue to negotiate to try and agree a voluntary agreement.
- 8.9.58. The ExA therefore, recommends that the SoS may wish to seek an update as to the outcome of the survey work and whether progress has been made and a voluntary agreement completed. However, if the agreement remains outstanding the ExA is satisfied that the land would be required to enable access to the viaduct to enable construction. Furthermore, the Objector would be entitled to compensation for any losses suffered as a result the ExA consider that any private harm to the Objector would be outweighed by the public benefit from the Proposed Development. Consequently, the ExA recommends the TP for these plots.

RR - 104 - Linda O'Hara

- 8.9.59. Ms O'Hara objected as her property is close to the railway line and she considered that the Proposed Development would affect her as a result of noise, parking and privacy. These matters are considered in the relevant sections of Chapter 5.
- 8.9.60. The ExA received a request from Ms O'Hara to attend CAH1 [EV-008] and although she did not attend the hearing the ExA is taking a precautionary approach and assuming that she has an objection to the CA of plots 06/634, 06/636 and 06/644 in which she has an interest. The Applicant is seeking the acquisition of permanent rights in plots 06/634 and 06/644 in order to provide access to Pill Viaduct. TP is sought for plot 06/636 to provide access to the abutment of Pill Viaduct.
- 8.9.61. The Applicant advises [71-1, REP1-029] that heads of terms have been issued and details of the proposed works to Pill Viaduct were provided in March 2020 setting out the access requirements and noise assessment of the new passenger train service. A site meeting was held in November 2020 after which, as with RR-040 and RR-100, the Applicant was proposing to carry out further surveys. However, these surveys were not carried out until 6 April 2021 and as a result the results of these surveys and the implications for CA were not available before the close of the Examination.
- 8.9.62. The CA Schedule [AG-84, REP7-063] indicates that the Applicant will continue to negotiate to try and agree a voluntary agreement.
- 8.9.63. The ExA therefore, recommends that the SoS may wish to seek an update as to the results of the surveys, the implications for CA and whether progress has been made and a voluntary agreement completed. However, if the agreement remains outstanding the ExA is satisfied that the land would be required to enable access to the viaduct to enable

construction, operation and maintenance of the Proposed Development. The ExA therefore consider that any private harm to Ms O'Hara would be outweighed by the public benefit that would be delivered by the Proposed Development. Consequently, the ExA recommends the grant of CA and TP for these plots.

REP1-041 - Bimcorp Ltd

- 8.9.64. Bimcorp Ltd own plots 15/10, 15/12, 15/15 and 15/17. It also has an interest in respect of subsoil in the highway in plots 15/11 and 15/16. The Applicant is seeking the permanent acquisition of plots 15/10, 15/12 and 15/17 which would be the location of the permanent maintenance compound at Clanage Road (Work No 26) and TP of plot 15/15 which would be the location of the temporary construction compound (Work No 26A). Plots 15/11 and 15/16 would be used to form part of the new access (Work No 26B) onto Clanage Road from the proposed compounds.
- 8.9.65. The main concerns raised related to the effect of the proposal on the setting of a number of heritage assets including Clifton Suspension Bridge which are considered in Section 5.10 of this Report. In relation to CA the objector considered that the amount of land being sought (plot 15/10) was excessive and unjustified. It considered that the Applicant had not considered alternative ways of acquiring the land such as a lease arrangement and/ or easement and felt there was no justification for permanent acquisition. Due to the proposed land take it considered that many of its existing activities at the site would no longer be viable and parking for other venues would not be possible without access to the current exit point.
- 8.9.66. The Applicant responded at D2 [REP2-032] and advised that the compound had been carefully designed to the minimum size required by NR's Construction Strategy Document [Page 19 to 21, APP-074] the space required is determined by the specification for the compound which includes:
- a clear turning circle for a low loader;
 - adequate space for loading and unloading;
 - the need for a ramp at a safe gradient to gain access to the track at a higher level;
 - a limited amount of space for parking;
 - space for temporary storage of materials and imminent tasks;
 - planting to the south side for screening; and
 - retention of existing planting to the north side and its enhancement for screening views from the suspension bridge.
- 8.9.67. The Applicant advised that the size of the temporary construction compound (Work No 26A) had already been reduced by 4 m following pre-application discussions with the previous owners of the site. The Applicant is therefore of the opinion that the plots requested reflect the absolute minimum land necessary, and a smaller area would compromise NR's ability to use the compound which is a key location to support construction/ maintenance in the Avon Gorge.

- 8.9.68. The Applicant advised [3.1.4, REP2-032] that it had considered other ways of securing the land but that the current uses of the site would conflict with NR's ability to access its compound and in any event a permanent ramp and dropping of the ground levels would be required. By taking the freehold of this land NR would be better able to ensure that it retains unfettered access to the site and ensure that the proposed floodplain compensation remains available to better protect the operational railway.
- 8.9.69. With regards to the existing car boot events which the Objector considers would no longer be viable the Applicant advises that this is a matter that could be resolved by way of compensation [3.1.6, REP2-032]. Car parking at the site would still be possible via Work No 26B which would provide an in/ out arrangement to replicate the existing arrangements.
- 8.9.70. At ExQ2 [CA.2.8, PD-014] and at CAH2 [EV-012] the ExA sought an update on negotiations. The Applicant advised that discussions were on-going and was hopeful of securing an agreement although it would be unlikely that this would be achieved before the close of the Examination. This position is reflected in the CA Schedule [AG-89, REP7-063] submitted at D7.
- 8.9.71. The ExA therefore, recommends that the SoS may wish to seek an update as to whether a voluntary agreement has been completed. However, if the agreement remains outstanding the ExA is satisfied that given its location the land would be necessary to provide a temporary construction compound, permanent maintenance compound and new vehicular access to enable the construction, operation and maintenance of the Proposed Development through the Avon Gorge. The ExA therefore considers that any private harm to the Objector would be outweighed by the public benefit the Proposed Development would deliver and that they would be appropriately compensated. Consequently, the ExA recommends the grant of CA and TP for these plots.

AS-069 – Jeremy B Bell on behalf of Mr S and Mrs J Millard

- 8.9.72. Mr and Mrs Millard have an interest in five plots of land at Ham Green. The Applicant is seeking the permanent acquisition of plots 08/25, 08/27, 08/30 and 08/31 which would be needed to deliver Work No 24 (permanent compound). TP is sought for plot 08/20 to provide temporary access to Ham Green Lake during construction of Work No 24.
- 8.9.73. The Millard's were concerned that when the ExA visited the site [EV-014], Mr Millard was unable to point features out so the ExA would not understand the extent of the land being sought, with particular reference to plot 08/27. They were also concerned about the trees that would potentially need to be felled, the lack of detailed design as to what was proposed and questioned whether the loss of trees had been assessed. Matters of tree loss are set out at paragraphs 5.3.76 to 5.4.78 of this Report.
- 8.9.74. The Applicant advised [REP7-069] that the Millard's agent was advised of the proposed areas that it intended to peg out in advance of the ExA's

USI, and that no issues were raised by the Agent prior to the USI. Furthermore, the Applicant considered that the pegging out was only to provide an indication of the permanent acquisition and the associated issues, and that the area that was pegged out was sufficient for the ExA to get an idea of what was proposed.

- 8.9.75. At the close of the Examination the CA Schedule [AG-86, REP7-063] reports that discussions are ongoing, and that information requested by the Agent has been sent. The Applicant advises that it will continue to negotiate terms with the landowner's agent to try and agree a voluntary agreement with them.
- 8.9.76. The ExA is satisfied that it was able to observe all that it needed to at Ham Green on its USI, given that it had copies of the Land Plans [REP5-003] in addition to the pegging out plans provided by the Applicant. The ExA is satisfied that the amount of land requested would be needed as vehicles would need to be able to turn around within the compound to enable them to safely enter and exit the site in a forward gear. The ExA considers that the effect of the Proposed Development on trees and landscape has been properly assessed and that the appropriate mitigation through additional planting would be delivered by Requirement 4 of the recommended DCO. The ExA therefore concludes that any private harm to the objector would be outweighed by the public benefit that would be delivered by the Proposed Development. The ExA therefore recommends the grant of CA and TP for these plots.

Temporary Licence Agreements

- 8.9.77. In relation to properties in Mount Pleasant and Eirene Terrace, Pill the Applicant is proposing to use temporary licences for access and to provide a safety cordon should plant or material fall from the railway embankment into the gardens below. The licences would be short term and to detailed terms. However, the parties appear in the BoR so that if the licences are not secured the land would be subject to TP powers.
- 8.9.78. According to Section 6 of the CA Schedule [REP7-063] at the close of the examination the 28 properties where temporary licence agreements would be used had all been sent template licences.
- 8.9.79. The ExA received one representation from an AP whose property would be affected by the licence agreements.

RR-116 – Margaret Stowers

- 8.9.80. Ms Stowers owns Plot 07/30 which would be needed on a temporary basis to provide access to the neighbouring embankment for strengthening works and restriction on access during work for safety reasons. Ms Stowers was concerned about the use of the pathway alongside her property as it is very narrow, and she considered not suitable for heavy use by either personnel or equipment. She suggested that the neighbouring Methodist Church could be used as an alternative access point.

- 8.9.81. The matter was discussed at CAH2 [EV-012]. The Applicant initially advised [001109-D4-001, REP5-033] that access via the church would not be suitable due to the supporting retaining wall and the gradient of the embankment in this location. Furthermore, if this access was the sole access then it considered that there would potentially be greater disruption to residents as works would take longer.
- 8.9.82. The Applicant advised that access to the side of Ms Stowers property would only be used for personnel and handheld equipment. Ahead of any works starting a full survey would be undertaken, protective measures such as plates, matting and hoardings would be used during construction. A post construction survey would then be undertaken, and any damage would be repaired. Ms Stowers would also be kept informed of progress and working patterns throughout the build.
- 8.9.83. At D6 [12, REP6-022] the Applicant advised that although an alternative access via the church would be challenging it was in the process of engaging with the Church to see if the stone wall and raise bed could be removed to enable access. The CA schedule at D7 [AG-94, REP7-063] indicates that negotiations were ongoing.
- 8.9.84. The ExA is satisfied that the Applicant is trying to look at alternative access options to accommodate the concerns of the Objector. However, if this is unsuccessful the ExA considers that measures would be put in place to limit and repair any potential damage if access has to be via plot 07/30. The ExA is therefore satisfied that the land would be required in order to enable the Applicant to construct the Proposed Development and maintain the safety of local residents. The ExA therefore considers that any private harm to the objector would be outweighed by the public benefit that would be delivered by the Proposed Development. Consequently, the ExA recommends the grant of TP for this plot should the Applicant not be able to secure the access it needs via a licence.

Agreement not required

- 8.9.85. Section eight of the CA Schedule [REP7-063] sets out 12 plots where the Applicant considers that an agreement is not required. In the case of plots 01/65, 07/78, 07/135, 07/160, 07/170, 07/180, 07/195, 08/15 and 16/63 this was because the proposed works were within the adopted highway and the Applicant is also the local highway authority.
- 8.9.86. The ExA initially received a RR from Mr Kirsan [RR-086] in relation to plot 06/566. However, this was subsequently withdrawn as Mr Kirsan advised that the matter had been amicably resolved [AS-003].

Category 3 Parties

- 8.9.87. The ExA received ten RRs from parties who were classified as Category 3 by the Applicant in the BoR [REP7-013]. These parties objected on a range of issues arising from the construction and implementation of the scheme. The concerns mainly relate to parking and congestion in and around Pill, the impacts of construction and the effect on the operation of the Ashton Vale Road industrial estate.

- 8.9.88. As set out in Section 5.5 of this Report the ExA is satisfied that sufficient parking would be provided at the new stations and should the local road network suffer from parking stress then the ExA is satisfied that the Applicant, as the local highways authority, would have the ability to address this.
- 8.9.89. The ExA has endeavoured throughout the Examination to ensure that adequate safeguards would be in place to manage construction impacts and this is reflected by the measures contained within the CoCP [REP6-142], the master CEMP [REP6-140] and the CTMP [REP6-138] which would be secured through Requirement 5 of the recommended DCO.
- 8.9.90. For the reasons set out in Section 5.5 of this Report the ExA is satisfied that the Proposed Development would not adversely affect the operation of the Ashton Vale Road industrial estate.
- 8.9.91. The remedies of making a claim under s10 of the Compulsory Purchase Act 1965 or in due course under Part 1 of the Land Compensation Act 1973 would be available to these objectors.

REP2-057 – Simon Twist and REP2-049 Gerard and Christine Sanders

- 8.9.92. Mr Twist and Mr and Mrs Sanders objected to the proposed Trinity footbridge (Work No 7) which they considered to be unnecessary and poorly designed. In addition, they considered that the building of the station, reopening of the line and building the footbridge would impact on their living conditions and the value of their properties. The ExA has highlighted these category 3 objections as they have specifically raised concerns about the effect of the Proposed Development on the value of their properties.
- 8.9.93. The matter of Trinity Footbridge and its impact is considered in Section 5.8 of this Report. As the ExA are recommending to the SoS that the footbridge should be deleted from the Application the concerns regarding the design of the footbridge and its impact on living conditions and property values would fall away.
- 8.9.94. With regards to the impacts from the operation of the station and the rail line Requirement 26 (Permanent acoustic fencing) would require the installation of an acoustic fence between the track and the properties in Peartree Field and Galingale Way which would reduce noise and disturbance to the occupiers of these properties.
- 8.9.95. Although Mr Twist and Mr and Mrs Sanders have no land being taken for the Proposed Development, they may nevertheless in due course be able to lodge a claim under s10 of the Compulsory Purchase Act 1965 and Part 1 of the Land Compensation Act 1973 depending upon how the Applicant deals with the issues set out above.

Statutory Undertakers

8.9.96. Throughout the Examination the Applicant has sought to reach agreement with affected statutory undertakers and to include Protective Provisions within the draft DCO to protect their interests. However, at the close of the Examination objections from the BPC [RR-010], the EA [RR-013], NGET [RR-020], WPD [RR-029] and CLH Pipeline [REP2-061] remained outstanding and as a consequence s127 and s138 of the PA2008 apply.

RR-010 – The BPC

8.9.97. First Corporate Shipping Ltd which trades as BPC are the owners and operators of RPD. BPC is the harbour and competent harbour authority for Bristol and are a SU by virtue of the Bristol Dock Acts and Orders 1848-2010. BPC are listed as having an interest in 57 plots in the BoR [REP7-013] where a combination of CA and TP rights are being sought.

8.9.98. BPC object to the CA or TP of all but 20 of the plots in which it has an interest. In particular it objects to:

- The proposed CA of all BPC's interests in:
 - Part of plot 5/50; and
 - Plots 5/27, 5/101, 5/102, 5/103, 5/131, 5/135 and 5/137 which it refers to as the public path land.
- The proposed CA of rights over:
 - Plot 5/75 (and the proposed powers of TP over that parcel);
 - Plots 5/104, 5/107, 5/108, 5/165, 5/171, 6/25 and 6/55 which it refers to as the rail link land (and the proposed powers of TP over those parcels); and
 - Plots 5/130 and 5/112;
- The extinguishment of BPC's rights over:
 - Plots 5/95, 5/100, 5/105, 5/122, 5/137, 5/140, 5/141, 6/10, 6/15, 6/20, 6/55, 6/60 and 6/80 which it referred to as the railway rights land; and
 - Plots 5/30, 5/61, 5/62, 5/65 and 5/70 which it refers to as the highway access land;
- The proposed powers of TP in relation to:
 - Plots 5/25, 5/95, 5/100, 5/105, 5/106, 5/112 and 5/113 and that part of plot 5/28 which lies to the east of an imaginary line projected in a northerly direction across the disused railway at 126 miles and 78 chains which BPC refers to as the Marsh Lane track land;
 - Plots 5/103 and 5/170; and
 - Other parts of the Port estate to the extent that those powers might be used to create additional haul roads.

- The suspension or overriding, during TP or construction, of the rights of BPC and others to use the rail link land and the Marsh Lane track land.

8.9.99. BPC is also seeking Protective Provisions to ensure that the above powers do not apply or cannot be used other than with the agreement of BPC. These are considered in Chapter 9 of this Report.

8.9.100. BPC considers that the test set by s127(1) of the PA2008 namely that its land cannot be acquired without causing serious detriment to the carrying on of the BPC's undertaking is met.

Plot 5/50

8.9.101. This parcel comprises in part a strip of flat land adjacent to the security fence surrounding a compound used for the storage of imported vehicles and in part land forming an embankment at the side of Marsh Lane. BPC advises that it needs to retain the flat land to enable an existing electronic communications code operator access to its mast. Before the compound was constructed the operator could access the mast via an undeveloped field. As the compound is bonded an alternative access to the mast now needs to be provided.

8.9.102. The SoR [REP7-011] states that the land is part of the existing highway but in fragmented ownership. The Applicant proposes to assemble the land in a single ownership and hold the land as highways authority to ensure that works to stabilise and maintain the road bridge over the railway are not prevented.

8.9.103. The BPC consider [12, REP7-049] that this is not a valid justification for the acquisition of the whole of 5/50 and that its acquisition would cause serious detriment to BPC's undertaking because of the disruption that would be caused to the use and security of the adjacent compound. There is no other land which would be available to BPC to replace the relevant part of 05/50.

8.9.104. This matter was discussed at CAH2 [EV-012] and the ExA visited the site [EV-014]. The ExA accept that if access cannot be provided via the adjacent compound then the flat land would need to be used by the code operator to access its mast and equipment. However, the ExA note that following CA the land would be land held by the highways authority and as such under the code rights contained within the Electronic Communications Code, the Code Operator would be able to gain access to this land to maintain or operate its mast and equipment.

8.9.105. Furthermore, the Applicant has confirmed [Appendix 7, REP7-042] that pursuant to Article 28(7) of the draft DCO any rights or ability to access the highway that BPC may have over this plot would not be extinguished and that it would permit the Code Operator and BPC access. As such the ExA is satisfied that the CA of this land would not cause serious detriment to BPC's undertaking nor would it prejudice the security of the adjacent compound. The ExA considers that the CA of the land would be

necessary to ensure the on-going safety of the bridge over the railway. The ExA therefore recommends the CA of this plot.

Public Path Land

- 8.9.106. Plot 05/27 [REP7-011] would be needed to realign the existing permissive cycle path which is currently located on top of the disused railway (Work No 16).
- 8.9.107. BPC [17, REP7-049] object to the CA of this plot as it considers that this would prevent its future re-use/ re-development of the wider area, including the potential re-alignment of the public bridleway, which would be to the serious detriment of the carrying out of its statutory undertaking. It believes that there is no other land available to it to replace this plot. Furthermore, BPC consider that as the Applicant agrees that Work No 16 could continue to be a permissive not permanent right of way it would be inappropriate for the land to be taken permanently.
- 8.9.108. The remaining public path land plots relate to Work No 18 which would create a new bridleway under the M5 overbridge to link into NCN 26. This would mean that horse riders would not need to use the existing NCN 26 route under the M5 where the Applicant considers that there would be a considerable risk of a horse being startled by the sudden noise of a train within a confined space.
- 8.9.109. BPC [20, REP7-049] considers that the area of land requested exceeds that which would be necessary to deliver the new bridleway. This land is held by BPC for the purposes of future development and/ or managed as ecological mitigation areas. If BPC no longer had these areas, it would have a detrimental effect on BPC's performance of its statutory duties and on its ability to develop its estate. Furthermore, BPC consider that the bridleway could be secured by dedication agreement which the BPC would be prepared to do and as such the CA of these plots would not be necessary.
- 8.9.110. The matter was discussed at CAH2 [EV-012] and the ExA has visited the various locations [EV-001 and EV-013]. Work Nos 16 and 18 are considered essential if the current NMU links provided by the footpaths, NCN 26 and the bridleway between Portishead and Pill are to be maintained. Whilst the ExA note the suggestion of the BPC that it could enable the provision of these elements of the scheme these would not be secured by the draft DCO. The ExA is satisfied with the Applicants case for the acquisition of these plots including the amount of land needed in connection with the bridleway. The ExA does not consider that the loss of this land would prevent BPC from carrying out its statutory functions and in any event any harm that it would incur would be outweighed by the public benefit that would be delivered by the proposed development. The ExA therefore recommends the grant of CA for these plots.

Plot 05/75

- 8.9.111. Plot 05/75 forms part of land which is safeguarded for the future development of RPD. BPC are progressing proposals to make this area

into an open storage area which would include an access onto Marsh Lane and the provision of an ecological buffer adjacent to the railway for foraging/ commuting bats.

8.9.112. The Applicant has requested the new right over this plot in order to enable it to inspect and maintain the embankment and Cattle Creep bridge. BPC consider the right is disproportionate given the effect it would have on BPC's proposals and alternative routes would be available to access these features [23, REP7-049].

8.9.113. At D6 the Applicant amended the rights sought to:

"To access, pass and repass and remain upon the land with or without vehicles, plant and machinery and for all purposes in connection with inspecting, reconstructing, maintain, repairing, cleansing, clearing, refurbishing, replacing and removing.

(a) *An accommodation bridge and associated walls, embankments and structures; and*

(b) *A culvert, watercourse and head wall.*

8.9.114. The Applicant has advised [7, REP7-042] that it is willing to be flexible in the routing of the right, but has taken the approach of indicating a route that is as close to the boundary as possible, save where it has sought to remove existing trees at the entrance to Marsh lane.

8.9.115. The ExA agree that the Applicant would need a right of access over these plots in order to enable it to construct and safely operate and maintain the southern side of the rail line and Cattle Creep Bridge. The ExA considers that the amount of land affected is proportionate to enable vehicular access to the southern side of the track vehicles and to turn around at Cattle Creep Bridge enabling them to enter and exit in a forward gear. The Applicant has located the route in such a way as to minimise the impact on the wider site. Furthermore, it considers that BPC proposals for storage in this location are at an early stage and could be designed in such a way as to accommodate the access and the ecological buffer. The ExA is satisfied that the loss of this land would not prevent BPC from carrying out its statutory functions and any harm that would arise would be outweighed by the public benefit that would be delivered by the Proposed Development. The ExA therefore recommends the grant of CA and TP for this plot.

Rail link land

8.9.116. The rail link land comprises the track of BPC's private railway including a level crossing which are part of BPC's statutory undertaking. The rights sought by the Applicant include:

- to access the railway to install, inspect and maintain signalling and related communications equipment on it;
- to alter the railway including removing and replacing tracks;

- to run trains of any description over the railway and to use the level crossing to transfer road and rail vehicles onto the tracks.

- 8.9.117. BPC [30, REP7-049] consider these rights unnecessary and unacceptable and that the uncontrolled use of the railway by NR would constitute a material interference with BPC's ability to operate the Port and a serious detriment to the carrying on of its undertaking.
- 8.9.118. The Applicant considers that the new rights would be compatible with the Port's undertaking and would be necessary to ensure that the Port's railway would connect to the altered Portishead Branch Line and to enable the freight service to continue to be operated alongside the new passenger service.
- 8.9.119. The ExA is satisfied with the Applicant's explanation as to why these rights would be needed. Whilst the ExA notes the BPC concerns, the Applicant would be required (subject to timetabling) to provide BPC with 40 movements a day via this rail link. As a result, the ExA is satisfied that BPC's statutory functions would be unimpeded and recommends the grant of CA and TP for these plots.

Plots 05/103 and 05/112

- 8.9.120. Plot 05/112 is the Marsh Lane track which would provide the Applicant with road access to the rail link land. Plot 05/103 is an area under the M5 overbridge that would provide a turning circle and parking area for vehicles required in conjunction with the maintenance and operation of the rail link land. The Applicant is seeking a permanent new right across these plots.
- 8.9.121. The track is used by BPC as well as being a public bridleway. SU's and HE also use the route for access. Whilst the use of the track as a bridleway would be temporarily suspended during construction of the Proposed Development the Applicant advises that it has no intention to exercise temporary or other powers to restrict use of the route by other parties with private rights to use the access track [Appendix 7, REP7-042].
- 8.9.122. The ExA is therefore satisfied that the rights would be needed and that the BPC would not be prevented from using the track or area under the bridge and so it would therefore be able to continue to carry out its statutory functions. The ExA therefore recommends the CA and TP of these plots.

Extinguishment of rights

- 8.9.123. BPC objects to the extinguishment of its private rights over land belonging to third parties. BPC advocate that to prevent this it needs Protective Provisions.
- 8.9.124. BPC has the benefit of rights in relation to the operation and maintenance of its railway over a number of plots which it refers to as the railway rights land. BPC considers that these rights are necessary in

connection with its statutory undertaking and therefore at all times must be preserved.

- 8.9.125. At D7 [Appendix 7, REP7-042] the Applicant advised that plot 05/95 (which would be part the railway rights land) appears to be in the ownership of HE and not BPC. Regardless the Applicant confirmed that it had no intention of restricting the use of this part of the access road by BPC or others authorised by BPC if the title vested to the Applicant. With regards to plots 05/100 and 05/105 these form part of the Marsh Lane track, and as for the public path land, the ExA is satisfied that BPC would not be prevented from using the track and so it would therefore be able to continue to carry out its statutory functions unaffected.
- 8.9.126. The Applicant advises that for plots 05/122, 05/137, 05/140, 05/141 BPC's rights relate to its railway bridge over another part of the title so would not be affected. For the remaining plots the powers sought in and around BPC's railway are to ensure that it is properly connected to the National Rail network. As a consequence, the Applicant does not consider that the rights sought would be incompatible with BPC's rights which would endure. The ExA is satisfied that BPC would not be prevented from carrying out its statutory functions and considers that the powers sought over the railway rights land would be required to enable the construction, operation and maintenance of the Proposed Development therefore the CA of these plots is recommended.
- 8.9.127. BPC advocates that with regard to the highways access plots it needs continued access in connection with the adjacent land. These plots form part of the existing highway but are in fragmented ownership. The Applicant proposes to assemble the land in a single ownership and hold the land as the highways authority to ensure that the works to stabilise and maintain the road bridge would not be prevented. As with Plot 05/50 the Applicant has confirmed [Appendix 7, REP7-042] that there is no intention of preventing BPC from accessing the highway via these plots. The ExA is satisfied that the plots would be needed to ensure the on-going safety of the bridge over the railway and that BPC would not be prevented from accessing the adjoining land so it would therefore be able to continue to carry out its statutory functions. The ExA therefore recommend the CA of these plots.

Marsh Lane Track Land

- 8.9.128. BPC objects to the use of its private perimeter track as a major haul road. The Marsh Lane Track Land consists of the current track and areas on either side of it, including all the land on the north side of the track up to the fences surrounding the RPD secure storage compounds. The BPC considers that the draft DCO [43, REP7-049] does not contain any mechanisms which would enable BPC to enforce the necessary controls on the various contractors using the track. Without these controls BPC considers that the Proposed Development would prejudice the continued safe and secure operation of RPD and the carrying out of BPC's statutory undertaking.

8.9.129. The concerns regarding the use of the Marsh Lane Track during construction and the impacts on security of the port and dust are considered in Chapter 5 of this Report. The ExA considers that through Requirements 5 and 35 the temporary use of the track as a haul road would be managed so as not to cause detriment to the safe and secure operation of RPD. As a consequence, the ExA is satisfied that BPC would not be prevented from carrying out its statutory duties. The ExA considers that the TP of these plots would be necessary to enable the construction of the Proposed Development. The ExA therefore recommends the TP of these plots.

Plots 05/103 and 05/170

8.9.130. These plots comprise land located under the M5 overbridge which would be used as temporary construction compound (Work No 16A). The BPC considers [46, REP7-049] that without appropriate controls being in place the compound would impair the security of the RPD estate and cause interference with port operations in the vicinity. BPC considers it inappropriate that any damage should be dealt with by means of compensation. Instead it advocates that BPC should have the benefit of obligations which it may enforce to protect the continued ability for the Port to operate safely and securely and the carrying on of its statutory undertaking. BPC considers that a lease rather than TP would be more appropriate.

8.9.131. The ExA visited the site [EV-001] where it observed the RPD storage area and its relationship with these plots. It noted that these plots do not form part of RPD operational estate; the presence of the secure fencing along the perimeter; the location of the freight line and the presence of an existing compound area at the southern end of the bridge. The ExA does not consider the location of a construction compound for a temporary period in this location would adversely affect the safe and secure operation of RPD nor would it prevent BPC from carrying out its statutory functions. The ExA therefore recommends the TP of these plots.

Use of other parts of the RPD estate for haul roads

8.9.132. BPC [49, REP7-049] advises that the same concerns that it has raised in relation to the use of Marsh Lane track would arise if the Applicant sought to create haul roads elsewhere on the RPD estate. BPC requested the use of a Protective Provision to prevent this.

8.9.133. The Applicant advised [TR040011-001502-004, REP7-068] that it does not propose any additional haul roads on BPC land. This matter is considered further in Chapter 9 of this Report.

Suspension and overriding of rights

8.9.134. BPC advised that the use of Marsh Lane track and the rail link land would not be exclusive to the Applicant as they must remain available for use by BPC, its customers and other authorised users. The Applicant [REP3-036] has confirmed that it does not intend to use the Order powers to extinguish the rights of other parties to use the Marsh Lane track. BPC

[REP4-058] wants this commitment to be secured in the DCO and it to be extended to the rights of BPC and others to continue to use the Ports railway.

- 8.9.135. The Applicant confirmed [TR04001-001502-005, REP7-068] that it did not propose to suspend the rights of parties with the benefit of existing rights over the Marsh Lane track nor the ability of BPC to use the Marsh Lane track. The PRow would however be suspended for the duration of the works. The Applicant has included revised Protective Provisions based on but amended from the draft provided by BPC and these are considered further in Chapter 9 of this Report.

Conclusion on BPC's objections to CA and TP

- 8.9.136. As BPC's objection to the CA and TP of its land has not been withdrawn, the tests of s127 and s138 of the PA2008 apply. Whilst the ExA accepts that the Protective Provisions contained within Part 5 of Schedule 16 of the final preferred draft of the DCO [REP7-056] might not be worded as BPC would prefer, it is satisfied that the recommended DCO would provide an appropriate form of protection for BPC. For the reasons set out above the ExA is satisfied that the land and the rights sought could be acquired without serious detriment to the carrying out of the undertaking. Therefore, in relation to BPC the tests in s127(5) and s138(4) would be met and as a consequence the CA and TP sought for these plots is recommended.

RR-013 – The EA

- 8.9.137. The EA are listed in the BoR [REP7-013] as having an interest in 65 plots. The EA was fully supportive of the aims of the proposal however it had a number of issues, including in relation to land interests and Protective Provisions which it sought clarification and resolution on.
- 8.9.138. The EA [RR-013 and Paragraph 6, REP2-040] requested full details in respect of each plot would be affected by the proposed development and whether any impact would be on a permanent or temporary basis. In either event the EA advised that it would need to ensure suitable arrangements would be in place to enable it to continue to work operationally from the land in question and that, as a result of the Proposed Development, the EA would not be put in breach of any of its obligations, under agreements associated with any land affected.
- 8.9.139. With regards to Protective Provisions the EA advised that it was still awaiting contact from the Applicants legal representatives regarding outstanding concerns in respect of the Protective Provisions contained in the draft DCO [AS-014].
- 8.9.140. AT D7 [REP7-027] the signed SoCG records that the Applicant has provided [Appendix 1, REP7-027] details of access arrangements and that the final preferred draft of the DCO [Schedule 16, Part 4, REP7-056] contains a short form Protective Provision as required by the EA. This is confirmed in the s127 Position Statement submitted at D7 [REP7-042].

8.9.141. Whilst agreement has been reached between the Applicant and the EA the EA's objection to the CA and TP of its land has not formally been withdrawn and as a result the tests of s127 and s138 of the PA2008 apply. The ExA is satisfied that access arrangements have been agreed between the EA and the Applicant and would be secured through the Protective Provisions as drafted. As a result, the ExA consider that the land and the rights sought could be acquired without serious detriment to the carrying out of the EA's undertaking. Consequently, the ExA are satisfied that the tests in s127(5) and s138(4) would be met and therefore the CA and TP sought for these plots is recommended.

RR-020 - NGET

8.9.142. NGET are listed in the BoR [REP7-013] as having an interest in 61 plots. NGET have no objection in principle to the Proposed Development and is supportive of its objectives [1.4, REP6-039]. However, NGET has been authorised by the SoS through the HPCC Order to construct and operate a nationally significant infrastructure scheme to bring electricity to the south west and Midlands from the new nuclear power station at Hinkley Point. The HPCC Order gives NGET all powers, including CA and TP, to build and operate the connection. One overhead line and two conductors from the HPCC project would oversail part of the Proposed Development. As a result, NGET is seeking to ensure that the Proposed Development includes suitable protections to ensure that NGET can access the land it needs in order that the HPCC Order can proceed.

8.9.143. If the Portishead Branch Line – MetroWest Phase 1B Order is granted, then both NGET and the Applicant would have statutory powers in relation to acquiring the same parcels of land. NGET advocate that it would be mutually beneficial to both the Applicant and NGET to regulate their interaction on the face of the Order [4.4, REP6-039] through the use of Protective Provisions.

8.9.144. Initially the Applicant resisted the inclusion of Protective Provisions within the draft DCO. However, at D7 the final preferred draft DCO [Schedule 16, Part 8, REP7-056], included Protective Provisions for the mutual protection of National Grid and the Railway Undertaker.

8.9.145. The Protective Provisions include Paragraph 95 (Duty to co-operate) which requires NR and NGET to co-operate and work together to secure the works proposed to be carried out by NGET under the powers of the National Grid (Hinkley Point C Connection Project) Order 2016 and the works that would be authorised by any Order granting consent for this application as far as reasonably possible to be programmed and carried out so as to avoid undue delay or any conflict arising between the carrying out of those proposed works and the implementation of the Proposed Development. Any consent, agreement or approval between the parties must not be unreasonably withheld or delayed.

8.9.146. Furthermore, Paragraph 97 (Acquisition of land) states that:

- (1) *Regardless of any provision in this Order or anything shown on the land plans or contained within the book of reference to the*

Order, the railway undertaker may not acquire or extinguish any land interest or apparatus or override any easement and/or other interest of National Grid, including any rights contained in the 2016 Order, otherwise than by agreement.

- 8.9.147. The wording is that which was suggested by NGET in its suggested Protective Provisions submitted at D4 [REP4-046]. NGET's drafting also included a second subsection to this paragraph which would manage conflict over existing equipment which does not appear on the face of the final preferred draft of the DCO [REP7-056]. This is considered by the ExA in Chapter 9 where the drafting of Protective Provisions is covered in more detail.
- 8.9.148. The BoR [REP7-013] lists a further 50 plots along the route of the Proposed Development where NGET have either a Category 1 or Category 2 interest. As the focus of the Examination had been on the issues about the interface between the HPCC Order and the Proposed Development the ExA [PD-016] sought clarification from NGET as to its position regarding the acquisition of these plots. At D7 [2.4, REP7-048] NGET advised that with a few exceptions the majority of the listings did not represent actual subsisting land interests or assets held by NGET and it considers that as the Protective Provisions are not tied to the HPCC Order then its assets and land would be sufficiently protected.
- 8.9.149. As NGET's objection has not been withdrawn, the tests of s127 and s138 of the PA2008 apply. The ExA is satisfied that the Protective Provisions in Part 8 of Schedule 16 of the Recommended DCO would apply in default of any voluntary agreement. The provisions would amongst other things ensure that NGET would be able to construct, operate and maintain the HPCC in the locations where it would interact with the Proposed Development. The ExA therefore considers that the CA of land and the rights sought in relation to these plots could be acquired without serious detriment to the carrying out of NGET's undertaking. Therefore, the tests in relation to s127(5) and s138(4) would be met and the CA and TP sought for those plots where NGET holds an interest is recommended.

RR-029 - WPD

- 8.9.150. WPD is the licensed electricity distribution network operator under s6 of the Electricity Act 1989 for the area in which the Order is proposed to have effect. It is listed in the BoR [REP7-013] as having an interest in 313 plots. WPD objected [RR-029] on the grounds that discussions with regard to the protection of WPD assets that would be affected by the Proposed Development had not been concluded and as such it wanted to protect its position pending conclusion of an appropriate agreement. Without sufficient agreement to protect its assets and provide land rights to keep and maintain its assets WPD considered that it would suffer serious detriment to its undertaking [1.5, REP2-052].

Plots 02/70 and 02/125⁶

- 8.9.151. Work No 4D of the HPCC Order permits the diversion of a 132 kV electricity line owned and operated by WPD from an overhead line (OHL) to an underground line beneath the proposed railway within plot 02/70 with access to operate and maintain being gained by plot 02/125. NGET are undertaking the work on behalf of WPD. WPD therefore sought to ensure that the draft DCO would not extinguish WPD's rights to the existing OHL until that line is removed and that the rights for the underground diversion under the HPCC Order are preserved and not extinguished by any rights under the draft DCO.
- 8.9.152. The ExA is satisfied that these works would be protected by virtue of paragraph 97 of the Protective Provisions contained within Part 8 of Schedule 16 of the recommended DCO which are for the mutual protection of NGET who are undertaking the works on behalf of WPD. Furthermore, access for WPD to operate and maintain the cables would be provided via plot 02/121 where the Applicant is seeking to acquire a permanent new right specifically to provide access to these cables.

Existing network and diversions

- 8.9.153. WPD would need to divert some of its electricity cables, mainly electricity lines on wooden poles, to accommodate the Proposed Development. Currently, there is no legally binding agreement in place for diverting existing apparatus albeit that the diversions have been planned and are unlikely to change [3.1, REP2-052]. In the interim WPD advised it would need to rely on the Protective Provisions (and subsequent side agreement) to protect its network.
- 8.9.154. At D7 the CA Schedule [REP7-063] records that a draft SoCG has been issued but had not been signed [REP7-031]; discussions between the parties was on-going; Protective Provisions for WPD are included in the final preferred draft of the DCO [REP7-056] but that these and a side agreement were still being negotiated. The Applicant advised that it anticipated that negotiations and the agreement would be completed before the end of the Examination.
- 8.9.155. The ExA note that the Protective Provisions in the final preferred draft of the DCO [REP7-056], in particular paragraph 83 which WPD objected to, now uses the preferred wording provided by WPD at D2 [Annex 2, REP2-052]. Consequently, the ExA considers that the tests in s127(2) and (5) and s138(4) would be met because the Protective Provisions in Part 8 of Schedule 16 of the Recommended DCO would apply in default of an agreement. These provisions would provide, amongst other things, for the removal of any apparatus to be approved under paragraph 84. Paragraph 86 would provide for the payment of costs and expenses by the Applicant where WPD incurs a loss as the result of any works. The

⁶ WPD refer to these plots by the plot numbers for the HPCC Order plots 183 and 185, the equivalent plots for the Proposed Development are plots 02/70 (185) and 02/125 (183). To avoid confusion the ExA has chosen to refer to them by the plot numbers used by the Applicant.

ExA therefore considers that the CA of land and the rights sought in relation to these plots could be acquired without serious detriment to the carrying of WPD's undertaking. Therefore, the test in relation to s127(5) of the PA2008 would be met and the ExA recommend the CA and TP sought for these plots.

REP2-061 - Exolum Pipeline System Ltd (formerly CLH Pipeline System Ltd)

- 8.9.156. Exolum Pipeline Systems Ltd operates a network of fuel distribution pipelines. Exolum are listed in the BoR [REP7-013] as having an interest in 13 plots in two locations:
- Sheepway, east of Portishead, where two of its pipelines cross the track bed of the disused railway perpendicularly; and
 - beneath the M5 overbridge, south of BPC's branch line where a further two pipelines run within a proposed temporary construction compound (plot 05/170).
- 8.9.157. All four pipelines are multi-fuel pipelines that transport fuel products on an almost continual basis, seven days a week.
- 8.9.158. Exolum does not object to the Scheme in principle [Paragraph 3.1, REP2-061] but it does object to any acquisition of its apparatus or rights under CA powers granted in the DCO, and the grant of any further rights or powers that would have the potential to:
- create a risk, whether during or after construction, to the physical and operational integrity of the pipelines;
 - obstruct Exolum's ability (physically or legally) to protect the pipelines and gain access to them for inspection, maintenance and repair; or
 - prevent or diminish Exolum's ability to enforce its legal rights in respect of current and future protection of the pipelines from surface or underground activity.
- 8.9.159. In addition, Exolum raised concerns about potential damage or restriction of access during construction.
- 8.9.160. Exolum considered [4.1, REP2-061] that the Protective Provisions included in the draft DCO for its benefit were not adequate. However, it advised that it was in discussions with the Applicant and hoped to be able to reach an agreement.
- 8.9.161. The CA schedule [REP7-063] advised that detailed discussions between the parties were ongoing. The ExA considers the wording of the Protective Provisions in Chapter 9 of this Report including finding on the matters of substantive dispute between the parties for the Recommended DCO. As a result the ExA is satisfied that the Recommended DCO would provide an appropriate form of protection for Exolum and therefore the tests in s127(5) and s138(4) of the PA2008 would be met and the CA and TP sought for these plots is recommended.

Other Statutory Undertakers

- 8.9.162. A number of other SUs have lands and rights that would be affected by the Proposed Development.
- 8.9.163. With regards to those SUs whose rights and apparatus would be interfered with by the delivery of the Proposed Development but who have not made a representation, Part 2 of Schedule 16 of the draft DCO includes provisions for the protection of all electricity, gas, water, petroleum and sewerage undertakers and Part 3 provides protections for the operators of electronic communications code networks. However, as they have not made representations the provisions of s127 or s138 are not triggered.

ExA's conclusions on Statutory Undertakers

- 8.9.164. On the basis of the evidence before the ExA it is satisfied that the provisions contained within Schedule 16 of the Recommended DCO would ensure that an appropriate degree of protection would be given to the affected undertakers, such that there would be no serious detriment to the carrying out of those organisations undertakings. The ExA is satisfied that the interference with apparatus and extinguishment of rights would be necessary for the purposes of carrying out the development.
- 8.9.165. Accordingly, having regard to s138(4) of the PA2008 the ExA recommend to the SoS that the Order may include provision for the extinguishment of the relevant rights or the removal of the relevant apparatus.

Special Category Land

Open space

- 8.9.166. The ExA is satisfied that in each case where the Applicant is seeking the CA of open space the land that would be required would be less than 200 sqm and the ExA has not received any representations calling for exchange land to meet the needs of an individual or the public. Furthermore, the ExA is satisfied that once the Proposed Development has been constructed the land would be available to the owners, users and public to use as before.
- 8.9.167. The ExA is therefore satisfied that the exemptions provided by s131(5) and 132(3) of the PA2008 would apply. Consequently, the ExA recommends to the SoS that SPP should not apply to this land and the Recommended DCO records the SoS's satisfaction on this matter as required by s131(3) and s131(2) of the PA2008

National Trust land

- 8.9.168. The BoR [REP7-013] lists the NT as having an interest in 14 plots for which the Applicant is seeking TP. All but two of the plots would be needed for vegetation clearance, rock picking, rock bolting and ecological works. Plot 11b/15 would be required to provide access to works within the Avon Gorge and plot 12/10 would be needed to provide working space and a compound.

- 8.9.169. In its RR [RR-021] the NT broadly supported the Proposed Development. However, it objected to the acquisition of the land needed in relation to rock picking and rock bolting as it considered that the ongoing liability for managing rock fences would be significant, and the works should be placed on NR land as much as possible.
- 8.9.170. The NT concerns were examined at CAH1 [EV-008] and CAH2 [EV-012] and was the subject of written questions at ExQ1 [CA.1.7 and CA.1.13, PD-010] and ExQ2 [CA.2.5, PD-014]. The ExA also issued a request for further information [PD-016].
- 8.9.171. At the close of the Examination the signed SoCG [REP7-060] with the NT showed that all matters with regards to the installation of rock fencing; liability for rock falls; risk assessments; installation of geo-technical measures; carrying out of rock-scaling and de-vegetation works; inspection of rock faces and works to Quarry Underbridge No 2 were all agreed. The only matter not agreed was whether SPP would apply in relation to TP.
- 8.9.172. The Applicant considers that SPP would not apply in relation to the temporary use of NT's land. Furthermore, the Applicant advocates that the protective provisions that are now included in Part 10 of Schedule 16 of the final preferred draft DCO [REP7-056] would ensure that there is no question of the CA of land owned by the NT occurring. The ExA agrees with the Applicant that because it is not seeking to CA the NT land s130(2) of the PA2008 would not apply.

Crown Land

- 8.9.173. The ExA is satisfied that the consent under 135(1) and s135(2) from the relevant Crown Authority has been secured.

8.10. TEMPORARY POSSESSION

- 8.10.1. In relation to the temporary possession powers sought pursuant to Articles 33 and 34 of the DCO, the Applicant sets out its justification for the grant of these powers in section 7 of the SoR [REP7-012]. The powers are required for site compounds, haul roads and space to carry out works. The powers would only be needed for a limited period of time during the construction phase and once operational for occasional maintenance.
- 8.10.2. The ExA is satisfied that the relevant land would be required for these purposes and is necessary to enable the implementation of the Proposed Development. The exercise of these rights of temporary possession and use of land would infringe Convention rights under the Human Rights Act 1998, but the ExA considers that they are proportionate in relation to the scheme, legitimate and in the public interest. There is a provision within the recommended DCO for compensation to be paid to affected parties and the significant public benefits that the scheme would deliver would outweigh any adverse impacts on those affected.

8.11. HUMAN RIGHTS ACT 1998 CONSIDERATIONS

- 8.11.1. In assessing whether there is a compelling case in the public interest for the land to be acquired compulsorily, it is necessary to consider the interference with human rights which would occur, if CA and TP powers were granted.
- 8.11.2. The Applicant acknowledges [REP7-011] that the DCO would engage a number of Articles of the Human Rights Act including:
- Article 1 of the First Protocol (the right to those whose property would be compulsorily acquired to the peaceful enjoyment of their possessions);
 - Article 6 of the First Protocol (which entitles those affected by the powers sought to a fair and public hearing); and
 - Article 8 of the First Protocol (which seeks to protect private and family life, home and correspondence).
- 8.11.3. No public authority is allowed to interfere with these rights except if it is in accordance with the law and is necessary in the interests of national security, public safety or the economic well-being of the country. The Applicant sets out in the SoR [7.20 to 7.29, REP7-011] the considerations that arise in relation to the Application and advises that it has carefully considered the balance to be struck between individual rights and the wider public interest.
- 8.11.4. Having regard to the relevant provision of the Human Rights Act the ExA has considered the individual rights that would be interfered with and the submissions made by the APs in this regard and is satisfied that:
- In relation to Article 1 of the First Protocol that the proposed interference with individual's rights would be lawful, necessary, proportionate and justified in the public interest;
 - In relation to Article 6 the ExA is satisfied that all objections which were submitted to the Examination have either been resolved with the Objector, or the Objector has had the opportunity to present their case to the ExA in writing and/ or at the CAHs; and
 - In relation to Article 8 the interference is in accordance with the law and is necessary in the interests of the economic well-being of the country.

8.12. THE EQUALITY ACT 2010

- 8.12.1. Section 149 of the Equality Act 2010 requires a public authority, in the exercise of its functions to:
- have due regard to the need to eliminate discrimination harassment and victimisation and any other conduct prohibited by or under the Act;
 - advance equality of opportunity between persons who share a relevant protected characteristics and persons who do not share it; and
 - foster good relations between persons who do share it.

- 8.12.2. The protected characteristics are age, sex, gender reassignment, disability, pregnancy and maternity, religion and belief and race.
- 8.12.3. An Equalities Impact Report was prepared by the Applicant as part of the ES [Appendix 14.1, APP-154]. The report concludes that the Proposed Development would provide a sustainable means of transport that would assist mobility impaired people to move between Portishead and Bristol, opening up a wider range of facilities to such persons. The stations at Pill and Portishead would be accessible and the bus stop at Hayward Road/Lodway would be improved to enhance accessibility for connecting bus services and for any rail replacement bus services.
- 8.12.4. The ExA considers that there is no evidence that the Proposed Development would have any specific impact in relation to persons who share a protected characteristic as compared to persons who do not, or any indication that allowing the Application would have any harmful equality implications.

8.13. The ExA's RECOMMENDATIONS ON THE GRANTING OF COMPULSORY ACQUISITION POWERS AND RELATED MATTERS

Section 115 – Associated Development

- 8.13.1. Section 115 of the PA2008 provides that, in addition to the development for which consent is required under Part 3 of the PA2008 (the principal development), consent may also be granted for Associated Development. The PA2008 defines Associated Development as development which is associated with the principal development.
- 8.13.2. The ExA is of the view, as set out in Chapter 3 of this Report, that the Associated Development in Schedule 1 of the Recommended DCO comprises development for which development consent is sought in accordance with the 2013 Guidance. The land required for this Associated Development can therefore, in principle, be compulsorily acquired pursuant to s122(2)(a) of the PA2008.

Section 122(2) – The purpose for which CA is sought

- 8.13.3. The ExA is satisfied that the legal interests in all plots described and set out in the BoR [REP7-013] and the Land Plans [REP5-003] would be required for, or to facilitate or incidental to, the Proposed Development to which the development consent relates. Both the principal development, and the Associated Development, identified in the Application would be needed to enable the implementation, operation and maintenance of the Proposed Development. The requirements of s122(2)(a) and (b) of the PA2008 are, therefore, met.

Section 122(3) – Whether there is a compelling case in the public interest

- 8.13.4. The ExA has had regard to the objections raised by all APs. Nevertheless, the ExA concludes that the public benefits associated with the Proposed Development would outweigh the private loss which would be suffered by those whose land would be affected by CA powers to enable the construction, operation and maintenance of the Proposed Development.
- 8.13.5. The ExA has also considered the particular points raised by objectors in relation to alternatives. However, the ExA is satisfied that the Applicant has explored all reasonable alternatives to CA, including modifications to the scheme. The objections raised do not dissuade the ExA that there are no alternatives to the CA sought which ought to be preferred.
- 8.13.6. The ExA concludes that:
- the development for which the land is sought would be in accordance with national policy as set out in the NPSNN and development consent should be granted;
 - NPSNN identifies a need for improvements to the national rail network and the provision of alternative modes of transport to the car which the Proposed Development would deliver;
 - the need to secure the rights required and to construct the Proposed Development within the necessary time frame represents a significant public benefit to weigh in the balance;
 - the private loss of those affected has been minimised through the selection of the application land and the extent of the rights and interests proposed to be acquired being the minimum necessary;
 - the Applicant has explored all reasonable alternatives to the CA rights and interests sought, and there are no alternatives which ought to be preferred;
 - adequate and secure funding would be available to enable the CA within the statutory period following the making of the Order; and
 - that the Applicant has sufficient funds to meet all obligations arising from CA and TP.
- 8.13.7. Taking these various factors together, the ExA considers that there is a compelling case in the public interest for the CA powers sought in respect of the CA land shown on the Land Plans [REP5-003]. As a result, the ExA is satisfied that the proposal would comply with s122(3) of the PA2008.

Section 120(5) and s126 – The incorporation of other statutory powers

- 8.13.8. The recommended DCO seeks, in a number of instances, to apply s120(5)(a) of the PA2008 and apply, modify or exclude a statutory provision. Since the recommended DCO is in the form of a statutory instrument, the ExA considers that it would comply with s117(4) of the PA2008. Furthermore, no provision would contravene the provisions of s126 of the PA2008 which relate to the modification or exclusion of compensation provision.

Section 127 and s138 – Statutory Undertakers

- 8.13.9. Section 127 and s138 representations were submitted to the Examination and were not withdrawn by its close. These representations have been considered as set out above. In the case of each s127 representation, the ExA concludes that the SoS can be satisfied that there would be no serious detriment caused by carrying on the undertaking of the SU in question should the CA or TP sought be granted. In the case of s138 the ExA is satisfied that the extinguishment of the relevant rights, or the removal of the relevant apparatus, would be necessary for the carrying out of the development to which the Order relates.

Section 130 – NT Land

- 8.13.10. The ExA is satisfied that whilst the NT did object to the CA of its land the Applicant is only seeking TP and the recommended DCO as drafted includes a Protective Provision that would prevent the CA of any land held inalienably by the NT. As a result, the ExA consider that s130(3) of the PA2008 would not apply and therefore SPP would not be required.

Section 131 and s132 – Open space

- 8.13.11. The ExA considers that the impact from the rights sought in the recommended DCO on land considered to be open space would make no less advantageous for those to whom it is vested, any persons entitled to rights of common or other rights and the public. Consequently, the ExA considers that the tests in s131(5) and s132(3) of the PA2008 are satisfied and the SoS confirmation of this point is recorded in the preamble to the recommended DCO.
- 8.13.12. No common land or fuel or field garden allotments would be affected by the Proposed Development.

Section 135 – Crown land

- 8.13.13. The ExA is satisfied that the Applicant has obtained consent from the relevant Crown authorities.

Temporary Possession

- 8.13.14. The ExA is satisfied that the TP powers sought would be necessary to enable the implementation of the proposed development and that adequate compensation provisions are included in the recommended DCO.

Human Rights Act 1998 and Equality Act 2010

- 8.13.15. The ExA considers that any interference with human rights that would arise as a result if the inclusion of CA and TP powers in the recommended DCO would be for legitimate purposes, proportionate and justified in the public interest. The ExA has met its obligations with regards to s149 of the Equality Act 2010 during the Examination and in preparing this Report. The ExA is satisfied that the proposed Development would not

have any differential impacts on any person with a protected characteristic.

- 8.13.16. Furthermore, the ExA is satisfied that there is no evidence that the Proposed Development would not accord with s149 of the Equality Act 2010, therefore the SoS can be confident that they are fulfilling their PSED.

Adequacy of funding

- 8.13.17. The ExA is satisfied that the Applicant would have access to the necessary funds and the project would be implemented if granted consent.

Deletion of Trinity Footbridge

- 8.13.18. For the reasons set out in Chapter 5 (section 5.8) the ExA are recommending the deletion of Trinity Footbridge from Work No 7. The land sought in connection with this work (plots 01/205, 01/213 and 01/214) would still be required to deliver the public foot and cycle track, together with signage, drainage, lighting, fencing and landscaping. As a result, subject to the SoS agreeing to delete this work, the CA of this land would still be needed to enable the Proposed Development to proceed and the BoR [REP7-013] would not need to be amended.

8.14. ExA RECOMMENDATION

- 8.14.1. In the event that the SoS is minded to grant development consent for the Proposed Development, the ExA recommend that:

- The CA of land and rights included in the recommended DCO be granted;
- The TP of land and rights included in the recommended DCO be granted;
- The CA of Statutory Undertakers' land and rights over land, subject to the matters set out above and included in the recommended DCO be granted;
- The powers authorising the extinguishment of rights and removal of apparatus of Statutory Undertakers included in the recommended DCO be granted;
- The TP of rights over land held inalienably on behalf of the NT included in the recommended DCO be granted and that SPP would not be required;
- The CA of rights over open space included in the recommended DCO be granted;
- The SoS can be satisfied that the order land, in relation to open space, when burdened with the order right would be no less advantageous than it was before to the persons in whom it is vested, other persons and the public; and
- The powers included in the Recommended DCO to apply, modify or exclude a statutory provision be granted.

9. DRAFT DEVELOPMENT CONSENT ORDER AND RELATED MATTERS

9.1. INTRODUCTION

- 9.1.1. The Application draft DCO [APP-052] and the EM [APP-053] were submitted by the Applicant as part of the Application for development consent. The EM describes the purpose of the draft DCO as originally submitted, with each of its Articles and Schedules. The EM and the draft DCO were updated at various points throughout the Examination.
- 9.1.2. The Application draft DCO [APP-052] was broadly based on the (now withdrawn) Infrastructure Planning (Model Provisions) (England and Wales) Order 2009 but departed from those clauses to draw upon drafting used in made Orders for similar development under the PA2008, the Transport and Works Act 1992 and other Acts authorising development.
- 9.1.3. Although there has been a change of approach to the use of Model Provisions since the Localism Act 2011, they remain a starting point for the consideration of the DCO and a comparison has been provided as part of the Application (Appendix 1, REP7-009). Precedent cases have also been considered where appropriate. Because the draft DCO [APP-052] and subsequent iterations of it seek to modify statutory provisions they are in the form of a Statutory Instrument as required by s117(4) of the PA2008.
- 9.1.4. This Chapter provides a summary of the main changes made to the DCO during the course of the Examination, between the Application draft DCO [APP-052] and a final preferred draft DCO submitted by the Applicant at D7 [REP7-056]. This Chapter does not report on every change made in the updated versions. This is because many amendments were made as a result of typographical or referencing errors; slight revisions of wording following either discussions between the Applicant and relevant IPs or from their WRs, or as a result of minor changes following ExQ1 [PD-010] and ExQ2 [PD-014]. The recommended DCO in Appendix C of this Report incorporates these minor changes.
- 9.1.5. The draft DCO refers to the Applicant as the undertaker and for the benefit of this chapter where appropriate the ExA have used this term.

9.2. THE DCO AS APPLIED FOR

- 9.2.1. The recommended DCO is structured as follows:
- Part 1, Article 1 sets out how the Order may be cited and when it comes into force. Article 2 defines the various terms used in the Order. Article 3 sets out how the provisions of the Railways Clauses Consolidation Act 1845 (as amended) are incorporated into the Order.
 - Part 2, Articles 4 to 8 provide development consent for the Proposed development and allow it to be constructed, maintained and operated. Article 7 sets out the Limits of Deviation. Articles 9 and 10 set out

who has the benefit of the powers of the Order and how those powers can be transferred. Article 11 would allow the Applicant and NR to enter into agreements for construction, maintenance, use and operation of the Proposed Development.

- Part 3, Articles 12 to 21 provide for the Undertaker (the Applicant) to be able to carry out works to and within streets, alter layouts, to create and improve accesses, to permanently close streets, and to undertake agreements with street authorities.
- Part 4, Articles 22 and 23 concern supplemental powers relating to the discharge of water and the authority to survey and investigate land.
- Part 5, Articles 24 to 38 provide for the Applicant as Undertaker to be able to compulsorily acquire the Order land and rights over/ within it, and to be able to temporarily use parts of the Order land for the construction or maintenance of the Proposed Development. The provisions provide for compensation to be payable to AP in respect of these powers, where they are not already secured elsewhere. These articles also provide for powers in relation to land and equipment of Statutory Undertakers.
- Part 6, Article 39 is included because part of the Proposed Development comprises a railway which would become part of the national rail network and Article 40 provides that land used for a railway shall become operational land in respect of the TCPA1990.
- Part 7, Articles 41 to 56 are concerned with miscellaneous and other general matters including the disapplication of other legislative provisions; the provision of powers in relation to trees and hedgerows which need to be removed or lopped in relation to the Proposed Development; service of notices; documents to be certified and arbitration.

9.2.2. There are 17 Schedules to the Order. These are:

- Schedule 1 provides a description of the Authorised Development.
- Schedule 2 lists the 43 Requirements.
- Schedules 3 to 9 list the streets subject to street works; streets to be stopped up permanently and temporarily; PRow that would be temporarily suspended, diverted and created; access to works and closure of crossings.
- Schedules 10 to 12 list the plots as shown on the Land Plans [REP5-003] which would be the subject of CA of new rights and TP, as well as compensation enactments.
- Schedule 13 lists those hedgerows within the Order limits that are important or are to be removed.
- Schedule 14 details the permanent traffic regulation powers sought within the Order limits.
- Schedule 15 amends the NSLIDB byelaws.
- Schedule 16 lists the provisions protecting Statutory Undertakers and their apparatus.
- Schedule 17 lists the certified documents.

9.2.3. The ExA asked 49 questions at ExQ1 [PD-010] based on the version of the draft DCO that was submitted with the Application [APP-052]. The Applicant responded at D2 [REP2-013] and provided an updated version

of the draft DCO [REP2-003]. The draft DCO was also examined at ISH1 [EV-007] and ISH4 [EV-011]. The draft DCO was updated at D2 [REP2-004], D3 [REP3-005], D5 [REP5-010], D6 [REP-008], D7 [REP-006 and REP7-056].

9.2.4. Table 9.1 below shows the draft DCO [APP-052] and its updates:

Table 9.1: Versions of the draft DCO post-submission

Deadline No	Examination Library Reference	Notable Changes Made
n/a	[AS-014]	Requirement 10 (archaeology) amended to clarify the information required by NSDC in respect of archaeology.
D2	[REP2-004]	<p>Number of amendments throughout document to reflect removal of Work No 16D</p> <p>Amendment to the wording of a number of Requirements following suggestions made by the ExA at ISH1 [EV-007]</p> <p>Significant redrafting of Requirement 16 (construction hours) following discussions with the relevant planning authorities and NR</p> <p>Deletion of Requirement 30 (Flood compensation works at Marsh Lane, Easton-in-Gordano) which related to Work No 16D and replacement with a new Requirement 30 (Work affecting M5 Junction 19) which had evolved from discussions with HE</p> <p>Schedule 13 expanded to include a list of hedgerows to be removed</p>
D3	[REP3-005]	<p>Article 2 further pre-commencement works added to definition of 'commence' to provide clarity</p> <p>Article 46 changed to require 12 weeks prior notification to be given to the local traffic authority</p> <p>Number of minor changes to avoid duplication between Requirements and to provide precision in the wording of the Requirements</p> <p>New plans added to Schedule 17 (Documents to be Certified) arising from Work Nos 18, 27 and 28 being removed from the Application</p>
D5	[REP5-010]	Number of amendments to Requirements to reflect removal or works 10C, 12B, 16B and 27

Deadline No	Examination Library Reference	Notable Changes Made
		<p>Wording of Requirement 11(2) (Surface and foul water drainage) amended at the request of the EA</p> <p>Additional wording inserted into Requirement 17 (Contaminated land and groundwater) at the request of the EA</p> <p>A time limit of 6 months for the removal of temporary work from cessation of works inserted into Requirements 20 (Path at Marsh Lane, Easton-in-Gordano) and 21 (Temporary path at Avon Road, Pill)</p> <p>Additional wording inserted into Requirement 27(3) (Portishead Station) regarding on-site energy microgeneration</p> <p>Additional wording inserted into Requirement 31 (Clanage Road, Bristol) in relation to the provision of a flood plan and the type of fencing to be used at the permanent compound</p> <p>Additional wording inserted into Requirement 32 (New bridleway east of M5 Avonmouth Bridge) to ensure adherence to the principles shown on the Bridleway Extension under the Elevated M5 Plan</p> <p>Deletion of Requirement 33 (Ramp between Ashton Vale Road and A370, Ashton) and replacement with new Requirement 33 relating to Cattle Creep Bridge, Easton-in-Gordano</p> <p>Amendments to Schedule 10 and 12 to remove/add plot numbers resulting from removal of works</p> <p>Amendment to Schedule 15 removal of reference to Byelaw 10 at the request of NSLIDB</p>
D6	[REP6-008]	<p>Additional definition added to Requirement 1 regarding fencing types</p> <p>Requirement 5 (CEMP etc) amended to include reference to a construction worker travel plan and a reptile and amphibian mitigation strategy. Requirement 5(5) deleted</p> <p>Requirement 8 (Temporary fencing) amended to include the need to submit a timetable for installation and removal</p> <p>Wording of Requirement 11 (Surface and foul water) amended at the request of the NSLIDB</p> <p>Wording of Requirement 12 (Trees) amended at the request of the ExA</p>

Deadline No	Examination Library Reference	Notable Changes Made
		<p>Requirement 14 (Avon Gorge Woodlands SAC) amended to assist with the interpretation of the general arrangement plans; to allow changes for railway safety operational reasons and to better reflect the final provisions of the AGVMP</p> <p>Requirement 25 (Permanent fencing outside of Avon Gorge Woodlands SAC) amended to remove reference to fencing at the Clanage Road compound; to provide precision; to assist with the interpretation of the general arrangement plans and to allow for fencing to be upgraded if required for operational safety reasons</p> <p>Requirement 26 (Permanent acoustic fencing) length of fencing extended at request of the benefiting party</p> <p>Requirement 31 (1) (Clanage Road, Bristol) insertion of additional wording at the request of the EA and the LLFA</p> <p>Amendment to Schedule 10 in relation to Plots 05/75, 05/85 and 05/86 at the request of the BPC</p> <p>Schedule 16 – Protective Provisions with the EA revised at the request of the EA</p> <p>Additional documents added to Schedule 17</p> <p>Explanatory note amended at the suggestion of the ExA to enable documents to be viewed electronically through NSDC post decision</p>
D7	[REP7-006]	<p>Definition of 'commence' amended to exclude archaeological investigations</p> <p>Number of minor amendments throughout the document to ensure consistency and to reflect modern drafting practice</p> <p>Requirement 19 (Temporary path south of Trinity Primary School, Portishead) amended at request of NSDC to include timescale for removal of temporary path</p> <p>Requirement 27 (Portishead Station) and Requirement 28 (Pill Station) amended to include, at the request of NSDC, the requirement for the submission and approval of a station travel plan prior to first commercial use</p> <p>Requirement 40 (Applications made under requirements) amended at the request of NSDC</p>

Deadline No	Examination Library Reference	Notable Changes Made
		Revisions to Protective Provisions with the BPC, Exolum Pipeline Systems Ltd, and Western Power Distribution Ltd (South West Plc) Insertion of Protective Provisions with National Grid Electricity Transmission Plc (NGET), Wales and West Utilities Ltd and the NT Schedule 17 updated to provide complete list of certified documents
D7	[REP7-056]	Number of minor amendments throughout the document to reflect the appropriate grammar, reflect the appropriate drafting requirements, correct cross referencing and removal of documents that no longer form part of the Application etc Schedule 17 amended to reflect the list of documents required to be certified at the end of the Examination

9.2.5. No IP raised any concerns with the description of the Proposed Development during the Examination. No IP raised any concerns with the description of the works or the documents to be certified. The ExA's concerns with some definitions in the draft DCO submitted with the Application [APP-052] were addressed within the Examination.

9.3. ISSUES CONSIDERED IN THE EXAMINATION

9.3.1. To list each change made in the various versions of the draft DCO would make this section of the Report unnecessarily lengthy. Many of the changes were either sought by IPs, did not raise any concerns from them or the ExA was satisfied with the changes such that it was not considered necessary to examine them further. The SoS can refer to ExQ1 [PD-010] together with the agendas for ISH1 [EV-007] and ISH4 [EV-011] for a full list of the questions and concerns raised by the ExA during the Examination.

9.3.2. If not reported below, the ExA considers that the SoS can be satisfied that matters raised in ExQ1 [PD-010], together with clarification matters discussed at ISH1 [EV-007] and ISH4 [EV-011] were minor in nature and/ or have been satisfactorily addressed by the Applicant during the Examination.

9.3.3. Both BCC [REP1-032] and NSDC [REP1-033] did not raise any specific concerns in their LIRs relation to the drafting of the DCO, and indicated that they were satisfied that sufficient control would be retained through the approval of applications pursuant to discharging requirements.

- 9.3.4. Table 19.1 of the signed SoCG with BCC [REP7-026] sets out the Requirements in the draft DCO and the issues which have been addressed during the Examination between the Applicant and BCC. The SoCG states that overall, the wording of the Requirements in the draft DCO are acceptable to BCC. Where 'tail piece' wording is used the SoCG [19.2.2, REP7-026] records that this is acceptable to BCC given its limited application.
- 9.3.5. At the close of the Examination the signed SoCG with NSDC shows that the Applicant and NSDC agreed on the content and wording of the Requirements [14.2.2, REP7-025]. Table 14.1 sets out the Requirements in the draft DCO and the issues which have been discussed during the Examination between the Applicant and NSDC. The SoCG advises that NSDC agree that there is additional benefit in building flexibility into some of the Requirements through the use of 'tail piece' wording [14.2.1, REP7-025]. In relation to Work No 7 (Trinity Footbridge) NSDC advise [15.2.3(j), REP7-025] that it has provided its views to the ExA at ISH5 [EV-013] and in its D6 submissions [REP6-030]. NSDC state that if the SoS decides to include Trinity Footbridge in the authorised works then it would work with the Applicant on the detailed design.
- 9.3.6. At the close of the Examination the Statement of Commonality of SoCG [REP7-062] records the following organisations as having outstanding concerns on the drafting of the DCO:
- the EA;
 - NSLIDB;
 - NGET;
 - BPC; and
 - Western Power Distribution (South West) Plc (WPD).

The EA

- 9.3.7. In addition to the outstanding concerns covered in Section 5.4 of this Report with regards to Work Nos 3 and 26, the signed SoCG with the EA [REP7-027] sets out that the parties did not agree to the final form of Requirement 17 (Contaminated land and groundwater). This matter was first raised in the EA's RR [RR-013] and WR [REP2-040] and was examined at ISH1 [EV-007], ISH3 [EV-010] and ISH4 [EV-011].
- 9.3.8. The EA were seeking an amendment to Requirement 17 to include a verification plan and how any previously unidentified contamination would be managed. The Applicant provided an alternative form of wording [REP5-020]. However, the EA [6.1.1, REP7-027] considered that the verification element was not sufficiently distinct as it is a separate stage of works and should be afforded a separate concluding sub-paragraph. The EA advised that the proposed wording regarding previously unidentified contamination was not considered sufficient and provided an alternative form of wording. In addition, it requested that sub-paragraph 6, which would exempt currently operational railway land from Requirement 17, should be removed as the EA were concerned that any works within currently operational railway land could have the

capacity to mobilise any contaminants present potentially polluting the water environment. The EA therefore considered that works to currently operational railway land should be included.

- 9.3.9. In response the Applicant advised [6.1.1, REP7-027] that NR routinely carry out maintenance and other works to their operational railway land under their permitted development rights. Existing processes and safeguards apply which include carrying out pre-work trials to identify any contaminants and then using the results of these trials to determine how matters are managed. These processes and safeguards would apply to any works on operational land carried out in connection with the Proposed Development. As a result, the Applicant advocated that it would not be appropriate or necessary for different requirements to apply merely because works are being carried out in connection with the Proposed Development.
- 9.3.10. The final version of the draft DCO [REP7-056] includes the wording suggested by the EA for both the verification plan 17(4) and previously unidentified contamination 17(5). However, 17(6) exempting currently operational railway land was retained.

NSLIDB

- 9.3.11. NSLIDB [REP7-028] raised concerns that Article 52 and Schedule 15 of the draft DCO was proposing to disapply seven of the NSLIDB's byelaws:
- Byelaw 3 (control of introduction of water and in flow or volume of water);
 - Byelaw 7 (detrimental substances not to be put in watercourses);
 - Byelaw 10 (no obstructions within 9 m or the edge of the watercourse);
 - Byelaw 14 (vehicles not to be driven on banks);
 - Byelaw 15 (banks not to be used for storage);
 - Byelaw 17 (fences, excavations, pipes, etc); and
 - Byelaw 24 (damage to property of the board).
- 9.3.12. At the close of the Examination NSLIDB had agreed to the disapplication of byelaws 3, 7, 10, 14 and 24 and the removal of 15 from Schedule 15 [4.11, REP7-028].
- 9.3.13. With regards to Byelaw 17 the signed SoCG [REP7-028] records this as part agreed/ part not agreed. NSLIDB were willing to concede the disapplication of 17 (a), (b), (c) and (e) but not 17 (d) which prevents the erection or construction of any fence post, pylon, wall, wharf, jetty, pier, quay, bridge, loading stage, piling, groyne, revetment or any other building or structure whatsoever in, over or across any watercourse or in or on any bank thereof.
- 9.3.14. NSLIDB highlights that the byelaw does not prevent the installation of fences it only requires approval for the location and details. Furthermore, the Board cannot unreasonably hold consent. NSLIDB advised that insufficient detail has been provided by the Applicant at this stage to determine final fence locations, foundation details and gate accesses. To

ensure that a watercourse or access to it is not adversely impacted
NSLIDB considers it is reasonable to retain this byelaw.

- 9.3.15. The Applicant advocated that the byelaw is very broad and there could be the need for the works listed in 17(d) to be undertaken. The Applicant considers that it would not be proportionate for an additional level of control by NSLIDB for works falling within 17(d) when the Application has been rigorously assessed and any land drainage consents are likely to be provided by other statutory bodies (eg the EA). In addition, there are works (eg fences) that are required for railway safety regulations and the Applicant considers that these works cannot be made subject to the need for byelaw consent from NSLIDB. Therefore, the Applicant believes that retaining byelaw 17(d) may otherwise restrict the Proposed Development.
- 9.3.16. In addition to concerns about byelaws, NSLIDB [IDB1.1P and IDB2.3f, REP7-028] highlighted that in order to clear vegetation and siltation to prevent flooding it needed to preserve access to The Cut in the vicinity of the proposed Trinity Footbridge (Work No 7). The signed SoCG [REP7-028] records this matter as agreed subject to invitation to NSLIDB to comment on the detailed design works in this area at the detailed design stage.

NGET

- 9.3.17. NGET [RR-020] raised concerns regarding the interaction of the Proposed Development with the National Grid (Hinkley Point C Connection Project) Order 2016 and Correction Order 2017 (the HPCC Order). NGET proposed that this should be done using Protective Provisions [REP4-045 and REP4-046].
- 9.3.18. The Applicant advised [001100-D4-001, REP5-033] that whilst it was content to agree provisions for the protection of NGET it did not consider that these should be in the form of Protective Provisions on the face of the draft DCO. This is as whilst NGET has powers in the HPCC Order to acquire land it has not yet done so and as a result, in the Applicant's opinion, s127 of the PA2008 is not engaged and the protections that NGET seeks should instead be dealt with by agreement. The Applicant provided NGET with an agreement, but this has not been progressed.
- 9.3.19. The matter was examined at CAH2 [EV-012] and the oral case put by NGET can be found at REP6-039 and by the Applicant at REP6-022.
- 9.3.20. The ExA [Annex B, PD-016] asked the Applicant on a without prejudice basis to comment on the Protective Provisions [REP4-046] provided by NGET.
- 9.3.21. At D7 [4, REP7-048] NGET advised that whilst the Applicant now accepts that Protective Provisions should be included on the face of the Order the Applicant was proposing to use its own 'mutually beneficial' Protective Provisions. NGET maintained that the Protective Provisions which it submitted at D4 [REP4-046] should be included in the Order.

9.3.22. The Applicant [4, REP7-039] confirmed that for the land at Shipway Gate Farm s127 of the PA2008 would be engaged and therefore mutually beneficial Protective Provisions should be included within the draft DCO. The Applicant included its own version of the Protective Provisions provided by NGET in Schedule 16, Part 8 of the final preferred draft DCO [REP7-056]. Table 1 of REP7-039 although entitled Applicant's comments on BPC's draft Protective Provisions does in fact set out the Applicants comments on NGET draft Protective Provisions.

BPC

9.3.23. In its WR [REP2-064] the BPC set out a number of concerns that it had regarding the effect the Proposed Development would have on its land, the conduct of its commercial port activities and the carrying on of its statutory undertaking. These included concerns that, amongst other things, the draft DCO would:

- permit closure of the at-grade crossing that connects operational land north and south of the railway;
- does not adequately protect BPC's rail paths or prevent interference with rail access for freight traffic to and from RPD during construction; and
- the Protective Provisions within the draft DCO need to be amended.

9.3.24. The closure of the at-grade crossing and the situation regarding rail paths is considered in paragraphs 5.9.52 to 5.9.24 and 5.5.86 to 5.5.96 of this Report, so are not repeated here.

9.3.25. The concerns of the BPC were the subject of written questions at ExQ1 [PD-010] and ExQ2 [PD-014] and were examined orally at CAH1 [EV-008], CAH2 [EV-012 and ISH5 [EV-013].

9.3.26. With regards to the Protective Provisions, the BPC provided the Applicant with its preferred wording [Section 6, REP2-064].

9.3.27. At D7 BPC advised [paragraph 2, REP7-050] that the BPC and the Applicant have been able to reach agreement on the inclusion in the draft DCO of most, but not all, of those provisions. A table appended to the submission sets out in relation to each provision the extent to which it is believed to be agreed and (whether agreed or not) the reason why the provision would be necessary.

9.3.28. At the end of the Examination the BPC submitted a note setting out the extent of matters agreed with the Applicant [REP7-073]. The Protective Provisions for the BPC included in Part 5 of Schedule 16 of the final preferred draft DCO [REP7-056] are based on a draft produced by the BPC but that has been amended by the Applicant. The BPC confirmed that it agreed to the wording of paragraph 52(1)(b) contained within the preferred draft DCO to be used in place of the equivalent paragraph 59(1)(c) in the BPC's draft [REP7-050]. Subject to that one change, BPC's preferred Protective Provisions, and the reasons that they would be needed remain as set out in REP7-050.

9.3.29. The BPC had expressed concerns at ISH5 [EV-013] about potential damage to and from a perimeter track from construction traffic that runs between Marsh Lane and the proposed compounds under the Avonmouth Bridge and Lodway Compound. In the ExA's consultation draft DCO [PD-017] the ExA suggested a Requirement as a means of addressing these concerns. The BPC did not comment on the suggested wording. The final preferred draft DCO includes Requirement 35 (Perimeter Track between Marsh lane and the compounds under the M5 Avonmouth Bridge and at Lodway) which is based on the ExA's suggested wording.

WPD

9.3.30. WPD [REP2-052] raised similar concerns to those made by NGET regarding how rights granted under the HPCC order would be protected and preserved for its 132kV crossing of the railway and how the rights to retain the OHL would be preserved prior to the removal of the OHL circa 2024 to facilitate NGET's 400kV Hinkley connection.

9.3.31. This matter was the subject of ExQ1 [PD-010] and ExQ2 [PD-014] and was examined orally at CAH2 [EV-012].

9.3.32. At the close of the Examination the unsigned SoCG [8.3.1, REP7-031] records this matter outstanding. In addition WPD advised the ExA that they did not agree to paragraph 83 of the Protective Provision which seeks to exclude any enactment of agreement regulating relations between WPD and NSDC or NR in relation to any apparatus laid or erected in land belonging to the undertaker or NR on the date that the Order is made. The Applicant advised that the conclusion on the drafting points was dependent on, and interrelated to, a side agreement being negotiated by the parties.

Other Outstanding Concerns to the drafting of the DCO

9.3.33. Following discussions at ISH4 [EV-010] and ISH5 [EV-013] to address its concerns that the TA was based on inadequate modelling, Manheim and ETM [REP6-042 and AS-068] suggested a form of alternative wording to Requirement 18 (Works to Winterstoke Road, Bristol). The Applicant [001452-D6-001, REP7-037] advised that the draft Requirement had been agreed with the relevant planning authority. The MOVA system would be installed for the local highway authority to manage who would then have control over the system and regulate its operation. The Applicant would not be involved in the day to day operation of the system. Consequently, the Applicant did not consider that the further control and monitoring suggested by Manheim and ETM would be necessary given that the local highway authority would have control and would be able to regulate operations accordingly. The Applicant did not therefore propose to modify the Requirement.

9.3.34. Royal Mail [RR-027] raised a concern that the during construction the Proposed Development could cause disruption to the highways network which could affect delivery, collection and sorting of post. To address this it sought the insertion of two Requirements in the DCO that would ensure it was pre-consulted on any proposed road closures/ diversions/

alternative access arrangements/ hours of working and the content of the final CTMP and that the final CTMP would include a mechanism to inform major road users about works affecting the local network. In ExQ1 [DCO.1.6, PD-010] the ExA asked the Applicant to comment whether such requirements would be necessary or whether these concerns could be addressed in another way. The Applicant [REP2-013] advised that Royal Mail would be notified in advance of any proposed road closures/ diversions/ alternative access arrangements and hours of working. They would be able to review the final content of the CTMP which would be provided in accordance with Requirement 5. The final CTMP would include a mechanism to inform major road users, which would include Royal Mail, about works affecting the local network. The Applicant therefore considered the Requirements suggested by Royal Mail to be unnecessary.

9.3.35. No other IPs raised concerns regarding the drafting of the DCO.

9.4. ExA's CONSULTATION DRAFT DCO

9.4.1. Following the discussions at the hearings held in March [EV-011, EV-012 and EV-013] and the responses received at D6 the ExA issued a Consultation draft DCO [PD-017] of suggested changes it wished to be made to the Applicant's draft DCO that had been submitted at D6 [REP6-008].

9.4.2. The Consultation draft DCO [PD-017] sets out matters where the ExA considered continued concerns arose. Therefore, the SoS can take it as read that the ExA was satisfied that other matters discussed at ISH4 [EV-011] had been adequately explained or addressed.

9.4.3. Table 9.2 below sets out those changes the ExA requested in the Consultation draft DCO [PD-017] and set out where the Applicant agreed to make the change or declined to make the change and wished for the SoS to be notified of its objection to it, should the ExA proceed to recommend the change. No further comment has been made by the ExA where the Applicant has accepted its suggested changes [REP7-038].

Table 9.2: Consultation Draft DCO Response and ExA's Recommendation

Provision in Draft DCO [REP6-008]	ExA's Comments	Applicant's Response [REP7-038]	ExA's Recommendation
Schedule 2, Requirement 5 (6)(b)	For consistency (b) to include refence to the CTMP	Agreed and included in revised draft submitted at D7 but used the definition CTMP – Construction Traffic Management Plan for consistency	

Provision in Draft DCO [REP6-008]	ExA's Comments	Applicant's Response [REP7-038]	ExA's Recommendation
Schedule 2, Requirement 8 (4)	For precision and enforceability, the addition of 'in accordance with the approved removal timetable'.	Agreed and included in revised draft submitted at D7	
Schedule 2, Requirement 9 (2)	To ensure highway safety and for precision and enforceability insert 'and that stage of the authorised development must not commence until these works have been completed' at the end of 9(2)	Not made the proposed change. Given the scale of some of the stages (eg stages 1 and 2 are several miles in length and involve a number of components) the Applicant does not believe that the whole stage needs to be constrained as suggested by the ExA and there could be significant implications for the construction programme. The Applicant suggests that the control in 9(1) to provide a timetable provides sufficient control.	The explanation was accepted. No changes are required.
Schedule 2, Requirement 14 (13)	<p>Insertion of:</p> <p>'Colour' – the ExA considered due to the sensitivity of the location control over the colour of any fencing would be necessary</p> <p>'for railway operational reasons the relevant planning authority gives written consent to any variation' - this would give the Applicant the flexibility to change the fencing if required for operational safety reasons but would mean that Requirement 35(2)</p>	<p>Colour - Agreed and included in revised draft submitted at D7.</p> <p>Changes to fencing – not agreed. Applicant does not believe that railway safety fencing should be regulated by the relevant planning authority but left to NR as the Statutory Undertaker relying on its existing permitted development rights. Any fencing changes would be subject to the Conservation of Habitats and Species Regulations 2017 which would provide a control over how works are carried out in the Avon Gorge Woodlands SAC.</p>	The explanation accepted. No changes are required.

Provision in Draft DCO [REP6-008]	ExA's Comments	Applicant's Response [REP7-038]	ExA's Recommendation
	would apply to 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 ES		
Schedule 2, Requirement 24(1)	Insertion of 'and Natural England' for approval of details as the tree planting is proposed to provide additional foraging for commuting bats	Agreed and included in revised draft submitted at D7.	
Schedule 2, Requirement 25 (3)	<p>Deletion of 'alternative type fencing is required for railway operational safety reasons' and replacement with 'for railway operational safety reasons the relevant planning authority gives written consent to any variation'</p> <p>This 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 to ensure that any variations to the fencing would not give rise to any materially new or materially different environmental effects from those assessed in the ES</p>	Not made the proposed change as Applicant does not believe that railway safety fencing should be regulated by the relevant planning authority but left to NR as the Statutory Undertaker relying on its permitted development rights being development by railway undertakers on their operational land, required in connection with the movement of traffic by rail. In circumstances where safety is a concern or regulations require changes to railway fencing the approval of the relevant planning authority should not be a prerequisite to the change to fencing.	The Explanation accepted. No changes are required.

Provision in Draft DCO [REP6-008]	ExA's Comments	Applicant's Response [REP7-038]	ExA's Recommendation
Schedule 2, Requirement 27 (1), (3) and (4)	<p>(1) deletion 'in writing' – unnecessary as delivered by requirement 34</p> <p>(3) deletion 'of any proposals' as inclusion would provide ambiguity, deletion would provide clarity and enforceability</p> <p>(4) insert '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 and evacuation plan, that would be required to ensure that the station and users would remain should a flood event occur</p>	<p>(1) agreed and deleted from revised draft submitted at D7.</p> <p>(3) agreed and deleted from revised draft submitted at D7.</p> <p>(4) this has been included subject to 'shall' being replaced by 'must'.</p>	
Schedule 2, Requirement 30 (3)	For precision amend '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")	Agreed and included in revised draft submitted at D7.	

Provision in Draft DCO [REP6-008]	ExA's Comments	Applicant's Response [REP7-038]	ExA's Recommendation
Schedule 2, Requirement 31 (1)(b), 4	<p>(1)(b) delete 'if appropriate' as requested by BCC [REP6-029]</p> <p>(4) change wording 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</p> <p>(4) Any Permanent new fencing to be erected as part of Work No 26 shall be 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 installed shall thereafter be permanently maintained</p>	<p>Agreed and included in revised draft submitted at D7.</p> <p>Applicant took opportunity to change 'shall' to 'must'.</p>	
Schedule 2, New Requirement, Trinity Primary School Bridge	<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</p>	<p>Agreed and included in revised draft submitted at D7.</p> <p>Paragraph (2) altered to make it clear that it is for the relevant planning authority to</p>	

Provision in Draft DCO [REP6-008]	ExA's Comments	Applicant's Response [REP7-038]	ExA's Recommendation
	<p>of the Proposed Development (eg Portishead Station which is also included in Requirement 4) should the SoS grant consent then given the concerns raised during the Examination it is important that details in relation to permanent lighting; colour of the bridge and location, design and colour of privacy panels are submitted the relevant planning authority for approval</p>	<p>decide if privacy screening is needed.</p> <p>Paragraph (3) altered to make it clear that the requirement seeks the required details and not the Work to be permanently retained.</p>	
<p>Schedule 2, New Requirement, Perimeter Track between Marsh lane and the compounds under the M5 Avonmouth Bridge and Lodway</p>	<p>The ExA consider that should the SoS grant consent 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 volume of construction traffic that would need to use it</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 of those powers that are being proposed by the BPC in its draft Protective Provisions. As the Applicant would have to carry out the works under its temporary powers in the Order, and because BPC is seeking an absolute prohibition on temporary powers in this part of the Order land. The Applicant must not be required to carry out physical works to the Marsh Lane track if BPC will not permit the Applicant to do so. In such circumstances the remedy for the BPC will be in the compensation code. The track is also used by other parties and the requirement has</p>	<p>ExA satisfied with explanation for altered wording.</p>

Provision in Draft DCO [REP6-008]	ExA's Comments	Applicant's Response [REP7-038]	ExA's Recommendation
		<p>been amended to reflect this.</p> <p>The Applicant has also changed 'shall' to 'must.'</p>	
<p>Schedule 2, New Requirement, Pill Tunnel Eastern Portal Compound and Access, Ham Green</p>	<p>Whilst the ExA note that 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 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.</p>	<p>Agreed and included in revised draft submitted at D7.</p>	
<p>Schedule 16, Part 5 Protection for the Bristol Port Company</p>	<p>Request under R17 [PD-016] for the Applicant to provide comments on the changes/ additions to the Protective Provision suggested by the BPC [REP2-064] as these would be necessary should the ExA consider that amendments/ additions to the Protective Provision would be needed as a result of the concerns/</p>	<p>Applicant's draft of the Protective Provision is now included in the revised draft submitted at D7. The Applicant is content for the Protective Provision in this form to be included in the Order as made. The draft has been discussed with BPC but not yet agreed.</p>	<p>Noted and considered further in Section 9.5 of this Report.</p>

Provision in Draft DCO [REP6-008]	ExA's Comments	Applicant's Response [REP7-038]	ExA's Recommendation
	suggestions made by BPC.		
Schedule 16, New Protective Provision, The National Trust	Necessary should the ExA consider a Protective Provision is required for the NT regarding on-going management and maintenance of rock bolting and rock fencing in the Avon Gorge.	The Applicants Protective Provision is now included in the revised draft submitted at D7. The Applicant is content for the Protective Provision in this form to be included in the Order as made. The draft has been agreed with the NT.	
Schedule 16, New Protective Provision, NGET	Necessary should the ExA consider that a Protective Provision is required for NGET in relation to the ability to implement the HPCC.	The Applicant's draft of Protective Provisions is now included in Part 8 of the revised draft submitted at D7. The Applicant is content for the Protective Provision in this form to be included in the Order as made. The draft has been discussed with NGET but is not yet agreed.	Noted and considered further in Section 9.5 of this Report.
Schedule 17, Explanatory Note	After a decision is made by the SoS and the period for Judicial Review has expired the BoR is no longer available through the project page of the Planning inspectorate's website. Therefore, if the documentation is to be made available electronically it would need to be made available by the Council.	The Applicant has amended the wording and created a new web space for this purpose.	

9.4.4. In summary, the ExA acknowledges that the Applicant has either accepted, with some minor modification, its suggested changes in the Consultation draft DCO [PD-017] or, where the Applicant has resisted the change but provided a satisfactory reason, the ExA have accepted its explanation therefore there are no matters outstanding.

- 9.4.5. In addition to the changes sought by the ExA at D7, Mr Tarr [REP7-053] requested amendments to the new requirement for Ham Green suggested by the ExA. He stated that it should include a requirement for NSDC to enter into an undertaking in perpetuity not to share or permit the use of or rights of way over any part of the Chapel Pill Lane site entrance or access track with any other user, except the owner of the field and his agricultural contractors, the beneficiary of the Rights of Way over the field and those to whom he grants permissive access, NR and their contractors, rail accident emergency responders, Government departments and their rail accident and safety inspectors. The Applicant [TR040011-001509-001, REP7-068] considered that the suggested changes were not needed.
- 9.4.6. The ExA note Mr Tarr's request however it does not consider that the addition of such wording would meet the tests for Requirements set out in s120 of the PA2008.

9.5. OUTSTANDING CONCERNS AT THE CLOSE OF THE EXAMINATION

The ExA

- 9.5.1. For the reasons set out in Section 5.8 of this Report the ExA has concerns regarding Trinity Footbridge which form part of Work No 7. As a result, the ExA recommend to the SoS that the public foot and cycle track bridge over Work No 1 should be deleted.
- 9.5.2. However, should the SoS consider that Trinity Footbridge should be retained then the ExA consider that Requirement 34 (Trinity Footbridge) contained within the final preferred draft DCO [REP7-056] and based on the wording suggested by the ExA in its consultation draft DCO [PD-017] should be included in the Order.
- 9.5.3. Furthermore, should the SoS decide to retain Trinity Footbridge then in order to address the concerns raised by the NSLIDB [IDB1.1P and IDB2.3f, REP7-028] regarding maintaining access the ExA recommend that the wording of Requirement 4 should be amended to enable NSLIDB to be consulted on the detailed design works.

Relevant Authorities

- 9.5.4. With the exception of NSDC concerns in relation to Trinity Footbridge and set out in Section 5.8 and paragraph 9.3.5 of this Report the signed SoCG between the Applicant and NSDC and BCC, the relevant planning authorities confirmed that they were either content or raised no issues with the final preferred draft of the DCO [REP7-056].

Other Organisations

- 9.5.5. For the reasons set out in Section 9.3 of this Report at the close of the Examination the following other organisations, who are not SUs, had outstanding concerns:

- The EA;
- Royal Mail;
- NSLIDB; and
- Manheim and ETM.

9.5.6. Table 9.3 below lists the suggested changes to the draft DCO and the ExA's findings on these changes.

Table 9.3: Suggested changes to the DCO made by Other Organisations

Provision in Draft DCO [REP7-063]	IP Comments	Applicant's Response	ExA's Recommendation
The EA			
Requirement 17(6)	Concerned that any works within currently operational railway land could have the capacity to mobilise any contaminants present potentially polluting the water environment. It therefore considered that works to currently operational railway land should be included.	NR routinely carry out maintenance and other works to its operational railway land under its permitted development rights. Existing processes and safeguards apply which include carrying out pre-work trials to identify any contaminants and then using the results of these trials to determine how matters are managed. These processes and safeguards would apply to any works on operational land carried out in connection with the Proposed Development. As a result, the Applicant considers that it would not be appropriate or necessary for different requirements to apply merely because works are being carried out in connection with the Proposed Development.	The Applicant's response is accepted, and the suggested change is rejected.

Provision in Draft DCO [REP7-063]	IP Comments	Applicant's Response	ExA's Recommendation
The Royal Mail			
N/A	Request by Royal Mail for a Requirements that ensures that Royal Mail is pre-consulted by North Somerset Council or its contractors on any proposed road closures / diversions / alternative access arrangements, hours of working, and the content of the final CTMP and the final CTMP contain a mechanism to inform major road users of works affecting the local network.	The Applicant advised that Royal Mail would be notified in advance of any proposed road closures/ diversions/ alternative access arrangements and hours of working. It would be able to review the final content of the CTMP which would be provided in accordance with Requirement 5. The final CTMP would include a mechanism to inform major road users, which would include Royal Mail, about works affecting the local network. The Applicant therefore considered the Requirements suggested by Royal Mail to be unnecessary.	The Applicant's response is accepted. The ExA consider that the Royal Mail would be made aware of the construction programme and would therefore be able to plan for any inconvenience caused through the Requirements as drafted and the need for additional Requirements would therefore be unnecessary. Suggested additions rejected.
NSLIDB			
Schedule 15 Disapplication of Byelaw 17	NSLIDB do not want Byelaw 17 (fences, excavations, pipes etc) to be disapplied as at this stage insufficient information has been provided to ensure that a watercourse or access to it is not adversely impacted.	See paragraph 9.3.13 of this Report.	The ExA consider that the erection or construction of the features listed in 17(d) if not properly managed could pose a flood risk and/ or affect water levels. Given the concerns raised by NSLIDB about the level of detail available at this stage the ExA consider that byelaw 17(d) should not be disapplied. The ExA note the Applicant's concern about works

Provision in Draft DCO [REP7-063]	IP Comments	Applicant's Response	ExA's Recommendation
			<p>required by the safety regulations but as NSLIDB would not be able to unreasonably withhold its consent retaining byelaw 17(d) would not restrict the Proposed Development. Furthermore, the byelaw as worded does not apply to any temporary work executed in an emergency, subject to notifying NSLIDB. The ExA are therefore satisfied that the byelaw would not jeopardise the safety of the railway or its users.</p>
Requirements 4 and 34	<p>Concern that access to 'The Cut' needs to be retained in order to clear vegetation and siltation to prevent it flooding.</p>	<p>Applicant advises that NSLIDB would be invited to comment on the detailed design works in this area at the detailed design stage.</p>	<p>As currently worded neither Requirement 4 nor 34 would require NSLIDB to be consulted on the details. In order to secure this the ExA recommend that, if Trinity Footbridge is not deleted from Work No 7, the wording of Requirement 4 to be amended to require that NSLIDB be consulted on the detailed design of Trinity Footbridge.</p>
Manheim and ETM			
n/a	<p>Request for Requirement 18 (1) (Works to Winterstoke Road, Bristol) to be amended with the following alternative/ additional wording:</p>	<p>Draft Requirement had been agreed with the local highway's authority. The MOVA system would be installed for the local highway authority to manage who</p>	<p>The Applicant's response is accepted. The ExA is satisfied that the Requirement as drafted would provide the necessary controls to the local highway authority to ensure that the junction</p>

Provision in Draft DCO [REP7-063]	IP Comments	Applicant's Response	ExA's Recommendation
	<p><i>(b) details of the MOVA traffic control measures proposed to achieve the no net detriment set out in [document x/TA]</i></p> <p><i>(c) Details of the regular monitoring of the MOVA traffic control measures proposed to ensure compliance with achieving the no net detriment as set out in [doc x/TA]</i></p> <p><i>(d) Methods for mitigating any breach of the requirements at b and c above</i></p> <p><i>And the developer will comply with the details as submitted.</i></p> <p>Considered necessary to ensure no adverse net impact on highway safety and transport movements at the junction between Winterstoke Road and Ashton Vale Road</p>	<p>would then have control over the system and regulate its operation.</p> <p>The Applicant would not be involved in the day to day operation of the system. Consequently, the Applicant did not consider that the further control and monitoring suggested would be necessary as the local highway authority would have control and would be able to regulate operations accordingly.</p>	<p>could operate safely and efficiently.</p> <p>The ExA is satisfied that the Proposed Development would not adversely affect the businesses on the Ashton Vale Estate.</p> <p>Suggested additions rejected.</p>

Statutory Undertakers

9.5.7. The following SUs had not withdrawn their objection to CA by the close of the Examination:

- BPC;
- NGET;
- WPD; and
- CLH Pipeline now known as Exolum Pipeline System Ltd.

9.5.8. In all cases, the SUs maintained an objection to the wording of the Protective Provisions within Schedule 16 of the preferred final draft of the DCO [REP7-063].

The BPC

- 9.5.9. As set out in Section 9.3 of this Report the BPC, referred to as First Corporate Shipping Ltd in the draft DCO, have maintained an objection throughout the Examination to the Protective Provisions proposed by the Applicant and contained within Schedule 16, Part 5 of the Applicant's preferred draft DCO [REP7-056].
- 9.5.10. At the close of the Examination agreement on the Protective Provisions had not been reached. The Applicant stated [REP7-042] that negotiations are continuing post-closing of the Examination. There is therefore the potential that by the time this Report is submitted to the SoS that these matters will have been resolved and consequently the SoS may be provided with an up-to-date agreed set of Protective Provisions.
- 9.5.11. However, should agreement between the BPC and the Applicant not be secured Table 9.4 below sets out the ExA's recommendations on the substantive disagreed matters. The ExA recommends that prior to reaching a decision the SoS may wish to seek an update on the position between the BPC and the Applicant in respect to Protective Provisions.

Table 9.4: Substantive areas of dispute between the Applicant and the BPC based on the wording in Schedule 16, Part 5 of the preferred draft of the DCO [REP7-063]

Note: In order to enable cross referencing between documents the Provision referred to in the BPC commentary in relation to the previous version of the draft DCO [REP7-050] is in brackets and italics, and the final preferred draft DCO [REP7-056] is in plain text.

Paragraph in draft DCO [REP7-063]	Paragraph wording in draft DCO [REP7-063] with BPC's preferred wording
44 (50)	<p>BPC requests the insertion of the following definitions after "BPC"</p> <p>"BPC's apparatus" means all and any gas, oil and water pipes, water tanks, cisterns, drains and drainage works, sewers, pumps, electric and communication wires, cables and plant ducts, conduits, governors, transformers, meters and any other service media, surface water interceptors (and whether in all cases for drainage, gas, oil, water, electricity, telephone, television, data and information transmission of any other service) on BPC's property</p> <p>Insertion after "Marsh Lane track"</p> <p>"Marsh Lane track land" means any and all of parcels 5/25, 5/95, 5/100, 5/105, 5/106, 5/112 and 5/113 and that part of parcel 5/28 which lies to the east of an imaginary line projected in a northerly direction across the disused railway line at 126 miles 78 chains and includes the Marsh Lane track;</p> <p>Insertion after "private street"</p>

	<p>“public path land” means any and all of parcels 5/27, 5/101, 5/102, 5/130, 5/131, 5/135 and 5/136;</p> <p>“rail link land” means any and all of parcels 5/104, 5/107, 5/108, 5/165, 5/171, 6/25 and 6/55;</p> <p>Insertion of following additional bullet point in definition of “specified work”:</p> <p>(c) all access works and drainage works; and</p>
<p><u>BPC’s Explanation for the Change</u></p> <p>BPC’s Apparatus: Although this not agreed by the Applicant the definition is used in paragraph 67 to define the range of works to which BPC’s approval acting reasonably, is required.</p> <p>Access/ drainage works; BPC considers it reasonable for this range to include access works and drainage works, as defined, since these works all affect BPCs property or the watercourses it uses. It is not necessarily the case that all access works and drainage works would fall within sub-paragraph (d) the definition of specified works, since both definitions capture not only works that are part of the Proposed Development but also works which would be carried out under other Order powers such as articles 13 and 22. As such BPC consider the insertion of sub-paragraph (c) is necessary.</p>	
<p><u>Applicant’s Response</u></p> <p>No comment provided in s127 Position Statement [REP7-042].</p>	
<p><u>The ExA’s Recommendation</u></p> <p>The definition of BPC apparatus mirrors the definition provided in 67(2) of the final preferred draft DCO provided by the Applicant. The ExA therefore assumes that the Applicant has no objection to the preferred wording and therefore recommend that the change is accepted and suggest that for efficiency 67(2) should be deleted as it would no longer be required.</p> <p>The ExA consider that the insertion of plot numbers would add precision to the definitions and as a result, given there is no objection from the Applicant, the ExA recommends that the additional wording should be inserted into the definition.</p> <p>The ExA accept BPC’s explanation for the need to include access works and drainage works within the definition of specified works and recommends that the additional wording be inserted.</p>	
<p>Paragraph in draft DCO [REP7-063] Paragraph wording in draft DCO [REP7-063] with BPC’s preferred wording</p>	
<p>45 (51)</p>	<p>BPC requests the insertion of:</p> <p>(1) Subject as set out in sub-paragraph (2), nothing in this Order affects – then (a) and (b) as drafted</p> <p>(2) Despite anything contained in the Court House Farm easement or any other agreement relating to Court House Farm terminable access, BPC’s rights to use the Court house</p>

	<p>Farm terminable access under and in accordance with the Court House easement or such other agreement must not terminate or cease to be exercisable before the date which is fifteen months after the approval date, and the Court House Farm easement and any such other agreement are modified accordingly.</p> <p>(3) In sub-paragraph (2) the “approval date” is the first date on which each of the Full Council of North Somerset Council, the West of England Joint Committee, the West of England Combined Authority Committee and the Secretary of State for Transport has confirmed in writing its approval under the Department for Transport’s WebTAG technical process for the appraisal of major transport schemes of the Full Business Case and the Final Approval Business Case in relation to the MetroWest Phase 1 proposals, including the authorised development</p>
<p><u>BPC’s Explanation for the Change</u></p> <p>The reason why these provisions are considered necessary by the BPC are set out in full in REP7-051. BPC consider that they are necessary to avoid serious detriment to the carrying out of its undertaking and are proportionate.</p>	
<p><u>Applicant’s Response</u></p> <p>The DCO does not seek any powers over this temporary crossing the use of which is dealt with by agreement with NR. Consequently, the Applicant considers that s127 does not apply nor is it appropriate for the Protective Provisions to deal with it except to include a saving for the agreement.</p> <p>Arrangements for removal of the crossing are regulated by Condition 16 of planning permission 16/P/1987/F.</p>	
<p><u>The ExA’s Recommendation</u></p> <p>The ExA are aware of the concerns that BPC have regarding the extinguishment of the at grade crossing. However, the ExA consider that this matter is managed through the existing easement and extant planning permission. The insertion of the wording suggested by the BPC would impose additional controls over the termination of this easement which the ExA consider would be unreasonable and as such the ExA does not recommend that the change should be made.</p>	
<p>Paragraph in draft DCO [REP7-063]</p>	<p>Paragraph wording in draft DCO [REP7-063] with BPC’s preferred wording</p>
<p>49 (56)</p>	<p>BPC requests the insertion of:</p> <p>(6) The undertaker must, before submitting any survey, proposed measures or strategy relating to the Marsh Lane track to the relevant planning authority for approval in accordance with requirement [x] in schedule 2, consult with BPC in relation to the content of all such surveys, measures and strategies.</p> <p>(7) Despite any other provisions of the Order, no part of Work No 16 or Work No 18 (including the right of way to be</p>

	<p>constructed by the undertaker pursuant to article 16(3) and described in Part 2 of Schedule 6 (Bridleways, cycle tracks and footpaths) as a bridleway between points B1 and B2 shown on Sheet 5 of the new highways plan is or will become open for use by any person or a public right of way or other highway except with the agreement of BPC.</p>
<p><u>BPC's Explanation for the Change</u></p> <p><u>49(6)</u></p> <p>This paragraph assumes that the new Requirement suggested by the ExA [PD-017] in relation to the physical condition and suitability of the Marsh Lane track is included in the Order on the terms proposed. BPC support the Requirement, but considers that, given its ownership and use of the track and legitimate interest in its condition, it is reasonable that BPC is involved in the surveys and development of the Strategy envisaged by the Requirement. BPC therefore wants to be consulted by the undertaker before the relevant submissions required by the Requirement are sent to the local planning authority for approval.</p> <p><u>49(7)</u></p> <p>For the reasons set out in BPC's CA note [REP7-049], BPC objects to the proposed CA of its land which would be the site of Work Nos 16 and 18. That being the case, this provision is also required to ensure that the Order – including provisions such as article 16(3) – cannot and must not take effect so as to impose public rights of way over that land without BPC's agreement.</p>	
<p><u>Applicant's Response</u></p> <p>s127 position statement notes simply that the Applicant does not agree.</p>	
<p><u>The ExA's Recommendation</u></p> <p><u>49(6)</u></p> <p>As the BPC is not the relevant planning authority or a statutory consultee there is no obligation in Requirement 35 as currently worded that the relevant planning authority consult with them on the details in relation to Marsh Lane Perimeter Track. Given the concerns raised during the Examination by the BPC in relation to damage to and from the Marsh Lane Perimeter Track the ExA consider the proposed wording of 50(6) would enable the BPC to be consulted on the information that would be submitted to discharge this condition. As worded the paragraph only requires that the BPC be consulted it does not require the BPC to agree or approve the survey, measures or strategy and as a result would not result in delay to the Proposed Development. The ExA therefore recommend that the change be made.</p> <p><u>49(7)</u></p> <p>Work No 16 is the realignment of the existing permissive cycling route and Work No 18 is the new bridleway extension. Both these works are needed to ensure the connectivity of the existing routes in this location. The wording proposed by the BPC does not require it to act reasonably and would effectively provide it with the ability to veto to the opening up of these routes for use of these routes. The ExA consider this to be unreasonable and does not recommend that the change should be made.</p>	

Paragraph in draft DCO [REP7-063]	Paragraph wording in draft DCO [REP7-063] with BPC's preferred wording
New paragraph	<p>The BPC requests the insertion of an additional paragraph:</p> <p>51(1) The undertaker must not exercise the powers conferred by –</p> <ul style="list-style-type: none"> (a) article 24 (compulsory acquisition of land) or article 31 (acquisition of subsoil or air-space only) over or in respect of the public path land or any part of parcel 5/50 which is not part of the embankment supporting Marsh Lane; (b) article 27(1) (compulsory acquisition of rights or imposition of covenants) over or in respect of any parcels 5/75, 5/103 and 5/112; (c) article 27(2) over or in respect of any of BPC's property; (d) article 32 (rights under or over streets) over or in respect of any private street; or (e) article 34 (temporary use of land for the purpose of maintaining the authorised development) over⁴ or in respect of any of BPC's property. <p>unless the exercise of such powers is with the consent of BPC.</p> <p>(2) Except to the extent BPC may agree, article 28(3) (Private rights over land subject to CA or TP), article 29 (power to override easements and other rights) and article 37(statutory undertakers and electronic communication code operators) shall not apply in relation to any interest, right or restriction the benefit of which is vested in BPC or any other person affecting the rail link land or Marsh Lane track land in relation to any interest, right or restriction the benefit of which is vested in BPC affecting any of the BPC's property pr the railway rights land or the highway access land.</p>
	<p><u>BPC's Explanation for the Change</u></p> <p><u>51(1)</u></p> <p>BPC's CA note [REP7-049] sets out why BPC consider sub-paragraphs (a) and (b) to be necessary.</p> <p>BPC advocate that Article 27(2) is imprecise as to the terms of the covenants that could be imposed and the extent of land which they could affect. The imposition of any covenants limiting the use of the land would constitute an unacceptable restriction on the use of BPC's SU land. BPC has not been made aware that the Applicant needs to impose restrictive covenants on the use of BPC's land pursuant to article 27(2). In the absence therefore of any demonstrable need for the BPC consider that sub-paragraph (c) would be necessary to ensure those covenants could not be imposed without the BPC's consent.</p>

BPC consider that the Applicant has not demonstrated why the powers in Article 32 would be required in connection with the Proposed Development. BPC consider that, with the exception of the Marsh Lane track where specific powers are sought, it is not acceptable that the undertaker may seek (unexplained) powers and rights over other private streets on BPC's property. BPC believe that sub-paragraph (d) would be necessary to ensure such powers could not be exercised without BPC's consent.

BPC does not consider that the rights in article 34 should be exercisable in relation to its land. To the extent access rights would be required in relation to the maintenance of the Proposed Development once constructed, necessary provision has been made through the powers of compulsory acquisition of rights. BPC advocate that it would cause unacceptable disruption to the operation of the Port, its future development and the carrying on of BPC's undertaking if at times of its choosing the undertaker could again demand possession of any land in the Order limits for its use for an unspecified time. BPC therefore consider that sub-paragraph (e) would be necessary to ensure such powers could not be exercised without BPC's consent.

51(2)

Article 28(3) (as supplemented in the case of certain SU rights by article 37) and article 29 enable private rights to be suspended or overridden during the exercise of powers of TP and in the construction of the Proposed Development.

BPC's CA note [REP7-049] sets out why BPC consider the provision is necessary in relation to the Marsh Lane track land and the rail link land. It also explains why BPC's rights over the railway rights land and the highway access land must be preserved. This would apply as much during any TP or on the construction of the development as it would following the acquisition of the land or the rights over it. BPC consider that the Applicant has not explained why it might be necessary to interrupt these rights.

BPC consider that this paragraph is required to protect the interests of the BPC and its customers in connection with the carrying out of BPC's SU during the construction of the Proposed Development

Applicant's Response

If the SoS has decided the limited acquisition powers sought of BPC's land are acceptable and do not give rise to serious detriment, then the Protective Provisions should not further control the acquisition power. The only freehold power the Applicant now seeks is to create a new bridleway over land currently used as scrub to the east of the M5 Motorway. New rights are sought over the Port's railway but only to ensure that the connection to the Port by rail is maintained and can operate safely. Consequently, the Applicant is of the opinion that serious detriment would not arise.

The ExA's Recommendation

The paragraph proposed by the BPC would allow the BPC an effective veto of the Proposed Development and for this reason the ExA do not accept the suggested change.

Paragraph in draft DCO [REP7-063] Paragraph wording in draft DCO [REP7-063] with BPC's preferred wording

51 (58)

(1)(a) any rights of BPC over or in respect of the railway rights land **or the highway access land**; or

(b) **any of BPC's apparatus.**

	<p>(2) Despite any other provisions of this Order, if the undertaker acquires any interest in railway rights land or the highway access land, whether compulsorily or by agreement, no rights of BPC over or in respect of the railway rights land or the highway access land so acquired must be extinguished.</p>
<p><u>BPC's Explanation for the Change</u></p> <p><u>51 (1)(a) and (b)</u></p> <p>BPC's CA Note [REP7-049] explains why its rights over the railway rights land and the highway access land must be preserved. BPC consider that this provision is necessary to prevent certain of those rights being extinguished other than under the powers of the DCO.</p> <p><u>51(2)</u></p> <p>BPC's CA Note [REP7-049] explains why rights over the railway rights land and highways access land must be preserved. BPC consider that this provision is necessary to prevent certain of those rights being extinguished by the operation of the DCO.</p>	
<p><u>Applicants Response</u></p> <p>No comment provided in s127 Position Statement [REP7-042]</p>	
<p><u>The ExA's Recommendation</u></p> <p>The Applicant [Appendix 7, REP7-042] advised that it has no intention of preventing BPC from accessing the highway via the highways access land. The addition of the above wording would secure this and as a result the ExA accept the suggested change.</p> <p>Paragraph 67 deals specifically with BPC apparatus and as such the ExA do not consider it necessary to include it in this paragraph.</p> <p>The ExA do not consider that the addition of 'despite any other provisions of this order' would be necessary.</p>	
<p>52 (59)</p>	<p>(1) Despite any provision in this Order or anything shown on the land plan the undertaker must not except with the agreement of BPC –</p> <p>(a) exercise any powers of temporary possession over or in respect of the Marsh Lane track land or the rail link land or parcels 5/103 and 5/170; or</p> <p>(b) as drafted; or</p> <p>(c) (other than any constriction access rights which may be authorised by or pursuant to the terms of this Order over the Marsh Lane track or parcel 5/75, 05/103, 05/104, 05/107, 05/108, 05/165, 05/171, 06/25 and any part of 05/112 that is not part of the Marsh lane Track, or over bridleways and footpaths that are open to the public) rest as drafted</p>

	<p>(2) Any exercise of powers of temporary possession by the undertaker in respect of the rail link land or the Marsh Lane track land which may be permitted pursuant to the terms of this Order is subject to, and in common with, the use of the rail link land and the Marsh Lane track land by BPC and by any other person acting with BPC's authority or which may have rights to use the rail link land and the Marsh Lane track land.</p>
<p><u>BPC's Explanation for the Change</u></p> <p><u>52(1)</u></p> <p>BPC's CA note [REP7-049] sets out why BPC consider sub-paragraphs (a), (b) and (c) would be necessary.</p> <p><u>52(2)</u></p> <p>The undertakers possession of the rail link land and the Marsh Lane track land must be in common with others entitled to use those facilities, including BPC, so that the undertaker must not be entitled to exclude BPC or those others from their use.</p>	
<p><u>Applicant's Response</u></p> <p>General provisions of the Order apply – See Article 33 and Requirement 22 and the Requirement as regards Marsh Lane as proposed by the ExA.</p>	
<p><u>The ExA's Recommendation</u></p> <p><u>52(1)</u></p> <p>The ExA consider that the insertion of the additional wording as suggested could cause serious detriment to the ability of the Applicant to implement the Proposed Development. Furthermore, protection for the BPC would be provided by Article 33 and Requirements 22 and 35. The ExA do not therefore recommend that the suggested change should be accepted.</p> <p><u>52(2)</u></p> <p>The ExA accept that the rail link land and the Marsh Lane track land are used by a variety of other users such as Highways England to access the underside of the Avonmouth bridge. As such the ExA acknowledge that if these users were prevented from using these lands it could be seriously disadvantageous to them. The ExA is satisfied that the land could accommodate both the current users and the undertaker or its contractors. The ExA therefore consider that the additional wording would be reasonable and recommend that the change should be accepted.</p>	
<p>Paragraph in draft DCO [REP7-063]</p>	<p>Paragraph wording in draft DCO [REP7-063] with BPC's preferred wording</p>
<p>55 (62)</p>	<p>Add the following wording to the end of (1)(b) over which the undertaker does not, under this Order, acquire rights authorising the retention of those ancillary works.</p>
<p><u>BPC's Explanation for the Change</u></p>	

Article 5 authorises the carrying out of the authorised development anywhere within the Order limits. The authorised development includes not only the numbered works, but the long list of other works set out paragraphs (a) to (x) of Schedule 1. These other works are what are defined in these protective provisions as the "ancillary works" and include both temporary and permanent works. To the extent they are permanent works, there is no limit on where they may be constructed. Article 33(1)(d) combined with article 33(4)(b) would then permit those works to remain even if the undertaker had secured no permanent interest in the land.

BPC needs to know and to control where on its statutory undertakers' land permanent works are to be constructed. It reviewed the works plans and (subject to sub-paragraph (1)(a)) is willing to accept the Works noted on them to being constructed on its land within the relevant extent of works, subject to its approval of the detailed plans of those works under paragraph 63. Other, permanent works must not be constructed.

Sub-paragraph (1)(b) attempts to address this issue. However, to be effective BPC consider that the additional words are required to ensure works may not be constructed on land over which, for example, permanent rights of way are acquired under the Order, which would not thereby authorise or justify the retention of the relevant works.

Applicant's Response

No comment provided in s127 Position Statement [REP7-042].

The ExA's Recommendation

The ExA is satisfied with the explanation provided by the BPC as to why the additional wording would be required. The ExA therefore recommend that the additional wording be accepted.

Paragraph in draft DCO [REP7-063]	Paragraph wording in draft DCO [REP7-063] with BPC's preferred wording
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56 (3) (63)(3)	Include reference to Work No 19 in (3) (a) and amend (3)(b) to correct to Work No 18 not Work No 19
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BPC's Explanation for the Change

BPC considers the paragraph should also apply to Work No. 19, which comprises changes to the signalling and related equipment on BPC's railway. These works are shown on drawings W1097B-ARP-DRGECV-000330 and W1097B-ARP-DRG-ECV-000331 referred to in the agreed text of the paragraph.

Applicant's Response

No comment provided in s127 Position Statement [REP7-042].

The ExA's Recommendation

The EXA consider that for completeness the inclusion of the Work No 19 within the paragraph would be reasonable and as such recommend that the changes should be accepted.

Paragraph in draft DCO [REP7-063]	Paragraph wording in draft DCO [REP7-063] with BPC's preferred wording
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61 (68)	<p>Insertion of following wording into (a)</p> <p>(a) In constructing any protective works under the provisions of paragraph 56(5) and in the implementing of any environmental protection works under the provisions of paragraph [56(6)] including in respect of any permanent protective works or permanent environmental protection works, a capitalised sum representing the cost of maintain and renewing those works.</p>
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BPC's Explanation for the Change

BPC considers that the words in bold would be a necessary drafting addition, consequent on the acceptance in paragraph 56(6) of the right for BPC to require environmental protection works and, if necessary, to carry them out at the undertaker's expense.

Applicant's Response

Environmental protection works costs excluded.

The ExA's Recommendation

The ExA is satisfied with the explanation provided by the BPC and consider it reasonable that the Applicant should be liable for the maintenance and renewal of both the permanent protective works and the permanent environmental works that would be needed to mitigate the Proposed Development. The ExA recommend that the changes should be accepted.

Paragraph in draft DCO [REP7-063]	Paragraph wording in draft DCO [REP7-063] with BPC's preferred wording
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70 (77)	<p>Insertion of following additional wording:</p> <p>(a) The form of protocol (if any) agreed between BPC and the undertaker relating to the regulation of property owned by BPC of construction operations and activities in connection with the authorised development: and</p>
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BPC's Explanation for the Change

BPC explained the need for a construction protocol in REP4-058 (in relation to paragraph 2.1.4 of BPC's written representation). Construction operations in relation to the authorised development must be in compliance with the protocol. Accordingly, compliance with the protocol – once agreed between BPC and the undertaker – must

be secured via the DCO so that it is adhered to by all those who may exercise the DCO powers.
<u>Applicant's Response</u> Not needed and not appropriate for Protective Provisions.
<u>The EXA's Recommendation</u> The ExA agree with the Applicant that the additional wording would not be needed and therefore do not recommend the change to the SoS.

NGET

- 9.5.26. As set out in Section 9.3 of this Report NGET have maintained an objection throughout the Examination to the Protective Provisions proposed by the Applicant and contained within Schedule 16, Part 8 of the Applicants preferred draft DCO [REP7-056].
- 9.5.27. At the close of the Examination agreement on the Protective Provisions had not been reached. The Applicant stated that negotiations are continuing post-closing of the Examination [REP7-042]. There is therefore the potential that by the time this Report is submitted to the SoS that these matters will have been resolved and consequently the SoS may be provided with an up-to-date agreed set of Protective Provisions. Consequently, the following may be academic.
- 9.5.28. Should agreement between the BPC and the Applicant not be secured Table 9.5 below sets out the ExA's findings on the substantive disagreed matters. The ExA recommends that prior to reaching a decision the SoS may wish to seek an update on the position between NGET and the Applicant in respect to Protective Provisions.

Table 9.5: Substantive areas of dispute between the Applicant and NGET based on the wording in Schedule 16, Part 8 of the preferred draft of the DCO [REP7-063]

Paragraph in draft DCO [REP7-063]	Paragraph wording in draft DCO [REP7-063] with NGET's preferred wording
2	<p>"acceptable credit provider" means a bank or financial institution with a credit rating that is not lower than: (i) "A-" if the rating is assigned by Standard & Poor's Ratings Group or Fitch Ratings; and "A3" if the rating is assigned by Moody's Investors Services Inc.;</p> <p>"acceptable insurance" means a third-party liability insurance effected and maintained by the undertaker with a limit of indemnity of not less than £25,000,000.00 (twenty-five million pounds) per occurrence or series of occurrences arising out of one event. Such insurance shall be maintained for the construction period of the authorised works which constitute specified works and arranged with an internationally recognised insurer of repute</p>

	<p>operating in the London and worldwide insurance market underwriters whose security/credit rating meets the same requirements as an "acceptable credit provider", such policy shall include (but without limitation):</p> <p>(a) National Grid Electricity Transmission Plc;</p> <p>(b) a cross liabilities clause; and</p> <p>(c) contractors' pollution liability for third party property damage and third-party bodily damage</p> <p>arising from a pollution/contamination event with cover of £10,000,000.00 (ten million pounds) per event or £20,000,000.00 (twenty million pounds) in aggregate;</p> <p>"acceptable security" means either:</p> <p>(a) a parent company guarantee from a parent company in favour of National Grid to cover the undertaker's liability to National Grid to a cap of not less than £10,000,000.00 (ten million pounds) per asset per event up to a total liability cap of £25,000,000.00 (twenty five million pounds) (in a form reasonably satisfactory to National Grid and where required by National Grid, accompanied with a legal opinion confirming the due capacity and authorisation of the parent company to enter into and be bound by the terms of such guarantee); or</p> <p>(b) a bank bond or letter of credit from an acceptable credit provider in favour of National Grid to cover the undertaker's liability to National Grid for an amount of not less than £10,000,000.00 (ten million pounds) per asset per event up to a total liability cap of £25,000,000.00 (twenty five million pounds) (in a form reasonably satisfactory to National Grid);</p>
<p><u>NGET Explanation for the Change</u></p> <p>NGET requires suitable credit regarding liability.</p>	
<p><u>Applicant's Response</u></p> <p>As the provisions are of mutual benefit this is not necessary or applicable. The Applicant is the local authority and should not need to provide additional credit or insurance.</p>	
<p><u>The ExA's Recommendation</u></p> <p>The ExA agrees that as the Applicant is the local authority it would be unnecessary to provide the additional credit or insurance and does not therefore recommend the change be made.</p>	
<p>Paragraph in draft DCO [REP7-063] Paragraph wording in draft DCO [REP7-063] with NGET's preferred wording</p>	
<p>97</p>	<p>Insertion of the following additional wording:</p>

	<p>(2) As a condition of agreement between the parties in paragraph 5(1), prior to the carrying out of any part of the authorised works (or in such other timeframe as may be agreed between National Grid and the undertaker) that are subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement and/or other legal or land interest of National Grid and/or affects the provisions of any enactment or agreement regulating the relations between National Grid and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as National Grid reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between National Grid and the undertaker acting reasonably and which must be no less favourable on the whole to National Grid unless otherwise agreed by National Grid, and it will be the responsibility of the undertaker to procure and/or secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.</p>
<p><u>NGET's Explanation for the Change</u></p> <p>Control of acquisition of land by railway undertaker.</p>	
<p><u>Applicant's Response</u></p> <p>Deleted as not applicable.</p>	
<p><u>The ExA's Recommendation</u></p> <p>The purpose of this paragraph as a whole is to resolve the potential conflict between the HPCC Order and the Proposed Development. The paragraph as worded would ensure that NGET could not act unreasonably. The ExA considers that for completeness the additional wording suggested by NGET would be required and therefore recommends the change be made.</p>	
<p>Paragraph in draft DCO [REP7-063] Paragraph wording in draft DCO [REP7-063] with NGET's preferred wording</p>	
<p>102 (1)</p>	<p>Replace wording:</p> <p>(b) make reasonable compensation to that undertaker for any other expenses, loss, damages, penalty or costs incurred by the undertaker</p> <p>With:</p> <p>(b) indemnify National Grid for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from National Grid, by reason or in consequence of any such damage or interruption or National Grid becoming liable to any third party as aforesaid other than arising from any default of National Grid</p>

<p><u>NGET's Explanation for the Change</u></p> <p>NGET seeks indemnification and the ability to injunct the Applicant for it carrying out its works.</p>	
<p><u>Applicant's Response</u></p> <p>The Applicant does not believe it should offer indemnification for activities on its own land, nor does it accept that it should be subject to injunctions. NGET is sufficiently protected by the mutual cooperation paragraph and the provisions of the expenses paragraph.</p>	
<p><u>The ExA's Recommendation</u></p> <p>The ExA agrees with the Applicants response and does not therefore recommend the change be made.</p>	
<p>Paragraph in draft DCO [REP7-063] Paragraph wording in draft DCO [REP7-063] with NGET's preferred wording</p>	
<p>102(3)</p>	<p>Insert additional sub-paragraph:</p> <p>(3) Nothing in sub-paragraph (1) shall impose any liability on the undertaker in respect of-</p> <p>(a) any damage or interruption to the extent that it is attributable to the neglect or default of National Grid, its officers, servants, contractors or agents; and</p> <p>(b) any authorised works and/or any other works authorised by this Part of this Schedule carried out by National Grid as an assignee, transferee or lessee of National Grid with the benefit of the Order pursuant to section 156 of the Planning Act 2008 or article 10 (consent to transfer benefit of Order) subject to the proviso that once such works become apparatus ("new apparatus"), any authorised works yet to be executed and not falling within this subparagraph 3(b) will be subject to the full terms of this Part of this Schedule including this paragraph 102.</p>
<p><u>NGET's Explanation for the Change</u></p> <p>As for 102(1) see above.</p>	
<p><u>Applicant's Response</u></p> <p>As for 102(1) see above.</p>	
<p><u>The ExA's Recommendation</u></p> <p>The ExA is satisfied with the Applicant's response and does not therefore recommend the change be made.</p>	

Paragraph in draft DCO [REP7-063]	Paragraph wording in draft DCO [REP7-063] with NGET's preferred wording
102 additional points	<p>Insert additional points:</p> <p>(5) The undertaker is not to commence construction (and not to permit the commencement of such construction) of the authorised works on any land owned by National Grid or in respect of which National Grid has an easement or wayleave for its apparatus or any other interest or to carry out any works within 15 metres of National Grid's apparatus until the following conditions are satisfied:</p> <p>(a) unless and until National Grid is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has first provided the acceptable security (and provided evidence that it shall maintain such acceptable security for the construction period of the authorised works from the proposed date of commencement of construction of the authorised works) and National Grid has confirmed the same to the undertaker in writing; and</p> <p>(b) unless and until National Grid is satisfied acting reasonably (but subject to all necessary regulatory constraints) that the undertaker has procured acceptable insurance (and provided evidence to National Grid that it shall maintain such acceptable insurance for the construction period of the authorised works from the proposed date of commencement of construction of the authorised works) and National Grid has confirmed the same in writing to the undertaker.</p> <p>(6) In the event that the undertaker fails to comply with sub-paragraph 10(5) of this Part of this Schedule, nothing in this Part of this Schedule shall prevent National Grid from seeking injunctive relief (or any other equitable remedy) in any court of competent jurisdiction.</p>
	<p><u>NGET's Explanation for the Change</u></p> <p>As for 102(1) see above.</p>
	<p><u>Applicant's response</u></p> <p>As for 102(1) see above.</p>
	<p><u>The ExA's Recommendation</u></p> <p>The ExA consider that the undertaker is a public body and as require the paragraph of these guarantees would be unreasonable. The ExA therefore do not recommend that the change should be made.</p>

Paragraph in draft DCO [REP7-063]	Paragraph wording in draft DCO [REP7-063] with NGET's preferred wording
105	Insert additional point: (2) For the avoidance of doubt whenever National Grid's consent, agreement or approval to is required in relation to plans, documents or other information submitted by National Grid or the taking of action by National Grid, it must not be unreasonably withheld or delayed.
<u>NGET's Explanation for the Change</u> None provided.	
<u>Applicant's Response</u> Considered unnecessary due to the provision of new paragraph 95 (duty to cooperate).	
<u>The ExA's Recommendation</u> The ExA agree with the Applicant that the duty to cooperate would be secured by paragraph 95 and as a result the suggested additional wording to paragraph 105 would be unnecessary. The ExA therefore does not recommend the additional words should be inserted.	
Paragraph in draft DCO [REP7-063]	Paragraph wording in draft DCO [REP7-063] with NGET's preferred wording
109	Prefer following alternative wording: Save for differences or disputes arising under paragraph 98(2), 98(4), 99(1), 100 and 101(5) any difference or dispute arising between the railway undertaker and National Grid under this Part of this Schedule must, unless otherwise agreed in writing between the railway undertaker and National Grid, be determined by arbitration in accordance with article 56 (arbitration).
<u>NGET's Explanation for the Change</u> None provided	
<u>Applicant's response</u> No comment provided in s127 Position Statement [REP7-042]	
<u>The ExA's Recommendation</u> The ExA notes that paragraphs 98, 99, 100 and 101 include clauses which would, should a dispute arise enable it to be determined by arbitration. The ExA therefore consider that the exclusion of paragraphs from the general arbitration provision would	

not be unreasonable and would avoid duplication. The ExA therefore recommend that the wording should be changed to that suggested by NGET.

WPD

- 9.5.65. The s127 position statement submitted by the Applicant at D7 [REP7-042] records that the Applicant and NR are seeking further discussions with WPD and its legal representatives to progress the issues raised by WPD in its written submissions to the Examination. Protective Provisions are included in the draft DCO [REP7-056] but these, and a side agreement are still being negotiated between the parties.
- 9.5.66. The Protective Provisions included in Part 7 of Schedule 16 of the final preferred draft DCO are those preferred by the Applicant, but which duplicate the wording of WPD's preferred Protective Provisions submitted at D2 [Annex 2, REP2-052]. The s127 case submitted by the Applicant advises that the only issue not agreed for the Protective Provisions relates to how existing agreements for existing crossings over NR's operational railway are dealt with. It is the Applicant and NR's position that where existing agreements manage the relationship between WPD and NR those agreements should ensure.
- 9.5.67. In the absence of agreement between the parties the ExA is satisfied that Schedule 16, Part 7, paragraphs 83 and 84 apply to relevant rights and relevant apparatus and paragraph 86 would provide for the payment of costs and expenses by the Applicant where WPD incurs a loss as the result of any works.

Exolum Pipeline System Ltd (formerly CLH Pipeline System Ltd)

- 9.5.68. In its WR Exolum Pipelines System Ltd [REP2-061] advised that the Protective Provisions included in the draft DCO were not adequate for the protection of its apparatus and its rights.
- 9.5.69. At D7 Exolum [REP7-052] maintained its objection to the Protective Provisions which it advised would provide inadequate protection of its apparatus and rights. It advised that it was negotiating a separate agreement with the Applicant and that the terms of that agreement were largely agreed, although a small number of outstanding points remain to be settled. Exolum advised that it was confident that the parties would be able to progress the Agreement to completion. However, it advised that if an agreement was not entered into then it would need to provide a further submission direct to the SoS for consideration.
- 9.5.70. This is reflected in the s127 position statement submitted by the Applicant at D7 [REP7-042] which records that discussions have taken place but that these have focused on a private agreement and that negotiations are on-going. As a result, there is the potential that by the time this Report is submitted to the SoS that these matters will have been resolved. Consequently, the SoS may be provided with an up-to-date agreed set of Protective Provisions.

Should agreement between Exolum and the Applicant not be secured Table 9.6 below sets out the ExA's findings on the substantive disagreed matters. The ExA recommends that prior to reaching a decision the SoS may wish to seek an update on the position between Exolum and the Applicant in respect to Protective Provisions

Table 9.6: Substantive areas of dispute between the Applicant and Exolum Pipeline System Ltd based on the wording in Schedule 16, Part 6 of the preferred draft of the DCO [REP7-063]

Requirement of Exolum in WR [REP2-061]	Is this in the Protective Provision as included in the final preferred draft of the DCO [REP7-056]
<p>To prevent the Promoter from acquiring or frustrating CLH's rights in respect of its apparatus or any of its rights in land unless by agreement with CLH.</p>	<p>In part.</p> <p>Paragraph 74 restricts the undertaker from acquiring any apparatus without the consent of Exolum, but this does not extend to land owned by Exolum (albeit no freehold land held by Exolum is within the Order limits). The freehold acquisition land within the Order limits in which Exolum holds an interest and on which works would be constructed is already owned by the Applicant.</p> <p>Paragraph 75 deals with the Undertaker acquiring any interest in land in which the apparatus is required but it does not require the consent of Exolum.</p>
<p><u>The ExA's Recommendation</u></p> <p>The ExA is satisfied with the Applicants response and consequently does not consider any change necessary to the Protective Provision as drafted in the Applicants final preferred draft DCO [REP7-056].</p>	
Requirement of Exolum in WR [REP2-061]	Is this in the Protective Provision as included in the final preferred draft of the DCO [REP7-056]
<p>To restrict the Promoter's ability to obstruct access to the apparatus or otherwise interfere with CLH's ability to carry out its functions as an oil pipeline operator.</p>	<p>Yes.</p> <p>Paragraph 75(2) makes clear where the undertaker acquires any interest in land in which the apparatus sits, any right of Exolum to maintain the apparatus must not be extinguished until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of Exolum.</p>
<p><u>The ExA's Recommendation</u></p> <p>Noted – no change.</p>	

Requirement of Exolum in WR [REP2-061]	Is this in the Protective Provision as included in the final preferred draft of the DCO [REP7-056]
<p>Should the Promoter require removal of CLH's apparatus, to afford CLH sufficient notice, sufficient details of the proposed new position of the apparatus and the rights to construct suitable alternative apparatus.</p>	<p>In part.</p> <p>Paragraph 75(2) deals with the undertaker requiring removal of apparatus. The undertaker is to provide Exolum with written notice of the requirement, together with a plan and section of the work proposed.</p> <p>If Exolum needs any new rights in land as a result of moving apparatus, Exolum is to use its reasonable endeavours to obtain the necessary facilities and rights in the land – there is no obligation on the undertaker to do this.</p> <p>No relocation of Exolum apparatus is proposed.</p>
<p><u>The ExA's Recommendation</u></p> <p>The ExA is satisfied that paragraph 75 would give Exolum the notice to remove equipment that it has requested. It would not however provide details of an alternative location or secure any land or rights necessary to which to relocate the equipment. The ExA consider that given the specialist nature of its equipment Exolum rather than the Applicant would be best informed as to the most appropriate alternative location for equipment to be relocated to and therefore do not consider it would be necessary to amend the wording to include this. The requirement for the undertaker to obtain the rights that they need to relocate the equipment is consistent with the wording of provisions for other SU's in the draft DCO. The ExA does not consider that additional wording would be required.</p>	
Requirement of Exolum in WR [REP2-061]	Is this in the Protective Provision as included in the final preferred draft of the DCO [REP7-056]
<p>To ensure CLH is provided with sufficient notice and detail to assess any works that the Promoter intends to carry out within 15 m of any part of CLH's apparatus, for example to determine whether protective works or monitoring of adjoining activities or works are necessary.</p>	<p>Paragraph 76(1), which states that not less than 28 days before starting any works the undertaker is to submit a plan, section and description of the works to be executed.</p> <p>And then at Schedule 16, paragraph 76(2) in drafting that seeks to closely meet CLH's request.</p> <p>CLH does not have any rights to approve the works, but can propose reasonable requirements, which must be received by the undertaker within 28 days from the date CLH receives the plan, section and description from the undertaker.</p>
<p><u>The ExA's Recommendation</u></p>	

<p>The ExA is satisfied with the Applicants response and consequently does not consider any change necessary to the Protective Provision as drafted in the Applicants final preferred draft DCO [REP7-056].</p>	
<p>Requirement of Exolum in WR [REP2-061]</p>	<p>Is this in the Protective Provision as included in the final preferred draft of the DCO [REP7-056]</p>
<p>Where considered necessary by CLH or the Promoter, to ensure tests are undertaken to determine any interference to cathodic protection.</p>	<p>Yes, at Schedule 16, paragraph 76(8).</p>
<p><u>The ExA's Recommendation</u></p> <p>Noted – no change.</p>	
<p>Requirement of Exolum in WR [REP2-061]</p>	<p>Is this in the Protective Provision as included in the final preferred draft of the DCO [REP7-056]</p>
<p>To ensure that the Promoter secures any land which is required to accommodate any alternative apparatus required in the event that a diversion to the existing pipelines is required as a result of the Promotor's scheme.</p>	<p>Yes – see paragraph 75(3) undertaker is to secure the necessary facilities and rights in land in which the alternative apparatus is to be constructed.</p>
<p><u>The ExA's Recommendation</u></p> <p>Noted – no change.</p>	
<p>Requirement of Exolum in WR [REP2-061]</p>	<p>Is this in the Protective Provision as included in the final preferred draft of the DCO [REP7-056]</p>
<p>To indemnify CLH against all losses, damage, liability, costs and expenses incurred as a result of the Promoter's works, including CLH's costs of stopping and restoring supply through its apparatus, and to ensure CLH remains neutral in cashflow.</p>	<p>No. This is a matter for negotiation and inclusion in a separate agreement.</p>
<p><u>The ExA's Recommendation</u></p> <p>Paragraph 77 of the final preferred draft DCO would require the undertaker to repay to Exolum the proper and reasonable expenses reasonably incurred by the Exolum undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus. It would not however cover the costs of stopping and restoring supply. The ExA note that paragraph 102 which would provide similar indemnity to National Grid does cover the costs incurred for the <i>'interruption of service, or in the supply of</i></p>	

goods'. For consistency the ExA recommend that the wording of paragraph 77 should be amended to include indemnity from the cost of stopping and restoring supply.

The ExA therefore recommend that the wording of paragraph 77(1) should be amended as follows:

1.(1) Subject to the following provisions of this paragraph, the undertaker must repay to the Exolum undertaker the proper and reasonable expenses reasonably incurred by the Exolum undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus **including those expenses incurred through stopping and restoring supply to the apparatus.**

Requirement of Exolum in WR [REP2-061]

Is this in the Protective Provision as included in the final preferred draft of the DCO [REP7-056]

To include a covenant on the part of Network Rail to comply with the obligations of any protective provisions agreement, as successor to the Promotor.

No. The existing relationship between the parties (where Exolum has a pipe under NSC's land - which will be transferred to Network Rail) need not be improved upon. The Parties are however negotiating an agreement that could cover this point.

The ExA's Recommendation

The ExA agree with the Applicant that the inclusion of a covenant would not be required and therefore the addition of this paragraph is not recommended.

Requirement of Exolum in WR [REP2-061]

Is this in the Protective Provision as included in the final preferred draft of the DCO [REP7-056]

To require the Promoter to enter into a works agreement, to govern the roles and responsibilities of the parties, for example in the event of complex or technical works to the apparatus or alternative, where reasonably required by CLH.

No. The Parties are however negotiating an agreement that would cover this point appropriately.

The ExA's Recommendation

Paragraph 75 (1) requires that if apparatus is removed any alternative apparatus has to be constructed and in operation to the reasonable satisfaction of Exolum. Paragraph 75 (2) to (4) would require Exolum to undertake the works and paragraph 75 (5) sets out that if the undertaker rather than Exolum undertakes the works then this must be done without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the Exolum. As a result, the ExA is satisfied that Exolum would be able to manage the works to their satisfaction and as a result consider that a works agreement would be unnecessary.

Requirement of Exolum in WR [REP2-061]

Is this in the Protective Provision as included in the final preferred draft of the DCO [REP7-056]

To ensure the Promoter suspends works on the Scheme on receipt of notice from CLH in the event of an emergency, including at the behest of Her Majesty's Government, the Secretary of State, any other government, a domestic government agency or an international agency.	No. As the Applicant and Network Rail are both public authorities this is unnecessary.
<p><u>The ExA's Recommendation</u></p> <p>The ExA agree that as the Applicant and Network Rail are both public authorities this would be unnecessary. The addition is therefore not recommended.</p>	

9.6. EXA'S RECOMMENDED CHANGES

- 9.6.1. The ExA has considered the response from the Applicant at D7 [REP7-038], NSDC, BCC, the EA and various IPs.
- 9.6.2. For the reasons given above, the ExA has made the following changes to the final preferred draft DCO [REP7-056]. These are listed in table 9.7 below. Table 9.7 also includes a number of minor corrections to drafting errors or minor changes that the ExA consider necessary in order to ensure clarity and accuracy in drafting.
- 9.6.3. If the SoS has not been notified following the closure of the Examination of the agreement of the Protective Provisions for the BPC, NGET and Exolum Pipeline System Ltd then the ExA recommends the changes as set out in the table below and contained within the recommended DCO.

Table 9.7: ExA's changes to the final preferred draft DCO

Provision in draft DCO [REP7-056]	Wording in draft DCO [REP7-021]	ExA's Recommended Change
Part 1, Article 2	<p>"CTMP – Construction Traffic management Plan"</p> <p>"lead local flood authority" means North Somerset District Council as lead local flood authority and any successor flood authority.</p>	<p>"CTMP" Construction Traffic Management Plan"</p> <p>"Relevant lead local flood authority" means North Somerset District Council for land within the administrative area of North Somerset District Council and Bristol City Council for land within the administrative area of Bristol City Council as lead local flood authority and any successor flood</p>

Provision in draft DCO [REP7-056]	Wording in draft DCO [REP7-021]	ExA's Recommended Change
		<p>authority to these authorities.</p> <p><i>Change needed as flood/ drainage works proposed in both LLFA areas</i></p>
Part 3, Article 20 (5)	(5) Any temporary stopping up of the crossing specified in columns (1), (2) and (3) of Part 2 of Schedule 8 must not take place until a temporary alternative route is first provided by the undertaker in relation to it as specified in column (4) of that Part of that Schedule, to the reasonable satisfaction of the relevant highway authority, and such replacement route (or any subsequently agreed variation or substitute for that route) must be maintained and available for use at all reasonable times (unless the temporary alternative route is closed because it cannot be used safely) until Work No. 7 is completed and open for use.	(5) Any temporary stopping up of the crossing specified in columns (1), (2) and (3) of Part 2 of Schedule 8 must not take place until a temporary alternative route is first provided by the undertaker in relation to it as specified in column (4) of that Part of that Schedule, to the reasonable satisfaction of the relevant highway authority, and such replacement route (or any subsequently agreed variation or substitute for that route) must be maintained and available for use at all reasonable times (unless the temporary alternative route is closed because it cannot be used safely) until Work Nos. 7, 7A, 7B and 7C are completed and open for use.
Part 7, Article 46(4)(a)	And the instrument by which it is effected may specify savings and exemptions	And the instrument by which it is affected may specify savings and exemptions
Schedule 1	Work No 7 – public foot and cycle track bridge over Work No 1 shown on sheets 1 and 1A of the works plans to the south of Trinity Primary School, Portishead together with connections to cycle tracks, lighting, drainage, signage, fencing and hard standing	Work No 7 – public foot and cycle shown on sheets 1 and 1A of the works plans to the south of Trinity Primary School, Portishead together with connections to cycle tracks, lighting, drainage, signage, fencing and hard standing
Schedule 1	And in connection with such works further associated development within the Order limits consisting of –	

Provision in draft DCO [REP7-056]	Wording in draft DCO [REP7-021]	ExA's Recommended Change
	(q) works to place alter, remove or maintain road furniture;	(q) works to place, alter, remove or maintain road furniture;
Requirement 3 (1) (a)	Stage 1 comprises Work Nos 1, 1a, 5, 7, 7E, 9, 11, 11A, 12, 13, 14, 14A, 14b and 16C, 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;	<p>Stage 1 comprises Work Nos 1, 1a, 5, 7, 7E, 9, 11, 11A, 12, 13, 14, 14A, 14b and 16C, 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;</p> <p>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</p> <p><i>Work No 11 deleted as it comprises Stage 3 and is covered by 3(1)(f)</i></p> <p><i>There are no flood attenuation measures proposed in this location this would appear to be an old reference to Work No 16D which was deleted from the scheme [PD-012]</i></p>
Requirement 3 (1) (b)	Stage 1A comprises Work 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....	Stage 1A comprises Work Nos 7D, 8, 10, 10A, 12A, 13A, 15, 16 , 16A, 17 and 17A being haul roads south of Work No.1, cycle path diversions and compounds....
Requirement 4 (1)	(1) those elements of the authorised development comprising the works listed in column (1) of the table in sub-paragraph (5) must not commence until the detail design for that element has been approved by the relevant planning authority.	(1) those elements of the authorised development comprising the works listed in column (1) of the table in sub-paragraph (5) must not commence until the detail design for that element has been approved by the relevant

Provision in draft DCO [REP7-056]	Wording in draft DCO [REP7-021]	ExA's Recommended Change
		planning authority. In the case of Work No 3 this shall be in consultation with the Environment Agency.
Requirement 4 (2)	(2) The detail designs submitted to the relevant planning authority in accordance with paragraph (1) must reflect the principles of the relevant design drawings listed in column (3) of the table in paragraph (5) unless otherwise agreed with the relevant planning authority.	(2) The detail designs submitted to the relevant planning authority in accordance with paragraph (1) must reflect the principles of the relevant design drawings listed in column (3) of the table in paragraph (5) unless otherwise agreed with the relevant planning authority. Except in the case of Work No 7 where the public foot and cycle track bridge over Work No 1 shown on plan 467470.BQ.04.20-102 Rev Y shall be omitted.
Requirement 4 table in sub paragraph 5	<p>(1) <i>Work No(s)</i></p> <p>2, 2A, 3, 4, 6, 7A-7D</p> <p>(3) <i>Design drawing(s)</i></p> <p>467470.BQ.04.20-100 467470.BQ.04.20-101 467470.BQ.04.20-102</p> <p>W1097B-ARP-DRG-EAR-300001</p> <p>Work No 7 Trinity Primary School Bridge and electrical connection</p>	<p>(1) <i>Work No(s)</i></p> <p>2, 2A, 3, 4, 6, 7, 7A-7D</p> <p>(3) <i>Design drawing(s)</i></p> <p>467470.BQ.04.20-100 rev Y, 467470.BQ.04.20-101 rev Y, 467470.BQ.04.20-102 rev Y</p> <p>W1097B-ARP-DRG-EAR-300001 rev A01</p> <p>Delete reference to Work No 7 and associated design drawings</p>
Requirement 5	The CTMP – Construction Traffic Management Plan.	Replace all references to the CTMP – Construction Traffic Management Plan with CTMP
Requirement 5 (3)(h)	A construction flood plan and flood emergency plan for any construction site and compound located within	A construction flood plan and flood emergency plan for any construction site or compound located within

Provision in draft DCO [REP7-056]	Wording in draft DCO [REP7-021]	ExA's Recommended Change
	undefended flood zone 2 or flood zone 3	undefended flood zone 2 or flood zone 3
Requirement 11	The lead local flood authority	Replace all references with the relevant lead local flood authority
Requirement 16 (3) (d)	(d) Stockpile management and removal or redundant material: or	stockpile management and removal or redundant material: or
Requirement 19 (4)	Any temporary path must be removed within a period of 6 months following the opening of Work No 7 for public use	Any temporary path must be removed within a period of 6 months following the opening of Portishead Station
Requirement 23 (1)	The lead local flood authority	The relevant lead local flood authority
Requirement 26 (2) (a)	Between 200 and 210 metres in length and 2 metres in height form track bed level for the fence to be located to the south of the proposed Portishead station; and	Between 200 and 210 metres in length and 2 metres in height form track bed level for the fence to be located to the south of the proposed Portishead Station ; and
Requirement 29 (1) (c)	(c) lighting of Work No 7	Replace with: (c) lighting of Work Nos 7, 7A, 7B and 7C
Requirement 30 (2)	(g) a monitoring strategy to include the provision of a monitoring report to be submitted to the J19 TMWG a minimum of one week in advance of the J19 TMWG monthly meeting	(g) a monitoring strategy to include the provision of a monitoring report to be submitted to the J19 TMWG a minimum of one week in advance of the J19 TMWG monthly meeting;
Requirement 31 (1)	The lead local flood authority	The relevant lead local flood authority
Requirement 31 (3)	(3) The regrading of the levels forming part of Work No 26 must be carried out in accordance with the Clanage Road, compound, landscaping and access plan prior first use of Work No 26 as a permanent maintenance	Replace with: (3) Prior to the first use of Work No 26 as a permanent maintenance compound the Clanage

Provision in draft DCO [REP7-056]	Wording in draft DCO [REP7-021]	ExA's Recommended Change
	compound. The levels must thereafter be maintained.	Road compound, landscaping and access plan (Plan ref: 46470.BQ.04.20-261 rev T) shall be redrawn to show the proposed levels for the flood compensation mitigation area to be +107.3 AOD. The redrawn plan shall be submitted to the relevant planning authority for approval in consultation with the Environment Agency. The regrading of the mitigation area must be carried out in accordance with the details as approved and the levels must thereafter be maintained.
Requirement 33 (2)	The lead local flood authority	The relevant lead local flood authority
Requirement 34	<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 in writing by the relevant planning authority.</p> <p>(2) Work No 7 must not commence until detail 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.</p> <p>(3) Work No 7 must be carried out in accordance with the approved details and thereafter the required details must be permanently retained.</p>	Delete entirely
Requirements 35 to 43		To be renumbered to reflect the deletion of work Requirement 34
Requirement 36	Where under any of the above requirements the approval or agreement of the relevant planning	Where under any of the above requirements the approval or agreement of

Provision in draft DCO [REP7-056]	Wording in draft DCO [REP7-021]	ExA's Recommended Change
	authority or another person is required, that approval or agreement must be given in writing.	the relevant planning authority or another person or organisation is required, that approval or agreement must be given in writing.
Schedule 8, Part 1	<i>(4) Replacement</i> Work No. 7	<i>(4) Replacement</i> Work Nos. 7, 7A, 7B and 7C
Schedule 15	<i>Byelaw to be disapplied</i> Byelaw 17 (fences, excavations, pipes etc)	Replace with: Byelaw 17 (fences, excavations, pipes etc) but only insofar as it relates to 17 (a), (b), (c) and (e)
Schedule 16, Part 5, Paragraph 43		Insert "BPC's apparatus" means all and any gas, oil and water pipes, water tanks, cisterns, drains and drainage works, sewers, pumps, electric and communication wires, cables and plant ducts, conduits, governors, transformers, meters and any other service media, surface water interceptors (and whether in all cases for drainage, gas, oil water, electricity, telephone, television, data and information transmission of any other service) on BPC's property; "Marsh Lane track land" means any and all of parcels 5/25, 5/95, 5/100, 5/105, 5/106, 5/112 and 5/113 and that part of parcel 5/28 which lies to the east of an imaginary line projected in a northerly direction across the disused railway line at 126 miles 78 chains and

Provision in draft DCO [REP7-056]	Wording in draft DCO [REP7-021]	ExA's Recommended Change
		<p>includes the Marsh Lane track;</p> <p>"public path land" means any and all of parcels 5/27, 5/101, 5/102, 5/130, 5/131, 5/135 and 5/136;</p> <p>"rail link land" means any and all of parcels 5/104, 5/107, 5/108, 5/165, 5/171, 6/25 and 6/55;</p> <p>"specified work" means –</p> <ul style="list-style-type: none"> (a) that part of Work No. 1C that is on the Port's railway; (b) the whole of Work Nos. 14, 14A, 15, 16, 16A, 16C, 18, 19 and 20; and (c) all access works and drainage works; and
Schedule 16, Part 5, Paragraph 49		<p>Insert</p> <p>(6) The undertaker must, before submitting any survey, proposed measures or strategy relating to the Marsh Lane track to the relevant planning authority for approval in accordance with requirement 35 in schedule 2, consult with BPC in relation to the content of all such surveys, measures and strategies.</p>
Schedule 16, Part 5, Paragraph 51		<p>Insert</p> <p>(1)The undertaker must not exercise the powers conferred by section 271 (extinguishment of rights of statutory undertakers: preliminary notices) of the 1990 Act in relation to any rights of BPC over or in</p>

Provision in draft DCO [REP7-056]	Wording in draft DCO [REP7-021]	ExA's Recommended Change
		<p>respect of the railway rights land or the highway access land.</p> <p>(2) If the undertaker acquires any interest in railway rights land or the highway access land, whether compulsorily or by agreement, no rights of BPC over or in respect of the railway rights land or the highway access land so acquired must be extinguished.</p>
Schedule 16, Part 5, Paragraph 52		<p>Insert</p> <p>(2) Any exercise of powers of temporary possession by the undertaker in respect of the rail link land or the Marsh Lane track land which may be permitted pursuant to the terms of this Order is subject to, and in common with, the use of the rail link land and the Marsh Lane track land by BPC and by any other person acting with BPC's authority or which may have rights to use the rail link land and the Marsh Lane track land.</p>
Schedule 16, Part 5, Paragraph 55 (b)	(b) other than works of a temporary nature, no ancillary works associated with any relevant works or with Work No. 1A or Work No. 1B must be constructed or maintained upon, across, under or over BPC's property of which only temporary possession is taken under this Order.	(b) other than works of a temporary nature, no ancillary works associated with any relevant works or with Work No. 1A or Work No. 1B must be constructed or maintained upon, across, under or over BPC's property of which only temporary possession is taken under this Order over which the undertaker does not, under this Order, acquire rights authorising the

Provision in draft DCO [REP7-056]	Wording in draft DCO [REP7-021]	ExA's Recommended Change
		retention of those ancillary works.
Schedule 16, Part 5, Paragraph 56 (3)	<p>(a) in respect of all or any of Work No. 1C on BPC Property, if and in so far as the proposed works comprise and, following design development, are broadly consistent with the works shown on drawings W1097B-ARP-DRG-ECV-000305, W1097B-ARP-DRG-ECV-000330 and W1097B-ARP-DRG-ECV-000331;</p> <p>(b) in respect of Work No. 19 if and in so far as the proposed works comprise and, following design development, are broadly consistent with the Bridleway Extension Under the Elevated M5 Plan, and</p>	<p>(a) in respect of all or any of Work Nos. 1C and 19 on BPC Property, if and in so far as the proposed works comprise and, following design development, are broadly consistent with the works shown on drawings W1097B-ARP-DRG-ECV-000305, W1097B-ARP-DRG-ECV-000330 and W1097B-ARP-DRG-ECV-000331;</p> <p>(b) in respect of Work No. 18 if and in so far as the proposed works comprise and, following design development, are broadly consistent with the Bridleway Extension Under the Elevated M5 Plan, and</p>
Schedule 16, Part 5, Paragraph 61 (a)	(a) in constructing any protective works under the provisions of paragraph 56(5) including, in respect of any permanent protective works a capitalised sum representing the cost of maintaining and renewing those works;	(a) in constructing any protective works under the provisions of paragraph 56(5) and in the implementing of any environmental protection works under the provisions of paragraph 56 (6) including, in respect of any permanent protective works or permanent environmental protection works , a capitalised sum representing the cost of maintaining and renewing those works;
Schedule 16, Part 5, Paragraph 67		Delete (2) as this is now included in paragraph 44

Provision in draft DCO [REP7-056]	Wording in draft DCO [REP7-021]	ExA's Recommended Change
Schedule 16, Part 6, Paragraph 77	(1) Subject to the following provisions of this paragraph, the undertaker must repay to the Exolum undertaker the proper and reasonable expenses reasonably incurred by the Exolum undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus.	(1) Subject to the following provisions of this paragraph, the undertaker must repay to the Exolum undertaker the proper and reasonable expenses reasonably incurred by the Exolum undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus including those expenses incurred through stopping and restoring supply to the apparatus.
Schedule 16, Part 8, Paragraph 97		Insert the following additional sub-paragraph: (2) As a condition of agreement between the parties in paragraph 5(1), prior to the carrying out of any part of the authorised works (or in such other timeframe as may be agreed between National Grid and the undertaker) that are subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement and/or other legal or land interest of National Grid and/or affects the provisions of any enactment or agreement regulating the relations between National Grid and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as National Grid reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between

Provision in draft DCO [REP7-056]	Wording in draft DCO [REP7-021]	ExA's Recommended Change
		National Grid and the undertaker acting reasonably and which must be no less favourable on the whole to National Grid unless otherwise agreed by National Grid, and it will be the responsibility of the undertaker to procure and/or secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.
Schedule 16, Part 8, Paragraph 109	Any difference or dispute arising between the railway undertaker and National Grid under this Part of this Schedule must, unless otherwise agreed in writing between the railway undertaker and National Grid, be determined by arbitration in accordance with article 56 (arbitration).	Save for differences or disputes arising under paragraph 98(2), 98(4), 99(1), 100 and 101(5) any difference or dispute arising between the railway undertaker and National Grid under this Part of this Schedule must, unless otherwise agreed in writing between the railway undertaker and National Grid, be determined by arbitration in accordance with article 56 (arbitration).
Schedule 17		The ExA have updated Schedule 17 to include the latest version of the relevant plans and documents; to include all documents which the DCO requires to be certified, and for precision and enforceability to include all documents which the undertaker would be reliant upon for mitigation.

9.7. CONCLUSION

- 9.7.1. The SoS can be satisfied that the ExA has considered all iterations of the draft DCO as provided by the Applicant and is satisfied that it has addressed all outstanding matters.

- 9.7.2. The recommended DCO in Appendix C of this Report reflects the final preferred draft DCO [REP7-056] submitted by the Applicant at D7 with the addition of those changes listed above. The ExA therefore recommends that the SoS should make the Order, with the recommended changes, if they are satisfied that the Proposed Development should be consented.
- 9.7.3. If the SoS agrees with the ExA's recommendation that Trinity Footbridge should be deleted from Work No 7, then the following plans would need to be updated to reflect this change:
- Works Plans [REP5-004] – 674946.BQ.42.01-301 Rev P and 674946.BQ.42.01-318 Rev P;
 - General Arrangement Plans [REP7-003] – 674946.BQ.42.01-571 Rev J;
 - Cross Section Plans [REP5-007] – 467470.BQ.04.20-SK300 Rev I and 467470.BQ.04.20-SK301 Rev I;
 - Portishead station layout and landscape plans [REP5-008] – 467470.BQ.04.20-102 Rev Y; and
 - Portishead station plans [APP-018] – W1097B-ARP-DRG-EST-300001 Rev A02.
- 9.7.4. Where relevant Schedule 17 of the Order would also need to be updated to reflect these revisions.
- 9.7.5. If the SoS disagrees with the ExA's recommendation to delete Trinity Footbridge from Work No 7 then the ExA recommends that the deletions suggested for Article 20(5); Schedule 1; Requirement 3 (1)(a); Requirement 4; Requirement 19 (4); Requirement 29 (1) (c) and Schedule 12 should be retained. The wording of Requirement 4 would need to be amended to require that the relevant planning authority consult with NSLIDB on the details of Work No 7 to ensure that it could continue to manage the culvert in this location. Requirement 34 of the Applicant's final preferred draft DCO [REP7-056] should also be included in the DCO and the following Requirements renumbered accordingly. This would be to require the submission and approval of further details to provide the relevant planning authority with control over these matters in order to assist in minimising the effects of the proposed bridge on the character and appearance of the local area and on the living conditions of the occupants of neighbouring properties.

10. SUMMARY OF FINDINGS AND CONCLUSIONS

10.1. FINDINGS AND CONCLUSIONS

- 10.1.1. S104(2) and s104(3) of the PA2008 require the SoS to have regard to, and to decide the Application in accordance with any National Policy Statement, any LIR and any other important and relevant matters. This is except to the extent that one or more of subsections (4) to (6) and (8) apply in terms of a breach of any international obligations or any duty or enactment or any condition prescribed for deciding an application otherwise in accordance with a NPS. Subsection (7) of s104 relates to the planning balance which the ExA has considered in Section 7.3 of this Report.
- 10.1.2. The ExA concludes that the Proposed Development is covered by the NPSNN and the making of the recommended DCO would be in accordance with it. Accordingly, s104(3) is satisfied. The ExA has found the benefits of the Proposed Development significantly outweigh the limited identified harm as per s104(7) of the PA2008.
- 10.1.3. In making this recommendation the ExA has not found any breach of s104(4), (5), (6) and (8). Regard has been had to the LIRs produced by NSDC, BCC and SGC and the development plans listed in Annex D and as set out in Chapters 3 and 4 of this Report.
- 10.1.4. The ExA agrees with the Applicant that an adverse effect on the integrity of the Avon Gorge Woodlands SAC from losses of rare whitebeam trees cannot be ruled out. Whilst the SoS is the competent authority under the Habitats Regulations and will need to make their own AA, the ExA considers that the proposed compensation measures would be feasible and appropriate and would be adequately secured in the recommended DCO (Appendix C). The ExA concludes that there is sufficient information before the SoS to enable them to undertake an AA; to apply the derogation tests of the Habitats Regulations in respect of alternative solutions, IROPI and compensation; and so is able to fulfil their duty under the requirements of the Habitat Regulations.
- 10.1.5. With regard to all other matters and representations received, the ExA has found no important and relevant matters that would individually or collectively lead to a different recommendation to that below.
- 10.1.6. Not all issues raised by IPs have been resolved by the close of the Examination, however in the majority of cases the relevant planning authorities will have control over approval of documents which are secured by the recommended DCO (Appendix C). The resolution of these matters at this stage does not undermine the ExA's ability to make its recommendation to the SoS and as such no further action is required.
- 10.1.7. The ExA has recommended that the SoS deletes the Trinity Footbridge from Work No 7, which is associated development, because of its harmful visual impact and effects on living conditions. If the SoS decides to retain

the footbridge, there remains to be an overwhelming case for the Proposed Development.

- 10.1.8. The ExA considers that there is nothing to indicate that the Application should be decided other than in accordance with national policy as set out in the NPSNN which identifies the need for the development of the national rail network in order to deliver alternative modes of transport and help to deliver significant reductions in pollution and congestion.
- 10.1.9. The CA and TP powers requested by the Applicant are necessary to implement the Proposed Development and the Applicant has a clear idea of how it intends to use the land. The need to secure the land and rights required, and to construct the Proposed Development within a reasonable timeframe, represent a significant public benefit. The private loss to those affected is mitigated through the fact that the construction period would be limited and the Applicant is seeking to acquire the minimum possible rights and interests that they would need to construct, operate and maintain the Proposed Development.
- 10.1.10. The Applicant has explored reasonable alternatives to the CA of land, rights and interests sought and there are no alternatives that ought to be preferred. The ExA is satisfied that adequate and secure funding would be available to enable CA within the statutory period following the Order being made. By the close of the Examination the Applicant had obtained consent from all the relevant Crown Authorities.
- 10.1.11. At the close of the Examination there were outstanding objections from a number of SUs and as a consequence s127 and s138 of the PA2008 were engaged. The ExA is satisfied that the Protective Provisions contained within the recommended DCO would afford the SUs with the protection that they require and ensure that they could continue to carry out their statutory functions without any serious detriment. As a result, the ExA consider that the Proposed Development would comply with s127 and s138 of the PA2008.
- 10.1.12. In a very limited number of cases in relation to CA and Protective Provisions the Applicant had indicated that these would be the subject of ongoing resolution after the close of the Examination. The ExA recommends that for the reasons set out in table 10.1 the SoS may wish to seek an update with regards to progress on these matters.

Table 10.1: Matters Where the SoS May wish to seek an update

Interested Party	Reason	Reference in Report
The Applicant	<p><u>Updated CA Schedule and BoR</u></p> <p>There are a number of outstanding voluntary agreements that, at the close of the Examination, remained in discussion but not agreed. While the ExA has found a compelling case for CA exists, the SoS may wish to request that the Applicant update</p>	Various points in Chapter 8

	the CA Schedule, ensure it is accurate, and provide an update to the SoS as to the status of the remaining unsigned agreements and to correct a small number of anomalies. The BoR equally contains a small number of anomalies and the SoS may wish to obtain a corrected version.	
BPC/ NGET/ WPD/ Exolum Pipeline System Ltd and the Applicant	<p><u>Protective Provisions</u></p> <p>Protective Provisions were not agreed with these SUs by the close of the Examination. The Applicant's s127 position statement [REP7-042] indicates that discussions were ongoing, and the parties were confident of an agreement being reached. The ExA has made a recommendation on the disputed matters. However, the SoS may wish to request an update on the agreed Protective Provisions from the parties or obtain the latest position in respect of the outstanding matters.</p>	Paragraphs 9.5.6 to 9.5.70

- 10.1.13. The proposed interference with the human rights of individuals would be for legitimate purposes that would justify such interference in the public interest and to a proportionate degree. Furthermore, throughout the Examination the ExA has had due regard to the PSED.
- 10.1.14. Considering all of the above factors together there is a compelling case in the public interest for the CA and TP powers sought in respect of the plots listed in the BoR [REP7-013]. The ExA concludes that the Proposed Development would comply with s122(2) and s122(3) of the PA2008.
- 10.1.15. On 14 July 2021 the SoS published their response to the 6th Carbon Budget provision as 'Decarbonising Transport: a Better, Greener Britain'. This was published after the close of the Examination. However, it appears to be consistent with the NNNPS in relation to modal shift and carbon emissions already reflected in the recommendation. The ExA consider that it will be a matter for the SoS to consider any specific implications for the Proposed Development at the time of their decision.

10.2. RECOMMENDATION

- 10.2.1. For all of the above reasons and in light of the ExA's findings and conclusions on important and relevant matters set out in the Report, the ExA recommends that the Secretary of State for Transport makes the Portishead Branch Line – MetroWest Phase 1B Order in the form recommended at Appendix C of this Report.

APPENDICES

APPENDIX A: THE EXAMINATION LIBRARY

APPENDIX B: LIST OF ABBREVIATIONS

APPENDIX C: THE RECOMMENDED DCO

APPENDIX D: DEVELOPMENT PLAN POLICIES

APPENDIX A: THE EXAMINATION LIBRARY

Portishead Branch Line – MetroWest Phase 1

Examination Library

This Examination Library relates to the Portishead Branch Line – MetroWest Phase 1 application. The library lists each document that has been submitted to the examination by any party and documents that have been issued by the Planning Inspectorate. All documents listed have been published to the National Infrastructure’s Planning website and a hyperlink is provided for each document. A unique reference is given to each document; these references will be used within the Report on the Implications for European Sites and will be used in the Examining Authority’s Recommendation Report. The documents within the library are categorised either by document type or by the deadline to which they are submitted.

Please note the following:

- This is a working document and will be updated periodically as the examination progresses.
- Advice under Section 51 of the Planning Act 2008 that has been issued by the Inspectorate, is published to the National Infrastructure Website but is not included within the Examination Library as such advice is not an examination document.
- This document contains references to documents from the point the application was submitted.
- The order of documents within each sub-section is either chronological, numerical, or alphabetical and confers no priority or higher status on those that have been listed first.

TR040011 – Portishead Branch Line – MetroWest Phase 1**Examination Library - Index**

Category	Reference
Application Documents As submitted and amended version received before the PM. Any amended version received during the Examination stage to be saved under the Deadline received	APP-xxx
Adequacy of Consultation responses	AoC-xxx
Relevant Representations	RR-xxx
Procedural Decisions and Notifications from the Examining Authority Includes Examining Authority's questions, s55, and post acceptance s51	PD-xxx
Additional Submissions Includes anything accepted at the Preliminary Meeting and correspondence that is either relevant to a procedural decision or contains factual information pertaining to the examination including responses to Rule 6 and Rule 8 letters	AS-xxx
Events and Hearings Includes agendas for hearings and site inspections, audio recordings, responses to notifications and applicant's hearing notices	EV-xxx
Representations – by Deadline	
Procedural Deadline A	PDA-xxx
Procedural Deadline B	PDB-xxx
Documents requested in Rule 6 letter	PDR6-xxx
Deadline 1:	REP1-xxx

Deadline 2:	REP2-xxx
Deadline 3:	REP3-xxx
Deadline 4:	REP4-xxx
Deadline 5:	REP5-xxx
Deadline 6:	REP6-xxx
Deadline 7	REP7-xxx
Other Documents Includes s127/131/138 information, s56, s58 and s59 certificates, and transboundary documents	OD-xxx

TR040011 – Portishead Branch Line – MetroWest Phase 1**Examination Library****Application Documents**

APP-001	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 1.1 - Cover Letter to the Planning Inspectorate (including draft s55 Checklist)
APP-002	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 1.2 - Application Form
APP-003	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 1.3 - Copies of Newspaper Notices
APP-004	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 1.4 - Navigation Document This has now been superseded by document AS-011
APP-005	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 1.5 - Electronic Application Index
APP-006	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 1.6 - West of England Combined Authority support letter
APP-007	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.1 - Location Plan
APP-008	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.2 - Land Plans This has now been superseded by document AS-012
APP-009	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.3 - Works Plans This has now been superseded by document AS-013
APP-010	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.4 - General Arrangement Plans
APP-011	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.5 - Special Category Land Plan
APP-012	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.6 - Crown Land Plans
APP-013	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.7 - Disused railway engineering plans/ GRIP 4 Minor Civils - Part 1 of 2

APP-014	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.7 - Disused railway engineering plans/ GRIP 4 Minor Civils - Part 2 of 2
APP-015	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.8.1 - 2.8.10 - Engineering Sections
APP-016	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.9 - Longitudinal Profile of Railway Alignment (Section Plans)
APP-017	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.10 - Railway Landscape Plans (disused line)
APP-018	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.11 - 2.14 - Portishead Station Plans
APP-019	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.15 - 2.17 - Trinity Footbridge Plans
APP-020	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.18 - 2.20 - Pill Station
APP-021	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.21 - Cattle Creep: Proposed General Arrangement (Sheets 1 and 2)
APP-022	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.22 - Avon Road Underbridge
APP-023	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.23 - 2.28 - Earthworks
APP-024	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.29 - Compounds, Haul Roads and Access to Works Plan
APP-025	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.30 - Permanent and Temporary Stopping up and Diversion Plan
APP-026	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.31 - Permanent Traffic Regulation Order Plans
APP-027	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.32 - Crossings to be Extinguished Plans
APP-028	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.33 - Public Rights of Way Plans
APP-029	<u>Womble Bond Dickson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.34 - Diversion Routes for Pedestrians and Cyclists (Part 1 of 2)

APP-030	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.34 - Diversion Routes for Pedestrians and Cyclists (Part 2 of 2)
APP-031	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.35 - New Highways Plans
APP-032	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.36 - Cross Section Plans
APP-033	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.37 - National Cycle Network (NCN) Temporary and Permanent Work Plans
APP-034	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.37a - Bridleway Extension Under Elevated M5 Plan
APP-035	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.38 - Portishead Station Car Park Layout, Landscaping and New Boulevard and Access Plan (includes lighting for footpaths)
APP-036	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.39 - 2.40 - Wessex Water Compound and Portbury Hundred Construction Compound
APP-037	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.41 - Easton in Gordano Flood Mitigation Plan
APP-038	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.42 - Pill Station Car Park and PSP Layout, Landscaping, Lighting and Access Plan
APP-039	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.43 - 2.44 - Pill Memorial Club Bus Stops and Car Park Plan and Construction Compound
APP-040	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.45 - 2.46 - Ham Green Highway Works Plans and Pill Tunnel Eastern Portal Compound, Landscaping and Access Plan
APP-041	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.47 - Ashton Vale Road and Winterstoke Road Highway Works Plan
APP-042	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.48 - Ashton Vale Road Pedestrian Ramp Design Plan
APP-043	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.49 - 2.51 - Sheepway Bridge Maintenance Compound and Interim Access Arrangements

APP-044	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.52 - Clanage Road Compound, Landscaping and Access Plan
APP-045	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.53 - Environmental Masterplan
APP-046	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.54 - Plan(s) of Statutory and Non-Statutory Sites and Features of the Historic Environment
APP-047	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.55 - Plan of Statutory or Non-Statutory Sites and Features of Nature Conservation Designations
APP-048	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.56 - Important Hedgerow Plan
APP-049	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.57 - Portbury Hundred Location of Additional Tree Planting
APP-050	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.58 - Habitat impacted by construction works within the Avon Gorge Woodlands SAC
APP-051	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 2.59 - Great Crested Newt Indicative Pond Design
APP-052	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 3.1 - Draft Development Consent Order This has now been superseded by document AS - 014
APP-053	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 3.2 - Explanatory Memorandum
APP-054	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 3.3 - DCO Validation Report
APP-055	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 4.1 - Statement of Reasons This has now been superseded by document AS - 016
APP-056	<u>Womble Bond Dickinson (UK) LLP on behalf on North Somerset District Council – The Applicant</u> 4.2 - Funding Statement
APP-057	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 4.3 - Book of Reference
APP-058	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 5.1 - Consultation Report

APP-059	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 5.1 - Consultation Report Appendices - A1 to A2
APP-060	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 5.1 - Consultation Report Appendices - B1 to B2
APP-061	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 5.1 - Consultation Report Appendix - B3
APP-062	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 5.1 - Consultation Report Appendices - C1 to D3
APP-063	<u>Womble Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 5.1 - Consultation Report Appendices - E1 to E4
APP-064	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 5.1 - Consultation Report Appendices - F1 to F3
APP-065	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 5.1 - Consultation Report Appendices - G1 to G3
APP-066	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 5.1 - Consultation Report Appendices - H1 to H2
APP-067	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 5.1 - Consultation Report Appendices - I1 to I6
APP-068	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> Consultation Report Appendix - I7
APP-069	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 5.1 - Consultation Report Appendix - I8
APP-070	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 5.1 - Consultation Report Appendices - J1 to J2
APP-071	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 5.1 - Consultation Report Appendices - K1 to K2
APP-072	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 5.2 - Environmental Protection Statement of Engagement
APP-073	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 5.3 - Consents and Licences required under Other Legislation
APP-074	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 5.4 - Construction Strategy
APP-075	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 5.5 - Report to Inform Habitat Regulations Assessment

APP-076	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 5.6 - Flood Risk Assessment (Part 1 of 17)
APP-077	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 5.6 - Flood Risk Assessment (Part 2 of 17) - Appendix B (Part 1 of 2)
APP-078	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 5.6 - Flood Risk Assessment (Part 3 of 17) - Appendix B (Part 2 of 2)
APP-079	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 5.6 - Flood Risk Assessment (Part 4 of 17) - Appendix C to J
APP-080	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 5.6 - Flood Risk Assessment (Part 5 of 17) - Appendix K to M
APP-081	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 5.6 - Flood Risk Assessment (Part 6 of 17) - Appendix N (Part 1)
APP-082	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 5.6 - Flood Risk Assessment (Part 7 of 17) - Appendix N (Part 2) - Tidal flood maps 2015
APP-083	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 5.6 - Flood Risk Assessment (Part 8 of 17) - Appendix N (Part 3) - Tidal flood maps 2075
APP-084	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 5.6 - Flood Risk Assessment (Part 9 of 17) - Appendix N (Part 4) - Tidal flood maps 2115
APP-085	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 5.6 - Flood Risk Assessment (Part 10 of 17) - Appendix N (Part 5) - Fluvial flood maps 2015
APP-086	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 5.6 - Flood Risk Assessment (Part 11 of 17) - Appendix N (Part 6) - Fluvial flood maps 2075
APP-087	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 5.6 - Flood Risk Assessment (Part 12 of 17) - Appendix N (Part 7) - Fluvial flood maps 2115
APP-088	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 5.6 - Flood Risk Assessment (Part 13 of 17) - Appendix N (Part 8) - Flood difference maps
APP-089	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 5.6 - Flood Risk Assessment (Part 14 of 17) - Appendix O (Part 1)

APP-090	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 5.6 - Flood Risk Assessment (Part 15 of 17) - Appendix O (Part 2)
APP-091	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 5.6 - Flood Risk Assessment (Part 16 of 17) - Appendix O (Part 3)
APP-092	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 5.6 - Flood Risk Assessment (Part 17 of 17) - Appendix P to T
APP-093	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.1 - Scoping Opinion
APP-094	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.2 - ES Volume 1 – Non-Technical Summary
APP-095	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.3 – ES Table of Contents
APP-096	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.4 - ES Chapter 1 – Introduction
APP-097	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.5 - ES Chapter 2 - Description of the Study Area
APP-098	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.6 - ES Chapter 3 - Scheme Development and Alternatives Considered
APP-099	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.7 - ES Chapter 4 - Description of the Proposed Works
APP-100	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.8 - ES Chapter 5 - Approach to the Environmental Statement
APP-101	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.9 - ES Chapter 6 – Planning Framework
APP-102	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.10 - ES Chapter 7 – Air Quality and Greenhouse Gases
APP-103	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.11 - ES Chapter 8 - Cultural Heritage
APP-104	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.12 - ES Chapter 9 – Ecology and Biodiversity
APP-105	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.13 - ES Chapter 10 – Geology, Hydrogeology, Ground Conditions and Contaminated Land

APP-106	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.14 - ES Chapter 11 – Landscape and Visual Impacts Assessment
APP-107	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.15 - ES Chapter 12 – Materials and Waste
APP-108	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.16 - ES Chapter 13 – Noise and Vibration
APP-109	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.17 - ES Chapter 14 – Socio-economics and Economic Regeneration
APP-110	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.18 - ES Chapter 15 – Soils, Agriculture, Land Use and Assets
APP-111	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.19 - ES Chapter 16 – Transport, Access and Non-Motorised Users
APP-112	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.20 - ES Chapter 17 – Water Resources, Drainage and Flood Risk
APP-113	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.21 - ES Chapter 18 – In-combination and Cumulative Effects Assessment
APP-114	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.23 - ES Chapter 19 – Glossary
APP-115	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.24 - ES Volume 3 - Figure 1.3 Location Plan
APP-116	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.24 - ES Volume 3 - Figure 6.1 - Planning Constraints
APP-117	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.24 - ES Volume 3 - Figures 7.1 to 7.4 - Air Quality
APP-118	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.24 - ES Volume 3 - Figures 8.1 and 8.2 - Cultural Heritage
APP-119	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.24 - ES Volume 3 - Figures 9.1 to 9.4 – Ecology
APP-120	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.24 - ES Volume 3 - Figure 10.1 - Ground Conditions

APP-121	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.24 - ES Volume 3 - Figures 11.1 to 11.3 - Landscape and Visual Impacts Assessment
APP-122	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.24 - ES Volume 3 - Figures 13.1 and 13.2 - Noise Vibration
APP-123	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.24 - ES Volume 3 - Figure 17.1 - Water Features
APP-124	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.24 - ES Volume 3 - Figure 18.1 - Proposed Development
APP-125	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 1.1 to 1.3 - Series Introduction
APP-126	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 4.1 - Code of Construction Practice
APP-127	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 4.2 - Master Construction Environmental Management Plan
APP-128	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 4.3 - Schedule of Mitigation
APP-129	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 4.4 to 4.8 - Description of the Proposed Works
APP-130	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 5 - Series Approach to the Environmental Statement
APP-131	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 7 Series - Air Quality and Greenhouse Gases
APP-132	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 8 - Series Cultural Heritage
APP-133	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 9.1 - Extended Phase 1 Habitat Survey – Please see REP4-005 for figures
APP-134	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 9.2 - Bat Technical Appendix

APP-135	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 9.3A and 9.3B - Bird Surveys
APP-136	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 9.3c - Schedule 1 Bird Survey CONFIDENTIAL
APP-137	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 9.4 and 9.5 - Great Crested Newt Survey Report and Reptiles
APP-138	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 9.6 - Badger Survey CONFIDENTIAL
APP-139	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 9.7 Dormice, 9.8 Otters and 9.9 Water Voles
APP-140	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 9.10 - Flora Survey: Avon Gorge Woodlands SAC/Avon Gorge SSSI
APP-141	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 9.11 - Avon Gorge Vegetation Management Plan
APP-142	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 9.12 - Report to inform Habitats Regulations Assessment
APP-143	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 9.13 to 9.18 - Various ecology appendices
APP-144	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 10.1 - Risk Classification
APP-145	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 10.2 - Land Contamination Summary Report Annex A1 (Part 1 of 5) Portishead Station Envirocheck
APP-146	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 10.2 - Land Contamination Summary Report Annex A2 (Part 2 of 5) Portishead to Portbury Envirocheck

APP-147	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 10.2 - Land Contamination Summary Report Annex A3 (Part 3 of 5) Portishead to Easton-in-Gordano Envirocheck
APP-148	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 10.2 - Land Contamination Summary Report Annex A4 (Part 4 of 5) Pill Envirocheck
APP-149	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 10.2 - Land Contamination Summary Report Annex A5 (Part 5 of 5) Ashton Vale Envirocheck
APP-150	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 10.2 - Land Contamination Annexes B to J
APP-151	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 11.1 and 11.2 - Landscape and Visual Impact Assessment
APP-152	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 11.3 and 11.4 - Landscape and Visual Impact Assessment
APP-153	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 13 Series - Noise and Vibration
APP-154	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 14 Series - Socio-economics and Economic Regeneration
APP-155	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 16.1 - Transport Assessment (Part 1 of 18)
APP-156	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 16.1 - Transport Assessment (Part 2 of 18) - Figures Vol 1
APP-157	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 16.1 - Transport Assessment (Part 3 of 18) - Figures Vol 2
APP-158	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 16.1 - Transport Assessment (Part 4 of 18) - Figures Vol 3

APP-159	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 16.1 - Transport Assessment (Part 5 of 18) - Appendix A TA Scoping Report
APP-160	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 16.1 - Transport Assessment (Part 6 of 18) - Appendix B Committed Developments
APP-161	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 16.1 - Transport Assessment (Part 7 of 18) - Appendix C Report of Surveys
APP-162	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 16.1 - Transport Assessment (Part 8 of 18) - Appendix D Accidents Data
APP-163	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 16.1 - Transport Assessment (Part 9 of 18) - Appendix E Network Plots
APP-164	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 16.1 - Transport Assessment (Part 10 of 18) - Appendix F Junction Assessments
APP-165	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 16.1 - Transport Assessment (Part 11 of 18) - Appendix G Distribution and Assignments
APP-166	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 16.1 - Transport Assessment (Part 12 of 18) - Appendix H Avonmouth/Sevenside
APP-167	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 16.1 - Transport Assessment (Part 13 of 18) - Appendix I Parking Surveys
APP-168	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 16.1 - Transport Assessment (Part 14 of 18) - Appendix J Walking and Cycling
APP-169	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 16.1 - Transport Assessment (Part 15 of 18) - Appendix K CTMP
APP-170	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 16.1 - Transport Assessment (Part 16 of 18) - Appendix L Match Day Pedestrian Impacts

APP-171	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 16.1 - Transport Assessment (Part 17 of 18) - Appendix M Outline Station Travel Plans
APP-172	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 16.1 - Transport Assessment (Part 18 of 18) - Appendix N Ashton Vale Road
APP-173	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 17.1 - Flood Risk Assessment (Part 1 of 17)
APP-174	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 17.1 - Flood Risk Assessment (Part 2 of 17) - Appendix B Part 1 of 2
APP-175	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 17.1 - Flood Risk Assessment (Part 3 of 17) - Appendix B Part 2 of 2
APP-176	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 17.1 - Flood Risk Assessment (Part 4 of 17) - Appendix C to J
APP-177	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 17.1 - Flood Risk Assessment (Part 5 of 17) - Appendix K to M
APP-178	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 17.1 - Flood Risk Assessment (Part 6 of 17) - Appendix N (Part 1 of 8)
APP-179	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 17.1 - Flood Risk Assessment (Part 7 of 17) - Appendix N (Part 2 of 8)
APP-180	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 17.1 - Flood Risk Assessment (Part 8 of 17) - Appendix N (Part 3 of 8)
APP-181	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 17.1 - Flood Risk Assessment (Part 9 of 17) - Appendix N (Part 4 of 8)
APP-182	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 17.1 - Flood Risk Assessment (Part 10 of 17) - Appendix N (Part 5 of 8)

APP-183	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 17.1 - Flood Risk Assessment (Part 11 of 17) - Appendix N (Part 6 of 8)
APP-184	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 17.1 - Flood Risk Assessment (Part 12 of 17) - Appendix N (Part 7 of 8)
APP-185	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 17.1 - Flood Risk Assessment (Part 13 of 17) - Appendix N (Part 8 of 8)
APP-186	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 17.1 - Flood Risk Assessment (Part 14 of 17) - Appendix O (Part 1 of 3)
APP-187	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 17.1 - Flood Risk Assessment (Part 15 of 17) - Appendix O (Part 2 of 3)
APP-188	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 17.1 - Flood Risk Assessment (Part 16 of 17) - Appendix O (Part 3 of 3)
APP-189	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 17.1 - Flood Risk Assessment (Part 17 of 17) - Appendix P to T
APP-190	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 17.2 to 17.4 – Water
APP-191	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.25 - ES Volume 4 - Appendix 18 Series - In-combination and Cumulative Effects
APP-192	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.26 - Surface Water Drainage Strategy for Portishead and Pill Stations, haul roads and compounds
APP-193	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 6.31 - Schedule of Mitigation
APP-194	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 7.1 - Report to The Council 25th June 2019: MetroWest Phase 1 Submission of Development Consent Order Application & Associated Approvals
APP-195	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 7.2 - Minutes of the meeting of The Council Tuesday 25th June 2019

APP-196	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 8.1 - Design and Access Statement
APP-197	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 8.2 - Legal Opinion from Stephen Tromans QC regarding the Report to Inform Habitats Regulations Assessment
APP-198	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 8.3 - Preliminary Business Case 2014 (Part 1 of 3)
APP-199	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 8.3 - Preliminary Business Case 2014 (Part 2 of 3)
APP-200	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 8.3 - Preliminary Business Case 2014 (Part 3 of 3)
APP-201	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 8.4 - Outline Business Case 2017 (Part 1 of 3)
APP-202	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 8.4 - Outline Business Case 2017 (Part 2 of 3)
APP-203	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 8.4 - Outline Business Case 2017 (Part 3 of 3)
APP-204	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 8.5 - Major accidents and disasters
APP-205	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 8.6 - Letter from Colin Medus, North Somerset Council re: Offsite planting on the A369 Portbury Hundred dated 12 September 2019
APP-206	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 8.7 - Level Crossings Risk Assessment Report – Ashton Junction
APP-207	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 8.8 - Level Crossings Narrative Risk Assessment - Ashton Containers Footpath Level Crossing
APP-208	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 8.11 - Planning Statement
APP-209	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 8.12 - Avon Gorge Vegetation Management Plan
APP-210	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> 8.13 - CTMP – Construction Traffic Management Plan

APP-211	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant 8.14 - Master Construction Environmental Management Plan (CEMP)
APP-212	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant 8.15 - Code of Construction Practice
Adequacy of Consultation Responses	
AoC-001	Bristol City Council Adequacy of Consultation Representation
AoC-002	Gloucestershire County Council Adequacy of Consultation Representation
AoC-003	North Somerset Council Adequacy of Consultation Representation
AoC-004	Sedgemoor District Council Adequacy of Consultation Representation
AoC-005	Somerset County Council Adequacy of Consultation Representation
AoC-006	South Gloucestershire Council Adequacy of Consultation Representation
AoC-007	Wiltshire Council Adequacy of Consultation Representation
Relevant Representations	
RR-001	Bristol City Council
RR-002	North Somerset Council
RR-003	Pill & Easton-in-Gordano Parish Council
RR-004	Portishead Town Council
RR-005	Somerset County Council
RR-006	South Gloucestershire Council
RR-007	Aston & Co UK Ltd
RR-008	Avon & Somerset Constabulary
RR-009	Osborne Clarke LLP on behalf of Babcock Integrated Technology Limited
RR-010	Wedlake Bell LLP on behalf of The Bristol Port Company
RR-011	The Coal Authority
RR-012	Crockerne C of E School
RR-013	Environment Agency
RR-014	Town Legal LLP on behalf of Freightliner Limited
RR-015	Health And Safety Executive
RR-016	Highways England
RR-017	Lands Improvement Holdings Ltd
RR-018	BNP Paribas Real Estate on behalf of The London Pensions Fund Authority c/o Knight Frank IM
RR-019	Sutherland PLS Limited on behalf of Manheim Auctions Limited, FTM Contractors Ltd, Flynn Ltd
RR-020	National Grid Electricity Transmission PLC and National Grid Gas
RR-021	The National Trust
RR-022	Natural England

RR-023	Mike Richards on behalf of Nine of Bristol
RR-024	North Somerset Levels Internal Drainage Board
RR-025	Public Health England
RR-026	The Residents of 29 Hardwick Road
RR-027	BNP Paribas Real Estate on behalf of Royal Mail Group Limited
RR-028	Sevenside Community Rail Partnership cic
RR-029	Osborne Clarke LLP on behalf of Western Power Distribution (South West) plc (Western Power Distribution (South West) plc)
RR-030	Woodland Trust
RR-031	Ross Adamson
RR-032	Susan Adamson
RR-033	Kirsty Andres
RR-034	Josh Arnold
RR-035	Noel Ayling
RR-036	Liz Beacon
RR-037	Karen Beaumont-Wraith
RR-038	Hilary Berry
RR-039	Martin Berry
RR-040	Eleanor Blaney
RR-041	Luke Bonham
RR-042	Jane Bonnick
RR-043	Matt Brierley
RR-044	Lucie Broad
RR-045	Greenslade Taylor Hunt on behalf of Stephen Bullock
RR-046	John Burke
RR-047	Deborah Burton
RR-048	Michael Carrington
RR-049	Barry Cash
RR-050	Jill Coleman
RR-051	Poppy Coley
RR-052	Zac Coley
RR-053	Mr Trevor Cook
RR-054	Judy Copeland
RR-055	Tony Coughlan
RR-056	Colin Crossman
RR-057	Ian Davey
RR-058	Lesley Davey
RR-059	Julia Davis
RR-060	Duncan Day
RR-061	Mary Donaldson
RR-062	Julian Eley
RR-063	Janet Epplestone
RR-064	Charles Exley
RR-065	Dominic Fatchen
RR-066	Mr Roger Geoffrey Fox
RR-067	Greenslade Taylor Hunt on behalf of Susan Freestone
RR-068	Julie Grindal
RR-069	Patricia Grindon
RR-070	W J Hall

RR-071	Julie Harris
RR-072	Rob Harvey
RR-073	Daphne Havercroft
RR-074	Dr John du Heaume
RR-075	Liz Hill
RR-076	Loni Hone
RR-077	Graham Hopkins
RR-078	Louise Hopkins
RR-079	Colin Howells
RR-080	Adam Simon Jacklin
RR-081	Huw James
RR-082	Gareth Jones
RR-083	Miss Sian Jones
RR-084	Paul Kent
RR-085	Hollye Kirkcaldy
RR-086	Peter Kirschen Submission withdrawn by email dated 13 May 2020 [AS-003]
RR-087	Dr Bob Langton
RR-088	Patricia Langton
RR-089	Mrs Jane Fear on behalf of Mr Michael James LEE
RR-090	Phil Loomes
RR-091	David Mason
RR-092	John Mccann
RR-093	Anna McClumpha
RR-094	Ian Mcdade
RR-095	Elizabeth Milner
RR-096	Peter Milner
RR-097	Alex Milton
RR-098	Francesca Milton
RR-099	Vicki Merrin
RR-100	Charles Money
RR-101	Elizabeth Moore
RR-102	John Norval
RR-103	Debbie O'Grady
RR-104	Linda O'Hara
RR-105	Monica Ovel
RR-106	William Ovel
RR-107	Ian Pearce
RR-108	Hannah Price
RR-109	Mark Roper
RR-110	Helen Sherborne
RR-111	Keith Smallwood
RR-112	Martin Smart
RR-113	Jo Smith
RR-114	Peter Stanley
RR-115	Tom Stanley
RR-116	Margaret Stowers
RR-117	Rosaleen Thayer
RR-118	Craig Thomson
RR-119	Mandy Trotham

RR-120	Philip Virden
RR-121	Tracy Walker
RR-122	Andrew Watt
RR-123	Christine Weidner
RR-124	Thomas Weidner
RR-125	Trevor Wraith
RR-126	William Wright
RR-127	Kathryn Wring
RR-128	Mrs Mollie Young
RR-129	Andrew Youngs
Procedural Decisions and Notifications from the Examining Authority	
PD-001	Notification of Decision to Accept Application
PD-002	Section 55 Checklist
PD-003	Section 51 Advice to the Applicant
PD-004	Rule 4 Letter - Notification of the appointment of the Examining Authority
PD-005	Request for Further Information - Rule 17 Letter providing an update on the progress of the application and requesting further information from all Interested Parties – issued on 16 July 2020
PD-006	Section 51 advice to the Applicant
PD-007	Rule 6 letter - Notification of the preliminary meeting and matters to be discussed
PD-008	Examining Authority's Letter to Newly Identified Parties – 5 October 2020
PD-009	Rules 8, 9 and 13 – notification of timetable for the examination, Procedural Decisions and notification of Hearings
PD-010	The Examining Authority's written questions (ExQ1) Issued on 26 October 2020
PD-011	Section 102A – 5 November 2020
PD-012	Procedural Decision and Request for further information - Rules 9 & 17
PD-013	Rules 9, 13, 16 and 17 Notification of hearings, Further Written Questions and Procedural Decisions in relation to the Accompanied Site Inspection and a request to make changes to the original application submitted at Deadline 4
PD-014	The Examining Authority's Further written questions (ExQ2) Issued on 26 January 2021
PD-015	Report on the Implications for European Sites (RIES) Issued by the Examining Authority on 29 March 2021
PD-016	The Examining Authority's Request for Further Information - Rule 17
PD-017	Examining Authority's schedule of changes to the draft Development Consent Order

PD-018	Notification of completion of Examination - s99
Additional Submissions	
AS-001	Cotswolds Conservation Board Additional Submission accepted at the discretion of the Examining Authority
AS-002	Jonathan Rainey Additional Submission accepted at the discretion of the Examining Authority
AS-003	Peter Kirsan Request for withdrawal of Relevant Representation - Additional Submission accepted at the discretion of the Examining Authority
AS-004	Burgess Salmon LLP on behalf of The Crown Estate Additional Submission accepted at the discretion of the Examining Authority
AS-005	NATS Safeguarding Additional Submission accepted at the discretion of the Examining Authority
AS-006	Utility Assets Ltd. Additional Submission accepted at the discretion of the Examining Authority
AS-007	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant Applicant's response to the Planning Inspectorate's s51 advice dated 24 January 2020 - Additional Submission accepted at the discretion of the Examining Authority
AS-008	Cardiff Council Additional Submission accepted at the discretion of the Examining Authority
AS-009	North Somerset Council Additional Submission accepted at the discretion of the Examining Authority
AS-010	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant Applicants response to s51 advice
AS-011	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Additional Submission submitted as a result of s51 advice accepted at the discretion of the Examining Authority - 1.4 Guide to the Application (Version 2)
AS-012	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant Additional Submission submitted as a result of s51 advice accepted at the discretion of the Examining Authority - 2.2 Land Plans (Version 2)
AS-013	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant Additional Submission submitted as a result of s51 advice accepted at the discretion of the Examining Authority - 2.3 Works Plans (Version 2)

AS-014	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> Additional Submission submitted as a result of s51 advice accepted at the discretion of the Examining Authority - 3.1 Draft Development Consent Order (Clean) (Version 2)</p>
AS-015	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> Additional Submission submitted as a result of s51 advice accepted at the discretion of the Examining Authority - 3.1 Draft Development Consent Order (Tracked Changes) (Version 2)</p>
AS-016	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> Additional Submission submitted as a result of s51 advice accepted at the discretion of the Examining Authority - 4.1 Statement of Reasons (Clean) (Version 2)</p>
AS-017	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> Additional Submission submitted as a result of s51 advice accepted at the discretion of the Examining Authority - 4.1 Statement of Reasons (Tracked Changes) (Version 2)</p>
AS-018	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> Additional Submission submitted as a result of s51 advice accepted at the discretion of the Examining Authority - 9.1 Schedule of Changes to draft Development Consent Order (Version 1)</p>
AS-019	<p><u>Historic England</u> Additional Submission accepted at the discretion of the Examining Authority</p>
AS-020	<p><u>Virgin Media</u> Additional Submission accepted at the discretion of the Examining Authority</p>
AS-021	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> Additional Submission accepted at the discretion of the Examining Authority – Cover letter</p>
AS-022	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> Additional Submission accepted at the discretion of the Examining Authority - 1.4 Guide to the application - Version 4</p>
AS-023	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> Additional Submission accepted at the discretion of the Examining Authority – 2.7 Disused railway engineering plans / GRIP 4 Minor Civils – Part 1 of 2 - Version 2</p>
AS-024	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> Additional Submission accepted at the discretion of the Examining Authority – 2.7 Disused railway engineering plans / GRIP 4 Minor Civils – Part 2 of 2 - Version 2</p>

AS-025	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> Additional Submission accepted at the discretion of the Examining Authority - 2.37 National Cycle Network (NCN) Temporary and Permanent Works Plans - Version 2</p>
AS-026	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> Additional Submission accepted at the discretion of the Examining Authority – 2.53 Environmental Masterplan - Version 2</p>
AS-027	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> Additional Submission accepted at the discretion of the Examining Authority – 5.5 Report to Inform Habitats Regulations Assessment - Version 2 - Clean</p>
AS-028	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> Additional Submission accepted at the discretion of the Examining Authority – 5.5 Report to Inform Habitats Regulations Assessment - Version 2 - Tracked Changes</p>
AS-029	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> Additional Submission accepted at the discretion of the Examining Authority – 6.10 ES Chapter 7 Air Quality and Greenhouse Gases - Version 2 - Clean</p>
AS-030	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> Additional Submission accepted at the discretion of the Examining Authority – 6.10 ES Chapter 7 Air Quality and Greenhouse Gases - Version 2 - Tracked Changes</p>
AS-031	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> Additional Submission accepted at the discretion of the Examining Authority – 6.12 ES Chapter 9 Ecology and Biodiversity - Version 2 - Clean</p>
AS-032	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> Additional Submission accepted at the discretion of the Examining Authority – 6.12 ES Chapter 9 Ecology and Biodiversity - Version 2 - Tracked Changes</p>
AS-033	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> Additional Submission accepted at the discretion of the Examining Authority – 6.24 ES Volume 3 Figures 7.1 to 7.4 Air Quality - Version 2</p>

AS-034	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u></p> <p>Additional Submission accepted at the discretion of the Examining Authority – 6.25 ES Volume 4 Appendix 7 Series Air Quality and Greenhouse Gases - Version 2 - Clean</p>
AS-035	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u></p> <p>Additional Submission accepted at the discretion of the Examining Authority – 6.25 ES Volume 4 Appendix 7 Series Air Quality and Greenhouse Gases - Version 2 - Tracked Changes</p>
AS-036	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u></p> <p>Additional Submission accepted at the discretion of the Examining Authority – 6.25 ES Volume 4 Appendix 9.2 Bat Technical Appendix - Version 2 - Clean</p>
AS-037	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u></p> <p>Additional Submission accepted at the discretion of the Examining Authority – 6.25 ES Volume 4 Appendix 9.2 Bat Technical Appendix - Version 2 - Tracked Changes</p>
AS-038	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u></p> <p>Additional Submission accepted at the discretion of the Examining Authority – 6.25 ES Volume 4 Appendix 9.4 and 9.5 Great Crested Newt and Reptile Reports - Version 2 - Clean</p>
AS-039	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u></p> <p>Additional Submission accepted at the discretion of the Examining Authority – 6.25 ES Volume 4 Appendix 9.4 and 9.5 Great Crested Newt and Reptile Reports - Version 2 - Tracked Changes</p>
AS-040	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u></p> <p>Additional Submission accepted at the discretion of the Examining Authority – 6.25 ES Volume 4 Appendix 9.13-9.18 Various ecology appendices - Version 2 - Clean</p>
AS-041	<p><u>Womble Bond Dickinson (UK) LLLP on behalf of North Somerset District Council – The Applicant</u></p> <p>Additional Submission accepted at the discretion of the Examining Authority – 6.25 ES Volume 4 Appendix 9.13-9.18 Various ecology appendices - Version 2 - Tracked Changes</p>
AS-042	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u></p> <p>Additional Submission accepted at the discretion of the Examining Authority – 6.31 Schedule of Mitigation - Version 2</p>
AS-043	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u></p> <p>Additional Submission accepted at the discretion of the Examining Authority – 6.31 Schedule of Mitigation - Version 2 - Tracked Changes</p>

AS-044	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> Additional Submission accepted at the discretion of the Examining Authority – 8.12 Avon Gorge Vegetation Management Plan - Version 2 - Clean</p>
AS-045	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> Additional Submission accepted at the discretion of the Examining Authority – 8.12 Avon Gorge Vegetation Management Plan - Version 2 - Tracked Changes</p>
AS-046	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> Additional Submission accepted at the discretion of the Examining Authority – 8.14 Master Construction Environmental Management Plan - Version 2 - Clean</p>
AS-047	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> Additional Submission accepted at the discretion of the Examining Authority – 8.14 Master Construction Environmental Management Plan - Version 2 - Tracked Changes</p>
AS-048	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant</u> Applicant’s letter to Mrs Freestone following OFH on 19 Oct 2020-update on proposed land acquisition – 23 Oct 2020 - Accepted at the discretion of the Examining Authority</p>
AS-049	<p><u>David Braunton</u> Additional Submission accepted at the discretion of the Examining Authority – Car Parking at Portishead Station</p>
AS-050	<p><u>Charlie Money</u> Additional Submission accepted at the discretion of the Examining Authority – Update regarding compulsory acquisition negotiations with the Applicant</p>
AS-051	<p><u>North Somerset Council</u> Additional Submission accepted at the discretion of the Examining Authority - Supplementary information to inform responses to ExQ1 Bio 1.2(i),(ii) - Common Toad Lodway</p>
AS-052	<p><u>Wedlake Bell LLP on behalf of The Bristol Port Company</u> Additional Submission accepted at the discretion of the Examining Authority – Note for the Compulsory Acquisition Hearing 4 December 2020</p>
AS-053	<p><u>Stuart Tarr</u> Additional Submission accepted at the discretion of the Examining Authority - submission for the Issue Specific Hearings 2 and 3 made on behalf of Ham Green residents concerning the construction and future intended use of the Pill Tunnel maintenance compound</p>

AS-054	<p>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</p> <p>Additional Submission accepted at the discretion of the Examining Authority – To facilitate discussions at Issue Specific Hearing 3 on 12 January 2021 – Cover letter</p>
AS-055	<p>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</p> <p>Additional Submission accepted at the discretion of the Examining Authority – To facilitate discussions at Issue Specific Hearing 3 on 12 January 2021 – Bristol Strategic Flood Risk Assessment 2020</p>
AS-056	<p>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</p> <p>Additional Submission accepted at the discretion of the Examining Authority – To facilitate discussions at Issue Specific Hearing 3 on 12 January 2021 – SFRA Functional Floodplain FZ3B mapping</p>
AS-057	<p>Environment Agency</p> <p>Additional Submission accepted at the discretion of the Examining Authority – To facilitate discussions at Issue Specific Hearing 3 on 12 January 2021 – Written responses to issues raised under agenda item 5 (Flood Risk, Drainage and Contaminated Waters)</p>
AS-058	<p>Stuart Tarr</p> <p>Additional Submission accepted at the discretion of the Examining Authority - Questions for the Applicant at Issue Specific Hearing 2</p>
AS-059	<p>North Somerset District Council - The Applicant</p> <p>Additional Submission accepted at the discretion of the Examining Authority - Information about Network Rail's ground and structural investigations work on and around the railway at Pill to be carried out from 20 Jan 2021</p>
AS-060	<p>Stuart Tarr</p> <p>Additional Submission accepted at the discretion of the Examining Authority – Supplementary information to Deadline 4 submission - REP4-056</p>
AS-061	<p>Andrea Gordon</p> <p>Additional Submission accepted at the discretion of the Examining Authority - Please see AS-064 and AS-067 for additional information</p>
AS-062	<p>Stuart Tarr</p> <p>Additional Submission accepted at the discretion of the Examining Authority – Please see AS-065 for additional information</p>
AS-063	<p>Sutherland Property & Legal Services Ltd on behalf of ETM Contractors Ltd and Manheim Auctions Limited</p> <p>Additional Submission accepted at the discretion of the Examining Authority – To facilitate discussions at March 2021 Hearings - Please see AS-066 for additional information</p>

AS-064	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Additional Submission accepted at the discretion of the Examining Authority - Applicant's response to Ms Gordan's email of 23 February 2021 to facilitate the March hearings - Please see AS-061 and AS-067 for additional information
AS-065	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant (PDF, 309 KB) Additional Submission accepted at the discretion of the Examining Authority - Applicant's response to Mr Tarr's email of 24 February 2021 to facilitate the March hearings - Please see AS-062 for additional information
AS-066	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Additional Submission accepted at the discretion of the Examining Authority - Applicant's response to ETM Contractors Ltd and Manheim Auctions Limited letter of 26 February 2021 to facilitate the March hearings - Please see AS-063 for additional information
AS-067	Andrea Gordon Additional Submission accepted at the discretion of the Examining Authority - Ms Gordan's response to the Applicants email of 2 March 2021 to facilitate the March hearings - Please see AS-061 and AS-064 for additional information
AS-068	Sutherland Property and Legal Services Ltd on behalf of ETM Contractors Ltd and Manheim Auctions Limited Additional Submission accepted at the discretion of the Examining Authority - Requirement 18 - Please see REP6-042 for additional information
AS-069	Jeremy B. Bell on behalf of Mr S & Mrs J Millard Additional Submission accepted at the discretion of the Examining Authority
Events and Hearings	
Unaccompanied Site Inspection	
EV-001	Note of Unaccompanied Site Inspection 1 (USI1) – 29 September 2020
EV-002	Note of Unaccompanied Site Inspection 2 (USI2) – 30 September 2020
Preliminary Meeting	
EV-003	Recording of Preliminary Meeting - Part 1 - 06 October 2020
EV-004	Recording of Preliminary Meeting - Part 2 - 19 October 2020
EV-004a	Preliminary Meeting Note
Open Floor Hearing	
EV-005	Recording of Open Floor Hearing – 19 October 2020
EV-006	Agenda for Open Floor Hearing - 19 October 2020
Issue Specific Hearing 1	

EV-007	Agenda for Issue Specific Hearing 1 into the draft Development Consent Order - 7 December 2020
EV-007a	Recording of Issue Specific Hearing 1 into the draft DCO – 7 December 2020
EV-007b	Action points arising from Issue Specific Hearing 1 into the draft DCO – 7 December 2020
Compulsory Acquisition Hearing	
EV-008	Agenda for Compulsory Acquisition Hearing 1 - 4 December 2020
EV-008a	Recording of Compulsory Acquisition Hearing 1 – 4 December 2020
EV-008b	Action points arising from Compulsory Acquisition Hearing 1 – 4 December 2020
Issue Specific Hearing 2	
EV-009	Agenda for Issue Specific Hearing 2 dealing with Environmental Matters - 11 January 2021
EV-009a	Recording of Issue Specific Hearing 2 dealing with Environmental Matters – 11 January 2021 – Session 1
EV-009b	Recording of Issue Specific Hearing 2 dealing with Environmental Matters – 11 January 2021 – Session 2
EV-009c	Recording of Issue Specific Hearing 2 dealing with Environmental Matters – 11 January 2021 – Session 3
EV-009d	Recording of Issue Specific Hearing 2 dealing with Environmental Matters – 11 January 2021 – Session 4
EV-009e	Action points arising from Issue Specific Hearing 2 dealing with Environmental Matters – 11 January 2021
Issue Specific Hearing 3	
EV-010	Agenda for Issue Specific Hearing 3 dealing with Environmental Matters - 12 January 2021
EV-010a	Recording of Issue Specific Hearing 3 dealing with Environmental Matters – 12 January 2021 – Session 1
EV-010b	Recording of Issue Specific Hearing 3 dealing with Environmental Matters – 12 January 2021 – Session 2
EV-010c	Recording of Issue Specific Hearing 3 dealing with Environmental Matters – 12 January 2021 – Session 3
EV-010d	Recording of Issue Specific Hearing 3 dealing with Environmental Matters – 12 January 2021 – Session 4
EV-010e	Action points arising from Issue Specific Hearing 3 dealing with Environmental Matters – 12 January 2021
Issue Specific Hearing 4	
EV-011	Agenda for Issue Specific Hearing 4 into the draft Development Consent Order - 2 March 2021

EV-011a	Recording of Issue Specific Hearing 4 into the draft DCO – 2 March 2021
EV-011b	Action points arising from Issue Specific Hearing 4 into the draft DCO – 2 March 2021
Compulsory Acquisition Hearing 2	
EV-012	Agenda for Compulsory Acquisition Hearing 2 - 3 March 2021
EV-012a	Recording of Compulsory Acquisition Hearing 2 - Session 1 - 3 March 2021
EV-012b	Recording of Compulsory Acquisition Hearing 2 - Session 2 - 3 March 2021
EV-012c	Recording of Compulsory Acquisition Hearing 2 - Session 3 - 3 March 2021
EV-012d	Action points arising from the Compulsory Acquisition Hearing 2 – 3 March 2021
Issue Specific Hearing 5	
EV-013	Agenda for Issue Specific Hearing 5 dealing with Environmental Matters - 4 March 2021
EV-013a	Recording of Issue Specific Hearing 5 dealing with Environmental Matters – 4 March 2021- Session 1
EV-013b	Recording of Issue Specific Hearing 5 dealing with Environmental Matters – 4 March 2021- Session 2
EV-013c	Recording of Issue Specific Hearing 5 dealing with Environmental Matters – 4 March 2021- Session 3
EV-013d	Recording of Issue Specific Hearing 5 dealing with Environmental Matters – 4 March 2021- Session 4
EV-013e	Action points arising from Issue Specific Hearing 5 dealing with Environmental Matters – 4 March 2021
Unaccompanied Site Inspection	
EV-014	Note of Unaccompanied Site Inspection 3 (USI3) – 15 April 2021
EV-015	Note of Unaccompanied Site Inspection 4 (USI4) – 16 April 2021
Representations	
Procedural Deadline A – 21 September 2020	
Deadline for receipt by the ExA of:	
<ul style="list-style-type: none"> • Responses to the R6 Letter • Written submissions on Examination procedure • Requests to be heard orally at the Preliminary Meeting Part 1 • Requests to be heard orally at the Open Floor Hearing 	

PDA-001	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant Procedural Deadline A Submission - Response to the Rule 6 Letter
PDA-002	Wedlake Bell on behalf of The Bristol Port Company Procedural Deadline A Submission - Response to the Rule 6 Letter
PDA-003	Susan Freestone Procedural Deadline A Submission - Response to the Rule 6 Letter
<p>Procedural Deadline B – 14 October 2020</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Written submissions on Examination procedure responding to matters raised orally in the Preliminary Meeting Part 1 • Requests to be heard orally at the Preliminary Meeting Part 2 	
PDB-001	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant Procedural Deadline B Submission – Applicants response to Bristol Port Company's submission of 21 September 2020 submitted at Procedural Deadline A
PDB-002	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant Procedural Deadline B Submission – Applicants response to Mrs Freestone's submission of 20 September 2020 submitted at Procedural Deadline A
<p>Documents requested in Rule 6 letter</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Progress update on Statements of Common Ground (SoCG) • Update on the progress that has been made with Affected Persons • Request for the submission of suggested locations/ sites for the ExA to visit as part of the Accompanied Site Inspection • Submission of draft responses to the Relevant Representations by the Applicant 	
PDR6-001	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant Response to Documents requested in Rule 6 letter - Cover letter
PDR6-002	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant Response to Documents requested in Rule 6 letter – 1.4 Guide to the Application
PDR6-003	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant Response to Documents requested in Rule 6 letter – 9.2 ExA.SoCG1.D0.V1 - Progress update on Statements of Common Ground

PDR6-004	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant Response to Documents requested in Rule 6 letter – Update on Status of Landowner Negotiations
PDR6-005	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council – The Applicant Response to Documents requested in Rule 6 letter – Draft Comments on Relevant Representations (Version 1)
PDR6-006	North Somerset District Council Response to Documents requested in Rule 6 letter - Suggested locations for site inspections
<p>Deadline 1 – 2 November 2020</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Notification of wish to speak at Compulsory Acquisition Hearing (CAH) • Notification of wish to speak at a future Open Floor Hearing (OFH) • Notification of wish to attend an ASI • Notification by Statutory Parties of their wish to be considered as an Interested Party (IP) by the ExA • Notification of wish to have future correspondence received electronically • Comments on Relevant Representations (RRs) (if not already submitted) • Summaries of all RR's exceeding 1500 words • Applicant to provide a draft itinerary for the ASI • Updated Book of Reference • Local Impact Reports (LIR) from any local authorities • Initial SoCG • Statement of Commonality of SoCG • Post hearing submissions including written summaries of oral case put at the OFH 	
REP1-001	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 1 Submission - 9.6 - Cover Letter Deadline 1
REP1-002	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 1 Submission - 1.4 Guide to the Application (Version 5)
REP1-003	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 1 Submission - 2.3 Works Plan (Version 3)
REP1-004	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 1 Submission - 2.4 General Arrangement Plans (Version 2)
REP1-005	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 1 Submission - 2.29 Compounds, Haul Roads and Access to Works Plan (Version 2)
REP1-006	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 1 Submission - 4.3 Book of Reference (Version 2) -clean
REP1-007	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 1 Submission - 4.3 Book of Reference (Version 2) -tracked changes

REP1-008	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 1 Submission - 4.3 Book of Reference cover and index - Version 2
REP1-009	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 1 Submission - 4.3 Book of Reference summary - Version 2
REP1-010	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 1 Submission - 4.3 Book of Reference Part 1 - Version 2 - 1st Half
REP1-011	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 1 Submission - 4.3 Book of Reference Part 1 - Version 2 - 2nd Half
REP1-012	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 1 Submission - 4.3 Book of Reference Part 2 - Version 2
REP1-013	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 1 Submission - 4.3 Book of Reference Part 3 - Version 2
REP1-014	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 1 Submission - 4.3 Book of Reference Part 4 - Version 2
REP1-015	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 1 Submission - 4.3 Book of Reference Part 5 - Version 2
REP1-016	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 1 Submission - 9.3.1 - Statement of Common Ground -North Somerset LPA (Version 1)
REP1-017	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 1 Submission - 9.3.2 - Statement of Common Ground -Bristol LPA (Version 1)
REP1-018	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 1 Submission - 9.3.3 - Statement of Common Ground -Environment Agency (Version 1)
REP1-019	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 1 Submission - 9.3.4 - Statement of Common Ground -Highways England (Version 1)
REP1-020	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 1 Submission - 9.3.5 - Statement of Common Ground -Historic England (Version 1)
REP1-021	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 1 Submission - 9.3.6 - Statement of Common Ground -Natural England (Version 1)

REP1-022	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 1 Submission - 9.3.7 - Statement of Common Ground -NSLIDB (Version 1)
REP1-023	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 1 Submission - 9.3.8 - Statement of Common Ground -National Grid Electricity Transmission (Version 1)
REP1-024	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 1 Submission - 9.3.9 - Statement of Common Ground -Somerset County Council (Version 1)
REP1-025	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 1 Submission - 9.3.10 - Statement of Common Ground -Openreach (Version 1)
REP1-026	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 1 Submission - 9.3.11 - Statement of Common Ground -Avon & Somerset Constabulary (Version 1)
REP1-027	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 1 Submission - 9.3.12 - Statement of Common Ground -Bristol Port Company (Version 1)
REP1-028	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 1 Submission - 9.3.13 - Statement of Common Ground -Wessex Water (Version 1)
REP1-029	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 1 Submission - 9.4 - Comments on RelevantRepresentations (Version 2)
REP1-030	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 1 Submission - 9.5 - Response to Representations atOFH1 (Version 1)
REP1-031	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 1 Submission - 9.7 - Statement of Commonality of SoCG(Version 1)
REP1-032	Bristol City Council Deadline 1 Submission - Local Impact Report
REP1-033	North Somerset Council Deadline 1 Submission - Local Impact Report
REP1-034	South Gloucestershire Council Deadline 1 Submission - Local Impact Report
REP1-035	Environment Agency Deadline 1 Submission - Notifications regarding CompulsoryAcquisition Hearing, Interested Party status and electronic correspondence

REP1-036	National Trust Deadline 1 Submission - Notification regarding the Accompanied Site Inspection, representation providing an update on SoCG and notification of wish to speak at Compulsory Acquisition Hearing
REP1-037	Network Rail Deadline 1 Submission - Notification of wish to speak at Compulsory Acquisition Hearing and any future Open Floor Hearings, Notification to attend Accompanied Site Inspection
REP1-038	Wedlake Bell LLP on behalf of Bristol Port Company Deadline 1 Submission - Notification regarding the Accompanied Site Inspection, representation providing an update on SoCG and notification regarding Compulsory Acquisition Hearing and Issue Specific Hearing
REP1-039	Wedlake Bell LLP on behalf of Bristol Port Company Deadline 1 Submission - Summary of relevant representations
REP1-040	Friends of Suburban Bristol Railways Deadline 1 Submission - Post hearing submission including written summary of oral case put at the OFH
REP1-041	Robert Sweetnam Deadline 1 Submission - Statement of Case
REP1-042	Stuart Tarr Deadline 1 Submission - Post hearing submission including written summary of oral case put at the OFH
REP1-043	Susan Freestone Deadline 1 Submission - Post hearing submission including written summary of oral case put at the OFH
<p>Deadline 2 – 23 November 2020</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Notification of wish to speak at an Issue Specific Hearing (ISH) • Response to the ExA's ExQ1 • Written Representations (WR's) • Summaries of all WRs exceeding 1500 words • Comments on the LIR(s) • Applicant to provide Guide to the Application • Applicant to provide Compulsory Acquisition Schedule (CA Schedule) • An updated version of the draft Development Consent Order (dDCO) in clean, tracked and word versions (if required as a result of ExA's ExQ1) • Responses to any further information requested by the ExA for this deadline • Comments on responses to RRs • Comments on the Applicants draft itinerary for the ASI • Comments on any additional information/ submissions received by Deadline 1 	
REP2-001	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 2 Submission - 9.8 - Cover Letter
REP2-002	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 2 Submission - 1.4 - Guide to the Application (Version

	6)
REP2-003	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 2 Submission - 3.1 - Draft proposed Development Consent Order (Version 3) - clean
REP2-004	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 2 Submission - 3.1 - Draft proposed Development Consent Order (Version 3) - comparison to Version 1
REP2-005	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 2 Submission - 3.1 - Draft proposed Development Consent Order (Version 3) - comparison to Version 2
REP2-006	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 2 Submission - 3.2 - Explanatory Memorandum (Version 2) - clean
REP2-007	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 2 Submission - 3.2 - Explanatory Memorandum (Version 2) - tracked changes
REP2-008	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 2 Submission - 3.3 - Validation Report (Version 2)
REP2-009	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 2 Submission - 9.1 Schedule of Changes to the Draft Development Consent Order (Version 2)
REP2-010	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 2 Submission - 9.9.1 - Applicants response to the Bristol City Council Local Impact Report
REP2-011	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 2 Submission - 9.9.2 - Applicants response to the North Somerset District Council Local Impact Report
REP2-012	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 2 Submission - 9.9.3 - Applicants response to the South Gloucestershire Council Local Impact Report
REP2-013	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 2 Submission - 9.10 - Applicants responses to the Examining Authority's Written Questions ExQ1
REP2-014	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 2 Submission - 9.10 - Appendix BIO.1.43-1 to Applicants responses to the Examining Authority's Written Questions ExQ1 (Version 1)

REP2-015	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 2 Submission - 9.10 - Appendix CA.1.10-1 to Applicants responses to the Examining Authority's Written Questions ExQ1 (Version 1)</p>
REP2-016	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 2 Submission - 9.10 - Appendix CA.1.2-1 to Applicants responses to the Examining Authority's Written Questions ExQ1 (Version 1)</p>
REP2-017	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 2 Submission - 9.10 - Appendix CA.1.5-1 to Applicants responses to the Examining Authority's Written Questions ExQ1 (Version 1)</p>
REP2-018	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 2 Submission - 9.10 - Appendix CA.1.9-1 to Applicants responses to the Examining Authority's Written Questions ExQ1 (Version 1)</p>
REP2-019	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 2 Submission - 9.10 - Appendix CA.1.1-1 to Applicants responses to the Examining Authority's Written Questions ExQ1 (Version 1)</p>
REP2-020	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 2 Submission - 9.10 - Appendix CI.1.8-1 to Applicants responses to the Examining Authority's Written Questions ExQ1 (Version 1)</p>
REP2-021	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 2 Submission - 9.10 - Appendix DE.1.6-1 to Applicants responses to the Examining Authority's Written Questions ExQ1 (Version 1)</p>
REP2-022	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 2 Submission - 9.10 - Appendix FRD.1.7-1 to Applicants responses to the Examining Authority's Written Questions ExQ1 (Version 1)</p>
REP2-023	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 2 Submission - 9.10 - Appendix GC.1.19-1 to Applicants responses to the Examining Authority's Written Questions ExQ1 (Version 1)</p>
REP2-024	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 2 Submission - 9.10 - Appendix GC.1.22-1 to Applicants responses to the Examining Authority's Written Questions ExQ1 (Version 1)</p>

REP2-025	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 2 Submission - 9.10 - Appendix GC.1.22-2 to Applicants responses to the Examining Authority's Written Questions ExQ1 (Version 1)
REP2-026	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 2 Submission - 9.10 - Appendix GC.1.5-1 to Applicants responses to the Examining Authority's Written Questions ExQ1 (Version 1)
REP2-027	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 2 Submission - 9.10 - Appendix GC.1.7-1 to Applicants responses to the Examining Authority's Written Questions ExQ1 (Version 1)
REP2-028	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 2 Submission - 9.10 - Appendix TT.1.11-1 to Applicants responses to the Examining Authority's Written Questions ExQ1 (Version 1)
REP2-029	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 2 Submission - 9.10 - Appendix TT.1.8-1 to Applicants responses to the Examining Authority's Written Questions ExQ1 (Version 1)
REP2-030	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 2 Submission - 9.10 - Appendix TT.1.9-1 to Applicants responses to the Examining Authority's Written Questions ExQ1 (Version 1)
REP2-031	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 2 Submission - 9.11 - Compulsory Acquisition Schedule (Version 1)
REP2-032	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 2 Submission - 9.12.1 - Applicants response to Deadline1 submission of Bimcorp Limited (Robert Sweetnam) REP1-041
REP2-033	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 2 Submission - 9.12.2 - Applicants response to Deadline1 submission of Susan Freestone REP1-043
REP2-034	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 2 Submission - 9.12.3 - Applicants response to submission of David Braunton AS-049
REP2-035	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 2 Submission - 9.13 - Hedgerow Location Plan (Version 1)
REP2-036	<u>Bristol City Council</u> Deadline 2 Submission - Response to the ExA's ExQ1

REP2-037	Bristol City Council Deadline 2 Submission - Appendix A to Responses to the ExA's ExQ1
REP2-038	North Somerset Council Deadline 2 Submission - Response to the ExA's ExQ1
REP2-039	North Somerset Levels Internal Drainage Board Deadline 2 Submission - Response to the ExA's ExQ1
REP2-040	Environment Agency Deadline 2 Submission - Written Representation
REP2-041	Environment Agency Deadline 2 Submission - Response to the ExA's ExQ1
REP2-042	Highways England Deadline 2 Submission - Response to the ExA's ExQ1
REP2-043	Health & Safety Executive Deadline 2 Submission - Response to the ExA's ExQ1
REP2-044	National Trust Deadline 2 Submission - Response to the ExA's ExQ1
REP2-045	Natural England Deadline 2 Submission - Written Representation and Response to the ExA's ExQ1
REP2-046	Barry Cash Deadline 2 Submission - Summary of Written Representation
REP2-047	Barry Cash Deadline 2 Submission - Written Representation
REP2-048	Colin Crossman Deadline 2 Submission - Written Representation
REP2-049	Gerard & Christine Sanders Deadline 2 Submission - Written Representation
REP2-050	Mike Richards on behalf of Nine of Bristol Deadline 2 Submission - Written Representation
REP2-051	Osborne Clarke LLP on behalf of Babcock Integrated Technology Limited Deadline 2 Submission - Written Representation
REP2-052	Osborne Clarke LLP on behalf of Western Power Distribution(South West) PLC Deadline 2 Submission - Written Representation – Please see REP2-052a for table referred to in paragraph 4.3
REP2-052a	Osborne Clarke LLP on behalf of Western Power Distribution(South West) PLC Deadline 2 Submission - Late Submission accepted at the discretion of the Examining Authority - Table referred to in paragraph 4.3 of Deadline 2 Written Representation - REP2-052
REP2-053	PG Virden Deadline 2 Submission - Summary of Written Representation
REP2-054	PG Virden Deadline 2 Submission - Written Representation
REP2-055	R G Fox Deadline 2 Submission - Written Representation
REP2-056	Rob Harvey Deadline 2 Submission - Response to the ExA's ExQ1

REP2-057	Simon Twist Deadline 2 Submission - Written Representation
REP2-058	Sue Adamson Deadline 2 Submission - Response to the ExA's ExQ1
REP2-059	Sutherland Property & Legal Services Ltd on behalf of ETM Contractors Ltd and Manheim Auctions Limited Deadline 2 Submission - Summary of Written Representation
REP2-060	Sutherland Property & Legal Services Ltd on behalf of ETM Contractors Ltd and Manheim Auctions Limited Deadline 2 Submission - Written Representation
REP2-061	Veale Wasbrough Vizards LLP on behalf of CLH Pipeline System Limited Deadline 2 Submission - Written Representation
REP2-062	Wedlake Bell LLP on behalf of Bristol Port Company Deadline 2 Submission - Cover Letter
REP2-063	Wedlake Bell LLP on behalf of Bristol Port Company Deadline 2 Submission - Summary of Written Representation
REP2-064	Wedlake Bell LLP on behalf of Bristol Port Company Deadline 2 Submission - Written Representation
REP2-065	Wedlake Bell LLP on behalf of Bristol Port Company Deadline 2 Submission - Response to the ExA's ExQ1
REP2-066	Wedlake Bell LLP on behalf of Bristol Port Company Deadline 2 Submission - Annex to Responses to the ExA's ExQ1
REP2-067	Wedlake Bell LLP on behalf of Bristol Port Company Deadline 2 Submission - Letter to the Examining Authority in relation to Bristol Port Company's attendance at the first Compulsory Acquisition Hearing on 4 December 2020 and the need for a Port-specific ISH
REP2-068	Forestry England Deadline 2 Submission - Late Submission accepted at the discretion of the Examining Authority - Response to the ExA's ExQ1
REP2-069	Town Legal LLP on behalf of Freightliner Limited Deadline 2 Submission - Written Representation
REP2-070	Environment Agency Deadline 2 Submission - Late Submission accepted at the discretion of the Examining Authority - Summary of Written Representation

Deadline 3 – 21 December 2020

Deadline for receipt by the ExA of:

- Post hearing submissions including written summaries of oral case put at any of the hearings
- Comments on WR
- An updated Guide to the Application
- An updated version of the dDCO in clean, tracked and Word versions
- An updated CA Schedule
- Comments on the responses to the ExA's ExQ1
- Progressed SoCG and an updated Statement of Commonality of SoCG
- Responses to any further information requested by the ExA for this deadline
- Comments on any additional information/submissions received by Deadline 2

REP3-001	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 3 Submission - 9.14 - Cover letter for Deadline 3
REP3-002	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 3 Submission - 1.4 - Guide to the Application (Version 7)
REP3-003	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 3 Submission - 2.3 - Works Plan (Version 4)
REP3-004	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 3 Submission - 2.29 - Compounds, Haul Roads and Access to Works Plan (Version 3)
REP3-005	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 3 Submission - 3.1 - Draft proposed Development Consent Order (Version 4) - clean
REP3-006	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 3 Submission - 3.1 - Draft proposed Development Consent Order (Version 4) - comparison to Version 1
REP3-007	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 3 Submission - 3.1 - Draft proposed Development Consent Order (Version 4) - comparison to Version 3
REP3-008	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 3 Submission - 3.3 - Validation Report (Version 3)
REP3-009	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 3 Submission - 9.1 - Schedule of Changes to the draft Development Consent Order (Version 3)

REP3-010	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 3 Submission - 9.3.3 - Statement of Common Ground -Environment Agency (Version 2)
REP3-011	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 3 Submission - 9.3.3 - Appendix 1 to Statement of Common Ground - Environment Agency (Version 2)
REP3-012	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 3 Submission - 9.3.3 - Appendix 2 to Statement of Common Ground - Environment Agency (Version 2)
REP3-013	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 3 Submission - 9.3.3 - Appendix 3 to Statement of Common Ground - Environment Agency (Version 2)
REP3-014	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 3 Submission - 9.3.3 - Appendix 4 to Statement of Common Ground - Environment Agency (Version 2)
REP3-015	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 3 Submission - 9.3.3 - Appendix 5 to Statement of Common Ground - Environment Agency (Version 2)
REP3-016	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 3 Submission - 9.3.3 - Appendix 6 to Statement of Common Ground - Environment Agency (Version 2)
REP3-017	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 3 Submission - 9.3.6 - Statement of Common Ground -Natural England (Version 2)
REP3-018	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 3 Submission - 9.3.7 - Statement of Common Ground -North Somerset Levels Internal Drainage Board (Version 2)
REP3-019	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 3 Submission - 9.3.8 - Statement of Common Ground -National Grid Electricity Transmission PLC (Version 2)
REP3-020	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 3 Submission - 9.7 - Statement of Commonality of Statements of Common Ground (Version 2)
REP3-021	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 3 Submission - 9.11 - Compulsory Acquisition ScheduleStatus of Negotiations at 21 December 2020 (Version 2)
REP3-022	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 3 Submission - 9.15 - Applicant's Oral Case and response to Representations at the Compulsory AcquisitionHearing 1 (CAH1)

REP3-023	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 3 Submission - 9.15 - Appendix 1 to Applicant's Oral Case and response to Representations at the Compulsory Acquisition Hearing 1 (CAH1)</p>
REP3-024	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 3 Submission - 9.15 - Appendix 2 to Applicant's Oral Case and response to Representations at the Compulsory Acquisition Hearing 1 (CAH1)</p>
REP3-025	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 3 Submission - 9.15 - Appendix 3 to Applicant's Oral Case and response to Representations at the Compulsory Acquisition Hearing 1 (CAH1)</p>
REP3-026	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 3 Submission - 9.15 - Appendix 4 to Applicant's Oral Case and response to Representations at the Compulsory Acquisition Hearing 1 (CAH1)</p>
REP3-027	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 3 Submission - 9.15 - Appendix 5 to Applicant's Oral Case and response to Representations at the Compulsory Acquisition Hearing 1 (CAH1)</p>
REP3-028	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 3 Submission - 9.16 - Applicant's Oral Case and response to Representations at the Issue Specific Hearing 1 (ISH1)</p>
REP3-029	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 3 Submission - 9.16 - Appendix 1 to Applicant's Oral Case and response to Representations at the Issue Specific Hearing 1 (ISH1)</p>
REP3-030	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 3 Submission - 9.17 - Applicant's comments on responses to the Examining Authority's Written Questions ExQ1</p>
REP3-031	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 3 Submission - 9.17 - Appendix AQ.1.2 to Applicant's comments on responses to the Examining Authority's Written Questions ExQ1</p>
REP3-032	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 3 Submission - 9.17 - Appendix FRD.1.4 to the Applicant's comments on responses to the Examining Authority's Written Questions ExQ1</p>

REP3-033	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 3 Submission - 9.17 - Appendix GC.1.12-1 to Applicant's comments on responses to the Examining Authority's Written Questions ExQ1
REP3-034	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 3 Submission - 9.17 - Appendix GC.1.12-2 to Applicant's comments on responses to the Examining Authority's Written Questions ExQ1
REP3-035	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 3 Submission - 9.17 - Appendix Series BIO.1.14 to Applicant's comments on responses to the Examining Authority's Written Questions ExQ1
REP3-036	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 3 Submission - 9.18 - Applicant's responses to Written Representations submitted at Deadline 2
REP3-037	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 3 Submission - 9.18 - Appendix 1 to Applicant's responses to Written Representations submitted at Deadline 2
REP3-038	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 3 Submission - 9.18 - Appendix 2 to Applicant's responses to Written Representations submitted at Deadline 2
REP3-039	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 3 Submission - 9.19 - Applicant's response to the ExA's Actions from the Compulsory Acquisition Hearing (CAH1)
REP3-040	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 3 Submission - 9.20 - Applicant's response to the ExA's Actions from the Issue Specific Hearing (ISH1)
REP3-041	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 3 Submission - 9.21 - Letters of No Impediment (LONI) in respect of bat and badger licences
REP3-042	<u>Bristol City Council</u> Deadline 3 Submission - Post hearing submission
REP3-043	<u>Environment Agency</u> Deadline 3 Submission - Update on Statement of Common Ground, comments on changes to the draft DCO proposed by the Applicant and response to action points
REP3-044	<u>North Somerset Council</u> Deadline 3 Submission - Post Hearing submission - Response to action points

REP3-045	North Somerset Council Deadline 3 Submission – Late Submission accepted at the discretion of the Examining Authority - Certificate from Natural England confirming application for district level licensing for greatcrested newts
REP3-046	Wedlake Bell LLP on behalf of Bristol Port Company Deadline 3 Submission - Comments on the Applicant's response to the Examining Authority's first written questions and request for information (ExQ1)
REP3-047	National Trust Deadline 3 Submission - Post hearing submission - Response to action points and update on Statement of Common Ground
REP3-048	National Trust Deadline 3 Submission - Post hearing submission including written summaries of oral case put at Compulsory Acquisition Hearing 1
REP3-049	Colin Crossman Deadline 3 Submission - Post hearing submission
Deadline 4 – 19 January 2021	
Deadline for receipt by the ExA of:	
<ul style="list-style-type: none"> • Post hearing submissions including written summaries of oral case put at any of the hearings • Comments on the Applicants updated Ddco • Comments on any additional information/ submissions received by Deadline 3 	
REP4-001	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 4 Submission - 9.22 Cover letter
REP4-002	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 4 Submission - 1.4 Guide to the Application (Version 8)
REP4-003	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 4 Submission - 2.3 Works Plan (Version 5)
REP4-004	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 4 Submission - 5.3 Consents and Licences required under Other Legislation (Version 2)
REP4-005	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 4 Submission - 6.25 Environmental Statement Volume 4 Appendix 9.1 Phase 1 Survey (Part 2 - Figures) Figures to accompany the Phase 1 Survey report (APP-133)
REP4-006	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 4 Submission - 9.3.6 Statement of Common Ground between Applicant and Natural England (Version 3)

REP4-007	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 4 Submission - 9.19 Response to Examining Authority's Actions from Compulsory Acquisition Hearing 1 (Version 2)
REP4-008	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 4 Submission - 9.20 Response to Examining Authority's Actions from Issue Specific Hearing 1 (Version 2)
REP4-009	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 4 Submission - 9.23 Applicant's Oral Case and responseto Representations at Issue Specific Hearing 2 (Version 1)
REP4-010	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 4 Submission - 9.23 Appendix 1 to Applicant's Oral Case and response to Representations at Issue Specific Hearing 2 (Version 1)
REP4-011	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 4 Submission - 9.23 Appendix 2 to Applicant's Oral Case and response to Representations at Issue Specific Hearing 2 (Version 1)
REP4-012	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 4 Submission - 9.23 Appendix 3 to Applicant's Oral Caseand response to Representations at Issue Specific Hearing 2 (Version 1)
REP4-013	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 4 Submission - 9.23 Appendix 4 to Applicant's Oral Case and response to Representations at Issue Specific Hearing 2 (Version 1)
REP4-014	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 4 Submission - 9.23 Appendix 5 to Applicant's Oral Case and response to Representations at Issue Specific Hearing 2 (Version 1)
REP4-015	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 4 Submission - 9.23 Appendix 6 to Applicant's Oral Case and response to Representations at Issue Specific Hearing 2 (Version 1)
REP4-016	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 4 Submission - 9.23 Appendix 7 to Applicant's Oral Case and response to Representations at Issue Specific Hearing 2 (Version 1)
REP4-017	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 4 Submission - 9.24 Applicant's Oral Case and responseto Representations at Issue Specific Hearing 3

	(Version 1)
REP4-018	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 4 Submission - 9.24 Appendix 1 to Applicant's Oral Case and response to Representations at Issue Specific Hearing 3 (Version 1)
REP4-019	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 4 Submission - 9.24 Appendix 2 to Applicant's Oral Case and response to Representations at Issue Specific Hearing 3 (Version 1)
REP4-020	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 4 Submission - 9.25 Response to Written Representations submitted for Deadline 3 (Version 1)
REP4-021	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 4 Submission - 9.26 Applicant's response to Examining Authority's Actions from Issue Specific Hearing 2 (Version 1)
REP4-022	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 4 Submission - 9.26 Appendix 1 to Applicant's response to Examining Authority's Actions from Issue Specific Hearing 2 (Version 1)
REP4-023	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 4 Submission - 9.27 Applicant's response to Examining Authority's Actions from Issue Specific Hearing 3 (Version 1)
REP4-024	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 4 Submission - 9.27 Appendix 1 to Applicant's response to Examining Authority's Actions from Issue Specific Hearing 3 (Version 1)
REP4-025	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 4 Submission - 9.27 Appendix 2 to Applicant's response to Examining Authority's Actions from Issue Specific Hearing 3 (Version 1)
REP4-026	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 4 Submission - 9.27 Appendix 3 to Applicant's response to Examining Authority's Actions from Issue Specific Hearing 3 (Version 1)
REP4-027	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 4 Submission - 9.28 Application for Non-Material Change to draft Development Consent Order (Version 1)

REP4-028	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 4 Submission - 9.28 Appendix 1 to Application for Non-Material Change to draft Development Consent Order (Version 1)
REP4-029	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 4 Submission - 9.28 Appendix 2 to Application for Non-Material Change to draft Development Consent Order (Version 1)
REP4-030	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 4 Submission - 9.28 Appendix 3 to Application for Non-Material Change to draft Development Consent Order (Version 1)
REP4-031	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 4 Submission - 9.28 Appendix 4 to Application for Non-Material Change to draft Development Consent Order (Version 1)
REP4-032	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 4 Submission - 9.28 Appendix 5 to Application for Non-Material Change to draft Development Consent Order (Version 1)
REP4-033	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 4 Submission - 9.29 Applicant's response to Additional Submission of Mr Stuart Tarr (AS-053) (Version 1)
REP4-034	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 4 Submission - 9.30 Applicant's response to Additional Submission of Mr Stuart Tarr (AS-058) (Version 1)
REP4-035	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 4 Submission - 9.31 List of consequential amendments arising from removal of Work 16D (Version 1)
REP4-036	Bill Ovel on behalf of Pill & Easton-in-Gordano Parish Council Deadline 4 Submission - Post Hearing Submission - Response to Agenda item 3(v) of Issue Specific Hearing 2
REP4-037	Bill Ovel on behalf of Pill & Easton-in-Gordano Parish Council Deadline 4 Submission - Post Hearing Submission - Response to Agenda item 4 of Issue Specific Hearing 2
REP4-038	Bill Ovel on behalf of Pill & Easton-in-Gordano Parish Council Deadline 4 Submission - Post Hearing Submission - Response to Agenda item 5 of Issue Specific Hearing 2
REP4-039	Bristol City Council Deadline 4 Submission - Post Hearing Submission - Response to action points from Issue Specific Hearing 2 and 3
REP4-040	North Somerset Council Deadline 4 Submission - Post Hearing Submission - Submission regarding Action point 3 from Issue Specific Hearing 1
REP4-041	North Somerset Council Deadline 4 Submission - Post Hearing Submission - Response to action point 19 from Issue Specific Hearing 1

REP4-042	North Somerset Council Deadline 4 Submission - Post Hearing Submission - Response to matters raised at the Issue Specific hearings 2 and 3 – Please see REP4-064 for additional information
REP4-043	Environment Agency Deadline 4 Submission - Post Hearing Submission - Response to action points from Issue Specific Hearing 1
REP4-044	Environment Agency Deadline 4 Submission - Post Hearing Submission - Response to action points from Issue Specific Hearing 3
REP4-045	National Grid Electricity Transmission plc Deadline 4 Submission - Cover letter
REP4-046	National Grid Electricity Transmission plc Deadline 4 Submission - Proposed Protective Provisions
REP4-047	National Trust Deadline 4 Submission - Post Hearing Submission
REP4-048	North Somerset Levels Internal Drainage Board Deadline 4 Submission - Post Issue Specific Hearing 3 Submission
REP4-049	BNP Paribas Real Estate on behalf of The London Pensions Fund Authority Deadline 4 Submission - Submission regarding Issue Specific hearing 2
REP4-050	Sutherland Property & Legal Service Ltd on behalf of ETM Contractors Ltd and Manheim Auctions Limited Deadline 4 Submission - Post Hearing Submission - Response to action points from Issue Specific Hearing 2 and 3
REP4-051	Christine and Gerald Sanders Deadline 4 Submission - Post Issue Specific Hearing 2 Submission
REP4-052	Luke Bonham Deadline 4 Submission - Post Issue Specific Hearing 3 Submission
REP4-053	Margaret Stowers Deadline 4 Submission - Post Issue Specific Hearing 2 Submission
REP4-054	Stuart Tarr Deadline 4 Submission - Summary of Submission Made on 4 January 2021
REP4-055	Stuart Tarr on behalf of Ham Green and Chapel Pill Lane Residents Deadline 4 Submission - Supplementary submission of the Issue Specific Hearing 3
REP4-056	Stuart Tarr on behalf of Ham Green and Chapel Pill Lane Residents Deadline 4 Submission - Post Issue Specific Hearing 3 Submission
REP4-057	Waddeton Park Ltd on behalf of Alvis Family Deadline 4 submission
REP4-058	Wedlake Bell LLP on behalf of The Bristol Port Company Deadline 4 Submission - Comments on Applicant's responses at deadline 3 to Bristol Port Company's Written Representation

REP4-059	Wedlake Bell LLP on behalf of The Bristol Port Company Deadline 4 Submission - Post hearing submission including written summary of oral case put at Issue Specific Hearing 2
REP4-060	Wedlake Bell LLP on behalf of The Bristol Port Company Deadline 4 Submission - Post Hearing Submission - Response to action points 19 and 20 from Issue Specific Hearing 2
REP4-061	Wedlake Bell LLP on behalf of The Bristol Port Company Deadline 4 Submission - Post Hearing Submission - Response to Action Point 22 from Compulsory Acquisition Hearing and summary of Bristol Port Company's powers as statutory undertakers
REP4-062	Martin Berry Deadline 4 Submission - Late Submission accepted at the discretion of the Examining Authority - Post Hearing Submission - Response to Action Points 33 and 36 of Issue Specific Hearing 2
REP4-063	Martin Berry Deadline 4 Submission - Late Submission accepted at the discretion of the Examining Authority - Post Hearing Submission - Response to Action Points 29,30 and 15 of Issue Specific Hearing 2
REP4-064	North Somerset Council Deadline 4 Submission – Late Submission accepted at the discretion of the Examining Authority - Post Hearing Submission - Response to matters raised at the Issue Specific hearings 2 and 3 – Please see REP4-042 for the original submission that this document relates to
REP4-065	North Somerset District Council - The Applicant Deadline 4 Submission – Late Submission accepted at the discretion of the Examining Authority - Post Hearing Submission - Response to matters raised at the Issue Specific hearings 2 and 3 - Please see REP4-042 for the original submission that this document relates to and REP4-064 for additional information
REP4-066	Barry Cash Deadline 4 Submission - Late Submission accepted at the discretion of the Examining Authority - Post Hearing Submission

Deadline 5 – 16 February 2021

Deadline for receipt by the ExA of:

- Responses to the ExA's ExQ2
- An updated Guide to the Application
- An updated version of the dDCO in clean, tracked and Word versions
- An updated CA Schedule
- Progressed SoCG and an updated Statement of Commonality of SoCG
- Responses to any further information requested by the ExA for this deadline
- Comments on any additional information/ submissions received by Deadline 4

REP5-001	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 5 Submission - 9.32 - Cover Letter
REP5-002	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 5 Submission - 1.4 - Guide to the Application (Version 9)
REP5-003	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 5 Submission - 2.2 - Land Plans (Version 3)
REP5-004	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 5 Submission - 2.3 - Works Plan (Version 6)
REP5-005	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 5 Submission - 2.4 - General Arrangement Plans (Version 3)
REP5-006	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 5 Submission - 2.29 - Compounds, Haul Roads and Access to Works Plan (Version 4)
REP5-007	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 5 Submission - 2.36 - Cross Section Plans (Version 2)
REP5-008	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 5 Submission - 2.38 - Portishead Station Car Park Layout, Landscaping and New Boulevard and Access Plan (Version2)
REP5-009	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 5 Submission - 2.47 - Ashton Vale Road and WinterstokeRoad Highway Works Plan (Version 2)
REP5-010	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 5 Submission - 3.1 - Draft proposed DevelopmentConsent Order (Version 5) - clean
REP5-011	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 5 Submission - 3.1 - Draft proposed DevelopmentConsent Order (Version 5) - comparison to Version 1
REP5-012	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 5 Submission - 3.1 - Draft proposed DevelopmentConsent Order (Version 5) - comparison to Version 4
REP5-013	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 5 Submission - 3.2 - Explanatory Memorandum (Version3) - clean

REP5-014	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 5 Submission - 3.2 - Explanatory Memorandum (Version3) - comparison to Version 2
REP5-015	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 5 Submission - 3.3 - Validation Report (Version 4)
REP5-016	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 5 Submission - 4.1 - Statement of Reasons (Version 3)(clean)
REP5-017	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 5 Submission - 4.1 - Statement of Reasons (Version 3)(comparison to version 2)
REP5-018	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 5 Submission - 4.3 - Book of Reference (Version 3)(clean)
REP5-019	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 5 Submission - 4.3 - Book of Reference (Version 3)(tracked changes)
REP5-020	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 5 Submission - 9.1 - Schedule of Changes to the draftDevelopment Consent Order (Version 4)
REP5-021	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 5 Submission - 9.3.2 - Statement of Common Ground -Bristol City Council (Version 2)
REP5-022	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 5 Submission - 9.3.3 - Statement of Common Ground -Environment Agency (Version 3)
REP5-023	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 5 Submission - 9.3.10 - Statement of Common Ground -Openreach (Version 2)
REP5-024	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 5 Submission - 9.3.13 - Statement of Common Ground -Wessex Water (Version 2)
REP5-025	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 5 Submission - 9.3.14 - Statement of Common Ground -Western Power Distribution (South West) plc (Version 1)
REP5-026	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 5 Submission - 9.7 - Statement of Commonality of Statements of Common Ground (Version 3)

REP5-027	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 5 Submission - 9.11 - Compulsory Acquisition Schedule (Version 3)
REP5-028	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 5 Submission - 9.33 - Applicant's responses to the Examining Authority's Written Questions ExQ2 (Version 1)
REP5-029	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 5 Submission - 9.33 - Appendix CA.2.2 to Applicant's responses to the Examining Authority's Written Questions ExQ2 (Version 1)
REP5-030	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 5 Submission - 9.33 - Appendix DE.2.5 to Applicant's responses to the Examining Authority's Written Questions ExQ2 (Version 1)
REP5-031	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 5 Submission - 9.33 - Appendix GC.2.3 to Applicant's responses to the Examining Authority's Written Questions ExQ2 (Version 1)
REP5-032	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 5 Submission - 9.33 - Appendix TT.2.3 to Applicant's responses to the Examining Authority's Written Questions ExQ2 (Version 1)
REP5-033	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 5 Submission - 9.34 - Applicants responses to Written Representations submitted for Deadline 4 (Version 1)
REP5-034	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 5 Submission - 9.34.1 - Applicants response to Deadline 4 submission of ETM Contractors Ltd and Manheim Auctions Ltd (REP4-050) (Version 1)
REP5-035	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 5 Submission - 9.34.1 - Appendix 1 to Applicants response to Deadline 4 submission of ETM Contractors Ltd and Manheim Auctions Ltd (REP4-050) (Version 1)
REP5-036	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 5 Submission - 9.35 - Applicants response to Examining Authority's Actions from Hearings and Further Information for Deadline 5 (Version 1)
REP5-037	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 5 Submission - 9.36 - Draft Heads of Terms between the Applicant and Forestry Commission (Version 1)

REP5-038	Bristol City Council Deadline 5 Submission - Responses to the ExA's ExQ2 and outstanding action points from Issue Specific Hearings 2 and 3
REP5-039	North Somerset Council Deadline 5 Submission - Responses to the ExA's ExQ2
REP5-040	Environment Agency Deadline 5 Submission - Responses to the ExA's ExQ2 and supporting data
REP5-041	Highways England Deadline 5 Submission - Response to the ExA's ExQ2
REP5-042	Natural England Deadline 5 Submission - Responses to the ExA's ExQ2
REP5-043	BNP Paribas Real Estate on behalf of LPPI Real Estate Fund Deadline 5 Submission - Responses to the ExA's ExQ2
REP5-044	Sutherland Property & Legal Services Ltd on behalf of ETM Contractors Ltd and Manheim Auctions Limited Deadline 5 Submission - Responses to the ExA's ExQ2
REP5-045	Colin Crossman Deadline 5 Submission - Update on discussions with the Applicant
REP5-046	Osborne Clarke LLP on behalf of Babcock Integrated Technology Limited Deadline 5 Submission - Responses to the ExA's ExQ2
REP5-047	Town Legal LLP on behalf of Freightliner Limited Deadline 5 Submission - Responses to the ExA's ExQ2
REP5-048	Wedlake Bell LLP on behalf of The Bristol Port Company Deadline 5 Submission - Responses to the ExA's ExQ2
REP5-049	Wedlake Bell LLP on behalf of The Bristol Port Company Deadline 5 Submission - Comments on Information and submissions received at Deadline 4
REP5-050	Western Power Distribution (South West) PLC Deadline 5 Submission - Responses to the ExA's ExQ2
<p>Deadline 6 – 15 March 2021</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Post hearing submissions including written summaries of oral case put at any of the hearings • Comments on responses to the ExA's ExQ2 • An updated Guide to the Application • An updated version of the dDCO in clean, tracked and Word versions • An updated CA Schedule • Progressed SoCG and an updated Statement of Commonality of SoCG • Responses to any further information requested by the ExA for this deadline • Comments on any additional information/ submissions received by Deadline 5 	
REP6-001	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 6 Submission - 9.37 - Cover letter
REP6-002	Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant Deadline 6 Submission - 1.4 - Guide to the Application (Version 10)

REP6-003	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - 2.10 - Railway Landscape Plans (Disused Line) (Version 2)
REP6-004	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - 2.30 - Permanent and Temporary Stopping Up and Diversion Plan (Version 2)
REP6-005	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - 2.32 - Crossings to be Extinguished Plans (Version 2)
REP6-006	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - 2.33 - Public Rights of Way Plans (Version 2)
REP6-007	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - 2.35 - New Highways Plans (Version 2)
REP6-008	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - 3.1 - Draft Proposed Development Consent Order (Version 6) - clean
REP6-009	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - 3.1 - Draft Proposed Development Consent Order (Version 6) - comparison to Version 1
REP6-010	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - 3.1 - Draft Proposed Development Consent Order (Version 6) - comparison to Version 5
REP6-011	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - 3.2 - Explanatory Memorandum (Version 4) - clean
REP6-012	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - 3.2 - Explanatory Memorandum (Version 4) - comparison to Version 3

REP6-013	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - 3.3 - Validation Report (Version 5)</p>
REP6-014	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - 4.1 - Statement of Reasons (Version 4) - clean</p>
REP6-015	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - 4.1 - Statement of Reasons (Version 4) - comparison to Version 3</p>
REP6-016	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - 9.1 - Schedule of Changes to the draft Development Consent Order (Version 5)</p>
REP6-017	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - 9.11 - Compulsory Acquisition Schedule - Status of Negotiations at 15 March 2021</p>
REP6-018	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - 9.33 - Appendix CA.2.2 to Applicants responses to the Examining Authority's Written Questions ExQ2 (Version 2)</p>
REP6-019	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - 9.38 - Applicants responses to Written Representations and Interested Parties - ExQ2 responses submitted for Deadline 5</p>
REP6-020	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - 9.40 - Applicants Oral Case and response to Representations at ISH4</p>
REP6-021	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - 9.41 - Applicants Oral Case and response to Representations at ISH5 (Version 1)</p>

REP6-022	<p>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</p> <p>Deadline 6 Submission - 9.42 - Applicants Oral Case and response to Representations at CAH2 (Version 1)</p>
REP6-023	<p>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</p> <p>Deadline 6 Submission - 9.44 - Applicants response to the ExAs actions from ISH4 (Version 1)</p>
REP6-024	<p>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</p> <p>Deadline 6 Submission - 9.45 - Applicants response to the ExAs Actions from the ISH5 (Version 1)</p>
REP6-025	<p>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</p> <p>Deadline 6 Submission - 9.46 - Applicants response to the ExAs Actions from CAH2 (Version 1)</p>
REP6-026	<p>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</p> <p>Deadline 6 Submission - 9.48 - Fencing Grades Summary (Version 1)</p>
REP6-027	<p>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</p> <p>Deadline 6 Submission - 9.50 - Applicants Responses to Further Information Previously Requested for Deadline 6 (Version 1)</p>
REP6-028	<p>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</p> <p>Deadline 6 Submission - 9.51 - Crown Land Schedule of Negotiations (Version 1)</p>
REP6-029	<p>Bristol City Council</p> <p>Deadline 6 Submission - Post Hearing Submission - Response to Action Points of Issue Specific Hearing 5</p>
REP6-030	<p>North Somerset Council</p> <p>Deadline 6 Submission - Post Hearing Submission - Response to Action Points 19 and 20 from Issue Specific Hearing 5 - Annexe 1</p>
REP6-031	<p>North Somerset Council</p> <p>Deadline 6 Submission - Post Hearing Submission - Issue Specific Hearing 5 - Annexe 2 Location Plans for Footbridge in Weston</p>
REP6-032	<p>North Somerset Council</p> <p>Deadline 6 Submission - Post Hearing Submission - Response to Action Point 27 from Issue Specific Hearing 5 - Annexe 3</p>
REP6-033	<p>North Somerset Council</p> <p>Deadline 6 Submission - Post Hearing Submission - Response to Action Point 11 from Compulsory Acquisition Hearing 2 - Annexe 4</p>

REP6-034	North Somerset Council Deadline 6 Submission - Post Hearing Submission - Response to Action Point 17 from Issue Specific Hearing 5 - Annexe 5
REP6-035	North Somerset Council Deadline 6 Submission - Post Hearing Submission - Response to Action Point 27 from Issue Specific Hearing 5 - Annexe 6
REP6-036	North Somerset Council Deadline 6 Submission - Post Hearing Submission - Response to Action Points arising from Issue Specific Hearing 4, Compulsory Acquisition Hearing 2 and Issue Specific Hearing 5
REP6-037	Bill Ovel on behalf of Pill & Easton-in-Gordano Parish Council Deadline 6 Submission - Post Issue Specific Hearing 5 Submission
REP6-038	Environment Agency Deadline 6 Submission - Post Hearing Submission - Response to Action Points arising from Issue Specific Hearing 4 and Issue Specific Hearing 5
REP6-039	National Grid Electricity Transmission Plc Deadline 6 Submission - Written Summary of oral case put at Compulsory Acquisition Hearing 2
REP6-040	National Trust Deadline 6 Submission - Post Compulsory Acquisition hearing 2 Submission
REP6-041	Sutherland Property & Legal Services Ltd on behalf of ETM Contractors Ltd and Manheim Auctions Limited Deadline 6 Submission
REP6-042	Sutherland Property & Legal Services Ltd on behalf of ETM Contractors Ltd and Manheim Auctions Limited Deadline 6 Submission - Post Hearing Submission - Please see AS-068 for additional information
REP6-043	Town Legal LLP on behalf of Freightliner Limited Deadline 6 Submission
REP6-044	Simon Bluck Deadline 6 Submission
REP6-045	Stuart Tarr Deadline 6 Submission - Post Hearing Submission
REP6-046	Simon Twist Deadline 6 Submission - Post Issue Specific Hearing 5 Submission
REP6-047	Wedlake LLP on behalf of The Bristol Port Company Deadline 6 Submission - Summary of oral case at Compulsory Acquisition Hearing 2
REP6-048	Wedlake LLP on behalf of The Bristol Port Company Deadline 6 Submission - Written Summary of oral case at Issue Specific Hearing 5
REP6-049	Wedlake LLP on behalf of The Bristol Port Company Deadline 6 Submission - Post Hearing Submission - Response to Action Point 24 of Issue Specific Hearing 5
REP6-050	Wedlake LLP on behalf of The Bristol Port Company Deadline 6 Submission - Post Hearing Submission - Response to Action Point 26 of Issue Specific Hearing 5

REP6-051	<u>Wedlake LLP on behalf of The Bristol Port Company</u> Deadline 6 Submission - Post Hearing Submission - Response to Action Point 28 of Issue Specific Hearing 5
REP6-052	<u>Wedlake LLP on behalf of The Bristol Port Company</u> Deadline 6 Submission - Comments on information and submissions received at Deadline 5
Late Deadline 6 Submissions	
REP6-053	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 9.56 - Cover Letter - Further Documentation
REP6-054	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 1.4 - Guide to the Application (Version 11)
REP6-055	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 2.53 - Environmental Masterplan (Version 3) - clean
REP6-056	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 2.53 - Environmental Masterplan (Version 3) - tracked changes
REP6-057	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 2.54 - Plans of Statutory and Non-Statutory Sites and Features of the Historic Environment (Version 2) - clean
REP6-058	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 2.54 - Plans of Statutory and Non-Statutory Sites and Features of the Historic Environment (Version 2) - tracked changes
REP6-059	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 2.55 - Plan of Statutory and Non-Statutory Sites and Features of Nature Conservation (Version 2) - clean
REP6-060	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 2.55 - Plan of Statutory and Non-Statutory Sites and Features of Nature Conservation (Version 2) - tracked changes

REP6-061	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 2.56 - Important Hedgerow Plan (Version 2) - clean</p>
REP6-062	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 2.56 - Important Hedgerow Plan (Version 2) - tracked changes</p>
REP6-063	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 5.5 - Report to Inform Habitats Regulations Assessment (Version 3) - clean</p>
REP6-064	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 5.5 - Report to Inform Habitats Regulations Assessment (Version 3) - tracked changes</p>
REP6-065	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 5.6 - Flood Risk Assessment Addendum</p>
REP6-066	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.2 - ES Volume 1 - Non-Technical Summary (Version 2) - clean</p>
REP6-067	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.2 - ES Volume 1 - Non-Technical Summary (Version 2) - tracked changes</p>
REP6-068	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.4 Environmental Statement, Volume 2, Chapter 1 Introduction - Version 2 (Clean)</p>
REP6-069	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.4 Environmental Statement, Volume 2, Chapter 1 Introduction - Version 2 (Tracked Changes)</p>
REP6-070	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.6 Environmental Statement, Volume 2, Chapter 3 Scheme Development and Alternatives Considered - Version 2 (Clean)</p>

REP6-071	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.6 Environmental Statement, Volume 2, Chapter 3 Scheme Development and Alternatives Considered - Version 2 (Tracked Changes)</p>
REP6-072	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.7 Environmental Statement, Volume 2, Chapter 4 Description of the Proposed Works - Version 2 (Clean)</p>
REP6-073	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.7 Environmental Statement, Volume 2, Chapter 4 Description of the Proposed Works - Version 2 (Tracked Changes)</p>
REP6-074	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.10 - ES Chapter 7 - Air Quality and Greenhouse Gases (Version 3) - clean</p>
REP6-075	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.10 - ES Chapter 7 - Air Quality and Greenhouse Gases (Version 3) - tracked changes</p>
REP6-076	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.11 - ES Chapter 8 - Cultural Heritage (Version 2) - clean</p>
REP6-077	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.11 - ES Chapter 8 - Cultural Heritage (Version 2) - tracked changes</p>
REP6-078	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.12 - ES Chapter 9 - Ecology and Biodiversity (Version 3) - clean</p>
REP6-079	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.12 - ES Chapter 9 - Ecology and Biodiversity (Version 3) - tracked changes</p>
REP6-080	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.15 - ES Chapter 12 - Materials and Waste (Version 2) - clean</p>

REP6-081	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.15 - ES Chapter 12 - Materials and Waste (Version 2) - tracked changes</p>
REP6-082	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.16 - ES Chapter 13 - Noise and Vibration (Version 2) - clean</p>
REP6-083	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.16 - ES Chapter 13 - Noise and Vibration (Version 2) - tracked changes</p>
REP6-084	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.18 - ES Chapter 15 - Soils, Agriculture, Land Use and Assets (Version 2) - clean</p>
REP6-085	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.18 - ES Chapter 15 - Soils, Agriculture, Land Use and Assets (Version 2) - tracked changes</p>
REP6-086	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.19 - ES Chapter 16 - Transport, Access and Non-Motorised Users (Version 2) - clean</p>
REP6-087	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.19 - ES Chapter 16 - Transport, Access and Non-Motorised Users (Version 2) - tracked changes</p>
REP6-088	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.20 - ES Chapter 17 - Water Resources, Drainage and Flood Risk Water Resources (Version 2) - clean</p>
REP6-089	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.20 - ES Chapter 17 - Water Resources, Drainage and Flood Risk Water Resources (Version 2) - tracked changes</p>
REP6-090	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.24 - ES Volume 3 - Figure 6.1 - Planning Constraints (Version 2) - clean</p>

REP6-091	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.24 - ES Volume 3 - Figure 6.1 - Planning Constraints (Version 2) - tracked changes</p>
REP6-092	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.24 - ES Volume 3 - Figure 8.1 - Cultural Heritage (Version 2) - clean</p>
REP6-093	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.24 - ES Volume 3 - Figure 8.1 - Cultural Heritage (Version 2) - tracked changes</p>
REP6-094	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.24 - ES Volume 3 - Figures 9.1 to 9.4 - Ecology and Biodiversity (Version 2) - clean</p>
REP6-095	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.24 - ES Volume 3 - Figures 9.1 to 9.4 - Ecology and Biodiversity (Version 2) - tracked changes</p>
REP6-096	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.24 - ES Volume 3 - Figure 10.1 - Ground Conditions (Version 2) - clean</p>
REP6-097	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.24 - ES Volume 3 - Figure 10.1 - Ground Conditions (Version 2) - tracked changes</p>
REP6-098	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.24 - ES Volume 3 - Figures 11.1 to 11.3 - Landscape and Visual Impacts Assessment (Version 2) - clean</p>
REP6-099	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.24 - ES Volume 3 - Figures 11.1 to 11.3 - Landscape and Visual Impacts Assessment (Version 2) - tracked changes</p>
REP6-100	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.24 - ES Volume 3 - Figures 13.1 and 13.2 - Noise Measurement Locations and Noise Assessment Locations (Version 2) - clean</p>

REP6-101	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.24 - ES Volume 3 - Figures 13.1 and 13.2 - Noise Measurement Locations and Noise Assessment Locations (Version 2) - tracked changes</p>
REP6-102	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.24 - ES Volume 3 - Figure 17.1 - Water Features (Version 2) - clean</p>
REP6-103	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.24 - ES Volume 3 - Figure 17.1 - Water Features (Version 2) - tracked changes</p>
REP6-104	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.24 - ES Volume 3 - Figure 18.1 - Proposed Development (Version 2) - clean</p>
REP6-105	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.24 - ES Volume 3 - Figure 18.1 - Proposed Development (Version 2) - tracked changes</p>
REP6-106	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.25 - ES Appendix 16.1 - Appendix K to CTMP- Construction Traffic Management Plan (Version 2) - clean</p>
REP6-107	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.25 - ES Volume 4 - Appendix 1.1 to 1.3 - Introduction (Version 2) - clean</p>
REP6-108	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.25 - ES Volume 4 - Appendix 1.1 to 1.3 - Introduction (Version 2) - tracked changes</p>
REP6-109	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.25 - ES Volume 4 - Appendix 4.1 Code of Construction Practice (Version 2) (Clean)</p>
REP6-110	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.25 - ES Volume 4 - Appendix 4.2 Master Construction Environmental Management Plan (Version 3) (Clean)</p>

REP6-111	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.25 - ES Volume 4 - Appendix 4.3 Schedule of Mitigation (Version 3) (Clean)</p>
REP6-112	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.25 - ES Volume 4 - Appendix 7.1 to 7.5 Air Quality and Greenhouse Gases (Version 3) (Clean)</p>
REP6-113	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.25 - ES Volume 4 - Appendix 7.1 to 7.5 Air Quality and Greenhouse Gases (Version 3) (Tracked)</p>
REP6-114	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.25 - ES Volume 4 - Appendix 9.1 Extended Phase 1 Habitat Survey (Part 2 - Figures) (Version 2) (Clean)</p>
REP6-115	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.25 ES Volume 4 - Appendix 9.3c Ornithology Survey Report - WCA Schedule 1 CONFIDENTIAL (Version 2) (Clean)</p>
REP6-116	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.25 ES Volume 4 - Appendix 9.3c Ornithology Survey Report - WCA Schedule 1 CONFIDENTIAL (Version 2) (Tracked)</p>
REP6-117	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.25 ES Volume 4 - Appendix 9.6 Badger Survey Report - CONFIDENTIAL (Version 2) (Clean)</p>
REP6-118	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.25 ES Volume 4 - Appendix 9.6 Badger Survey Report - CONFIDENTIAL (Version 2) (Tracked)</p>
REP6-119	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.25 - ES Volume 4 - Appendix 9.11 Avon Gorge Vegetation Management Plan (Version 3) (Clean)</p>

REP6-120	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.25 - ES Volume 4 - Appendix 9.12 Report to Inform Habitats Regulations Assessment (Version 3) (Clean)</p>
REP6-121	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.25 - ES Volume 4 - Appendix 9.13 to 9.18 Ecology and Biodiversity (Version 3) (Clean)</p>
REP6-122	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.25 - ES Volume 4 - Appendix 9.13 to 9.18 Ecology and Biodiversity (Version 3) (Tracked)</p>
REP6-123	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.25 - ES Volume 4 - Appendix 11.3 and 11.4 - Landscape and Visual Impacts Assessment (Version 2) - clean</p>
REP6-124	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.5 ES Volume 4 - Appendix 11.3 and 11.4 - Landscape and Visual Impact Assessment Version 2 (Tracked)</p>
REP6-125	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.25 - ES Volume 4 - Appendix 16.1 - Transport Assessment Version 2 (Clean)</p>
REP6-126	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.25 - ES Volume 4 - Appendix 16.1 - Transport Assessment Version 2 (Tracked)</p>
REP6-127	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.25 - ES Volume 4 - Appendix 16.1 Transport Assessment - Figures (Version 2) (Clean)</p>
REP6-128	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.25 - ES Volume 4 - Appendix 16.1 Transport Assessment - Appendix L (Version 2) (Clean)</p>

REP6-129	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.25 - ES Volume 4 - Appendix 16.1 Transport Assessment - Appendix L (Version 2) (Tracked)</p>
REP6-130	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.25 - ES Volume 4 - Appendix 16.1 Transport Assessment - Appendix N (Version 2) (Clean)</p>
REP6-131	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.31 - Schedule of Mitigation - Version 3 (Clean)</p>
REP6-132	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 6.31 Schedule of Mitigation - Version 3 (Tracked Changes)</p>
REP6-133	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 8.2 - Legal Opinion from Stephen Tromans QC regarding the Report to Inform the Habitats Regulations Assessment - Version 2</p>
REP6-134	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 8.11 Planning Statement - Version 2 (Clean)</p>
REP6-135	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 8.11 Planning Statement - Version 2 (Tracked Changes)</p>
REP6-136	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 8.12 Avon Gorge Vegetation Management Plan - Version 3 (Clean)</p>
REP6-137	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 8.12 - Avon Gorge Vegetation Management Plan - Version 3 (Tracked Changes)</p>
REP6-138	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 8.13 - Construction Traffic Management Plan (Clean)</p>

REP6-139	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 8.13 - Construction Traffic Management Plan (Tracked Changes)</p>
REP6-140	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 8.14 - Master Construction Environmental Management Plan - Version 3 (Clean)</p>
REP6-141	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 8.14 - Master Construction Environmental Management Plan - Version 3 (Tracked Changes)</p>
REP6-142	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 8.15 - Code of Construction Practice - Version 2 (Clean)</p>
REP6-143	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 8.15 - Code of Construction Practice - Version 2 (Tracked Changes)</p>
REP6-144	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 9.3.3 – Statement of Common Ground Between (1) North Somerset District Council; (2) Network Rail Infrastructure Limited; and (3) Environment Agency - Version 4 (Clean)</p>
REP6-145	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 9.3.3 – Statement of Common Ground Between (1) North Somerset District Council; (2) Network Rail Infrastructure Limited; and (3) Environment Agency - Version 4 (Tracked Changes)</p>
REP6-146	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 9.3.6 – Statement of Common Ground Between (1) North Somerset District Council; and (2) Natural England - Version 4 (Clean)</p>
REP6-147	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u></p> <p>Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 9.3.6 – Statement of Common Ground Between (1) North Somerset District Council; and (2) Natural England - Version 4 (Tracked Changes)</p>

REP6-148	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 9.3.7 – Statement of Common Ground - Version 2 Between: (1) North Somerset District Council; (2) North Somerset Levels Internal Drainage Board; and (3) Network Rail Infrastructure Limited
REP6-149	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> (PDF, 698 KB) Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 9.46 – Applicant's response to the ExA's Actions from the Compulsory Acquisition Hearing - 2 (CAH2) - Version 2
REP6-150	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 9.47 – Agreement with Forestry Commission - Version 1
REP6-151	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 9.52 – Dimensions from Railway (Trinity Footbridge to the Adjacent Portishead Houses) - Version 1
REP6-152	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 9.53 – Typical Sections Trinity Footbridge - Version 1
REP6-153	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 9.54 – Shadow Study – Trinity Footbridge - Version 1
REP6-154	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 9.55 – Additional Photomontages – Trinity Footbridge - Version 1
REP6-155	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 9.57 – Applicant's response to Additional Submission of Andrea Gordon (AS-067) - Version 1
REP6-156	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 6 Submission - Late Submission accepted at the discretion of the Examining Authority - 9.7 - Statement of Commonality of Statements of Common Ground - Version 4

Deadline 7 – 14 April 2021

Deadline for receipt by the ExA of:

	<ul style="list-style-type: none"> • Comments on the RIES (if required) • Comments on the ExA's preferred dDCO (if required) • Final SoCG and Statement of Commonality of SoCG, also listing matters not agreed (in circumstances where a SoCG could not be finalised) • Final version of the dDCO in clean, tracked and Word versions • Final dDCO to be submitted by the Applicant in the SI template with the SI template validation report • Responses to any further information requested by the ExA for this deadline • Final Guide to the Application • Final CA schedule • Signed and dated planning obligations (if required) • Comments on any additional information/ submissions received by Deadline 6
REP7-001	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - Cover Letter for Deadline 7
REP7-002	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - 1.4 - Guide to the Application (Version 12)
REP7-003	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - 2.4 - General Arrangement Plans (Version 4)
REP7-004	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - 2.6 - Crown Land Plan (Version 2)
REP7-005	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - 2.10 - Railway Landscape Plans (Disused Line) (Version 3)
REP7-006	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - 3.1 - Draft Proposed Development Consent Order (Version 7) (Clean)
REP7-007	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - 3.1 - Draft Proposed Development Consent Order (Version 7) (Comparison to Version 1)
REP7-008	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - 3.1 - Draft Proposed Development Consent Order (Version 7) (Comparison to Version 6)
REP7-009	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - 3.2 - Explanatory Memorandum (Version 5) (Clean)
REP7-010	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - 3.2 - Explanatory Memorandum (Version 5) (Comparison to Version 4)
REP7-011	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - 4.1 - Statement of Reasons (Version 5) (Clean)

REP7-012	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - 4.1 - Statement of Reasons (Version 5) (Comparison to Version 4)
REP7-013	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - 4.3 - Book of Reference (Version 4) (Clean)
REP7-014	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - 4.3 - Book of Reference (Version 4) (Tracked Changes)
REP7-015	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - 6.24 - Environmental Statement Volume 3 - Figures 11.1 to 11.3 - Landscape and Visual Impacts Assessment (Version 3) - Clean
REP7-016	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - 6.24 - Environmental Statement Volume 3 - Figures 11.1 to 11.3 - Landscape and Visual Impacts Assessment (Version 3) - Tracked Changes
REP7-017	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - 6.25 - Environmental Statement Volume 4 - Appendix 4.2 Master Construction Environmental Management Plan (Version 4)
REP7-018	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - 6.25 - Environmental Statement Volume 4 - Appendix 4.3 - Schedule of Mitigation (Version 4) (Clean)
REP7-019	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - 6.25 - Environmental Statement Volume 4 - Appendix 9.13 to 9.18 - Ecology and Biodiversity (Version 4) (Clean)
REP7-020	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - 6.25 - Environmental Statement Volume 4 - Appendix 9.13 to 9.18 - Ecology and Biodiversity (Version 4) (Tracked Changes)
REP7-021	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - 6.31 - Schedule of Mitigation (Version 4) (Clean)
REP7-022	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - 6.31 - Schedule of Mitigation (Version 4) (Tracked Changes)
REP7-023	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - 8.14 - Master Construction Environmental Management Plan (Version 4)

REP7-024	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - 9.1 ExA.Sch.D7.V6 - Schedule of Changes to the draft Development Consent Order (Version 6)
REP7-025	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - 9.3.1 ExA.SoCG-NSC.D7.V2 - Statement of Common Ground - North Somerset Council Local Planning Authority (Version 2)
REP7-026	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - 9.3.2 ExA.SoCG-BCC.D7.V3 - Statement of Common Ground - Bristol City Council (Version 3)
REP7-027	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - 9.3.3 ExA.SoCG-EA.D7.V5 - Statement of Common Ground - Environment Agency (Version 5)
REP7-028	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - 9.3.7 ExA.SoCG-NSLIDB.D7.V2 - Statement of Common Ground - North Somerset Levels Internal Drainage Board (Version 2)
REP7-029	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - 9.3.10 ExA.SoCG-OL.D7.V3 - Statement of Common Ground - Openreach Limited (Version 3)
REP7-030	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - 9.3.13 ExA SoCG-WW.D7.V3 - Statement of Common Ground - Wessex Water Services Limited (Version 3)
REP7-031	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - 9.3.14 ExA.SoCG-WPD.D7.V2 - Statement of Common Ground - Western Power Distribution (South West) Plc (Version 2)
REP7-032	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - 9.3.15 ExA.SoCG-NRIL.D7.V1 - Statement of Common Ground - Network Rail Infrastructure Limited (Version 1)
REP7-033	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - 9.3.19 ExA.SoCG-FL.D7.V1 - Statement of Common Ground - Freightliner Limited (Version 1)
REP7-034	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - 9.11 ExA.CA.D7.V5 - Compulsory Acquisition Schedule (Version 5)
REP7-035	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - 9.47 ExA.FI.D7.V2 - Agreement with Forestry Commission - Executed by Forestry Commission

REP7-036	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - 9.47 ExA.FI.D7.V2 - Agreement with Forestry Commission - Executed by the Applicant
REP7-037	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - 9.59 ExA.CWR.D7.V1 - Applicant's response to Written Representations submitted for Deadline 6
REP7-038	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - 9.60 ExA.FI.D7.V1 - Applicant's comments on the preferred draft Order proposed by the Examining Authority
REP7-039	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - 9.61 ExA.FI.D7.V1 - Applicant's Responses to the Rule 17 Request
REP7-040	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - 9.62 ExA.FI.D7.V1 - Draft Section 278 Agreement with Bristol City Council (Version 1)
REP7-041	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - 9.63 ExA.FI.D7.V1 - Applicant's Comments on the Report on the Implications for European Sites (Version 1)
REP7-042	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - 9.64 ExA.FI.D7.V1 - Section 127 Position Statement (Version 1)
REP7-043	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - 9.66 ExA.FI.D7.V1 - Responses to Further Information Previously Requested for Deadline 7
REP7-044	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - 9.67 ExA.FI.D7.V1 - Section 135 Crown consent from Ministry of Defence (Version 1)
REP7-045	<u>North Somerset District Council</u> Deadline 7 Submission - Comments on the Applicant's Responses to Proposed Changes to Requirements in Schedule 2 of the dDCO Submitted at Deadline 6
REP7-046	<u>North Somerset District Council</u> Deadline 7 Submission - Response to the Examining Authority's Request for Further Information dated 29 March 2021
REP7-047	<u>National Trust</u> Deadline 7 Submission - Response to the Examining Authority's Request for Further Information dated 29 March 2021
REP7-048	<u>BDB Pitmans LLP on behalf of National Grid Electricity Transmission Plc</u> Deadline 7 Submission - Response to the Examining Authority's Request for Further Information dated 29 March 2021

REP7-049	<u>Wedlake Bell LLP on behalf of The Bristol Port Company</u> Deadline 7 Submission - Note in Relation to Compulsory Acquisition Matters
REP7-050	<u>Wedlake Bell LLP on behalf of The Bristol Port Company</u> Deadline 7 Submission - Note in Respect of Protective Provisions Required by Bristol Port Company
REP7-051	<u>Wedlake Bell LLP on behalf of The Bristol Port Company</u> Deadline 7 Submission - Note in Respect of the Easement to the at-grade crossing at Court House
REP7-052	<u>Veale Wasbrough Vizards LLP on behalf of Exolum Pipeline System Limited</u> Deadline 7 Submission - Ongoing Negotiations of Protective Provisions Agreement
REP7-053	<u>Stuart Tarr on behalf of Ham Green and Chapel Pill Lane Residents</u> Deadline 7 Submission - Comments on the ExA's preferred dDCO
Late Deadline 7 Submissions	
REP7-054	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - Late Submission accepted at the discretion of the Examining Authority - 9.68 - Applicants Cover Letter for Examination Closing Submissions
REP7-055	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - Late Submission accepted at the discretion of the Examining Authority - 1.4 - Guide to the Application (Version 13)
REP7-056	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - Late Submission accepted at the discretion of the Examining Authority - 3.1 - Draft Proposed Development Consent Order (Version 8) (clean)
REP7-057	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - Late Submission accepted at the discretion of the Examining Authority - 3.1 - Draft Proposed Development Consent Order (Version 8) (comparison to Version 1)
REP7-058	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - Late Submission accepted at the discretion of the Examining Authority - 3.1 - Draft Proposed Development Consent Order (Version 8) (comparison to Version 7)
REP7-059	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - Late Submission accepted at the discretion of the Examining Authority - 9.1 - Schedule of Changes to the draft Development Consent Order (Version 7)

REP7-060	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - Late Submission accepted at the discretion of the Examining Authority - 9.3.17 - Statement of Common Ground - National Trust (Version 1)</p>
REP7-061	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - Late Submission accepted at the discretion of the Examining Authority - 9.3.19 - Statement of Common Ground - Freightliner Limited (Version 2)</p>
REP7-062	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - Late Submission accepted at the discretion of the Examining Authority - 9.7 - Statement of Commonality of Statements of Common Ground (Version 5)</p>
REP7-063	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - Late Submission accepted at the discretion of the Examining Authority - 9.11 - Compulsory Acquisition Schedule (Version 6)</p>
REP7-064	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - Late Submission accepted at the discretion of the Examining Authority - 9.47 - Completed Agreement with Forestry Commission - executed by the Applicant</p>
REP7-065	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - Late Submission accepted at the discretion of the Examining Authority - 9.51 - Crown Land Schedule of Negotiations (Version 2)</p>
REP7-066	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - Late Submission accepted at the discretion of the Examining Authority - 9.68 - Applicants Cover Letter for Examination Closing Submissions</p>
REP7-067	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - Late Submission accepted at the discretion of the Examining Authority - 9.71 - Consents and Licences required under Other Legislation (including progress update)</p>
REP7-068	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - Late Submission accepted at the discretion of the Examining Authority - 9.72 - Applicants response to Written Representations submitted for Deadline 7</p>
REP7-069	<p><u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - Late Submission accepted at the discretion of the Examining Authority - 9.73 - Applicants response to the Additional Submission of Mr S and Mrs J Millard (AS-069)</p>

REP7-070	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - Late Submission accepted at the discretion of the Examining Authority - 9.74 - Section 135 Crown consent from Defra and Forestry Commission
REP7-071	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - Late Submission accepted at the discretion of the Examining Authority - 9.75 - Section 135 Crown consent from Department for Transport
REP7-072	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Deadline 7 Submission - Late Submission accepted at the discretion of the Examining Authority - 9.76 - DCO Validation Reports – Parts 1 to 3
REP7-073	<u>Wedlake Bell LLP on behalf of The Bristol Port Company</u> Deadline 7 Submission – Late Submission accepted at the discretion of the Examining Authority – Note in relation to the extent of matters agreed between BPC and the Applicant after deadline 7
Other Documents	
OD-001	<u>Womble Bond Dickinson (UK) LLP of behalf of North Somerset District Council – The Applicant</u> Section 56 Notice
OD-002	<u>Frequently Asked Questions</u> Frequently Asked Questions (FAQs)
OD-003	<u>Womble Bond Dickinson (UK) LLP on behalf of North Somerset District Council - The Applicant</u> Certificate of compliance

APPENDIX B: LIST OF ABBREVIATIONS

Abbreviation	Definition
2013 Guidance	Guidance Related to procedures for the Compulsory Acquisition of Land, DCLG, September 2013 (the Former Department of Communities and Local Government (DCLG) CA Guidance)
AA	Appropriate Assessment
AEoI	Adverse Effect on Integrity
AGVMP	Avon Gorge Vegetation Management Plan
ALC	Agricultural Land Classification
AOD	Above Ordnance Datum
APs	Affected Persons
ASI	Accompanied Site Inspection
AQAL	Air Quality Assessment Level
AQD	Council Directive 2008/50/EC on Ambient Air Quality and Cleaner Air for Europe (the 'air quality directive')
AQMA	Air Quality Management Area
AQS	Air Quality Strategy
AWT	Avon Wildlife Trust
BCC	Bristol City Council
BoR	Book of Reference
BPC	Bristol Port Company also known as First Corporate Shipping Ltd
BSFRA	Bristol Strategic Flood Risk Assessment
CA	Compulsory Acquisition
CoA	Conservation Area
CAH	Compulsory Acquisition Hearing
CEMP	Construction Environmental Management Plan
CoCP	Code of Construction Management Plan
CO₂	Carbon Dioxide
CTMP	Construction Traffic Management Plan
CWTP	Construction Workers Travel plan
D	Deadline
DCO	Development Consent Order
Defra	Department for Environment, Food and Rural Affairs
DfT	Department for Transport
DLL	District Level Licensing for the management of Great Crested Newts
DMRB	Design Manual for Roads and Bridges
DMU	Diesel Multiple Units
EA	The Environment Agency
EcCoW	Ecological Clerk of Works
EEA	European Economic Area
EIA	Environmental Impact Assessment
2009 EIA Regulations	The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (As amended)

Abbreviation	Definition
EIA Regulations	The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017
EM	Explanatory Memorandum
EP Regs	The Environmental Permitting (England and Wales) Regulations 2016
EPR	Infrastructure Planning (Examination Procedure) Rules 2010
EPS	European Protected Sites
ES	Environmental Statement
EU	European Union
ExA	Examining Authority
ExQ1	First Written Questions
ExQ2	Further Written Questions
FBC	Full Business Case
FC	Forestry Commission/ Forestry England
FOC	Freight Operating Company
FRA	Flood Risk Assessment
FZ	Flood Zone
GAP	General Arrangement Plan
GB	Green Belt
GCN	Great Crested Newts
GHG	Green House Gases
GVA	Gross Value Added
ha	Hectares
HE	Highways England
HLC	Historic Landscape Characters
HPCC	National grid (Hinkley Point C Connection Project) Order 2016 and Correction Order 2017
HRA	Habitats Regulation Assessment
HSE	Health and Safety Executive
HGV	Heavy Goods Vehicle
IAPI	Initial Assessment of Principal Issues
IAQM	Institute for Air Quality Management (2017)
IDB	Internal Drainage Board
IPs	Interested Parties
IROPI	Imperative Reasons of Overriding Public Interest
ISH	Issue Specific Hearing
JLTP4	Joint Local Transport Plan 4
km	Kilometre(s)
LCA	Landscape Character Area
LDC	Land Drainage Consent
LIR	Local Impact Report
LLFA	Lead Local Flood Authority
LoNI	Letter of No Impediment
LSE	Likely Significant Effect
LVIA	Landscape and Visual Impact Assessment
m	Metre (s)
MOVA	Microprocessor Optimised Vehicle Activation system
mm	Millimetres

Abbreviation	Definition
NCA	National Character Area
NCN	National Cycle Network
NE	Natural England
NERC	Natural Environment and Rural Communities Act 2006
NGET	National Grid Electricity Transmission Plc
NMU	Non-Motorised Users
NNR	National Nature Reserve
NO	Nitrogen Oxides
NO₂	Nitrogen Dioxide
NPA2017	Neighbourhood Planning Act 2017
NPPF	National Planning Policy Framework
NPPG	National Planning Policy Guidance
NPS	National Policy Statement
NPSNN	National Policy Statement for National Networks
NSDC	North Somerset District Council
NSLIDB	North Somerset Levels Internal Drainage Board
NSIP	Nationally Significant Infrastructure Project
NR	Network Rail Infrastructure Limited
NT	National Trust
OFH	Open Floor Hearing
OHL	Overhead Line
OP	Other Parties
ORR	Office for Rail and Road
PA2008	Planning Act 2008
PM	Preliminary Meeting
PM₁₀	Particulate Matter with a diameter of <10µm
ProW	Public Right of Way
PSED	Public Sector Equality Duty
RBMP	River Basin Management Plan
PTC	Portishead Town Council
RIES	Report of Implications for European Sites
RPD	Royal Portbury Dock
RPG	Registered Park and Garden
RR	Relevant Representations
S	Section
SAC	Special Area of Conservation
SEP	West of England LEP Strategic Economic Plan 2015-2030
SGC	South Gloucestershire Council
SIP	Site Improvement Plan
SM	Scheduled Monument
SMS	Site Management Statement
SNCI	Site of Nature Conservation Interest
SoCG	Statement of Common Ground
SoR	Statement of Reasons
SoS	Secretary of State
SPA	Special Protection Area
SPD	Supplementary Planning Document

Abbreviation	Definition
SPP	Special Parliamentary Procedure
SPZ	Source Protection Zones
sqm	Square Meters
SRN	Strategic Road Network
SSSI	Site of Special Scientific Interest
SUDS	Sustainable Urban Drainage System
TA	Transport Assessment
TAG	Transport Analysis Guidance
TCPA1990	Town and Country Planning Act 1990
TDNS	Network Rail Traction Decarbonisation Network Strategy
TMWG	Traffic Management Working Group
TP	Temporary Possession
TPO	Tree Preservation Order
TRO	Traffic Regulation Order
UK	United Kingdom
USI	Unaccompanied Site Inspection
VIA	Visual Impact Assessment
VMP	Vegetation Management Plan
WCA	Wildlife and Countryside Act 1981 (as amended)
WFD	Establishing a Framework for the Community Action in the Field of Water Policy (200/60/EC) (the Water Framework Directive)
WR	Written Representations

APPENDIX C: THE RECOMMENDED DCO

202x No. 0000

INFRASTRUCTURE PLANNING

The Portishead Branch Line (MetroWest Phase 1) Order 202x

Made - - - - 202x

Coming into force - - 202x

CONTENTS

PART 1

Preliminary

1. Citation and commencement
2. Interpretation
3. Incorporation of the Railway Clauses Acts

PART 2

Principal powers

4. Application and modification of legislation
5. Development consent etc. granted by the Order
6. Planning permission
7. Limits of deviation
8. Maintenance of authorised development
9. Benefit of Order
10. Consent to transfer benefit of Order
11. Agreements with Network Rail

PART 3

Streets, Highways and Level Crossings

12. Application of the 1991 Act
13. Street works and power to alter the layout etc. of streets
14. Permanent stopping up of streets
15. Temporary stopping up of streets and public rights of way
16. Bridleways, cycle tracks and footpaths
17. Access to works
18. Agreements with street authorities
19. Construction and maintenance of new or altered streets
20. Closure of level crossings and crossings over disused railway
21. Accommodation and occupation crossings

PART 4
Supplemental powers

- 22. Discharge of water
- 23. Authority to survey and investigate land

PART 5
Powers of acquisition

- 24. Compulsory acquisition of land
- 25. Modification of Part 1 of the 1965 Act
- 26. Time limit for exercise of authority to acquire land compulsorily or take land temporarily
- 27. Compulsory acquisition of rights or imposition of covenants
- 28. Private rights over land subject to compulsory acquisition or temporary possession
- 29. Power to override easements and other rights
- 30. Application of Compulsory Purchase (Vesting Declarations) Act 1981
- 31. Acquisition of subsoil or airspace only
- 32. Rights under or over streets
- 33. Temporary use of land for carrying out the authorised development
- 34. Temporary use of land for maintaining the authorised development
- 35. Disregard of certain interests and improvements
- 36. Set-off for enhancement in value of retained land
- 37. Statutory undertakers and electronics communications code network operators
- 38. Recovery of costs of new connections

PART 6
Operations

- 39. Operation and use of railways
- 40. Operational land for purposes of the 1990 Act

PART 7
Miscellaneous and general

- 41. No double recovery
- 42. Apparatus and rights of statutory undertakers in stopped up streets
- 43. Felling or lopping of trees
- 44. Hedgerows
- 45. Defence to proceedings in respect of statutory nuisance
- 46. Traffic regulation
- 47. Application of the Land Compensation Act 1973
- 48. Application of landlord and tenant law
- 49. Procedure in relation to further approvals, etc.
- 50. Service of notices
- 51. Crown rights
- 52. Amendment of local byelaws
- 53. Protective provisions
- 54. Special category land

- 55. Documents to be certified
- 56. Arbitration

SCHEDULES

- SCHEDULE 1 — Authorised development
- SCHEDULE 2 — Requirements
 - PART 1 — Requirements
 - PART 2 — Procedure for discharge of requirements
- SCHEDULE 3 — Streets subject to street works
- SCHEDULE 4 — Streets to be stopped up
 - PART 1 — Street for which a substitute is to be provided
 - PART 2 — Streets for which no substitute is to be provided
- SCHEDULE 5 — Streets to be stopped up temporarily
 - PART 1 — Street to be stopped up temporarily for which a substitute is to be provided
 - PART 2 — Bridleways and footpaths to be temporarily suspended for which no substitute is to be provided during suspension
- SCHEDULE 6 — Bridleways, cycle tracks and footpaths
 - PART 1 — Footpath to be diverted
 - PART 2 — New public rights of way to be created
- SCHEDULE 7 — Access to works
- SCHEDULE 8 — Closure of crossings
 - PART 1 — Crossings: works required
 - PART 2 — Crossings: temporary suspension
 - PART 3 — Crossings: No works required
- SCHEDULE 9 — Accommodation and occupation crossings
 - PART 1 — Crossings extinguished: works required
 - PART 2 — Crossings for which no substitute is to be provided
- SCHEDULE 10 — Land in which only new rights, etc., may be acquired
- SCHEDULE 11 — Modification of compensation and compulsory purchase enactments for creation of new rights or imposition of restrictions
- SCHEDULE 12 — Land of which temporary possession may be taken
- SCHEDULE 13 — Hedgerows
 - PART 1 — Hedgerows to be removed
 - PART 2 — Important Hedgerow
- SCHEDULE 14 — Traffic Regulation
- SCHEDULE 15 — Amendment of Local Legislation
- SCHEDULE 16 — Protective Provisions
 - PART 1 — Protection for Network Rail Infrastructure Limited
 - PART 2 — Protection for Electricity, Gas, Water, Petroleum and Sewerage Undertakers
 - PART 3 — Protection for Operators of Electronic Communications Code Networks
 - PART 4 — Protection for the Environment Agency
 - PART 5 — Protection for First Corporate Shipping Limited
 - PART 6 — Protection for Exolum Pipeline System Ltd

- PART 7 — For the protection of Western Power Distribution Limited (South West) Plc
- PART 8 — For the mutual protection of National Grid and the Railway Undertaker
- PART 9 — For the protection of Wales and West Utilities (“WWU”)
- PART 10 — For the protection of the National Trust
- SCHEDULE 17 — Documents to be Certified

An application has been made to the Secretary of State under section 37 of the Planning Act 2008(a) (“the 2008 Act”) in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(b) for an Order granting development consent.

The application was examined in accordance with Chapter 4 of Part 6 of the 2008 Act, and the Infrastructure Planning (Examination Procedure) Rules 2010(c), by a Panel appointed as an Examining authority appointed by the Secretary of State in accordance with Chapter 3 of Part 6 of the 2008 Act.

The Panel appointed as an Examining authority, having considered the representations made and not withdrawn has, in accordance with Section 74 (2) of the 2008 Act, made a report and recommendation to the Secretary of State.

The Secretary of State, having considered the representations made and not withdrawn, and the report of the Panel appointed as an Examining authority, has decided to make an Order granting development consent for the development described in the application and consent for ancillary works with modifications which in the opinion of the Secretary of State do not make any substantial change to the proposals comprised in the application.

In accordance with section 131(5) of the 2008 Act, the Secretary of State is satisfied, that where this Order authorises the compulsory acquisition of land forming part of an open space being the cycle track special category land (as defined in article 54 of this Order) that land is less than 200 square metres in extent and the giving in exchange of other land is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public.

In accordance with section 132(3) of the 2008 Act, the Secretary of State is satisfied, that where this Order authorises the compulsory acquisition of a right over other land forming part of an open space that land, when burdened with the order right, will be no less advantageous than it was before to the persons in whom it is vested, other persons, if any, entitled to rights of common or other rights in the land, and the public.

The Secretary of State, in exercise of the powers conferred by sections 114, 115, 120 and 122 of, and paragraphs 1 to 3, 10 to 17, 24, 26, 36 and 37 of Part 1 of Schedule 5 to, the 2008 Act, makes the following Order—

(a) 2008 c. 29. Parts 1 to 7 were amended by Chapter 6 of Part 6 of the Localism Act 2011 (c. 20).
(b) S.I. 2009/2264, amended by S.I. 2010/439, S.I. 2010/602, S.I. 2012/635, S.I. 2012/2654, S.I. 2012/2732, S.I. 2013/522, S.I. 2013/755, S.I. 2014/469, S.I. 2014/2381, S.I. 2015/377, S.I. 2015/1682, S.I. 2017/524, S.I. 2017/752 and S.I. 2018/378.
(c) S.I. 2010/103 amended by S.I. 2012/635.

PART 1

Preliminary

Citation and commencement

1. This Order may be cited as the Portishead Branch Line (MetroWest Phase 1) Order 202X and comes into force on [●] 202[*].

Interpretation

2.—(1) In this Order—

“the 1961 Act” means the Land Compensation Act 1961(a);

“the 1965 Act” means the Compulsory Purchase Act 1965(b);

“the 1980 Act” means the Highways Act 1980(c);

“the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981(d);

“the 1984 Act” means the Road Traffic Regulation Act 1984(e);

“the 1990 Act” means the Town and Country Planning Act 1990(f)

“the 1991 Act” means the New Roads and Street Works Act 1991(g)

“the 2003 Act” means the Communications Act 2003(h);

“the 2008 Act” means the Planning Act 2008(i);

“the 2009 Regulations” means the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009;

“the 2017 Act” means the Neighbourhood Planning Act 2017(j);

“address” includes any number or address used for the purposes of electronic transmission;

“authorised development” means the development and associated development described in Schedule 1 (authorised development) and any other development authorised by this Order, which is development within the meaning of section 32 (meaning of development) of the 2008 Act;

“authorised railway works” means those parts of the authorised development that are on land that is or will become operational railway land;

“Avon Gorge Woodlands SAC” means the Avon Gorge Woodlands Special Area of Conservation (EU Code UK0012734);

“Avon Gorge Vegetation Management Plan” means the management plan for the management of the construction of the authorised development within the Avon Gorge Woodlands SAC agreed by Network Rail and the undertaker in consultation with Natural England and certified as such by the Secretary of State;

“the book of reference” means the book of reference certified by the Secretary of State as the book of reference for the purposes of this Order;

(a) 1961 c. 33.

(b) 1965 c. 56.

(c) 1980 c. 66.

(d) 1981 c. 66.

(e) 1984 c. 27.

(f) 1990 c. 8.

(g) 1991.c. 22.

(h) 2003 c. 21. The relevant provisions of the Communications Act 2003 amended by section 4 of the Digital Economy Act 2017 (2017 c. 30).

(i) 2008 c. 29. The relevant provisions of the Planning Act 2008 are amended by the following: Chapter 6 of Part 6 of, and Schedules 13 and 25(21) to the Localism Act 2011 (c. 20); sections 22 to 27 of the Growth and Infrastructure Act 2013 (c. 27); S.I. 2013/1883; Schedule 16 to the Housing and Planning Act 2016 (c. 22); S.I. 2017/1285 and S.I. 2009/1307.

(j) 2017 c. 20.

“bridleway” has the same meaning as in the 1980 Act;

“building” includes any structure or erection or any part of a building, structure or erection;

“carriageway” has the same meaning as in the 1980 Act;

“COCP” means the document certified as the Code of Construction Practice by the Secretary of State for the purposes of this Order;

“commence” means beginning to carry out any 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, archaeological investigations, receipt and erection of construction plant and equipment, utility diversions, laying out of compounds, works to clear watercourses, erection of any temporary means of enclosure, erection of protective fencing, the temporary display of site notices or advertisements, and “commencement” is to be construed accordingly;

“the compounds, haul roads and access to works plan” means the document certified by the Secretary of State as the compounds, haul roads and access to works plan for the purposes of this Order;

“compulsory acquisition notice” means a notice served in accordance with section 134 (notice of authorisation of compulsory acquisition) of the 2008 Act;

“crossings to be extinguished plans” means the plan certified as the crossings to be extinguished plans by the Secretary of State for the purposes of this Order;

“CTMP” Construction Traffic Management Plan means the document certified as such by the Secretary of State for the purposes of this Order;

“cycle track” has the same meaning as in section 329(1) (further provisions as to interpretation) of the 1980 Act(a);

“the design drawings” means the drawings described as such in Schedule 17 (documents to be certified) and certified as the design drawings by the Secretary of State for the purposes of this Order;

“electronic transmission” means a communication transmitted—

- (a) by means of an electronic communications network; or
- (b) by other means provided it is in electronic form;

“the environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of this Order;

“first open for use” means—

- (a) in respect of railway related activities, the date on which Works Nos. 1, 1A and 1B are first used for revenue earning purposes by the passage of passenger carrying railway vehicles; and
- (b) in respect of highway related activities, the date the new highway is first available for the public to pass and repass;

“footpath” has the same meaning as in the 1980 Act;

“hedgerow location plan” means the plan certified as the hedgerow location plan by the Secretary of State for the purposes of this Order;

“highway” has the same meaning as in the 1980 Act;

“IDB” means the North Somerset Levels Internal Drainage Board;

“the important hedgerow plan” means the plan certified as the important hedgerow plan by the Secretary of State for the purposes of this Order;

(a) The definition of “cycle track” was amended by section 1 of the Cycle Tracks Act 1984 (c. 38) and paragraph 21(2) of Schedule 3 to the Road Traffic (Consequential Provisions) Act 1988 (c. 54)

“the land plan” means the plans certified as the land plan by the Secretary of State for the purposes of this Order;

“limits of deviation” means the limits of deviation for Work Nos 1, 1A, 1B and 1C, shown on the works plans;

“limits of land to be acquired or used” means the limits of land to be acquired or used shown on the land plan;

“maintain” includes, to the extent assessed in the environmental statement, inspect, repair, adjust, alter, remove, reconstruct, replace or improve in relation to the authorised development and any derivative of “maintain” is to be construed accordingly;

“Master CEMP” means the document certified as the Master Construction Environmental Management Plan” by the Secretary of State for the purposes of this Order;

“Network Rail” means Network Rail Infrastructure Limited, company number 02904587 registered at 1 Eversholt Street, London, NW1 2DN and includes any successor in function to Network Rail authorised to operate that part of the national rail network that the authorised development is or will be included in;

“New highways plan” means the plan certified as the new highways plan by the Secretary of State for the purpose of this Order;

“operational railway land” means—

- (a) land required permanently for the construction and operation of Works Nos. 1, 1A and 1B;
- (b) any part of the existing railway corridor owned by Network Rail between Ashton Junction and Portbury Junction; and
- (c) land forming permanent maintenance compounds held by Network Rail for the maintenance of the railways referred to in sub-paragraphs (a) and (b)
and includes associated works, structures, embankments, cuttings, stations, bridges and culverts;

“Order land” means the land shown on the land plan which is within the limits of land to be acquired or used and described in the book of reference;

“the Order limits” means the Order limits shown on the works plans;

“owner” in relation to land, has the same meaning as in section 7 (interpretation) of the Acquisition of Land Act 1981(a);

“the permanent and temporary stopping up and diversion plan” means the plan certified as the permanent and temporary stopping up and diversion plan by the Secretary of State for the purposes of this Order;

“permanent traffic regulation order plans” means the documents certified by the Secretary of State as the permanent traffic regulation order plans for the purposes of this Order;

“Portishead Railway Acts” means the Bristol and Portishead Pier and Railway Act 1863(b) and the Bristol and Portishead Pier and Railway Act 1866(c);

“private means of access” means a private access to the highway network from neighbouring land;

“relevant highway authority” means North Somerset District Council for highways within the administrative area of North Somerset District Council and Bristol City Council for highways within the administrative area of Bristol City Council or any successor highway authority to those authorities;

(a) 1981 c. 67. Section 7 was amended by section 70 of, and paragraph 9 of Schedule 15 to, the Planning and Compensation Act 1991 (c. 34). There are other amendments to the 1981 Act which are not relevant to this Order.

(b) 26 & 27 Vict. c. cvii.

(c) 29 & 30 Vict. c. lxxxviii.

“relevant lead local flood authority” means North Somerset District Council for land within the administrative area of North Somerset District Council and Bristol City Council for land within the administrative area of Bristol City Council as lead local flood authority and any successor flood authority to these authorities;

“relevant planning authority” for land within the administrative area of North Somerset District Council means North Somerset District Council or for land within the administrative area of Bristol City Council means Bristol City Council or any successor planning authority to those authorities;

“the section drawings” means the drawings certified as the section drawings by the Secretary of State for the purposes of this Order;

“statutory undertaker” has the same meaning as in section 127(8) (statutory undertakers land), of the 2008 Act;

“street” means a street within the meaning of section 48 (streets, street works and undertakers) of the 1991 Act, together with land on the verge of a street or between two carriageways, and includes part of a street;

“street authority” in relation to a street, has the same meaning as in Part 3 of the 1991 Act;

“traffic authority” has the same meaning as in section 121A (traffic authorities) of the 1984 Act;

“the tribunal” means the Lands Chamber of the Upper Tribunal;

“undertaker” means—

- (a) North Somerset District Council; and
- (b) subject to articles 9 (benefit of Order), 10 (consent to transfer benefit of Order) and 11 (agreements with Network Rail) any other person who has the benefit of this Order in accordance with section 156 (benefit of order granting development consent) of the 2008 Act for such time as that section applies to that person;

“watercourse” includes all streams, ditches, drains, cuts, culverts, dykes, rhynes, sluices, sewers and passages through which water flows except a public sewer or drain; and

“the works plans” means the plans certified as the works plans by the Secretary of State for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do or to place and maintain, anything in, on or under land or in the air-space above its surface and references in this Order to the imposition of restrictive covenants are references to the creation of rights over the land which interfere with the interests or rights of another and are for the benefit of land which is acquired under this Order or which is an interest otherwise comprised in the Order land.

(3) All distances, directions, lengths and areas referred to in this Order are approximate and distances between points on a work comprised in the authorised development are taken to be measured along that work.

(4) References in this Order to points identified by letters, with or without numbers, are to be construed as references to points so lettered on the relevant plans.

(5) References in this Order to numbered works are references to the works as numbered in Schedule 1 (authorised development).

Incorporation of the Railway Clauses Acts

3.—(1) The following provisions of the Railways Clauses Consolidation Act 1845^(a) are incorporated in this Order—

(a) 1845 c. 20. Section 46 was amended by sections 109(1) and (3) of, and paragraph 22 of Schedule 8, and Schedule 10 to, the Courts Act 2003 (c. 39). Section 58 was amended by section 46 of, and Part 3 of Schedule 7 to, the Justices of the Peace Act 1949 (c. 101). Section 78 was amended by section 39(3) of, and Schedule 7 to, the Compulsory Purchase Act 1965 (c. 56) and articles 5(1) and (2) of, and paras 1 and 3 of Schedule 1 to, S.I. 2009/1307. Section 105 was amended by section 46 of, and Part 3 of Schedule 7 to, the Justices of the Peace Act 1949 (c. 101), and section 31(6) of the Criminal Law Act 1977 (c.

- (a) section 46 (crossing of roads – level crossings), subject to paragraph (4);
 - (b) section 58 (company to repair roads used by them), except for the words from “and if any question” to the end;
 - (c) section 61 (company to make sufficient approaches and fences to highways crossing on the level);
 - (d) section 68 (accommodation works by company);
 - (e) section 71 (additional accommodation works by owners), except for the words “or directed by such justices to be made by the company” and “or, in case of difference, as shall be authorised by two justices”;
 - (f) sections 72 and 73 (supplementary provisions relating to accommodation works);
 - (g) section 77 (presumption that minerals excepted from acquisition of land);
 - (h) sections 78 to 83, 85 to 85E and Schedules 1 to 3 (minerals under railways), as respectively substituted and inserted by section 15 of the Mines (Working Facilities and Support) Act 1923(a); and
 - (i) section 105 (carriage of dangerous goods on railway), except for the words from “and if any person” to “for every such offence”.
- (2) The following provisions of the Railways Clauses Act 1863(b) are incorporated in this Order—
- (a) sections 5 and 7 (level crossings); and
 - (b) section 12 (signals, watchmen etc.).
- (3) In those provisions, as incorporated in this Order—
- “the company” means the undertaker and, for land that is within that part of the Order limits which is either existing operational railway or which will become operational railway, Network Rail;
- “goods” includes anything conveyed on the railway authorised to be constructed by this Order;
- “lease” includes an agreement for a lease;
- “prescribed” in relation to any such provision means prescribed by this Order for the purposes of that provision;
- “the railway” means any railway authorised to be constructed by this Order and any other authorised development; and
- “the special Act” means this Order.
- (4) In section 46 of the Railways Clauses Consolidation Act 1845, as incorporated in this Order, for the proviso there is substituted “provided always that, with the consent of the relevant highway authority and subject to such conditions as the authority may reasonably impose, the railway may be carried across a highway on the level”.

PART 2

Principal powers

Application and modification of legislation

4.—(1) The provisions of Chapter 1 of Part 2 of the 2017 Act do not apply as regards the temporary possession or use of land under articles 33 and 34 of this Order or to anything else done under this Order.

45), and sections 37 and 49 of the Criminal Justice Act 1982 (c. 48). There are other amendments to the 1845 Act not relevant to this Order.

(a) 1923 c. 20. Section 15 was amended by section 10(1) of the Decimal Currency Act 1969 (c. 19).

(b) 1863 c. 92.

(2) Despite the provisions of section 208 (liability) of the 2008 Act, for the purposes of Regulation 6 of the Community Infrastructure Levy Regulations 2010^(a) any building comprised in the authorised development is deemed to be—

- (a) a building into which people do not normally go; or
- (b) a building into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery.

Development consent etc. granted by the Order

5. Subject to the provisions of this Order, including the requirements in Schedule 2 (requirements), the undertaker is granted development consent for the authorised development to be carried out within the Order Limits.

Planning permission

6.—(1) If planning permission is granted under the powers conferred by the 1990 Act for development any part of which is within the Order limits following the coming into force of this Order that is—

- (a) not itself a nationally significant infrastructure project under the 2008 Act or part of such a project; or
- (b) required to complete or enable the use or operation of any part of the development authorised by this Order,

then the carrying out, use or operation of such development under the terms of the planning permission does not constitute a breach of the terms of this Order.

(2) The provisions of this Order do not preclude or apply to any development, or any part of a development, which is carried out by, or used by, Network Rail on any land (whether or not within the Order limits)—

- (a) that is or will become operational railway land and is carried out in accordance with any planning permission granted under the 1990 Act including a planning permission granted under article 3 and Class A of Part 8 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015^(b); or
- (b) that is carried out in accordance with any planning permission granted under the 1990 Act including a planning permission granted under article 3 and Class A of Part 18 of Schedule 2 to that Order.

Limits of deviation

7.—(1) In constructing or maintaining Works Nos. 1, 1A, 1B and 1C the undertaker may deviate—

- (a) laterally from the lines or situations shown on the works plans to the extent of the limits of deviation so shown for the work; and
- (b) vertically from the levels shown on the section drawings—
 - (i) to any extent upwards not exceeding 0.5 metres; and
 - (ii) to any extent downwards not exceeding 0.5 metres.

(2) In constructing or maintaining any other work comprised in the authorised development the undertaker must construct any such work within the extents of work shown on the works plans for the relevant work.

(a) S.I. 2010/948, amended by S.I. 2011/987; there are other amending instruments but none are relevant.

(b) S.I. 2015/596.

Maintenance of authorised development

8.—(1) The undertaker may at any time maintain the authorised development, except to the extent that this Order or an agreement made under this Order provides otherwise.

(2) Paragraph (1) does not authorise any works which are likely to give rise to any materially new or materially different effects that have not been assessed in the environmental statement.

Benefit of Order

9. Subject to article 10 (consent to transfer benefit of Order), article 11 (agreements with Network Rail) and article 27 (6) (compulsory acquisition of rights or imposition of covenants) the provisions of this Order conferring powers on the undertaker have effect solely for the benefit of the undertaker.

Consent to transfer benefit of Order

10.—(1) The undertaker may—

- (a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed between the undertaker and the transferee; or
- (b) grant to another person (“the lessee”) for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order and such related statutory rights as may be so agreed.

(2) Where an agreement has been made in accordance with paragraph (1) references in this Order to the undertaker, except in paragraph (3), include references to the transferee or the lessee.

(3) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

(4) The consent of the Secretary of State and the consent of Network Rail are required for a transfer or grant under this article unless such transfer or grant is to Network Rail in accordance with an agreement made under article 11 (agreements with Network Rail).

Agreements with Network Rail

11.—(1) The undertaker and Network Rail may enter into and carry into effect agreements with respect to the construction, maintenance, use and operation of—

- (a) the authorised development or any part of the authorised development; and
- (b) any works required for the purposes of or in connection with the authorised development by Network Rail or by the undertaker, or by the undertaker and Network Rail jointly.

(2) Any agreement made pursuant to the powers conferred by this article may contain such incidental, consequential or supplementary provisions as may be agreed, including (but without limitation on the scope of paragraph (1)), provisions—

- (a) with respect to the defraying of, or the making of contributions towards, the cost of such construction, maintenance, use and operation as are referred to in paragraph (1) by the undertaker or by Network Rail or by the undertaker and Network Rail jointly;
- (b) for the exercise by Network Rail, or by the undertaker, or by Network Rail and the undertaker jointly, of all or any of the powers and rights of Network Rail and the undertaker (as the case may be) in respect of any of the authorised development and any works required for the purposes of, or in connection with, those works; and
- (c) without limitation on the scope of sub-paragraph (b), for the exercise by Network Rail, or by Network Rail and the undertaker jointly, of all or any of the powers under this Order for, or relating to, the compulsory acquisition or the taking of temporary possession of any land or rights over land.

(3) The exercise by the undertaker or Network Rail or by the undertaker and Network Rail jointly, of any powers and rights under any enactment or contract pursuant to any such agreement as is authorised by paragraph (1) is subject to all statutory and contractual provisions relating to it as would apply if such powers and rights were exercised by the undertaker or Network Rail (as the case may be) alone, and accordingly such provisions, with any necessary modifications, apply to the exercise of such powers and rights by the undertaker or Network Rail or by the undertaker and Network Rail jointly, as the case may be.

(4) The undertaker and Network Rail may enter into, and carry into effect, agreements for the transfer to and vesting in Network Rail or the undertaker, or the undertaker and Network Rail jointly of—

- (a) any of the authorised development or any part of that development; or
- (b) any works, lands or other property required for the purposes of the authorised development or in connection with such development,

together with any rights and obligations (whether or not statutory) of Network Rail or the undertaker relating to them.

PART 3

Streets, Highways and Level Crossings

Application of the 1991 Act

12.—(1) Works carried out under this Order in relation to a highway which consists of or includes a carriageway are to be treated for the purposes of Part 3 of the 1991 Act (street works in England and Wales) as major transport works if—

- (a) they are of a description mentioned in any of paragraphs (a), (c) to (e), (g) and (h) of section 86(3) (highway authorities, highways and related matters) of that Act (which defines what highway authority works are major highway works); or
- (b) they are works which, had they been executed by the highway authority, might have been carried out in exercise of the powers conferred by section 64 of the 1980 Act (dual carriageways and roundabouts)(a).

(2) In Part 3 of the 1991 Act references, in relation to major highway works, to the highway authority concerned are, in relation to works which are major highway works by virtue of paragraph (1), to be construed as references to the undertaker.

(3) The following provisions of the 1991 Act do not apply in relation to any works executed under the powers of this Order—

- (a) section 56 (directions as to timing)(b);
- (b) section 56A (power to give directions as to placing of apparatus)(c);
- (c) section 58 (restrictions following substantial road works)(d);
- (d) section 58A (restriction on works following substantial street works)(e);
- (e) section 73A (power to require undertaker to re-surface street);
- (f) section 73B (power to specify timing etc. of re-surfacing);

(a) 1980 c. 66. Section 64 was amended by Schedule 17 to the Local Government Act 1985 (c. 51) and Schedule 9 to the New Roads and Street Works Act 1991 (c. 22).

(b) 1991 c. 22. Section 56(1), (1A) and (3A) were amended by section 43 of the Traffic Management Act 2004 (c. 18). Section 56(3) was amended by Schedule 1 to the Traffic Management Act 2004 (c. 18).

(c) 1991 c. 22. Section 56A was inserted by section 44 of the Traffic Management Act 2004 (c. 18).

(d) 1991 c. 22. Sections 58(1) (2) (4) (7) and (7A) were amended by section 51 of the Traffic Management Act 2004 (c. 18). Section 58(3) was amended by section 51(4) of the Traffic Management Act 2004 (c. 18). Section 58(6) was amended by Schedule 1 to the Traffic Management Act 2004 (c. 18).

(e) 1991 c. 22. Section 58A was inserted by section 52(1) of the Traffic Management Act 2004 (c. 18).

- (g) section 73C (materials, workmanship and standard of re-surfacing);
- (h) section 78A (contributions to costs of re-surfacing by undertaker); and
- (i) Schedule 3A (restriction on works following substantial street works)(a).

(4) The provisions of the 1991 Act mentioned in paragraph (5) (which, together with other provisions of that Act, apply in relation to the carrying out of street works) and any regulations made, or code of practice issued or approved under those provisions apply (with the necessary modifications) in relation to the carrying out of works under article 13 (street works and power to alter the layout etc. of streets) whether or not the carrying out of such works constitutes street works within the meaning of that Act or any stopping up, alteration or diversion of a street under article 15 (temporary stopping up of streets and public rights of way).

(5) The provisions of the 1991 Act referred to in paragraph (4) are—

- (a) section 54 (advance notice of certain works), subject to paragraph (4)(b);
- (b) section 55 (notice of starting date of works), subject to paragraph (4)(c);
- (c) section 57 (notice of emergency works)(d);
- (d) section 59 (general duty of street authority to co-ordinate works)(e);
- (e) section 60 (general duty of undertakers to co-operate)(f);
- (f) section 68 (facilities to be afforded to street authority)(g);
- (g) section 69 (works likely to affect other apparatus in the street);
- (h) section 76 (liability for cost of temporary traffic regulation)(h); and
- (i) section 77 (liability for cost of use of alternative route); and all such other provisions as apply for the purposes of the provisions mentioned above.

(6) Sections 54 and 55 of the 1991 Act as applied by paragraph (4) have effect as if references in section 57 of that Act to emergency works included a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

Street works and power to alter the layout etc. of streets

13.—(1) The undertaker may, for the purposes of the authorised development, enter on so much of any of the streets specified in Schedule 3 (streets subject to street works) as is within the Order limits and may—

- (a) break up or open the street, or any sewer, drain or tunnel within or under it;
- (b) tunnel or bore under the street or carry out any works to strengthen or repair the carriageway;
- (c) remove or use all earth and material in or under the street;
- (d) place and keep apparatus under the street;
- (e) maintain, alter or renew apparatus in the street or change its position;
- (f) demolish, remove, replace and relocate any street furniture within the street;
- (g) execute any works to improve sight lines;
- (h) execute and maintain any works to provide hard and soft landscaping;
- (i) carry out re-lining and placement of road markings;

(a) 1991 c. 22. Schedule 3A was amended by Schedule 4 of the Traffic Management Act 2004 (c. 18).
 (b) 1991 c. 22. Section 54 was amended by sections 40(1) and (2) and 49 of and Schedule 1 to the Traffic Management Act 2004 (c. 18).
 (c) 1991 c. 22. Section 55 was amended by sections 40(1) and (2), 49 and 51 of and Schedule 1 to the Traffic Management Act 2004 (c. 18).
 (d) 1991 c. 22. Section 57 was amended by section 52 of and Schedule 1 to the Traffic Management Act 2004 (c. 18).
 (e) 1991 c. 22. Section 59 was amended by section 42 of the Traffic Management Act 2004 (c. 18).
 (f) 1991 c. 22. Section 60 was amended by Schedule 1 to the Traffic Management Act 2004 (c. 18).
 (g) 1991 c. 22. Section 68 was amended by Schedule 1 to the Traffic Management Act 2004 (c. 18).
 (h) 1991 c. 22. Section 69 was amended by Schedule 1 to the Traffic Management Act 2004 (c. 18).

- (j) remove and install temporary and permanent signage;
- (k) make and maintain crossovers and passing places;
- (l) execute any works of surfacing or re-surfacing of the highway; and
- (m) execute any works required for or incidental to any works referred to in sub-paragraphs (a) to (l).

(2) Without limitation on the scope of the specific powers conferred by paragraph (1) but subject to paragraph (4), the undertaker may, for the purposes of constructing and maintaining any part of the authorised development, alter the layout of any street within the Order limits and the layout of any street having a junction with such a street; and, without limitation on the scope of that power, the undertaker may—

- (a) increase the width of the carriageway of the street by reducing the width of any kerb, splitter island, footpath, footway, cycle track or verge within the street;
- (b) alter the level or increase the width of any such kerb, splitter island, footpath, footway, cycle track or verge; and
- (c) reduce the width of the carriageway of the street.

(3) The undertaker must restore to the reasonable satisfaction of the street authority any street which has been temporarily altered under this article.

(4) The powers conferred by paragraph (2) are not to be exercised without the consent of the street authority, but such consent must not be unreasonably withheld.

(5) In this article “apparatus” has the same meaning as in Part 3 of the 1991 Act.

Permanent stopping up of streets

14.—(1) Subject to the provisions of this article, the undertaker may, in connection with the carrying out of the authorised development—

- (a) stop up the street specified in columns (1) and (2) of Part 1 of Schedule 4 (streets to be stopped up) to the extent specified in column (3) of that part of that Schedule; and
- (b) stop up the streets specified in columns (1) and (2) of Part 2 of Schedule 4 to the extent specified in column (3) of that part of that Schedule.

(2) The street specified in columns (1) and (2) of Part 1 of Schedule 4 is not to be wholly or partly stopped up under this article unless—

- (a) the new street to be constructed and substituted for it, which is specified in column (4) of that Part of that Schedule, has been constructed and completed to the reasonable satisfaction of the street authority and is open for use; or
- (b) a temporary alternative route for the passage of such traffic as could have used the street to be stopped up is first provided and subsequently maintained by the undertaker, to the reasonable satisfaction of the relevant highway authority, between the commencement and termination points for the stopping up of the street until the completion and opening of the new street in accordance with sub-paragraph (a).

(3) Where a street has been stopped up under this article—

- (a) all rights of way over or along the street so stopped up are extinguished; and
- (b) the undertaker may appropriate and use for the purposes of the authorised development so much of the site of the street as is bounded on both sides by land owned by the undertaker.

(4) Any person who suffers loss by the extinguishment of any private right of way or private means of access under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

Temporary stopping up of streets and public rights of way

15.—(1) Subject to paragraph (4) the undertaker, during and for the purposes of carrying out the authorised development, may temporarily stop up, alter or divert any street or public right of way or any part of a street or public right of way within the Order limits and may for any reasonable time—

- (a) divert the traffic from the street or public right of way; and
- (b) subject to paragraph (3), prevent all persons from passing along the street or public right of way.

(2) Without limitation on the scope of paragraph (1) the undertaker may use any street or public right of way temporarily stopped up and lying within the Order limits as a temporary working site under the powers conferred by this article.

(3) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street or public right of way affected by the temporary stopping up, alteration or diversion of a street under this article if there would otherwise be no such access.

(4) The street specified in columns (1) and (2) of Part 1 of Schedule 5 (streets to be stopped up temporarily) is not to be wholly or partly stopped up under this article to the extent specified, by reference to the letters and numbers shown on the permanent and temporary stopping up and diversion plan, in column (3) of that Schedule, unless the temporary alternative route to be constructed and substituted for it, which is specified in column (4) of that Part of that Schedule, has been constructed and completed to the reasonable satisfaction of the street authority and is open for use.

(5) Without limitation on the scope of paragraph (1), the undertaker may temporarily stop up the public rights of way described in Part 2 of Schedule 5 (streets to be stopped up temporarily) to the extent specified in column (3) of that part of that Schedule.

(6) The undertaker may not temporarily stop up, alter, divert or use as a temporary working site—

- (a) any street or public right of way specified as mentioned in Schedule 3 (streets subject to street works) or paragraphs (4) or (5) without first consulting the street authority; and
- (b) any other street or public right of way without the consent of the street authority which may attach reasonable conditions to any consent in relation to the placing of street notices and traffic signs.

(7) Any person who suffers loss by the suspension of any private right of way or private means of access under this article is entitled to compensation to be determined, in case of dispute, by the tribunal pursuant to Part 1 of the 1961 Act.

Bridleways, cycle tracks and footpaths

16.—(1) With effect from the date of coming into force of this Order, the public right of way (being a footpath) specified in columns (1) and (2) of Part 1 of Schedule 6 (bridleways, cycle tracks and footpaths) and all private rights of way (if any) are stopped up to the extent specified in column (3) of that Part of that Schedule.

(2) With effect from the date of coming in to force of this Order the section of footpath specified in column (4) of Part 1 of Schedule 6 is created.

(3) Unless otherwise agreed with the relevant planning authority, the new public rights of way set out in Part 2 of Schedule 6 and identified on the new highways plan are to be constructed by the undertaker in the specified locations and open for use from the date that part of the authorised development consisting of the new railway is first open for use.

Access to works

17. The undertaker may, for the purposes of the authorised development—

- (a) form and lay out means of access, or improve existing means of access, in the locations specified in columns (1) and (2) of Schedule 7 (access to works) and shown on the compounds, haul roads and access to works plan; and
- (b) with the approval of the relevant planning authority after consultation with the relevant highway authority, form and lay out such other means of access or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised development.

Agreements with street authorities

- 18.—**(1) A street authority and the undertaker may enter into agreements with respect to—
- (a) the construction of any new street, including any structure carrying the street over or under a railway authorised by the Order;
 - (b) the strengthening, improvement, repair or reconstruction of any street under the powers of this Order;
 - (c) the maintenance of the structure of any bridge or tunnel carrying a street over or under any authorised railway;
 - (d) any stopping up, alteration or diversion of a street under the powers conferred by this Order; or
 - (e) the carrying out in the street of any of the works referred to in article 13(1) (street works and power to alter the layout etc. of streets);
- (2) Such an agreement may, without limitation on the scope of paragraph (1)—
- (a) make provision for the street authority to carry out any function under this Order which relates to the street in question;
 - (b) include an agreement between the undertaker and the street authority specifying a reasonable time for the completion of the works; and
 - (c) contain such terms as to payment and otherwise as the parties consider appropriate.

Construction and maintenance of new or altered streets

19.—(1) Any street to be constructed under this Order must be completed to the reasonable satisfaction of the street authority and unless otherwise agreed with the street authority, must be maintained by and at the expense of the undertaker for a period of 12 months from its completion and from the expiry of that period by and at the expense of the street authority.

(2) Where a street is altered or diverted under this Order, the altered or diverted part of the street must, when completed to the reasonable satisfaction of the street authority, unless otherwise agreed with the street authority, be maintained by and at the expense of the undertaker for a period of 12 months from its completion and from the expiry of that period by and at the expense of the street authority.

(3) The date of completion of any works referred to in paragraphs (1) and (2) is to be agreed between the undertaker and the street authority, acting reasonably.

Closure of level crossings and crossings over disused railway

20.—(1) Subject to paragraph (3), the crossings specified in columns (1) and (2) of Part 1 of Schedule 8 (closure of crossings) are to be permanently stopped up and discontinued.

(2) Subject to paragraph (3), upon the stopping up and discontinuance of any crossing referred to in paragraph (1), all public or private rights of way (if any) over the part of the crossing specified in relation to it in column (3) of Part 1 of Schedule 8 are extinguished.

(3) Paragraphs (1) and (2) are not to take effect with respect to the permanent stopping up and discontinuance of a crossing specified in columns (1), (2) and (3) of Part 1 of Schedule 8 until the replacement specified in relation to it in column (4) of that Part of that Schedule has been constructed and completed to the reasonable satisfaction of the street authority and is open for use.

(4) The undertaker may, during and for the purposes of carrying out the authorised development, temporarily stop up the crossing specified in columns (1), (2) and (3) of Part 2 of Schedule 8 in accordance with paragraph (5).

(5) Any temporary stopping up of the crossing specified in columns (1), (2) and (3) of Part 2 of Schedule 8 must not take place until a temporary alternative route is first provided by the undertaker in relation to it as specified in column (4) of that Part of that Schedule, to the reasonable satisfaction of the relevant highway authority, and such replacement route (or any subsequently agreed variation or substitute for that route) must be maintained and available for use at all reasonable times (unless the temporary alternative route is closed because it cannot be used safely) until Work Nos. 7, 7A, 7B and 7C are completed and open for use.

(6) The crossings specified in columns (1) and (2) of Part 3 of Schedule 8 (closure of crossings) are permanently stopped up and discontinued to the extent specified in column (3) of that part of that Schedule on the date this Order comes in to force.

(7) Upon the permanent closure of each of the crossings referred to in paragraph (6), all public or private rights of way (if any) over the part of the crossings specified in relation to it in column (3) of Part 3 of Schedule 8 are extinguished.

(8) Any person who suffers loss by the extinguishment or suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, by the tribunal pursuant to Part 1 of the 1961 Act^(a).

(9) In this article and in Schedule 8 “crossing” includes a level crossing, a former level crossing and a permissive crossing of the railway or disused railway.

Accommodation and occupation crossings

21.—(1) Subject to paragraph (2) and regardless of anything in section 68 (accommodation works by Company) of the Railways Clauses Consolidation Act 1845 as incorporated in the Portishead Railway Acts or any other enactment or instrument, all public or private rights of way (if any) afforded by means of the accommodation or occupation facilities specified in columns (1) and (2) of Parts 1 and 2 of Schedule 9 (accommodation and occupation crossings), including those specified in column (3) of Parts 1 and 2 of that Schedule, are extinguished.

(2) Paragraph (1) does not take effect with respect to the extinguishment of the public or private rights of way (if any) by means of a facility specified in columns (1) and (2) of Part 1 of Schedule 9 (accommodation and occupation crossings) until the works specified in relation to it in column (4) of Part 1 of that Schedule have been provided.

(3) Paragraph (1) takes effect with respect to the extinguishment of the public or private rights of way (if any) specified in column (3) of Part 2 of Schedule 9 by means of the facilities specified in column (1) and (2) of Part 2 of that Schedule 9 on the date this order comes into force.

(4) Any person who suffers loss by the extinguishment of any private right of way under this article is entitled to compensation to be determined, in case of dispute, by the tribunal pursuant to Part 1 of the 1961 Act.

PART 4

Supplemental powers

Discharge of water

22.—(1) The undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out, operation or maintenance of the authorised development and for that purpose may lay down, take up and alter pipes and may, on any land

(a) 1961 c. 33. Section 1 was amended by S.I. 2009/1307.

within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the undertaker pursuant to paragraph (1) must be determined as if it were a dispute under section 106 of the Water Industry Act 1991^(a) (right to communicate with public sewers).

(3) The undertaker must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose but must not be unreasonably withheld.

(4) The undertaker must not make any opening into any public sewer or drain except—

(a) in accordance with plans approved by the person to whom the sewer or drain belongs but such approval must not be unreasonably withheld; and

(b) where that person has been given the opportunity to supervise the making of the opening.

(5) The undertaker must not, in carrying out or maintaining works pursuant to this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.

(6) The undertaker must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain under the powers conferred by this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(7) Nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) of the Environmental Permitting (England and Wales) Regulations 2016^(b).

(8) In this article—

(a) “public sewer or drain” means a sewer or drain which belongs to a sewerage undertaker, the Environment Agency, an internal drainage board or a local authority; and

(b) other expressions, excluding watercourses, used both in this article and in the Water Resources Act 1991^(c) have the same meaning as in that Act.

Authority to survey and investigate land

23.—(1) The undertaker may for the purposes of this Order enter on any land shown within the Order limits or which may be affected by the authorised development and—

(a) survey or investigate the land;

(b) without limitation on the scope of sub-paragraph (a), make trial holes in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer and subsoil and remove soil samples;

(c) without limitation on the scope of sub-paragraph (a), carry out ecological or archaeological investigations on such land; and

(d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes.

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1), unless at least 14 days’ notice has been served on every owner and occupier of the land.

(3) Any person entering land under this article on behalf of the undertaker—

(a) must, if so required, before or after entering the land produce written evidence of authority to do so; and

(a) 1991 c. 56. Section 106 was amended by section 35(1) and (8) and section 43(2) of, and Schedule 2 to, the Competition and Service (Utilities) Act 1992 (c. 43) and sections 36(2) and 99 of the Water Act 2003 (c. 37) and paragraph 16(1) of Schedule 3 to the Flood and Water Management Act 2016 (c. 29).

(b) S.I. 2016/1154. There are amendments to regulation 12 which are not relevant to this Order.

(c) 1991 c. 57.

(b) may take onto the land such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.

(4) No trial holes may be made under this article—

(a) on land located within the highway boundary without the consent of the relevant highway authority; or

(b) in a private street without the consent of the street authority.

(5) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the powers conferred by this article, such compensation to be determined, in case of dispute, under Part 1 of the 1961 Act (determination of questions of disputed compensation).

PART 5

Powers of acquisition

Compulsory acquisition of land

24.—(1) The undertaker may acquire compulsorily so much of the Order land as is required for the authorised development or to facilitate, or is incidental to, it.

(2) This article is subject to paragraph 27(3) of article 27 (compulsory acquisition of rights or imposition of covenants) article 31 (acquisition of subsoil or airspace only) and paragraph 33(8) of article 33 (temporary use of land for carrying out the authorised development).

Modification of Part 1 of the 1965 Act

25.—(1) Part 1 of the 1965 Act, as applied to this Order by section 125 (application of compulsory acquisition provisions) of the 2008 Act(a), is modified as follows.

(2) In section 4A(1) (extension of time limit during challenge)(b) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 4” substitute “section 118 of the Planning Act 2008 (legal challenges relating to applications for orders granting development consent), the five year period mentioned in article 26 (time limit for exercise of authority to acquire land compulsorily or take land temporarily) of the Portishead Branch Line (MetroWest Phase 1) Order 202*”.

(3) In section 11A (powers of entry: further notice of entry)(c)—

(a) in subsection (1)(a), after “land” insert “under that provision”;

(b) in subsection (2), after “land” insert “under that provision”.

(4) In section 22(2) (expiry of time limit for exercise of compulsory purchase power not to affect acquisition of interests omitted from purchase), for “section 4 of this Act” substitute “article 24 of the Portishead Branch Line (MetroWest Phase 1) Order 202*”.

(5) In Schedule 2A (counter-notice requiring purchase of land not in notice to treat)(d)—

(a) for paragraphs 1(2) and 14(2) substitute—

“(2) But see article 31(3) (acquisition of subsoil, etc., only) of the Portishead Branch Line (MetroWest Phase 1) Order 202* , which excludes the acquisition of subsoil or airspace only from this Schedule;”

and

(a) 2008 c. 29. Section 125 is amended by Schedule 16 to the Housing and Planning Act 2016 (c. 22).

(b) 1965 c. 56. Section 4A(1) was inserted by section 202(1) of the Housing and Planning Act 2016 (c. 22).

(c) 1965 c. 56. Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016 (c. 22).

(d) 1965 c. 56. Schedule 2A was amended by Schedule 17 to the Housing and Planning Act 2016 (c. 22).

(b) after paragraph 29, end insert—

“PART 4

INTERPRETATION

30. In this Schedule, references to entering on and taking possession of land do not include doing so under article 33 (temporary use of land for carrying out the authorised development) or 34 (temporary use of land for maintaining the authorised development) of the Portishead Branch Line (MetroWest Phase 1) Order 202*.”

Time limit for exercise of authority to acquire land compulsorily or take land temporarily

26.—(1) After the end of the period of 5 years beginning on the day on which the Order is made—

- (a) no notice to treat may be served under Part 1 of the 1965 Act; and
- (b) no declaration may be executed under section 4 (execution of declaration) of the 1981 Act^(a) as applied by article 30 (application of Compulsory Purchase (Vesting Declarations) Act 1981).

(2) The authority conferred by article 33 (temporary use of land for carrying out the authorised development) ceases at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents the undertaker remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

Compulsory acquisition of rights or imposition of covenants

27.—(1) Subject to paragraphs (3) and (4) the undertaker may acquire compulsorily such rights over the Order land as may be required for any purpose for which that land may be acquired under article 24 (compulsory acquisition of land) by creating them as well as by acquiring rights already in existence.

(2) The undertaker may impose restrictive covenants affecting any part of the Order land which—

- (a) adjoins or will, on completion of the authorised railway works, adjoin Works Nos. 1, 1A, 1B or 1C or as may be required for the purpose of protecting the authorised railway works; or
- (b) is required for the purposes of ecological or other mitigation.

(3) In the case of the Order land specified in column (1) of Schedule 10 (land in which only new rights etc., may be acquired) the undertaker’s powers of compulsory acquisition are limited to the acquisition of such new rights in the land for the purpose specified in relation to that land in column (2) of that Schedule or the imposition of restrictive covenants in accordance with paragraph (2).

(4) Subject to Schedule 2A (counter-notice requiring purchase of land) to the 1965 Act (as substituted by paragraph 5 of Schedule 11 (modification of compensation and compulsory purchase enactments for creation of new rights or imposition of restrictions)) where the undertaker acquires a right over land or the benefit of a restrictive covenant, the undertaker is not required to acquire a greater interest in that land.

(5) Schedule 11 has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right or the imposition of a restrictive covenant.

(a) 1981 c. 66. Section 4 was amended by sections 184,185 and 199(2) of, and paragraphs 1 and 2 of Part 1 of Schedule 13 to, the Housing and Planning Act 2016 (c. 22).

(6) In any case where the acquisition of new rights under paragraph (1) or the imposition of a restriction under paragraph (2) is required for the purpose of diverting, replacing or protecting apparatus of a statutory undertaker, then

- (a) the undertaker or,
- (b) where the land acquisition powers are exercisable by Network Rail pursuant to an agreement made under article 11 (agreements with Network Rail), Network Rail,

may transfer the power to acquire such rights or impose such restrictions to the relevant statutory undertaker.

(7) The exercise by a statutory undertaker of any power in accordance with a transfer under paragraph (6) is subject to the same restrictions, liabilities and obligations as would apply under this Order if that power were exercised by the undertaker.

(8) Subject to paragraph (9), where any power is transferred to a statutory undertaker in accordance with a transfer under paragraph (6) and the statutory undertaker—

- (a) is liable to pay compensation for the exercise of that power, and
- (b) fails to discharge that liability,

the liability is enforceable against the undertaker.

(9) Nothing in this article affects any agreement between the undertaker or Network Rail and any statutory undertaker receiving the benefit of any power transferred under paragraph (6).

Private rights over land subject to compulsory acquisition or temporary possession

28.—(1) Subject to the provisions of this article, all private rights over land subject to compulsory acquisition under this Order are extinguished—

- (a) from the date of acquisition of the land by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry onto the land by the undertaker under section 11(1) (powers of entry) of the 1965 Act^(a)

whichever is the earlier.

(2) Subject to the provisions of this article, all private rights over land subject to the compulsory acquisition of rights or the imposition of restrictive covenants under this Order are extinguished in so far as their continuance would be inconsistent with the exercise of the right or the burden of the restrictive covenant—

- (a) from the date of the acquisition of the right or the benefit of the restrictive covenant by the undertaker, whether compulsorily or by agreement; or
- (b) on the date of entry onto the land by the undertaker under section 11(1) of the 1965 Act (power of entry),

whichever is the earlier.

(3) Subject to the provisions of this article, all private rights over land of which the undertaker takes temporary possession under this Order are suspended and unenforceable for as long as the undertaker remains in lawful possession of the land.

(4) Any person who suffers loss by the extinguishment or suspension of any private right under this article is entitled to compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(5) This article does not apply in relation to any right to which section 138 (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) of the 2008 Act^(a) or article 37 (Statutory undertakers and electronics communications code network operators) applies.

^(a) 1965 c. 56. Section 11(1) was amended by section 186(1) and (2), section 187(1) and (2) and section 188 of the Housing and Planning Act 2016 (c. 22), Schedule 4 to the Acquisition of Land Act 1981 (c. 67) and section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (2206 No. 1).

- (6) Paragraphs (1) to (3) have effect subject to—
- (a) any notice given by the undertaker before—
 - (i) the completion of the acquisition of the land or the acquisition of the rights or the imposition of restrictive covenants over or affecting the land;
 - (ii) the undertaker’s appropriation of it;
 - (iii) the undertaker’s entry onto it; or
 - (iv) the undertaker’s taking temporary possession of it,
 that any or all of those paragraphs do not apply to any right specified in the notice; and
 - (b) any agreement made at any time between the undertaker and the person in or to whom the right in question is vested or belongs.
- (7) If any such agreement as is referred to in paragraph (6)(b)—
- (a) is made with a person in or to whom the right is vested or belongs; and
 - (b) is expressed to have effect also for the benefit of those deriving title from or under that person

it is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

(8) References in this article to private rights over land include any right of way, trust, incident, easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support and include restrictions as to the user of land arising by virtue of a contract, agreement or undertaking having that effect.

Power to override easements and other rights

29.—(1) Any authorised activity which takes place on land within the Order limits (whether the activity is undertaken by the undertaker or by any person deriving title from the undertaker or by any contractors, servants or agents of the undertaker) is authorised by this Order if it is done in accordance with the terms of this Order, notwithstanding that it involves—

- (a) an interference with an interest or right to which this article applies; or
- (b) a breach of a restriction as to the user of land arising by virtue of a contract.

(2) Any authorised activity which takes place on land within the Order limits (whether the activity is undertaken by the undertaker or Network Rail or by any person authorised by them) is authorised by this Order if it is done in accordance with the terms of this Order, notwithstanding that it involves—

- (a) an interference with an interest or right to which this article applies; or
- (b) a breach of a restriction as to the user of land arising by virtue of a contract

(3) The interests and rights to which this article applies include any right of way, trust, incident, easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support and includes restrictions as to the user of land arising by the virtue of a contract.

(4) Where an interest, right or restriction is overridden by paragraphs (1) or (2) compensation—

- (a) is payable under section 10 (further provision as to compensation for injurious affection) of the 1965 Act as applied by section 152 (compensation in cases where no right to claim in nuisance) of the 2008 Act^(a); and
- (b) is to be assessed in the same manner and subject to the same rules as in the case of other compensation under those sections where—
 - (i) the compensation is to be estimated in connection with a purchase under that Act; or

(a) 2008 c. 29. Section 138 was amended by section 23(4) of the Growth and Infrastructure Act 2013 (c. 27) and regulation 2 of, and paragraph 12 of, Part 1 of Schedule 1 to S.I. 2017/1285.

(b) 2008 c. 29. Section 152 was amended by paragraph 293 of Schedule 1 to S.I. 2009/1307.

- (ii) the injury arises from the execution of works on or use of land acquired under that Act.

(5) Where a relevant person—

- (a) is liable to pay compensation by virtue of paragraph (4); and
- (b) fails to discharge that liability,

the liability is enforceable against the undertaker.

(6) Nothing in this article is to be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than such an interference or breach as is mentioned in paragraphs (1) or (2) of this article.

(7) Nothing in paragraph (6) affects any agreement between the undertaker and the relevant person receiving the benefit of the authorisation under paragraphs (1) or (2).

(8) This article does not apply in relation to any right to which section 138 (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) of the 2008 Act or article 37 (statutory undertakers and electronic communications code network operators) applies.

(9) In this article—

“authorised activity” means—

- (i) the erection, construction or maintenance of any part of the authorised development;
- (ii) the exercise of any power authorised by this Order; or
- (iii) the use of any Order land (including the temporary use of land) for the purposes of the authorised development.

“relevant person” means—

- (iv) a person deriving title under the undertaker;
- (v) Network Rail; or
- (vi) a person deriving title under Network Rail.

Application of Compulsory Purchase (Vesting Declarations) Act 1981

30.—(1) The 1981 Act applies as if this Order were a compulsory purchase order.

(2) The 1981 Act, as applied by paragraph (1), has effect with the following modifications.

(3) In section 5 (earliest date for execution of declaration)(a), in subsection (2), omit the words from “, and this subsection” to the end.

(4) Omit section 5A (time limit for general vesting declaration)(b).

(5) In section 5B (extension of time limit during challenge)(c) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 5A” substitute “section 118 (legal challenges relating to applications for orders granting development consent) of the Planning Act 2008, the five year period mentioned in article 26 of the Portishead Branch Line (MetroWest Phase 1) Order 202*”.

(6) In section 6 (notices after execution of declaration)(d), in subsection (1)(b), for “section 15 of, or paragraph 6 of Schedule 1 to, the Acquisition of Land Act 1981” substitute “section 134 (notice of authorisation of compulsory acquisition) of the Planning Act 2008”.

(7) In section 7 (constructive notice to treat)(e) in subsection (1)(a), omit “(as modified by section 4 of the Acquisition of Land Act 1981)”.

(a) 1981 c. 66. Section 5 was amended by section 183 of, and Schedule 15 to, the Housing and Planning Act 2016 (c. 22).

(b) 1981 c. 66. Section 5A was inserted by section 182(2) of the Housing and Planning Act 2016 (c. 22).

(c) 1981 c. 66. Section 5B was inserted by section 202(2) of the Housing and Planning Act 2016 (c. 22).

(d) 1981 c. 66. Section 6 was amended by section 183 of, and paragraphs 4 and 7 of Schedule 15 to, the Housing and Planning Act 2016 (c. 22) and section 4 of, and paragraph 52(2) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11).

(e) 1981 c. 66. Section 7 was amended by section 199(2) of, and paragraphs 1 and 3 of Part 1 of Schedule 18 to, the Housing and Planning Act 2016 (c. 22).

(8) In Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration)(a), for paragraph 1(2) substitute—

“(2) But see article 31 (3) (acquisition of subsoil, etc., only) of the Portishead Branch Line (MetroWest Phase 1) Order 202* , which excludes the acquisition of subsoil or airspace only from this Schedule.”

(9) References to the 1965 Act in the 1981 Act are to be construed as references to the 1965 Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and as modified by article 25 (modification of Part 1 of the 1965 Act)) to the compulsory acquisition of land under this Order.

Acquisition of subsoil or airspace only

31.—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil of or the airspace over the land referred to in article 24(1) (compulsory acquisition of land) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) Where the undertaker acquires any part of or rights in the subsoil of or the airspace over land under paragraph (1), the undertaker is not required to acquire an interest in any other part of the land.

(3) The following do not apply in connection with the exercise of the power under paragraph (1) in relation to subsoil or airspace only—

- (a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act as modified by article 25 of this Order;
- (b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the 1981 Act; and
- (c) section 153(4A) (blighted land: proposed acquisition of part interest; material detriment test) of the 1990 Act(b).

(4) Paragraphs (2) and (3) are to be disregarded where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory or airspace above a house, building or manufactory.

Rights under or over streets

32.—(1) The undertaker may enter upon and appropriate so much of the subsoil of, or airspace over, any street within the Order limits as may be required for the purposes of the authorised development and may use the subsoil or air-space for the purposes of the authorised development.

(2) Subject to paragraph (3), the undertaker may exercise any power conferred by paragraph (1) in relation to a street without the undertaker being required to acquire any part of the street or any easement or right in the street.

(3) Paragraph (2) does not apply in relation to—

- (a) any subway or underground building; or
- (b) any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting onto the street.

(4) Subject to paragraph (5), any person who is an owner or occupier of land in respect of which the power of appropriation conferred by paragraph (1) is exercised without the undertaker acquiring any part of that person’s interest in the land, and who suffers loss by the exercise of that power, is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(a) 1981 c. 66. Schedule A1 was inserted by paragraph 6 of Part 1 of Schedule 18 to the Housing and Planning Act 2016 (c. 22).

(b) 1990 c. 8. Section 153(4A) was inserted by section 200(2) of the Housing and Planning Act 2016 (c. 22).

(5) Compensation is not payable under paragraph (4) to any person who is an undertaker to whom section 85 (sharing of cost of necessary measures) of the 1991 Act applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

Temporary use of land for carrying out the authorised development

33.—(1) The undertaker may, in connection with the carrying out of the authorised development but subject to article 26(1) (time limit for exercise of authority to acquire land compulsorily or take land temporarily)—

- (a) enter on and take temporary possession of—
 - (i) the land specified in columns (1) and (2) of Schedule 12 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule relating to the part of the authorised development specified in column (4) of that Schedule; and
 - (ii) any of the Order land in respect of which no notice of entry has been served under section 11 (powers of entry) of the 1965 Act^(a) (other than in connection with the acquisition of rights or the imposition of covenants) and no declaration has been made under section 4 (execution of declaration) of the 1981 Act;
- (b) remove any buildings and vegetation from that land;
- (c) construct temporary works (including the provision of means of access), security fencing and buildings on that land;
- (d) construct any works as are mentioned in Schedule 1 (authorised development);
- (e) carry out any other mitigation, ground or rock stability, catch fencing, geotechnical or strengthening works on that land; or
- (f) provide any temporary car parking or storage facilities on that land.

(2) Not less than 14 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land and explain the purpose for which entry is taken in respect of land specified under paragraph (1)(a)(i).

(3) The undertaker must not, without the agreement of the owners of the land, remain in possession of any land under this article—

- (a) in the case of land specified in paragraph (1)(a)(i), after the end of the period of one year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (4) of Schedule 12; or
- (b) in the case of any land referred to in paragraph (1)(a)(ii), after the end of the period of one year beginning with the date of completion of the work for which temporary possession of the land was taken unless the undertaker has, before the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act in relation to that land.

(4) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but is not required to—

- (a) replace a building removed under this article;
- (b) restore the land on which any permanent works have been constructed under paragraph (1)(d);

(a) 1965 c. 56. Section 11(1) was amended by section 186(1) and (2), section 187(1) and (2) and section 188 of the Housing and Planning Act 2016 (c. 22), Schedule 4 to the Acquisition of Land Act 1981 (c. 67), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No. 1), and articles 5(1) and (2) of, and paragraphs 59 and 64 of Schedule 1 to, S.I. 2009/1307.

- (c) remove statutory undertakers' apparatus or connections to such apparatus or any measures installed over or around statutory undertakers' apparatus to protect that apparatus from the authorised development; or
- (d) remove any mitigation, ground or rock stability, catch fencing, geotechnical or strengthening works which have been placed on the land to
 - (i) facilitate construction of the authorised development;
 - (ii) protect any existing operational railway; or
 - (iii) mitigate the effects of the authorised development.

(5) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of this article.

(6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, is to be determined under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(7) Without affecting article 41 (no double recovery), nothing in this article affects any liability to pay compensation under section 152 of the 2008 Act (compensation in case where no right to claim in nuisance) or under any other enactment in respect of loss or damage arising from the carrying out of the authorised development, other than loss or damage for which compensation is payable under paragraph (5).

(8) The undertaker must not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i) except that the undertaker is not precluded from—

- (a) acquiring new rights over or imposing restrictive covenants affecting any part of that land under article 27 (compulsory acquisition of rights or imposition of covenants); or
- (b) acquiring any part of the subsoil of or airspace over (or rights in the subsoil or of airspace over) that land under article 31 (acquisition of subsoil or airspace only).

(9) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(10) Section 13 of the 1965 Act (refusal to give possession to acquiring authority)(a) applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

Temporary use of land for maintaining the authorised development

34.—(1) Subject to paragraph (2), at any time during the maintenance period relating to any of the authorised development, the undertaker may—

- (a) enter upon and take temporary possession of any Order land if such possession is reasonably required for the purpose of maintaining the authorised development; and
- (b) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) does not authorise the undertaker to take temporary possession of—

- (a) any house or garden belonging to a house; or
- (b) any building (other than a house) if it is for the time being occupied.

(3) Unless paragraph (4) applies, the undertaker must serve notice of the intended entry on the owners and occupiers of the land not less than 28 days before entering upon and taking temporary possession of land under this article and that notice must state the purpose for which the undertaker intends to take possession of the land including the particulars of the part of the authorised development for which possession is to be taken.

(a) 1965 c. 56. Section 13 was amended by section 139(4)-(9) and section 62(3) of, paragraphs 27 and 28(1)-(3) of Schedule 13 to, and Part 13 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(4) The undertaker is not required to serve notice under paragraph (3) where the undertaker has identified a potential risk to the safety of one or more of—

- (a) the authorised development or any of its parts;
- (b) the public; or
- (c) the surrounding environment,

and in such circumstances, the undertaker may enter the land under paragraph (1) subject to giving such notice (if any) as is reasonably practicable in the circumstances.

(5) The undertaker must only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised development for which possession of the land was taken.

(6) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(7) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the powers conferred by this article.

(8) Any dispute as to a person's entitlement to compensation under paragraph (7), or as to the amount of the compensation, must be determined under Part 1 of the 1961 Act.

(9) Without affecting article 41 (no double recovery), nothing in this article affects any liability to pay compensation under section 152 of the 2008 Act (compensation in case where no right to claim in nuisance) or under any other enactment in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (7).

(10) Where the undertaker takes possession of land under this article, it is not required to acquire the land or any interest in it.

(11) Section 13 of the 1965 Act (refusal to give possession to the acquiring authority) applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).

(12) In this article “the maintenance period”, in relation to any part of the authorised development means the period of 5 years beginning with the date on which that part of the authorised development is first open for use.

Disregard of certain interests and improvements

35.—(1) In assessing the compensation payable to any person on the acquisition from that person of any land under this Order, the tribunal must not take into account—

- (a) any interest in land; or
- (b) any enhancement of the value of any interest in land by reason of any building erected, works executed or improvement or alteration made on relevant land,

if the tribunal is satisfied that the creation of the interest, the erection of the building, the execution of the works or the making of the improvement or alteration was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

(2) In paragraph (1) “relevant land” means the land acquired from the person concerned or any other land with which that person is, or was at the time when the building was erected, the works executed or the improvement or alteration made, directly or indirectly concerned.

Set-off for enhancement in value of retained land

36.—(1) In assessing the compensation payable to any person in respect of the acquisition from that person under this Order of any land (including the subsoil) the tribunal must set off against the value of the land so acquired any increase in value of any contiguous or adjacent land belonging to

that person in the same capacity which will accrue to that person by reason of the construction of the authorised development.

(2) In assessing the compensation payable to any person in respect of the acquisition from that person of any new rights over land (including the subsoil) or the imposition of restrictive covenants, under article 27 (compulsory acquisition of rights or imposition of covenants), the tribunal must set off against the value of the rights so acquired or restrictive covenants so imposed—

- (a) any increase in value of the land over which the new rights are acquired or restrictive covenants are imposed; and
- (b) any increase in the value of any contiguous or adjacent land belonging to that person in the same capacity,

which will accrue to that person by reason of the construction of the authorised development.

(3) The 1961 Act has effect, subject to paragraphs (1) and (2), as if this Order were a local enactment for the purposes of that Act.

Statutory undertakers and electronics communications code network operators

37.—(1) Subject to Schedule 16 (protective provisions), and paragraph (2) the undertaker may—

- (a) exercise the powers conferred by articles 24 (compulsory acquisition of land) and 27 (compulsory acquisition of rights or imposition of covenants) in relation to so much of the Order land as belongs to statutory undertakers; and
- (b) extinguish the rights of, remove or reposition the apparatus belonging to statutory undertakers over or within the Order land.

(2) Paragraph (1)(b) has no effect in relation to apparatus in respect of which the following provisions apply—

- (a) Part 3 (street works in England and Wales) of the 1991 Act; or
- (b) article 42 (apparatus and rights of statutory undertakers in stopped up streets).

Recovery of costs of new connections

38.—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 37 (statutory undertakers and electronic communications code network operators) any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(2) Paragraph (1) does not apply in the case of the removal of a public sewer but where such a sewer is removed under article 37 (statutory undertakers and electronic communications code network operators), any person who is—

- (a) the owner or occupier of premises the drains of which communicated with that sewer; or
- (b) the owner of a private sewer which communicated with that sewer,

is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or sewer belonging to that person communicate with any other public sewer or with a private sewerage disposal plant.

(3) In this article—

“public communications provider” has the same meaning as in section 151(1) (interpretation of chapter 1) of the 2003 Act^(a); and

(a) 2003 c. 21. There are amendments to section 151(1) which are not relevant to this Order.

“public utility undertaker” has the same meaning as in the 1980 Act.

PART 6

Operations

Operation and use of railways

39.—(1) Network Rail may operate and use the railway authorised by this Order as a system, or part of a system, of transport for the carriage of passengers and goods.

(2) Nothing in this Order, or in any enactment incorporated with or applied by this Order, affects the operation of Part 1 of the Railways Act 1993(a) (the provision of railway services).

Operational land for purposes of the 1990 Act

40. Development consent granted by this Order is to be treated as specific planning permission for the purposes of section 264(3)(a) of the 1990 Act (cases in which land is to be treated as operational land for the purposes of that Act).

PART 7

Miscellaneous and general

No double recovery

41. Compensation is not payable in respect of the same matter both under this Order and under any other enactment, any contract or any rule of law, or under two or more or different provisions of this Order.

Apparatus and rights of statutory undertakers in stopped up streets

42.—(1) Where a street is stopped up under articles 14 (permanent stopping up of streets) or 15 (temporary stopping up of streets and public rights of way), any statutory utility whose apparatus is under, in, on, along or across the street has the same powers and rights in respect of that apparatus, subject to the provisions of this article, as if this Order had not been made.

(2) Where a street is permanently stopped up under article 14 any statutory utility whose apparatus is under, in, on, over, along or across the street may, and if reasonably requested to do so by the undertaker must—

- (a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as the utility may reasonably determine and have power to place it; or
- (b) provide other apparatus in substitution for the existing apparatus and place it in such position as described in sub-paragraph (a).

(3) Subject to the following provisions of this article, the undertaker must pay to any statutory utility an amount equal to the cost reasonably incurred by the utility in or in connection with—

- (a) the execution of the relocation works required in consequence of the stopping up of the street; and
- (b) the doing of any other work or thing rendered necessary by the execution of the relocation works.

(4) If in the course of the execution of relocation works under paragraph (2)—

(a) 1993 c. 43.

- (a) apparatus of a better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker, or, in default of agreement, is not determined by arbitration to be necessary, then, if it involves cost in the execution of the relocation works exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which, apart from this paragraph, would be payable to the statutory utility by virtue of paragraph (3) is to be reduced by the amount of that excess.

(5) For the purposes of paragraph (4)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(6) An amount which, apart from this paragraph, would be payable to a statutory utility in respect of works by virtue of paragraph (3) (and having regard, where relevant, to paragraph (4)) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

(7) Paragraphs (3) to (6) do not apply where the authorised development constitutes major highway works, major bridge works or major transport works for the purposes of Part 3 of the 1991 Act, but instead—

- (a) the allowable costs of the relocation works are to be determined in accordance with section 85 (sharing of cost of necessary measures) of that Act and any regulations for the time being having effect under that section; and
- (b) the allowable costs are to be borne by the undertaker and the statutory utility in such proportions as may be prescribed by any such regulations.

(8) In this article—

“relocation works” means work executed, or apparatus provided, under paragraph (2); and

“statutory utility” means a statutory undertaker for the purposes of the 1990 Act or a public communications provider as defined in section 151(1) (interpretation) of the 2003 Act.

Felling or lopping of trees

43.—(1) The undertaker may fell, prune, coppice, pollard, reduce in height or width or lop any tree or shrub within or overhanging land within the Order limits or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub—

- (a) subject to paragraph (4), from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or
- (b) from constituting a danger to passengers or other persons using the authorised development.

(2) The powers in paragraph (1) may be exercised in relation to any tree or shrub which is situated within a conservation area (designated under section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990)(a).

(3) Action may not be taken under paragraph (2) unless the undertaker has given written notice to the relevant planning authority of the intended action (with sufficient particulars to identify the tree), and either—

- (a) the relevant planning authority has indicated in writing that it has no objection to the works or that they fall within an exemption in paragraph (4) or (5), or
- (b) six weeks have elapsed from the date of the notice and a tree preservation order has not been made in respect of the tree or shrub.

(4) Paragraph (3) does not apply where consent would not be needed for the proposed action if the tree or shrub were subject to a tree preservation order.

(5) Paragraph (3) shall not apply to any action which would be exempt in accordance with regulations under section 212 of the 1990 Act (disapplication of tree preservation offences).

(6) The duty contained in section 213(1) of the 1990 Act (replacement of trees) does not apply to the undertaker in carrying out any activity authorised by paragraphs (2) and (3).

(7) The authority given by paragraphs (2) and (3) constitutes an authorisation by an order granting development consent for the purposes of section 211(1A) of the 1990 Act.

(8) In carrying out any activity authorised by paragraph (1) or paragraphs (2) and (3), the undertaker must not unnecessarily damage any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity.

(9) Any dispute as to a person's entitlement to compensation under this article, or as to the amount of compensation, must be determined under Part 1 of the 1961 Act.

(10) The undertaker must not exercise the powers under paragraph (2) of this article after completion of construction.

(11) Nothing in paragraph (1)(a) authorises works to any tree or shrub within the Avon Gorge Woodlands SAC in contravention of the Avon Gorge Vegetation Management Plan.

Hedgerows

44.—(1) The undertaker may, for the purposes of the authorised development—

- (a) subject to requirement 6 of Schedule 2 (landscaping scheme – disused railway) and paragraph (2) below, remove those hedgerows specified in Part 1 of Schedule 13 (hedgerows to be removed);
- (b) remove any other hedgerows within the Order limits that may be required for the purposes of carrying out the authorised development where it is demonstrated by the undertaker to the relevant planning authority, and the relevant planning authority certifies accordingly, that the removal of the hedgerow would not give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.; and
- (c) remove the important hedgerow within the Order limits and specified in Part 2 of Schedule 13 (important hedgerow).

(2) In carrying out any activity authorised by paragraph (1), the undertaker must not unnecessarily damage the hedgerow and must pay compensation to any person for any loss or damage arising from such activity.

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, must be determined under Part 1 of the 1961 Act.

(4) In this article “hedgerow” and “important hedgerow” have the same meaning as in the Hedgerows Regulations 1997(a).

(a) 1990 c.9.

Defence to proceedings in respect of statutory nuisance

45.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990(b) (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within paragraph (g) of section 79(1) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance)(c) no order may be made, and no fine may be imposed, under section 82(2) of that Act if—

- (a) the defendant shows that the nuisance—
 - (i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction site), or a consent given under section 61 (prior consent for work on construction site), of the Control of Pollution Act 1974(d); or
 - (ii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or
- (b) the defendant shows that the nuisance is a consequence of the use of the authorised development and that it cannot be reasonably avoided.

(2) Section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974, does not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development.

Traffic regulation

46.—(1) Subject to the provisions of this article, the undertaker may at any time for the purposes of the construction, operation or maintenance of the authorised project permanently regulate traffic as described in Schedule 14 (traffic regulation), in the manner specified in column (3) on those roads specified in column (1) and along the lengths and between the points specified, or to the extent otherwise described in column (2) of that Schedule.

(2) Without limiting the scope of the specific powers conferred by paragraph (1) but subject to the provisions of this article and the consent of the traffic authority in whose area the road concerned is situated, the undertaker may, in so far as may be expedient or necessary for the purposes of or in connection with construction of the authorised development, at any time prior to the opening of the authorised development for use—

- (a) revoke, amend or suspend in whole or in part any order made, or having effect as if made, under the 1984 Act;
- (b) permit, prohibit or restrict the stopping, parking, waiting, loading or unloading of vehicles on any road;
- (c) authorise the use as a parking place of any road;
- (d) make provision as to the direction or priority of vehicular traffic on any road; and
- (e) permit or prohibit vehicular access to any road,

either at all times or at times, on days or during such periods as may be specified by the undertaker.

(a) 1997 S.I. 1160

(b) 1990 c. 43. There are amendments to this section which are not relevant to this Order

(c) 1990 c. 43. Section 79(1) was amended by section 101 and 102 of the Clean Neighbourhood and Environment Act 2005 (c. 16). There are other amendments to the Act which are not relevant to this Order.

(d) 1974 c. 40. Section 61(2) was amended by section 133(2) of, and Schedule 7 to, the Building Act 1984 (c. 55). Section 61(9) was amended by Schedule 24 to the Environment Act 1995 (c. 25), and section 162 of, and paragraph 15 of Schedule 15 to, the Environmental Protection Act 1990 (c. 43). There are other amendments to the 1974 Act which are not relevant to this Order

- (3) The undertaker must not exercise the powers in paragraph (1) unless it has—
- (a) given not less than 12 weeks’ notice in writing of its intention to do so to the chief officer of police and to the traffic authority in whose area the road is situated; and
 - (b) advertised its intention in such manner as the traffic authority may specify in writing within 7 days of its receipt of notice of the undertaker’s intention in the case of sub-paragraph (a).
- (4) Any prohibition, restriction or other provision made by the undertaker under paragraphs (1) or (2)—
- (a) has effect as if duly made by, as the case may be—
 - (i) the traffic authority in whose area the road is situated as a traffic regulation order under the 1984 Act; or
 - (ii) the local authority in whose area the road is situated as an order under section 32 (power of local authorities to provide parking places) of the 1984 Act(a), and the instrument by which it is affected may specify savings and exemptions (in addition to those mentioned in Schedule 14) to which the prohibition, restriction or other provision is subject; and
 - (b) is deemed to be a traffic order for the purposes of Schedule 7 to the Traffic Management Act 2004(b) (road traffic contraventions subject to civil enforcement).
- (5) Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers conferred by paragraph (2) at any time.
- (6) Before exercising the provisions of paragraph (2) the undertaker must consult the chief officer of police and the traffic authority in whose area the road is situated.
- (7) Expressions used in this article and in the 1984 Act have the same meaning in this article as in that Act.

Application of the Land Compensation Act 1973

47.—(1) Any regulations made by the Secretary of State under section 20 (sound proofing of buildings affected by public works) and 20A (power to make payments in respect of caravans and other structures affected by noise of public works) of the Land Compensation Act 1973(c) which apply to a railway provided or used in the exercise of statutory powers apply to the railway comprised in the authorised development as if that railway was provided or used in the exercise of statutory powers.

(2) Section 28 (power to pay expenses) of the Land Compensation Act 1973 has effect as if any works comprised in the authorised development were public works for the purposes of that section.

Application of landlord and tenant law

48.—(1) This article applies to—

- (a) any agreement for leasing to any person the whole or any part of the authorised development or the right to operate the same; and

(a) 1984 c. 27. Section 32 was amended by section 102 of, and Schedule 17 to, the Local Government Act 1985 (c. 51). There are other amendments to section 32 which are not relevant to this Order.

(b) 2004 c. 18.

(c) 1973 c. 26. Section 20 was amended by subsection (6) and (12) of section 146 of, and Schedule 13 to, the Road Traffic Regulation Act 1984 (c. 27). Subsection (10) of section 20 was repealed by section 343(3) of, and Schedule 25 to, the Highway Act 1980 (c. 66) and subsection (11) was repealed by section 155 of, and Schedule 25 to, the Rent Act 1977 (c. 42). Section 20A was inserted by Schedule 15 to the Planning and Compensation Act 1991 (c. 34). There are other amendments to the 1973 Act which are not relevant to this Order.

(b) any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised development, or any part of it, so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person's use.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants prejudices the operation of any agreement to which this article applies.

(3) Accordingly, no such enactment or rule of law applies in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

- (a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
- (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
- (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

Procedure in relation to further approvals, etc.

49.—(1) Where any application is made to a relevant authority, the consent, agreement, certification or approval concerned must, if given, be given in writing and is not to be unreasonably withheld or delayed.

(2) If a relevant authority which has received an application fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application was received, the relevant authority is deemed to have given its consent, agreement, certification or approval, as the case may be.

(3) Any application to which this article applies must include a written statement that the provisions of paragraph (2) apply to that application.

(4) If before this Order comes into force the undertaker or any other person has taken any step in relation to an application to which this article applies, that step may be taken into account to determine whether the consent, agreement, certification or approval concerned should be granted provided that step would have been a valid step for the purpose of the application if it had been taken after this Order came into force.

(5) Where any application is made to a relevant authority and the application includes submissions relating to the discharge of an obligation under Part 3 of Schedule 16 (protective provisions) at the same time, paragraph (2) does not apply to that application.

(6) Where a consent, agreement or approval is required or requested by the undertaker from a relevant planning authority under a requirement in Schedule 2 (requirements) then the procedure set out in Part 2 of Schedule 2 (requirements) for obtaining such consent, agreement or approval, and appealing against the refusal or failure to approve or refuse such consent, agreement or approval, applies.

(7) In this article—

“application” means an application or request for any consent, agreement, certification or approval required or contemplated by articles 13 (street works and power to alter the layout etc. of streets), 15 (temporary stopping up of streets and public rights of way), 17 (access to works), 19 (construction and maintenance of new or altered streets), 22 (discharge of water), 23 (authority to survey and investigate land) and 46 (traffic regulation); and

“relevant authority” means the owner of a watercourse, public sewer or drain, a local authority, a traffic authority, a highway authority or a street authority.

Service of notices

50.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

- (a) by post;
- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or
- (c) with the consent of the recipient and subject to paragraphs (6) to (8) by electronic transmission.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 (references to service by post) of the Interpretation Act 1978^(a) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address, and otherwise—

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and
- (b) in any other case, the last known address of that person at the time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to that person by name or by the description of “owner”, or as the case may be “occupier”, of the land (describing it); and
- (b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement may be taken to be fulfilled only where—

- (a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;
- (b) the notice or document is capable of being accessed by the recipient;
- (c) the notice or document is legible in all material respects; and
- (d) the notice or document is in a form sufficiently permanent to be used for subsequent reference.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 7 days of receipt that the recipient requires a paper copy of all or part of that notice or other document the sender must provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of electronic communication given by a person may be revoked by that person in accordance with paragraph (8).

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

- (a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
- (b) such revocation is final and takes effect on a date specified by the person in the notice but that date must not be less than 7 days after the date on which the notice is given.

(a) 1978 c. 30.

(9) This article must not be taken to exclude the employment of any method of service not expressly provided for by it.

(10) In this article “legible in all material respects” means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served, given or supplied by means of a notice or document in printed form.

Crown rights

51.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular, nothing in this Order authorises the undertaker or any licensee to take, use, enter upon or in any manner interfere with any land or rights of any description (including any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary)—

- (a) belonging to Her Majesty in right of the Crown and forming part of the Crown Estate without the consent in writing of the Crown Estate Commissioners;
- (b) belonging to Her Majesty in right of the Crown and not forming part of the Crown Estate without the consent in writing of the government department having the management of that land; or
- (c) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of that government department.

(2) Paragraph (1) does not apply to the exercise of any right under this Order for the compulsory acquisition of an interest in any Crown land (as defined in the 2008 Act) which is for the time being held otherwise than by or on behalf of the Crown.

(3) A consent under paragraph (1) may be given unconditionally or subject to terms and conditions; and is deemed to have been given in writing where it is sent electronically.

Amendment of local byelaws

52.—(1) The local byelaws specified in Schedule 15 (amendment of local legislation) are hereby excluded and do not apply insofar as inconsistent with a provision of, or a power conferred by, this Order.

(2) For the purpose of paragraph (1) a provision is inconsistent with the exercise of a power conferred by this Order if and insofar as (in particular)—

- (a) it would make it an offence to take action, or not to take action, in pursuance of the power;
- (b) action taken in pursuance of the power would cause the provision to apply so as to enable a person to require the taking of remedial or other action or so as to enable remedial or other action to be taken;
- (c) action taken in pursuance of a power or duty under the provision would or might interfere with the exercise of any work authorised by this Order.

(3) Where any person notifies the undertaker in writing that anything done or proposed to be done by the undertaker or by virtue of this Order would amount to a contravention of a statutory provision of local application, the undertaker must as soon as reasonably practicable, and at any rate within 14 days of receipt of the notice, respond in writing setting out—

- (a) whether the undertaker agrees that the action taken or proposed does or would contravene the provision of local application;
- (b) if the undertaker does agree, the grounds (if any) on which the undertaker believes that the provision is excluded by this article; and
- (c) the extent of that exclusion.

Protective provisions

53. Schedule 16 (protective provisions) has effect.

Special category land

54.—(1) On the exercise by the undertaker of the relevant Order power, the cycle track special category land is to vest in the undertaker and be discharged from all rights, trusts and incidents to which it was previously subject.

(2) In this article—

“the relevant Order power” means the powers exercisable over the cycle track special category land by the undertaker under article 24 (compulsory acquisition of land);

“the cycle track special category land” means the land numbered 01/213 and 01/223 in the book of reference and on the land plan and forming part of an open space which may be acquired compulsorily under this Order.

Documents to be certified

55.—(1) As soon as practicable after the making of this Order, the undertaker must submit copies of each of the plans and documents set out in Schedule 17 (documents to be certified) to the Secretary of State for certification as true copies of those plans and documents.

(2) Where any plan or document set out in Schedule 17 requires to be amended to reflect the terms of the Secretary of State’s decision to make the Order, that plan or document in the form amended to the Secretary of State’s satisfaction is the version of the plan or document required to be certified under paragraph (1).

(3) A plan or document so certified will be admissible in any proceedings as evidence of the contents of the document of which it is a copy.

(4) The undertaker must, following certification of the plans and documents in accordance with paragraph (1), make those plans and documents available in electronic form for inspection by members of the public.

Arbitration

56. Except where otherwise expressly provided for in this Order and unless otherwise agreed between the parties, any difference under any provision of this Order (other than a difference which falls to be determined by the tribunal) must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after notice in writing to the other) by the President of the Institution of Civil Engineers.

Signed by authority of the Secretary of State for Transport

Head of the Infrastructure Planning Unit
Department for Transport

Date

SCHEDULES

SCHEDULE 1

Article 5

Authorised development

A nationally significant infrastructure project as defined in sections 14 and 25 of the 2008 Act comprising—

In the district of North Somerset:

Work No. 1 – a railway of 2,264 metres in length shown on sheets 1, 1A, 2, and 3 of the works plans commencing at a point 96 metres north of the junction of Quays Avenue and Galingale Way,

Portishead, using the track bed of the disused Portishead Branch Line railway, and terminating at a point 57 metres to the east of the bridge carrying Station Road (Portbury) over the disused Portishead Branch Line railway;

Work No. 1A – a railway of 2,498 metres in length shown on sheets 3, 4, 5 and 6 of the works plans commencing at a junction with the termination of Work No. 1 at a point 57 metres to the east of the bridge carrying Station Road (Portbury) over the disused Portishead Branch Line railway, using the track bed of the disused Portishead Branch Line railway and terminating at a point 49 metres to the west of the bridge carrying the Parson Street to Royal Portbury Dock railway over public footpath LA8/5/40 between Avon Road and Lodway Close, Pill;

Work No. 1B – a railway of 796 metres in length shown on sheets 6 and 7 of the works plans commencing at a junction with the termination of Work No. 1A at a point 49 metres west of the bridge carrying the Parson Street to Royal Portbury Dock railway over public footpath LA8/5/40 between Avon Road and Lodway Close, Pill and terminating at a junction with Work No. 1C, at a point 86 metres to the north of the junction of the highways of Ham Green and Westward Drive, Pill; and

Work No. 1C – a realignment of existing railway for a distance of 1,003 metres in length shown on sheets 6 and 7 of the works plans, commencing at a point 262 metres north west of the bridge carrying that railway over public footpath LA8/5/40 between Avon Road and Lodway Close, Pill then terminating at a new junction with the Parson Street to Royal Portbury Dock railway, at a point 86 metres to the north of the junction of the highways of Ham Green and Westward Drive, Pill, being part of the existing railway between Parson Street and Royal Portbury Dock.

Associated development within the meaning of section 115(2) of the 2008 Act (development for which development consent may be granted)(a) and within Order limits comprising—

In the district of North Somerset:

Work No. 2 – diversion of the highway of Quays Avenue, Portishead, of 181 metres in length, shown on sheets 1 and 1A of the works plans, from the junction of Quays Avenue and Galingale Way to a point west of the existing gyratory junction of Quays Avenue, Harbour Road and Phoenix Way, Portishead, together with connections to existing highways, widening of the southern footway of Harbour Road, landscaping, new bus waiting facilities, signage, lighting, pedestrian crossing facilities, pipes, drains, cables, ducts, troughs, telecommunications apparatus, conduits and apparatus for utilities as well as footways, and a connection to the pedestrian and cycle track forming part of Work No. 4;

Work No. 2A – surface water drain, of 27 metres in length, shown on sheets 1 and 1A of the works plans north from Phoenix Way, Portishead into the watercourse known as the Cut;

Work No. 3 – a foot and cycle track, of 63 metres in length, shown on sheet 1 of the works plans, commencing at a junction with Work No. 4 east of the watercourse known as the Portbury Ditch, to a point west of Portbury Ditch, together with associated landscaping, signage, fencing, lighting, cables, ducts, troughs, telecommunication apparatus, conduits and apparatus for utilities;

Work No. 4 – a car park of 4,841 square metres in area, foot and cycle track of 275 metres in length and a new vehicular access to the highway of Harbour Road, shown on sheets 1 and 1A of the works plans, south of Harbour Road, Portishead and east of the Portbury Ditch, together with landscaping, lighting, signage, fencing, drainage in to the adjacent Portbury Ditch, to the west of Quays Avenue, Portishead;

Work No. 5 – railway station, of 396 square metres in area, shown on sheets 1 and 1A of the works plans, to the south of Phoenix Way, Portishead, comprising platform, shelter, office, waiting area, storage and refuse area, seating, ticket vending machine, closed circuit television equipment, passenger help point, toilets, utilities connections, telecommunications equipment,

(a) 2008 c. 29. Section 115(2) was amended by section 160(3) of the Housing and Planning Act 2016 (c. 22).

public address system, information boards and displays, signage, lighting columns, fencing, acoustic barrier, landscaping, railway communications mast and surface water drain in to the adjacent watercourse known as the Cut;

Work No. 6 – car park, of 4,419 square metres in area, shown on sheets 1 and 1A of the works plans, to the south of Phoenix Way, Portishead, including mobility impaired spaces, drainage, lighting, fencing, landscaping, signage, cycle parking facilities and utilities apparatus, together with access from the highway of Phoenix Way;

Work No. 7 – public foot and cycle track shown on sheets 1 and 1A of the works plans to the south west of Trinity Primary School, Portishead together with, lighting, drainage, signage, fencing and hardstandings;

Work No. 7A – public foot and cycle track, of 273 metres in length, shown on sheets 1 and 1A of the works plans, from Phoenix Way, Portishead to connect with Works Nos.7 and 7C, to the south of Tansy Lane and north of Work No. 1, together with signage, drainage, lighting, fencing and landscaping;

Work No. 7B – public foot and cycle track, of 150 metres in length, shown on sheets 1 and 1A of the works plans, from the diverted Quays Avenue, Portishead, to connect with Work No. 7 to the north of Galingale Way and to the south of Work No. 1, together with signage, drainage, lighting, fencing and landscaping;

Work No. 7C – public foot and cycle track, of 18 metres in length, shown on sheets 1 and 1A of the works plans, from Work No. 7 north to Tansy Lane, Portishead, together with signage, drainage, lighting, fencing and landscaping;

Work No. 7D – temporary construction compound, of 2,876 square metres in area, shown on sheet 1 of the works plans, to the south of Tansy Lane, Portishead and to the north of Work No. 1;

Work No. 7E – underground electrical supply cables of 39.07 metres in length connecting from Work No. 7 to Tansy Lane, Portishead, shown on sheet 1 and 1A of the works plans;

Work No. 8 – temporary construction haul road of 486 metres in length, shown on sheets 1 and 2 of the works plans, to the south of, and parallel to, Work No. 1, from a point south of Fennel Road, Portishead, to the highway known as Sheepway, Portbury;

Work No. 9 – permanent vehicular compound of 1,862 square metres in area, road/rail vehicle access point and access road from the highway of Sheepway, shown on sheet 2 of the works plans, to the north-west of the bridge carrying the highway of Sheepway over Work No.1, a permanent diversion of the existing permissive cycle path and works to the existing car parking area to the north-west of Sheepway, together with fencing, drainage, communications apparatus, ducts, troughs, utilities apparatus, hardstanding and means of access to the highway of Sheepway;

Work No. 10 – temporary diversion of the existing permissive cycle path, of 156 metres in length, shown on sheet 2 of the works plans, on the north west side of the highway of Sheepway, opposite Shipway Gate Farm, Portbury;

Work No. 10A – temporary construction compound of 2,179 square metres in area shown on sheet 2 of the works plans, to the north-west of the highway of Sheepway opposite Shipway Gate Farm, Portbury;

Work No 10B – temporary construction haul road to the north of the highway of Sheepway of 125 metres in length shown on sheet 2 of the works plans opposite Shipway Gate Farm, Portbury;

Work No. 11 – improvements to the existing agricultural access from Shipway Gate Farm, Portbury to the highway of Sheepway, shown on sheet 2 of the works plans, south of the disused Portishead Branch Line railway, including hardstanding, gate and visibility splays;

Work No. 11A – temporary construction haul road, of 590 metres in length, shown on sheet 2 of the works plans, east from the highway of Sheepway, to the south of and parallel to the disused

Portishead Branch Line railway to Work No. 12A together with temporary field accesses and hardstanding;

Work No. 11B – temporary construction haul road of 269 metres in length shown on sheet 2 of the works plans, to the south of the highway of Sheepway at Shipway Gate Farm, Portbury, together with temporary field accesses and hardstanding;

Work No. 12 – permanent vehicular access to the A369 classified road known as Portbury Hundred, shown on sheet 3 of the works plans, including hardstanding, gate and visibility splays;

Work No. 12A – temporary construction compound of 113,467 square metres in area, shown on sheets 2, 2B and 3 of the works plans, to the north of the A369 classified road known as Portbury Hundred and to the south of the disused Portishead Branch Line railway;

Work No. 13 – improvement of the existing access and parking area, shown on sheet 4 of the works plans, at The Drove, Portbury, to the north of the A369 classified road known as Portbury Hundred, including hardstanding and gates;

Work No. 13A – temporary vehicle turning space of 575.6 square metres in area, shown on sheet 4 of the works plans, south of the disused Portishead Branch Line railway, Portbury;

Work No. 14 – improvement to bridleway LA15/21/20, shown on sheet 4 of the works plans, at its junction with the highway of Royal Portbury Dock Road, Portbury;

Work No. 14A – improvement to bridleway LA8/66/10, shown on sheet 4 of the works plans, at its junction with the highway of Royal Portbury Dock Road, Portbury;

Work No. 14B – realignment of the existing permissive cycling route of 144.36 metres in length, shown on sheet 4 of the works plans, under Royal Portbury Dock Road, Portbury;

Work No. 15 – temporary path of 11 metres in length to connect bridleway LA8/66/10 with the highway of Marsh Lane, shown on sheet 5 of the works plans, on the western side of Marsh Lane, Easton in Gordano, and north of the disused Portishead Branch Line railway;

Work No. 16 – realignment of the existing permissive cycling route, shown on sheet 5 of the works plans, of 90.35 metres in length parallel to the disused Portishead Branch Line railway passing under the highway of Marsh Lane, Easton in Gordano, and connecting with bridleway LA8/67/10;

Work No. 16A – temporary construction compound of 7,509 square metres in area shown on sheet 5 of the works plans, beneath the Avonmouth Bridge of the M5 Special Road, Easton in Gordano;

Work No. 16C – road rail access point shown on sheet 5 of the works plans, west of the Avonmouth Bridge of the M5 Special Road, Easton in Gordano;

Work No. 17 – temporary construction compound of 89,293 square metres in area shown on sheets 5 and 6 of the works plans, at Lodway Farm, Pill, together with access to the highway of the Breaches, Easton in Gordano;

Work No. 17A – temporary construction haul road, of 1,078.35 metres in area shown on sheet 6 of the works plans between Work No. 17 and footpath LA8/5/40, Pill;

Work No. 18 – bridleway of 211 metres in length shown on sheet 5 of the works plans, commencing at a point to the west of the M5 Special Road and passing under the Avonmouth Bridge of the M5 to join National Cycle Way Network Route 41 between the Avonmouth Bridge of the M5 Special Road and Pill;

Work No. 19 – installation of new and alteration of existing railway signal equipment, troughs and cables, as shown on sheets 5 and 6 of the works plans, on the Bristol Port Company's railway from Portbury Junction and a new railway signal at the Bristol Port Company's Royal Portbury Dock;

Work No. 20 – temporary diversion of part of National Cycle Network Route 41 of 83 metres in length shown on sheet 6 of the works plans, north from its existing alignment on the street north of the Parson Street to Royal Portbury Dock railway, west of Avon Road, Pill to connect with the western turning head of Avon Road, Pill;

Work No. 20A – demolition of existing bridge carrying the Parson Street to Royal Portbury Dock railway over footpath LA8/5/40 and construction of new bridge and abutments, shown on sheet 6 of the works plans, south of Avon Road Pill and north of Lodway Close, Pill;

Work No. 20B – demolition of existing garages and temporary construction compound of 1,990 square metres in area, as shown on sheet 6 of the works plans, at Avon Road, Pill;

Work No. 21 – car park of 2,004 square metres in area, as shown on sheet 6 of the works plans, to the south of Severn Road and Monmouth Road, Pill, including landscaping, accesses to highway, drainage and attenuation tanks, signage, lighting, fencing, drainage, ducts, troughs, communications apparatus and utilities apparatus;

Work No. 21A – road/rail access point, permanent railway maintenance compound of 820 square metres in area and principal supply point building, as shown on sheet 6 of the works plans, south of Severn Road, Pill, including landscaping, lighting, fencing, drainage, ducts, troughs, communications apparatus, utilities apparatus and associated access;

Work No. 22 – railway station, shown on sheet 6 of the works plans, comprising platform, ramp, signage, seating, ticket vending machine, closed circuit television equipment, demolition of No. 7 Station Road, passenger help point, information boards and displays, passenger refuge area, car park drop off point (including mobility impaired spaces) and cycle parking facilities, lighting, fencing, landscaping, ground strengthening and stability works, communications apparatus, drainage and utilities apparatus, to the north west of Station Road, Pill;

Work No. 22A – improved bus waiting facility, shown on sheet 6 of the works plans, on the highways of Lodway and Heywood Road, Pill, north of the Pill Memorial Club, Pill, together with retaining wall, lighting, drainage and alteration of utilities apparatus;

Work No. 22B – temporary construction compound of 1,067 square metres in area shown on sheet 6 of the works plans, within the car park of Pill Memorial Club, Lodway, Pill;

Work No. 23 – temporary construction compound of 151 square metres in area, as shown on sheet 6 of the works plans, beneath and to the north of Pill Viaduct, Underbanks, Pill;

Work No. 24 – permanent vehicular compound of 2,011 square metres in area, shown on sheet 8 of the works plans, south of Ham Green Lake, together with a road rail vehicle access point, permanent access south from the highway of Chapel Pill Lane to the compound and new fencing, lighting, landscaping, utilities connections, laying of electricity, water, drainage and communications conduits and apparatus together with a new access to Ham Green Lake and improvements to Chapel Pill Lane;

Work No. 24A – temporary construction compound of 6,653 square metres in area, shown on sheet 8 of the works plans, accessed from the highway of Chapel Pill Lane, Ham Green, Pill; and

Work No. 25 – reconstruction of accommodation bridge known as Quarry Bridge No. 2, temporary construction compound and temporary ramp for construction access to the Parson Street to Royal Portbury Dock railway, shown on sheet 12 of the works plans.

In the City and County of Bristol:

Work No. 26 – permanent vehicular access, ramp, flood mitigation works and railway maintenance compound, of 2,948 square metres in area shown on sheet 15 of the works plans, east of the highway of the A369 classified road known as Clanage Road, Ashton, north of the Bedminster Cricket Club;

Work No. 26A – temporary construction compound of 3,346 square metres in area, shown on sheet 15 of the works plans, east of the highway of the A369 classified road known as Clanage Road, Ashton, north of the Bedminster Cricket Club,

Work No. 26B – permanent vehicular access to the highway of the A369 classified road known as Clanage Road, Ashton from the land to the north of the Bedminster Cricket Club, shown on sheet 15 of the works plans;

Work No. 27 – not used;

Work No. 28 – improvement of the highway of Winterstoke Road at its junction with Ashton Vale Road, as shown on sheet 16 of the works plans, including extension of existing left turn lane in to Ashton Vale Road, retaining wall, works to divert and install utility apparatus and installation of a new traffic signal control system, Ashton; and

Work No. 29 – temporary construction compound of 3,176 square metres within the rail freight facility at Liberty Lane, Bristol, shown on sheet 17 of the works plans.

And in connection with such works further associated development within the Order limits consisting of—

- (a) permanent way (rail tracks) electrical equipment, power supply cubicles, cables, telecommunications apparatus, railway mobile communications masts and apparatus and signalling;
- (b) ramps, means of access (including temporary haul roads) and construction compounds;
- (c) embankments, aprons, abutments, shafts, foundations, retaining walls and structures, drainage, wing walls, fences, acoustic fences, catch fences, paths, access steps and culverts;
- (d) works to alter, divert, maintain, replace and repair apparatus (including statutory undertakers' apparatus), including mains, sewers, pipes, drains and cables or for their protection;
- (e) works to clear, maintain and interfere with water courses other than a navigable water course;
- (f) landscaping and other works (including the creation of ponds) to mitigate any adverse effects of the construction, maintenance or operation of the authorised development described in the environmental statement;
- (g) works for the benefit or protection of land affected by the authorised development;
- (h) works required for the strengthening, improvement, maintenance or reconstruction of any streets;
- (i) works to level crossings;
- (j) works for the temporary diversion of public footpaths shown in the permanent and temporary stopping up and diversion plan;
- (k) trenching and cabling associated with the new signalling and communications masts;
- (l) strengthening earthworks and reconstructing retaining walls;
- (m) vegetation clearance, rock bolting and rock dowels and safeguarding of unstable slopes or rock faces by stone-picking and removal of loose rocks;
- (n) replacement or renewal of fencing;
- (o) repairs to existing underbridges and overbridges, adding barriers to bridge parapets and raising of bridge parapets;
- (p) alteration of the layout of any street permanently or temporarily, including but not limited to increasing or reducing the width of the carriageway of the street by increasing or reducing the width of any kerb, footway, cycle track or verge within the street, extending any footway or removing replacing, altering or providing splitter islands in streets;
- (q) works to place, alter, remove or maintain road furniture;

- (r) works to place, alter, divert, relocate, protect, remove or maintain the position of apparatus (including statutory undertakers' apparatus), services, plant and other equipment in, under or above a street, or in other land, including mains, sewers, drains, pipes, lights, cables, cofferdams, fencing and other boundary treatments and to provide connections to adjoining land and buildings;
- (s) landscaping, re-grading, re-profiling, contouring, noise barriers, works associated with the provision of ecological and archaeological mitigation and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised development;
- (t) site preparation works, site clearance (including fencing and other boundary treatments, vegetation removal, demolition of existing structures and the creation of alternative highways or footpaths); earthworks (including soil stripping and storage and site levelling);
- (u) establishment of site construction compounds and working sites, temporary structures, storage areas (including storage of excavated material and other materials), temporary vehicle parking, construction fencing, perimeter enclosure, security fencing, construction related buildings, welfare facilities, office facilities, other ancillary accommodation, construction lighting, haulage roads and other buildings, machinery, apparatus, drainage systems, temporary bridges over watercourses, storage ponds, processing plant, works and conveniences;
- (v) pavement, kerbing and paved areas;
- (w) signing, signals, street lighting, road markings, traffic management measures including temporary roads and such other works as are associated with the construction of the authorised development; and
- (x) such other works, including working sites and works compounds, as may be necessary or expedient for the purposes of or in connection with the construction of the authorised development and which do not give rise to any materially new or materially worse adverse environmental effects to those assessed in the environmental statement.

SCHEDULE 2

Article 5 and 49

Requirements

PART 1

Requirements

1. In this Part—

“Ashton Vale Road and Winterstoke Road Highway Works Plan” means the plan to be certified as the Ashton Vale Road highway works plan by the Secretary of State for the purposes of this Order;

“Bridleway Extension under the Elevated M5 Plan” means the plan certified as the bridleway extension under the elevated M5 plan by the Secretary of State for the purposes of this Order;

“Cattle Creep Proposed General Arrangement drawing” means the plan certified at the Cattle Creep Proposed General Arrangement drawing by the Secretary of State for the purposes of this Order;

“Council’s archaeologist” means the chief archaeologist for the relevant planning authority;

“currently operational railway land” means any part of the existing operational national railway network owned and managed by Network Rail that is within Order limits;

“environmental master plan” means the plans certified as the environmental master plan by the Secretary of State for the purposes of this Order;

“first commercial use” means the first use of Works Nos. 1, 1A and 1B for the carriage for fare paying passengers;

“fencing grades summary” means the summary of fencing types, based on plate 4.8 of the environmental statement and certified as the fencing grades summary by the Secretary of State for the purposes of this Order;

“general arrangement plans” means the plans certified as the general arrangement plans by the Secretary of State for the purposes of this Order;

“GSM-R mast” means Global System for Mobile Communications-Railway mast provided for the purposes of driver- signaller communications;

“Habitat impacted by construction works within the Avon Gorge Woodlands SAC plan” means the plans certified as the habitat impacted by construction works within the Avon Gorge Woodlands SAC plan by the Secretary of State for the purposes of this Order;

“MOVA” means a traffic control strategy designed to maximise the operational efficiency of a highway junction or crossing by adjusting the green time required for each approach and assessing the number of vehicles approaching the signals, whilst determining the impact that queuing vehicles would have on the overall operation of the junction;

“Portbury Hundred location of additional tree planting plans” means the plans certified as such by the Secretary of State for the purposes of this Order;

“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;

“railway landscape plans (disused line)” means the plans certified as the railway landscape plans (disused line) by the Secretary of State for the purposes of this Order; and

“stage” means one of the stages of the authorised development and such other associated development as is connected with that stage as is described in paragraph 3.

Time limits

2. The authorised development must not commence after 5 years of the date of this Order.

Stages of authorised development

3.—(1) The following stages apply to the authorised development in the District of North Somerset—

- (a) Stage 1 comprises Works Nos. 1, 1A, 5, 7, 7E, 9, , 11A, 12, 13, 14, 14A, 14B and 16C, being the new railway between Portishead and Station Road, Portbury; the new railway between old Portbury Station and Portbury Junction, the new Portishead Station;; 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;
- (b) Stage 1A comprises Works Nos. 7D, 8, 10, 10A, 12A, 13A, 15, 16, 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 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;
- (f) Stage 3 comprises Work No. 11, being improvements to the existing agricultural access from Shipway Gate Farm, Sheepway;
- (g) 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;
- (h) 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;
- (i) Stage 4B comprises Work No. 24 being a permanent maintenance access at Ham Green;
- (j) Stage 5 comprises Works Nos. 22A and 22B being modifications to an existing bus stop and temporary compound at Pill Memorial Club, Lodway;
- (k) 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.

or such other stages of the Works that are agreed in writing with the relevant planning authority.

(2) The following stages apply to the authorised development in the City and County of 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 – not used;
- (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;

or such other stages of the Works that are agreed in writing with the relevant planning authority.

(3) The undertaker may submit for approval such part or parts of a stage as may be agreed with the relevant planning authority, and with the approval of the relevant planning authority carry out the approved parts of a stage without securing approval of those elements of a stage that are agreed with the relevant planning authority as remaining to be determined.

(4) Any restriction in a requirement in this Schedule that prevents a stage from commencing until details regarding that stage have been approved by the relevant planning authority does not prevent the undertaker carrying out any preparatory activities for that stage or the use of land within Order limits as a temporary construction compound.

Submission and approval of detail design

4.—(1) Those elements of the authorised development comprising the works listed in column (1) of the table in sub-paragraph (5) must not commence until the detail design for that element has been approved by the relevant planning authority. In the case of Work No 3 this shall be in consultation with the Environment Agency.

(2) The detail designs submitted to the relevant planning authority in accordance with paragraph (1) must reflect the principles of the relevant design drawings listed in column (3) of the table in paragraph (5) unless otherwise agreed with the relevant planning authority. Except in the case of

Work No 7 where the public foot and cycle track bridge over Work No1 shown on plan 467470.BQ.04.20-102 Rev Y shall be omitted.

(3) Any changes from the design drawings must be in accordance with the principles set out in the environmental statement.

(4) The relevant Work must be carried out in accordance with the detail designs approved by the relevant planning authority.

(5) The elements of the authorised development to which paragraph (1) applies are:

<i>(1)</i> <i>Work No(s)</i>	<i>(2)</i> <i>Description</i>	<i>(3)</i> <i>Design drawing(s)</i>	<i>(4)</i> <i>Relevant planning authority</i>
2, 2A, 3, 4, 6, 7, 7A-7D	Portishead highways and car parks	467470.BQ.04.20-100 rev Y 467470.BQ.04.20-101 rev Y 467470.BQ.04.20-102 rev Y	North Somerset District Council
5	Portishead Station	W1097B-ARP-DRG-EAR-300001 rev A01 W1097B-ARP-DRG-EST-300003 W1097B-ARP-DRG-EST-300004 W1097B-ARP-DRG-EST-300005	North Somerset District Council
9	Sheepway Compound	467470.BQ.04.20-400 467470.BQ.04.20-401	North Somerset District Council
12	Portbury Hundred Access	467470.BQ.04.20-600	North Somerset District Council
13	Wessex Water Compound Access	467470.BQ.04.20-570	North Somerset District Council
14, 14A	Works to bridleways at Royal Portbury Dock Road	467470.BQ.04.20-530	North Somerset District Council
14B, 16	Realignment of permissive cycle path at Royal Portbury Dock Road	467470.BQ.04.20-550 467470.BQ.04.20-551 467470.BQ.04.20-552	North Somerset District Council
21	Pill Station – Severn Road Car Park	467470.BQ.04.20-207	North Somerset District Council
22	Pill Station and Forecourt	467470.BQ.04.20-209 W1097B-ARP-DRG-EST-300011	North Somerset District Council
22A, 22B	Bus stop on Heywood Road and Lodway, Pill at Pill Memorial Club	467470.BQ.04.20-290 467470.BQ.04.20-291	North Somerset District Council
24	Pill Tunnel Eastern Portal Compound	467470.BQ.04.20-219 467470.BQ.04.20-220 467470.BQ.04.20-221	North Somerset District Council
26, 26B	Clanage Road Compound and replacement access	467470.BQ.04.20-621	Bristol City Council

Construction Environmental Management Plan etc.

5.—(1) A stage of authorised development must not commence until the written Construction Environmental Management Plan (CEMP) for that stage has been approved by the relevant planning authority.

(2) The CEMP for a stage must be in accordance with the principles set out in the environmental statement, the Master CEMP, the COCP and the CTMP.

(3) The CEMP for a stage must, where relevant to that stage, in particular include the following—

- (a) an external communications plan;
- (b) a pollution incident prevention and control plan;
- (c) a site waste management plan;
- (d) a construction traffic management plan;
- (e) a construction workers travel plan;
- (f) a materials management plan;
- (g) a plan for storage for reuse of stripped soils within land forming part of haul roads or temporary compounds;
- (h) a construction flood plan and flood emergency preparedness plan for any construction site or compound located within undefended flood zone 2 or flood zone 3;
- (i) a surface water management plan;
- (j) measures for the protection of wildlife;
- (k) a reptile and amphibian mitigation strategy; and
- (l) nuisance management plans regarding noise and vibration, dust, air pollution and lighting;

(4) The CTMP when required for a stage under sub-paragraph (3) must in particular and where relevant address—

- (a) construction traffic routes and operational hours;
- (b) site accesses;
- (c) the management of junctions to and crossings of the public highway and other public rights of way;
- (d) the scheduling and timing of abnormal load movements;
- (e) temporary warning signs;
- (f) restrictions on vehicle turning movements in to and out of compounds on the A369 Portbury Hundred classified road; and
- (g) measures to minimise dust and mud.

(5) The relevant stage must be carried out in accordance with the COCP and the approved CEMP and CTMP for that stage;

(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, the Master CEMP and the CTMP.

Landscaping scheme – disused railway

6.—(1) Work Nos. 1 and 1A must not commence until a written landscaping scheme for those works, prepared in accordance with the principles of the railway landscape plans (disused line), has been submitted to and approved by the relevant planning authority. Works Nos. 1 and 1A must

be carried out in accordance with the approved scheme or any variation to the scheme that has been approved by the relevant planning authority.

(2) The submitted landscaping scheme must include details of—

- (a) location, number, species, size and planting density of any proposed planting;
- (b) cultivation, importing of materials and other operations to ensure plant establishment;
- (c) vegetation to be retained;
- (d) implementation timetables for all landscaping; and
- (e) proposals to take account of the presence of trees with trunks of a diameter of 100 millimetres or more and to minimize the loss of such trees.

(3) The written landscaping scheme for Work No. 1A must also contain measures to limit the impacts of the authorised development on the important hedgerow located between Work Nos. 1A and 17 and for the restoration of the important hedgerow following the cessation of use of Work No. 17.

(4) Any tree or shrub planted as part of the approved railway landscaping scheme that, within a period of five years after the date that it is planted, is removed, uprooted, destroyed, dies or becomes in the opinion of the relevant planning authority, seriously damaged or diseased, must be replaced with a specimen of the same species and size as that originally planted, unless the relevant planning authority gives consent to any variation.

Landscaping – other works

7.—(1) All landscaping shown in principle on the relevant design drawings must be carried out in accordance with the landscaping details shown on the relevant drawing submitted to and approved by the relevant planning authority in accordance with requirement 4. The relevant work must not commence until an implementation timetable relevant to the approved landscaping has been submitted to and approved by the relevant planning authority. The landscaping must be carried out in accordance with the approved details and the approved implementation timetable.

(2) Any tree or shrub planted as part of the approved landscaping scheme that, within a period of five years after the date that it is planted is removed, uprooted, destroyed, dies or becomes in the opinion of the relevant planning authority, seriously damaged or diseased, must be replaced with a specimen of the same species and size as that originally planted, unless the relevant planning authority gives consent to any variation.

(3) This requirement does not apply to Work Nos. 1, 1A, 1B or 1C or works subject to the Avon Gorge Vegetation Management Plan.

Temporary fencing

8.—(1) Prior to the commencement of a stage of the authorised development (or such part of that stage as may be agreed with the relevant planning authority) the relevant planning authority must receive for its approval a plan indicating the extent of temporary fencing that must be erected for the authorised development, together with a timetable for its installation and removal.

(2) A part of the authorised development within a stage (or such part of that stage as may be agreed with the relevant planning authority) and being an area where temporary fencing is so indicated must not commence without the temporary fencing approved by the relevant planning authority having first been erected.

(3) The approved temporary fencing must be retained and maintained to the reasonable satisfaction of the relevant planning authority until the cessation of works in that area.

(4) The fencing must be removed in accordance with the approved removal timetable to the satisfaction of the relevant planning authority.

Highway accesses

9.—(1) A stage of the authorised development must not commence until details of the siting, design and layout of any new or altered, permanent or temporary, access, and any temporary haul roads for that stage have been submitted to and approved by the relevant planning authority in consultation with the relevant highway authority. The submitted details must also include a timetable for carrying out the relevant activities.

(2) The approved highway alterations and improvements, including any altered or new accesses and any temporary haul roads, for that stage must be implemented in accordance with the approved details and timetable.

(3) Where the details submitted under paragraph (1) include details of temporary accesses and haul roads, the submitted details for such temporary accesses and haul roads must also include details for the removal of the temporary access and haul road and restoration of the land used for such access together with a timetable for removal of the accesses and haul road upon cessation of its use for the purposes of the authorised development.

Archaeology

10.—(1) Work Nos. 5, 9, 10, 10A, 12A, 17, 24, 24A, 26, 26A and 26B must not commence until a written scheme of investigation (WSI) for a watching brief covering any areas of archaeological interest identified by the environmental statement relevant to that work has, after consultation with the Council's archaeologist, been submitted to and approved by the relevant planning authority.

(2) The WSI must identify areas where a watching brief is required and the measures to be taken to protect, record or preserve any significant archaeological remains that may be found.

(3) Where a WSI is required it must include a programme for post-investigation assessment and reporting and make provision for the publication and dissemination and for the archive deposition of the analysis and records of the site investigation as appropriate and commensurate with the archaeological material recovered.

(4) The watching brief carried out under the WSI must be carried out by a suitably qualified person or body approved by the relevant planning authority.

(5) The watching brief and post-investigation assessment and reporting must be completed in accordance with the programme set out in the approved WSI and the provision made for analysis, publication and dissemination of results and archive deposition has been secured where appropriate.

(6) In addition to the WSI required for Work No. 17, any part of Work No. 17 must not commence until details of a temporary fence to be erected to protect the linear earthworks feature reference number HER47401 as identified on the environmental master plan has, after consultation with the Council's archaeologist, been submitted to and approved by the relevant planning authority.

(7) The fence approved pursuant to paragraph (6) must be erected in accordance with the approved details and in accordance with a programme specified by the relevant planning authority and must be maintained to the reasonable satisfaction of the relevant planning authority until the land is restored following cessation of use of Work No. 17.

Surface and foul water drainage

11.—(1) A stage of the authorised development must not commence until written details of the surface and (if any) foul water drainage system (including means of pollution control) have, after consultation with the relevant lead local flood authority and the Environment Agency, been submitted to and approved by the relevant planning authority.

(2) The approved drainage systems for the relevant stage must be constructed in accordance with the approved details and thereafter managed and maintained in accordance with the approved details for the lifetime of the development unless otherwise agreed with the relevant planning authority after consultation with the relevant lead local flood authority and the Environment Agency.

(3) This requirement does not apply to currently operational railway land.

Trees

12.—(1) A stage of the authorised development must not commence until the relevant planning authority has confirmed that it has approved an arboricultural method statement for that stage prepared in accordance with BS:5837:2012 and detailing the proposed methods for protecting trees proposed to be retained, including a timetable for the installation and removal of the proposed protective measures.

(2) The plan submitted must also identify areas of tree protective fencing to be erected prior to commencement of that stage of the authorised development.

(3) The fencing shown on the approved plan is to be erected in accordance with the relevant arboricultural method statement and thereafter maintained and retained in its approved position during the construction period to the reasonable satisfaction of the relevant planning authority.

(4) The protective fencing must be removed to the satisfaction of the relevant planning authority in accordance with the time period specified in the arboricultural method statement for that stage.

Control of invasive plants outside of Avon Gorge Woodlands SAC

13.—(1) A stage of the authorised development must not commence until, after consultation with the relevant planning authority, a written scheme to prevent the spread or emanation of invasive plant species from the authorised development has been submitted to and approved in writing by the relevant planning authority.

(2) The approved scheme to prevent the spread or emanation of invasive plant species must be implemented before and maintained during the construction of the relevant stage of the authorised development.

(3) This requirement does not apply to the Avon Gorge Woodlands SAC.

Avon Gorge Woodlands SAC

14.—(1) Any part of the authorised development within the Avon Gorge Woodlands SAC must be carried out in accordance with the Avon Gorge Vegetation Management Plan.

(2) Any part of the authorised development within the Avon Gorge Woodlands SAC consisting of—

- (i) foot accesses and steps;
- (ii) GSMR masts, antennae and associated equipment boxes;
- (iii) signal and associated equipment box;
- (iv) catch fences;
- (v) works to retaining walls and structures; or
- (vi) rock stabilization works

must not commence before details of the location, siting and design of the relevant work, together with any required site clearance, working space and lay down areas, 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 the relevant works on the general arrangement plans. The works must be carried out in accordance with the approved details.

(3) Work to remove, install or replace security fencing in the Avon Gorge Woodlands SAC must not commence before details of the location, siting, colour 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 grades summary. The works must be carried out in accordance with the approved details and the installed fencing thereafter retained unless alternative type fencing is required for railway operational safety reasons.

(4) Any temporary works within the Avon Gorge Woodlands SAC consisting of compounds or construction welfare facilities (including the temporary works that are part of Work No. 25) must not commence before the location, siting duration of use and details for the removal of the relevant facility has been approved by the relevant planning authority in consultation with Natural England.

(5) The facilities described in paragraph (4) must be carried out as approved and the relevant facility must at the conclusion of the temporary works be removed to the satisfaction of the relevant planning authority in consultation with Natural England and in accordance with the approved details.

(6) The mitigation and compensation measures specified in the Avon Gorge Vegetation Management Plan must be carried out in accordance with the timetables set out in that document. The measures must thereafter be managed in accordance with the Avon Gorge Vegetation Management Plan to the satisfaction of the relevant planning authority in consultation with Natural England.

(7) The undertaker must provide monitoring reports to the relevant planning authority and Natural England no later than 12 months following first commercial use in accordance with the provisions of the Avon Gorge Vegetation Management Plan. Thereafter monitoring reports must be provided as specified in the Avon Gorge Vegetation Management Plan.

External lighting and control of artificial light emissions during construction

15.—(1) A stage of the works (or such part of that stage as may be agreed with the relevant planning authority) must not commence until written details of any temporary external lighting to be installed in connection with the construction of that stage, including measures to prevent light spillage, have been submitted to and approved by the relevant planning authority; and any approved means of lighting must be installed in accordance with the approved details and retained for the duration of the construction period.

(2) Any means of construction lighting approved under sub-paragraph (1) must be removed on completion of the relevant stage.

Construction hours

16.—(1) Except for—

- (a) works on any existing highway,
- (b) works on currently operational railway land; or
- (c) activities associated with such works within the compounds authorised by this Order

to which no restriction on working hours applies under this Order, works to construct the authorised development must not take place other than within normal daytime working hours (6.30am to 6pm Monday to Saturday) unless paragraph (2) applies.

(2) Construction work must not take place—

- (a) on Sundays, Bank or Public Holidays; or
- (b) outside the times specified in paragraph (1)

except for such working which has been notified to and approved by the relevant planning authority and communicated to affected residents by an agreed notification procedure.

(3) Nothing in this requirement prevents use of construction compounds for:

- (a) necessary preparation, before and after each shift, for items such as the management of materials and machinery,
- (b) staff briefings,

- (c) maintenance and cleaning of site welfare facilities;
- (d) stockpile management and removal or redundant material; or
- (e) arrival of personnel on site and parking

after 6am Monday to Saturday.

Contaminated land and groundwater

17.—(1) Any stage of the authorised development must not commence until a written scheme applicable to that stage to deal with the contamination of any land, including groundwater, within the Order limits which is likely to cause significant harm to persons or pollution of controlled waters or the environment has, after consultation with the relevant planning authority and the Environment Agency, been submitted to and approved by the relevant planning authority.

(2) The scheme must include an investigation and assessment report (including a desk based study), prepared by a specialist consultant approved by the relevant planning authority, to identify the extent of any contamination and the remedial measures to be taken with respect to any contaminants on the site.

(3) The stage of the authorised development must be carried out in accordance with the approved scheme.

(4) Where the scheme sets out remedial measures to be taken with respect to any contaminants on the site, a verification plan must also be submitted providing details of the data that will be collected in order to demonstrate that the remedial measures are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

(5) If, during development, contamination not previously identified is found to be present at the site, no further development (unless otherwise agreed in writing with the relevant planning authority) is to be carried out, until a remediation strategy detailing how this unsuspected contamination will be dealt with has, after consultation with the relevant planning authority and the Environment Agency, been submitted to and approved by the relevant planning authority. The remediation strategy must be implemented as approved.

(6) Paragraphs (1) to (5) do not apply to any currently operational railway land.

Works to Winterstoke Road, Bristol

18.—(1) Work No. 28 (Winterstoke Road and Ashton Vale Road Junction) must not commence until the relevant planning authority, in consultation with the relevant highway authority, has approved the detail design for Work 28, to include—

- (a) an extended left turn lane on Winterstoke Road for vehicles in to Ashton Vale Road; and
- (b) details for the installation of a MOVA system or other traffic control measures designed to maximise the operational efficiency of the Winterstoke Road and Ashton Vale Road junction including provision for the movement of trains over the level crossing at Ashton Vale Road.

(2) The detail design required by paragraph (1) to be submitted to the relevant planning authority must be in substantial accordance with the Ashton Vale Road and Winterstoke Road Highway Works Plan.

(3) Work No. 28 must be carried out in accordance with the approved details to the satisfaction of the relevant planning authority in consultation with the relevant highway authority prior to first commercial use.

Temporary path south of Trinity Primary School, Portishead

19.—(1) Work to lay out a temporary path between the points T1 and T2 on sheet 1 of the crossings to be extinguished plans must not commence until—

- (a) details of the siting, design and method of construction of the proposed temporary path; and
- (b) a statement detailing the times at which the temporary path (or any replacement temporary path for which siting, design and method of construction has previously been approved by the relevant planning authority) will be available for use.

have been approved in writing by the relevant planning authority.

(2) The statement to be submitted in accordance with sub-paragraph (1)(b) must in particular explain that the temporary path (or any approved replacement)—

- (a) will be available for use between the hours of 08:00-16:30 Monday to Friday; and
- (b) will be available for use between daylight hours on Saturdays and Sundays.

(3) The temporary path (or any replacement temporary path approved by the relevant planning authority) must be constructed in accordance with the approved details and must, following its construction, be retained and maintained as approved and available for use in accordance with the approved statement to the satisfaction of the relevant planning authority.

(4) Any temporary path must be removed within a period of 6 months following the opening of Portishead Station for public use.

Path at Marsh Lane, Easton in Gordano

20.—(1) Work No. 15 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 in consultation with the relevant highway authority. The Work must be carried out in accordance with the approved details.

(2) Following cessation of the construction haul road between Marsh Lane and the compounds located under the M5 Avonmouth Bridge and on Lodway Farm, Work No. 15 must be removed within 6 months to the satisfaction of the relevant planning authority in consultation with the relevant highway authority.

Temporary path at Avon Road, Pill

21.—(1) Work No. 20 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 in consultation with the relevant highway authority. The Work must be carried out in accordance with the approved details prior to commencement of Work No. 20A or 20B. Work No. 20 must thereafter be retained and available for use for the duration of the use of Work No. 20B as a construction compound.

(2) Following cessation of use of Work No. 20B, Work No. 20 must be removed within 6 months to the satisfaction of the relevant planning authority.

Restoration of land used temporarily for construction

22.—(1) Any land within the Order limits which is used temporarily for construction of the authorised development and not ultimately used for the purposes of the permanent works or approved landscaping, must be reinstated in accordance with such details the relevant planning authority in consultation with (if relevant) the relevant highway authority may approve, as soon as reasonably practicable and in any event within twelve months of completion of that part of the authorised development for which the land is used.

(2) Paragraph (1) does not apply to any mitigation, ground or rock stability, catch fencing, geotechnical or strengthening works to which article 33(4)(d) (temporary use of land for carrying out the authorised development) applies and which have been placed on land which is used temporarily for the authorised development.

Watercourses

23.—(1) Work Nos. 1 and 1A must not commence until a scheme and programme (including timescale) for works proposed to any watercourse flowing under the authorised development has been submitted to and approved in writing by the relevant planning authority in consultation with, if relevant, the relevant lead local flood authority, Environment Agency and IDB. The scheme submitted for approval must include details of the proposed clearance and repair works together with proposals for any temporary obstructions within the watercourse and any over pumping or other proposals for the maintenance of flow during the works.

(2) The works to a watercourse to which paragraph (1) applies must be carried out and the watercourse subsequently reinstated in accordance with the approved scheme and programme.

(3) Unless otherwise permitted under paragraph (1), throughout the period of construction, all watercourses must be maintained so that the flow of water is not impaired or the drainage on to and from adjoining land rendered less effective.

For the protection of bats

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 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 tree planting plans.

(2) The proposed tree planting on the A369 Portbury Hundred classified road must be carried out in accordance with the approved details to the reasonable satisfaction of the relevant planning authority in the first planting season after the details have been approved by the relevant planning authority unless the planting has already been carried out to the reasonable satisfaction of the relevant planning authority.

(3) The required planting must be maintained to the reasonable satisfaction of the relevant planning authority for five years following completion.

(4) No part of the authorised development must commence in the Avon Gorge Woodlands SAC until—

- (a) five artificial bat roosts have been installed in the locations shown on sheets 14, 17, 18 and 19 of the environmental master plan; and
- (b) a grille has been installed at the entrance to the cave known as Adit Cave 7 in the location shown on sheet 19 of the environmental master plan

to the satisfaction of the relevant planning authority.

Permanent fencing outside of Avon Gorge Woodlands SAC

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 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.

(3) Any new 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.

Permanent acoustic fencing

26.—(1) Work Nos. 1 and 1A must not commence until written details of the proposed permanent acoustic mitigation fences, to be located to the south of the proposed Portishead station and at the disused Portbury Station at the locations shown on the general arrangement plans have been submitted to and approved by the relevant planning authority.

(2) The dimensions of the acoustic mitigation fences must be—

- (a) between 200 and 210 metres in length and 2 metres in height from track bed level for the fence to be located to the south of the proposed Portishead Station; and
- (b) between 35 and 55 metres in length and 2.4 metres in height from track bed level for the fence to be located at the former Portbury Station.

(3) The permanent acoustic fencing, or other means of enclosure, must be installed as approved prior to first commercial use of Work Nos. 1 and 1A and thereafter retained.

Portishead Station

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 by the relevant planning authority, the authority acknowledging the necessity for the lighting to comply with Railway Industry Standards.

(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. The GSM-R mast must not exceed 12 metres in height from the proposed track bed level of Work No. 1 at Portishead Station.

(3) Work No. 5 must not commence until written details of 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.

(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 must include details of the mitigation, such as a flood emergency and evacuation plan, that would be required for the station and users to remain safe should a flood event occur.

(5) Work No. 5 must be carried out in accordance with the approved details.

(6) First commercial use must not occur prior to the approval of a station travel plan for Portishead Station by the relevant planning authority. The content of the station travel plan must substantially reflect the outline station travel plan for Portishead station submitted as part of the Environmental Statement, as Volume 4, Technical Appendices, Appendix 16.1 Transport Assessment (Part 17 of 18) – Appendix M, Outline Station Travel Plans.

Pill Station

28.—(1) Work No. 22 (Pill 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 by the relevant planning authority in consultation with Natural England, both acknowledging the necessity for the lighting to comply with Railway Industry Standards.

(2) The submitted details must demonstrate to the reasonable satisfaction of the relevant planning authority that the lighting levels on the northern platform of the former Pill Station will not be above 0.5 lux as a result of the permanent lighting proposed or the provision of lighting screens to restrict light spill on to the northern platform.

(3) Work No. 22 must not commence until written details of works to minimise light spill into the arches of the former stepped access to the northern platform of the former Pill Station have been submitted to and approved by the relevant planning authority in consultation with Natural England.

(4) The approved works must be installed in accordance with the approved details prior to first commercial use and thereafter maintained to the reasonable satisfaction of the relevant planning authority for ten years.

(5) First commercial use must not occur prior to the approval of a station travel plan for Pill Station by the relevant planning authority. The content of the station travel plan must substantially reflect the outline station travel plan for Pill station submitted as part of the Environmental Statement, as Volume 4, Technical Appendices, Appendix 16.1 Transport Assessment (Part 17 of 18) – Appendix M, Outline Station Travel Plans.

Operational lighting – highways, bridges, paths and car parks

29.—(1) Any part of the authorised development which includes—

- (a) new highway lighting;
- (b) new permissive paths or public rights of way including new lighting;
- (c) lighting of Work Nos. 7, 7A, 7B and 7C; or
- (d) new car parks at Portishead or Pill including new lighting

must not commence until written details of any permanent lighting to be installed in connection with the relevant work, including measures to prevent light spillage, have been submitted to and approved in writing by the relevant planning authority.

(2) Any approved means of lighting must be installed in accordance with the approved details.

Works affecting M5 Junction 19

30.—(1) Works Nos. 1- 24A must not commence until the undertaker has created a Traffic Management Working Group (J19 TMWG) to consider the impacts of the authorised development on Junction 19 of the M5 special road which must be organised by the undertaker and to which Highways England, Bristol Port Company, Network Rail and the relevant highway authority will be invited to participate. Unless agreed otherwise by the parties J19 TMWG will meet on a monthly basis for the duration of the construction period.

(2) Works Nos. 1- 24A must not commence until the local planning authority has approved in writing a construction traffic management plan having first consulted with Highways England in respect of those works as they affect Junction 19 of the M5 (“J19 CTMP”) and detailing—

- (a) construction traffic routes (including HGV routes, construction traffic profile (for the duration of construction period disaggregated by daily movements, vehicle type (including abnormal loads) and construction activity) and operational hours;
- (b) the construction compounds to which the J19 CTMP will apply (“the J19 compounds”);
- (c) the management of junctions to and crossings of the public highway and other public rights of way;
- (d) the scheduling and timing of abnormal load movements;
- (e) temporary warning signs;
- (f) a scheme to encourage the use of public transport amongst contractors;
- (g) a monitoring strategy to include the provision of a monitoring report to be submitted to the J19 TMWG a minimum of one week in advance of the J19TMWG monthly meeting;
- (h) a change process (in the event that any changes to the J19 CTMP are proposed during the construction phase) and a process to implement corrective measures if required; and
- (i) a construction worker travel plan, including car parking arrangements for staff and contractors.

(3) All morning shift construction staff arriving by private car at the J19 compounds will be told in advance not to arrive between the hours of 7.30am and 9am (Monday to Friday) (“the restricted hours”).

(4) Except in exceptional circumstances morning shift construction staff arriving by private car at the J19 compounds must not arrive within the restricted hours.

(5) The undertaker must record and report to Highways England in the CTMP monitoring and reporting strategy the numbers of morning shift staff arriving by private car at the J19 compounds within the restricted hours together with the exceptional circumstances for such arrival;

(6) The numbers of staff arriving by private car within the restricted hours at the J19 compounds in the absence of any exceptional circumstances must be reported to Highways England in accordance with (5) above together with the proposed steps to be taken by the undertaker to avoid any further such arrivals within the restricted hours.

Clanage Road, Bristol

31.—(1) Works 26, 26A and 26B must not commence until a flood plan which details—

- (a) the emergency and evacuation procedures for use of the temporary and permanent compound;
- (b) the location, height above ground level and the duration on site 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 writing by the relevant planning authority in consultation with the Environment Agency and the relevant lead local flood authority. The approved flood plan must thereafter be complied with to the satisfaction of the relevant planning authority.

(2) The landscaping and planting forming part of Work No. 26 must be carried out in accordance with the relevant design drawing prior to first use of Work No. 26 as a permanent maintenance compound. Any tree or shrub planted as part of the landscaping that, within a period of five years after planting, is removed, dies or becomes, in the opinion of the relevant planning authority, seriously damaged or diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted, unless the relevant planning authority gives written consent to any variation.

(3) Prior to the first use of Work No 26 as a permanent maintenance compound the Clanage Road compound, landscaping and access plan (Plan ref: 46470.BQ.04.20-261 rev T) shall be redrawn to show the proposed levels for the flood compensation mitigation area to be +107.3 AOD. The redrawn plan shall be submitted to the relevant planning authority for approval in consultation with the Environment Agency. The regarding of the mitigation area must be carried out in accordance with the details as approved and the levels must thereafter be maintained.

(4) 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 must be submitted to and approved by the relevant planning authority and once installed must be permanently maintained.

New bridleway east of M5 Avonmouth Bridge

32.—(1) Work No. 18 must not commence until the siting, design, landscaping and method of construction of the proposed bridleway have been submitted to and approved by the relevant planning authority. The submitted details must adhere to the principles shown on the Bridleway Extension under the Elevated M5 Plan.

(2) Work No. 18 must thereafter be carried out in accordance with the approved details.

Cattle Creep Bridge, Easton in Gordano

33.—(1) Work No. 1B must not commence before the undertaker has provided to the relevant planning authority and the Environment Agency a topographic survey setting out the existing ground levels at Cattle Creep bridge, Easton in Gordano.

(2) Works to Cattle Creep Bridge must be carried out and retained thereafter in accordance with the principles set out in the Cattle Creep Proposed General Arrangement drawing and in particular

the arch of the Cattle Creep Underbridge must not be altered and the ground level beneath the Cattle Creep Underbridge must not be raised without the prior consent in writing of the relevant planning authority following consultation with the Environment Agency and (if relevant) the relevant lead local flood authority.

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

34.—(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.

(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.

Pill Tunnel Eastern Portal Compound Access, Ham Green

35. 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.

Requirement for written approval

36. Where under any of the above requirements the approval or agreement of the relevant planning authority or another person or organisation is required, that approval or agreement must be given in writing.

Amendments to approved details

37.—(1) With respect to any requirement which requires the authorised development or any part of it to be carried out in accordance with the details, plans or schemes approved under this Schedule, the approved details, plans or schemes are taken to include any amendments that may subsequently be approved in writing by the relevant planning authority in consultation with any other consultee specified in the requirement in question, or approved in writing by the relevant planning authority or another approval authority.

(2) Any amendments to or variations from the approved detail, plans or schemes must be unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

Anticipatory steps towards compliance with any requirement

38. If before this Order came into force the undertaker or any other person took any steps that were intended to be steps towards compliance with any provision of Part 1 of this Schedule, those steps may be taken into account for the purpose of determining compliance with that provision if they would have been valid steps for that purpose had they been taken after this Order came into force.

PART 2

Procedure for discharge of requirements

Applications made under requirements

39.—(1) Where a valid 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 relevant planning authority acknowledge the application;
- (b) the day immediately following that on which further information has been supplied by the undertaker under paragraph 40 (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

40.—(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 39 (applications made under requirements) and in this paragraph.

Appeals

41.—(1) The undertaker may appeal in the event that—

- (a) the relevant planning authority refuses an application for any consent, agreement or approval required or contemplated by any of the provisions of this Order or grants it subject to conditions;
- (b) the relevant planning authority does not give notice of its decision to the undertaker within the decision period specified in sub-paragraph 39(1) (applications made under requirements);
- (c) on receipt of a request for further information under paragraph 40 (further information) the undertaker considers that either the whole or part of the specified information requested by the relevant planning authority is not necessary for consideration of the application; or
- (d) on receipt of any further information requested, the relevant planning authority notifies the undertaker that the information provided is inadequate and requests additional information which the undertaker considers is not necessary for consideration of the application.

(2) The appeal process is as follows—

- (a) any appeal by the undertaker must be made within 42 days of the date of the notice of the decision or determination, or (where no determination has been made) expiry of the decision period as determined under paragraph (1);
 - (b) the undertaker must submit the appeal documentation to the Secretary of State and must on the same day provide copies of the appeal documentation to the relevant planning authority and the requirement consultees;
 - (c) as soon as is practicable after receiving the appeal documentation, the Secretary of State must appoint a person to determine the appeal (“the appointed person”)(a) and must notify the appeal parties of the identity of the appointed person and the address to which all correspondence for that person’s attention should be sent;
 - (d) the relevant planning authority and the requirement consultees must submit written representations to the appointed person in respect of the appeal within 20 business days of the date on which the appeal parties are notified of the appointment of a person under paragraph (c) and must ensure that copies of their written representations are sent to each other and to the undertaker on the day on which they are submitted to the appointed person;
 - (e) the appeal parties shall make any counter-submissions to the appointed person within 20 business days of receipt of written representations under paragraph (d).
- (3) The appointed person must make a decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable.
- (4) The appointment of the appointed person may be undertaken by a person appointed by the Secretary of State for this purpose instead of by the Secretary of State.
- (5) If the appointed person considers that further information is necessary to enable consideration of the appeal the appointed person must, as soon as practicable, notify the appeal parties in writing specifying the further information required, the appeal party from whom the information is sought, and the date by which the information is to be submitted.
- (6) Any further information required under sub-paragraph (5) is to be provided by the party from whom the information is sought to the appointed person and to other appeal parties by the date specified by the appointed person. Any written representations concerning matters contained in the further information must be submitted to the appointed person, and made available to all appeal parties within 10 business days of that date.
- (7) On an appeal under this paragraph, the appointed person may—
- (a) allow or dismiss the appeal; or
 - (b) reverse or vary any part of the decision of the relevant planning authority (whether the appeal relates to that part of it or not), and may deal with the application as if it had been made to the appointed person in the first instance.
- (8) The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the prescribed time limits, or set by the appointed person under this paragraph.
- (9) The appointed person may proceed to a decision even though no written representations have been made within the prescribed time limits, if it appears to the appointed person that there is sufficient material to enable a decision to be made on the merits of the case.
- (10) The decision of the appointed person on an appeal is to be final and binding on the appeal parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for judicial review.
- (11) If an approval is given by the appointed person under this Schedule, it is deemed to be an approval for the purpose of any consent, agreement or approval required under the Order or for the purpose of this Schedule as if it had been given by the discharging authority. The discharging authority may confirm any determination given by the appointed person in identical form in

(a) Appointed by the Planning Inspectorate on behalf of the Secretary of State

writing but a failure to give such confirmation (or a failure to give it in identical form) is not to be taken to affect or invalidate the effect of the appointed person’s determination.

(12) Except where a direction is given under sub-paragraph (13) requiring the costs of the appointed person to be paid by the relevant planning authority, the reasonable costs of the appointed person are to be met by the undertaker(a).

(13) On application by the relevant planning authority or the undertaker, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid. In considering whether to make any such direction and the terms on which it is to be made, the appointed person must have regard to the Planning Practice Guidance published by the Department for Communities and Local Government on 6th March 2014 or any circular or guidance which may from time to time replace it.

Interpretation of Part 2 of Schedule 2

42. In this part of this Schedule—

“the appeal parties” means the discharging authority, the undertaker and any requirement consultees;

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

“requirement consultee” means any body named in a requirement which is the subject of an appeal as a body to be consulted by the relevant planning authority in discharging that requirement.

SCHEDULE 3

Article 13

Streets subject to street works

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street subject to street works</i>
In the District of North Somerset	Harbour Road, Portishead
In the District of North Somerset	Haven View, Portishead
In the District of North Somerset	Phoenix Way, Portishead
In the District of North Somerset	Quays Avenue, Portishead
In the District of North Somerset	Tansy Lane, Portishead
In the District of North Somerset	Galingale Way, Portishead
In the District of North Somerset	Conference Avenue, Portishead
In the District of North Somerset	Sheepway, Portbury
In the District of North Somerset	Station Road, Portbury
In the District of North Somerset	The Portbury Hundred, Portbury
In the District of North Somerset	Royal Portbury Dock Road, Portbury
In the District of North Somerset	Marsh Lane, Easton in Gordano
In the District of North Somerset	Access road to the M5 Avonmouth Bridge east of Marsh Lane, Easton in Gordano
In the District of North Somerset	Severn Road, Pill
In the District of North Somerset	Access road to the M5 Avonmouth Bridge, west of Avon Road, Pill

(a) The costs of the appointed person are calculated based on the applicable day rate for a Single Inspector as if he or she were appointed under section 78 and section 79 of the 2008 Act. See the National Infrastructure Planning website for more information: <https://infrastructure.planninginspectorate.gov.uk/application-process/application-fees/>

(b) 1971 c. 80.

In the District of North Somerset	Avon Road, Pill
In the District of North Somerset	Monmouth Court, Pill
In the District of North Somerset	Monmouth Road, Pill
In the District of North Somerset	Newport Road, Pill
In the District of North Somerset	Crusty Lane, Pill
In the District of North Somerset	Back Lane, Pill
In the District of North Somerset	Station Road, Pill
In the District of North Somerset	Chapel Row, Pill
In the District of North Somerset	Myrtle Hill, Pill
In the District of North Somerset	Sambourne Lane, Pill
In the District of North Somerset	Heywood Road, Pill
In the District of North Somerset	Lodway, Pill
In the District of North Somerset	Underbanks, Pill
In the District of North Somerset	Watchhouse Road, Pill
In the District of North Somerset	Macrae Road, Pill
In the District of North Somerset	Fitzharding Road, Pill
In the District of North Somerset	Ham Green, Pill
In the District of North Somerset	The Green, Ham Green, Pill
In the District of North Somerset	Hart Close, Ham Green, Pill
In the District of North Somerset	Chapel Pill Lane, Ham Green, Pill
In the City and County of Bristol	Clanage Road, Bower Ashton
In the City and County of Bristol	Ashton Road, Ashton
In the City and County of Bristol	Ashton Gate Underpass, Ashton
In the City and County of Bristol	Winterstoke Road, Ashton
In the City and County of Bristol	Marsh Road, Ashton
In the City and County of Bristol	Ashton Vale Road, Ashton

SCHEDULE 4

Article 14

Streets to be stopped up

PART 1

Street for which a substitute is to be provided

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>New Highway to be substituted</i>
District of North Somerset	Quays Avenue, Portishead	160 metres of Quays Avenue shown by vertical zebra stripes the points marked A-A and B-B on sheet 1 of the permanent and temporary stopping up and diversion plan	127 metres of new all-purpose highway shown by stipple hatch between the points marked C-C and D-D on sheet 1 of the permanent and temporary stopping up and diversion plan (Work No. 2)

PART 2

Streets for which no substitute is to be provided

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>
In the District of North Somerset, Portishead	All rights to use the former Moor Lane crossing south of Trinity Primary School Portishead	Between the points marked S7 and S8 on sheet 1 of the permanent and temporary stopping up and diversion plan
In the District of North Somerset, Portbury	All rights to use crossing forming part of the Drove, north of the highway known as Portbury Hundred	Between the points marked S17 and S18 on sheet 4 of the permanent and temporary stopping up and diversion plan

SCHEDULE 5

Article 15

Streets to be stopped up temporarily

PART 1

Street to be stopped up temporarily for which a substitute is to be provided

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street to be temporarily stopped up</i>	<i>(3)</i> <i>Extent of temporary stopping up</i>	<i>(4)</i> <i>Replacement to be provided</i>
In the District of North Somerset, Pill	Unnamed street from Avon Road, Pill to the Avonmouth Bridge of the M5 Special Road	Between the points marked TS4 and TS5 on sheet 6 of the permanent and temporary stopping up and diversion plan	Temporary route for non-motorised users and motorised vehicles of less than 50 cc engine capacity between the points marked TS4 and TS4A shown on sheet 6 of the permanent and temporary stopping up and diversion plan

PART 2

Bridleways and footpaths to be temporarily suspended for which no substitute is to be provided during suspension

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Bridleways and footpaths to be temporarily suspended</i>	<i>(3)</i> <i>Extent of temporary suspension</i>
In the District of North Somerset, Easton in Gordano	Public bridleway LA8/67/10 from its junction with Marsh Lane to its termination point under the Avonmouth Bridge of the M5 Special Road	Between the points marked TS1 and TS2 on sheet 5 of the permanent and temporary stopping up and diversion plan
In the District of North Somerset, Easton in Gordano	Public footpath LA8/68/10	Between the points marked

Somerset, Easton in Gordano	from its junction with public bridleway LA8/67/10 to its junction with public footpaths LA8/6/5 and LA8/6/10 under the Avonmouth Bridge of the M5 Special Road	TS2 and TS3 on sheet 5 of the permanent and temporary stopping up and diversion plan
In the District of North Somerset, Pill	Public footpath LA8/5/40 between Lodway Close and Avon Road, Pill	Between the points marked TS6 and TS7 on sheet 6 of the permanent and temporary stopping up and diversion plan
In the District of North Somerset, Pill	Public footpath LA8/4/10 between Avon Road and Severn Road, Pill	Between the points marked TS7 and TS8 on sheet 6 of the permanent and temporary stopping up and diversion plan

SCHEDULE 6

Article 16

Bridleways, cycle tracks and footpaths

PART 1

Footpath to be diverted

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Footpath to be stopped up</i>	<i>(3)</i> <i>Extent of Stopping up</i>	<i>(4)</i> <i>New Footpath to be substituted</i>
City and County of Bristol, Ashton	Part of footpath BCC/422/10 known as Barons Close Level Crossing or Ashton Containers Crossing, Ashton, Bristol	Between the points marked S31 and S32 on sheet 16 of the permanent and temporary stopping up and diversion plan	507.50 metres of footpath BCC/422/10 shown on sheet 16 of the permanent and temporary stopping up and diversion plan

PART 2

New public rights of way to be created

<i>(1)</i>	<i>(2)</i>
Cycle track	Between points CT1 and CT2 shown on Sheet 1 of the new highways plan
Cycle track	Between points CT2 and CT3 shown on Sheet 1 of the new highways plan
Cycle track	Between points CT4 and CT5 shown on Sheet 1 of the new highways plan
Cycle track	Between points CT5 and CT6 shown on Sheet 1 of the new highways plan
Cycle track	Between points CT6 and CT8 shown on Sheet 1 of the new highways plan
Bridleway	Between points B1 and B2 shown on Sheet 5 of the new highways plan

SCHEDULE 7

Article 17

Access to works

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Description of access</i>
In the District of North Somerset	Access from Harbour Road, Portishead shown as AW1.1 on sheet 1 of the compounds, haul roads and access to works plan
In the District of North Somerset	Access from Quays Avenue, Portishead shown as AW1.2 on sheet 1 of the compounds, haul roads and access to works plan
In the District of North Somerset	Access from Phoenix Way, Portishead shown as AW1.3 on sheet 1 of the compounds, haul roads and access to works plan
In the District of North Somerset	Access from Quays Avenue, Portishead shown as AW1.4 on sheet 1 of the compounds, haul roads and access to works plan
In the District of North Somerset	Access from the highway known as Sheepway to field to the north of the highway, south of the disused Portishead branch line, shown as AW2.1 on sheet 2 of the compounds, haul roads and access to works plan
In the District of North Somerset	Access from the highway known as Sheepway north of the disused Portishead branch line, shown as AW2.2 on sheet 2 of the compounds, haul roads and access to works plan
In the District of North Somerset	Access from the highway known as Sheepway to field to the south of the highway, south of the disused Portishead branch line, shown as AW2.3 on sheet 2 of the compounds, haul roads and access to works plan
In the District of North Somerset	Access from the highway known as Portbury Hundred, west of Station Road Portbury, shown as AW3.1 on sheet 3 of the compounds, haul roads and access to works plan
In the District of North Somerset	Access from the highway known as Sheepway, Portbury, shown as AW3.2 on sheet 3 of the compounds, haul roads and access to works plan
In the District of North Somerset	Access from the highway known as Station Road, Portbury, shown as AW3.3 on sheet 3 of the compounds, haul roads and access to works plan
In the District of North Somerset	Access from the highway known as Portbury Hundred, east of Station Road, Portbury, shown as AW4.1 on sheet 4 of the compounds, haul roads and access to works plan
In the District of North Somerset	Access from the highway known as Marsh Lane, Easton in Gordano, north of the disused Portishead Branch Line railway, shown as AW5.1 on sheet 5 of the compounds, haul roads and access to works plan
In the District of North Somerset	Access from the highway known as the Breaches, Easton in Gordano, shown as AW5.2 on sheet 5 of the compounds, haul roads and

	access to works plan
In the District of North Somerset	Access from the highway known as Marsh Lane, Easton in Gordano, south of the disused Portishead Branch Line railway, shown as AW5.3 on sheet 5 of the compounds, haul roads and access to works plan
In the District of North Somerset	Access from the highway known as Avon Road, Pill shown as AW6.1 on sheet 6 of the compounds, haul roads and access to works plan
In the District of North Somerset	Access from the highway known as Monmouth Road, Pill shown as AW6.2 on sheet 6 of the compounds, haul roads and access to works plan
In the District of North Somerset	Access from the highway known as Underbanks, Pill AW6.3 on sheet 6 of the compounds, haul roads and access to works plan
In the District of North Somerset	Access from the highway known as Station Road, Pill AW6.4 on sheet 6 of the compounds, haul roads and access to works plan
In the District of North Somerset	Access from the highway known as Lodway, Pill AW6.5 on sheet 6 of the compounds, haul roads and access to works plan
In the District of North Somerset	Access from the highway known as Chapel Pill Lane to new maintenance compound (and temporary construction compound), Ham Green, Pill, shown as AW8.1 on sheet 8 of the compounds, haul roads and access to works plan
In the District of North Somerset	Access from the highway known as Chapel Pill Lane to the unadopted part of Chapel Pill Lane, Ham Green, Pill, shown as AW8.2 on sheet 8 of the access to works plan
In the District of North Somerset	Access from the River Avon Tow Path, shown as AW10.1 on sheet 10 of the compounds, haul roads and access to works plan
In the District of North Somerset	Access on foot from the River Avon Tow Path, shown as AW11.1 on sheet 11 of the compounds, haul roads and access to works plan
In the District of North Somerset	Access from the A369 classified road known as Abbots Leigh Road, shown as AW11C.1 on sheet 11C of the compounds, haul roads and access to works plan
In the District of North Somerset	Access from the River Avon Tow Path, shown as AW12.1 on sheet 12 of the compounds, haul roads and access to works plan
In the District of North Somerset	Access from the River Avon Tow Path, shown as AW12.2 on sheet 12 of the compounds, haul roads and access to works plan
In the District of North Somerset	Access on foot only from the River Avon Tow Path, shown as AW13.1 on sheet 13 of the compounds, haul roads and access to works plan

In the City and County of Bristol	Access from the highway known as Rownham Hill, shown as AW14.1 on sheet 14 of the compounds, haul roads and access to works plan
In the City and County of Bristol	Access from the highway known as Clanage Road, Bower Ashton, shown as AW15.1 on sheet 15 of the compounds, haul roads and access to works plan
In the City and County of Bristol	Access from the highway known as Clanage Road, Bower Ashton, shown as AW15.2 on sheet 15 of the compounds, haul roads and access to works plan
In the City and County of Bristol	Access from the highway known as Winterstoke Road, Ashton, shown as AW16.1 on sheet 16 of the compounds, haul roads and access to works plan
In the City and County of Bristol	Access from the highway known as South Liberty Lane, Ashton, shown as AW17.1 on sheet 17 the compounds, haul roads and access to works plan

SCHEDULE 8

Article 20

Closure of crossings

PART 1

Crossings: works required

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Crossing to be discontinued</i>	<i>(3)</i> <i>Street or way to be stopped up</i>	<i>(4)</i> <i>Replacement</i>
District of North Somerset, Portishead	Quays Avenue, Portishead	Crossing known as Quays Avenue Portishead between the points marked S1 and S2 on sheet 1 of the crossings to be extinguished plans	Work No. 2
District of North Somerset, Portishead	Pedestrian and cycle crossing between Galingale Way and Tansy Lane, Portishead at 129 miles, 16 chains	Crossing, between the points marked S5 and S6 on sheet 1 of the crossings to be extinguished plan	Work No. 7, 7A, 7B and 7C

PART 2

Crossings: temporary suspension

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Crossing to be</i>	<i>(3)</i> <i>Street or way to be</i>	<i>(4)</i> <i>Temporary</i>
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	<i>discontinued</i>	<i>temporarily stopped up</i>	<i>Replacement</i>
District of North Somerset, Portishead	Pedestrian and cycle crossing between Galingale Way and Tansy Lane, Portishead at 129 miles, 16 chains	Crossing, between the points marked S5 and S6 on sheet 1 of the crossings to be extinguished plans	Pedestrian and cycle crossing on any reasonably direct route previously agreed by the relevant highway authority between the points marked T1 and T2 on sheet 1 of the crossings to be extinguished plan

PART 3

Crossings: No works required

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Level Crossing to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>
In the District of North Somerset, Portishead	The former Moor Lane crossing south of Trinity Primary School Portishead	Between the points marked S7 and S8 on sheet 1 of the crossings to be extinguished plans
In the District of North Somerset, Portbury	The crossing forming part of The Drove, north of the highway known as Portbury Hundred	Between the points marked S17 and S18 on sheet 4 of the crossings to be extinguished plans

SCHEDULE 9

Article 21

Accommodation and occupation crossings

PART 1

Crossings extinguished: works required

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Accommodation facility to be discontinued</i>	<i>(3)</i> <i>Rights to be extinguished</i>	<i>(4)</i> <i>Works to be provided</i>
In the District of North Somerset, Portbury	Crossing at 128 miles 46 chains at Shipway Gate Farm	All rights (if any) to use the crossing at Shipway Gate Farm between points S9 and S10 shown on sheet 2 of the crossings to be extinguished plans	New gate and works on the highway known as Sheepway marked N1 on sheet 2 of the crossings to be extinguished plan
In the District of North Somerset, Portbury	Crossing at 128 miles 39 chains at Shipway Gate Farm	All rights (if any) to use the crossing at Shipway Gate Farm between the points	New gate and works on the highway known as Sheepway marked N1 on sheet 2

		S11 and S12 shown on sheet 2 of the crossings to be extinguished plans	of the crossings to be extinguished plans
In the District of North Somerset, Portbury	Crossing at 128 miles 17 chains at Elm Tree Farm, Portbury	All rights (if any) to use the crossing to the South of Sheepway and to the west of Elm Tree Farm between the points S13 and S14 shown on sheet 3 of the crossings to be extinguished plans	New gate and works on the highway known as Portbury Hundred marked N2 on sheet 3 of the crossings to be extinguished plans

PART 2

Crossings for which no substitute is to be provided

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Crossing to be discontinued</i>	<i>(3)</i> <i>Right to be extinguished</i>
In the District of North Somerset, Portishead	Crossing at 129 miles 22 chains, south of the Wessex Water pumping station, east of Quays Avenue Portishead	All rights (if any) to use the crossing between the points marked S3 and S4 on sheet 1 of the crossings to be extinguished plans
In the District of North Somerset, Portbury	Crossing at 127 miles 71 chains north of the A369 Portbury Hundred classified road	All rights (if any) to use the crossing between the points marked S15 and S16 on sheet 3 of the crossings to be extinguished plans
In the District of North Somerset, Portbury	Crossing at 127 miles 41 chains north of the A369 Portbury Hundred classified road known as Portbury No.3 crossing	All rights (if any) to use the crossing between the points marked S19 and S20 on sheet 4 of the crossings to be extinguished plans
In the District of North Somerset, Portbury	Crossing at 127 miles 12 chains north of Court House Farm, Portbury	All rights (if any) to use the crossing between the points marked S21 and S22 on sheets 4 and 5 of the crossings to be extinguished plans
In the District of North Somerset, Easton in Gordano	Crossing at 126 miles 74 chains known as Manor Farm No.2 crossing, east of Marsh Lane, Easton in Gordano	All rights (if any) to use the crossing between the points marked S25 and S26 on sheet 5 the crossings to be extinguished plans
In the District of North Somerset, Easton in Gordano	Crossing at 126 miles 74 chains known as Manor Farm No.1 crossing, east of Marsh Lane, Easton in Gordano	All rights (if any) to use the crossing between the points marked S27 and 28 on sheet 5 the crossings to be extinguished plans
In the District of North Somerset, Pill	Crossing at 126 miles 56 chains, south east of M5 Avonmouth Bridge, Easton in Gordano	All rights (if any) to use the crossing between the points marked S29 and S30 on sheet 5 of the crossings to be extinguished plans

SCHEDULE 10

Article 27

Land in which only new rights, etc., may be acquired

<i>(1)</i> <i>Number of land shown on the land plan</i>	<i>(2)</i> <i>Purpose for which rights may be acquired</i>
01/97	To access (with or without vehicles plant and machinery) and to install, inspect, maintain, use, repair, cleanse, retain, renew, replace and remove a drainage pipe for the purpose of draining water from the adjoining highway.
01/215, 01/225	To access (with or without vehicles plant and machinery) and to install, maintain, use, retain, repair, inspect, cleanse, renew, replace and remove a drainage pipe for the purpose of draining water from adjoining land.
01/230, 01/231, 01/232	To access (with or without vehicles plant and machinery) and to install, maintain, use, repair, inspect, renew, replace and remove cables and other conduits for the purposes of the supply and distribution of electricity through the cables to adjoining land.
01/252, 01/255, 01/260, 01/270	To access, pass and repass and remain upon the land (with or without vehicles plant and machinery) for all purposes in connection with access to adjoining land.
02/19	To access and remain upon the land (with or without vehicles, plant and machinery) for the purpose of inspecting, reconstructing, maintaining, repairing, cleansing, clearing, refurbishing, replacing and removing a culvert, watercourse and head wall.
02/117	To access and remain upon the land (with or without vehicles plant and machinery) for the purpose of inspecting, reconstructing, maintaining, repairing, cleansing, clearing, refurbishing, replacing and removing a culvert, watercourse and head wall.
02/121	To access, pass and repass and remain upon the land (with or without vehicles plant and machinery) for all purposes in connection with access to adjoining land.
03/31	To access and remain upon the land (with or without vehicles plant and machinery) for the purpose of inspecting, reconstructing, maintaining, repairing, cleansing, clearing, refurbishing, replacing and removing a culvert, watercourse and head wall.
03/69, 03/77, 03/78	To access and remain upon the land (with or without vehicles plant and machinery) for the purpose of inspecting, reconstructing, maintaining, repairing, cleansing, clearing, refurbishing, replacing and removing a culvert, watercourse and head wall.
05/75, 05/85, 05/86	To access, pass and repass and remain upon the land with or without vehicles, plant and

	<p>machinery and for all purposes in connection with inspecting, reconstructing, maintaining, repairing, cleansing, clearing, refurbishing, replacing and removing,</p> <p>(a) an accommodation bridge and associated walls, embankments and structures; and</p> <p>(b) a culvert, watercourse and head wall.</p>
05/100, 05/103, 05/105, 05/112	To access, pass and repass and remain upon the land with or without vehicles, plant and machinery (including road and rail vehicles) to access the national railway network and for all purposes in connection with access to neighbouring land.
05/104, 05/165, 05/171	<p>(i) To access, pass and repass and remain upon the land with or without vehicles, plant and machinery;</p> <p>(ii) To install, lay, maintain, use, transmit, retain, renew, repair, replace, inspect and remove railway signalling and communications apparatus; and</p> <p>(iii) To pass and repass with or without vehicles, plant and machinery (including rail vehicles) to access the national railway network.</p>
05/107, 05/108	To access, pass and repass and remain upon the land with or without vehicles, plant and machinery (including road and rail vehicles) and to access the national railway network, together with the right to use the land for the purpose of transferring road and rail maintenance vehicles onto the railway and removing road and rail maintenance vehicles from the railway.
06/25, 06/55	<p>(i) To access, pass and repass and remain upon the land with or without vehicles, plant and machinery;</p> <p>(ii) To alter or remove existing railway and to install, lay, retain, renew, repair, inspect and replace railway track and apparatus;</p> <p>(iii) To install, lay, inspect, maintain, use, transmit, retain, renew, repair, replace and remove railway signalling and communications apparatus; and</p> <p>(iv) To pass and repass with or without vehicles, plant and machinery (including rail vehicles) to access the national railway network.</p>
06/160, 06/280, 06/285, 06/290, 06/295, 06/300, 06/305, 06/310, 06/315 06/320, 06/325, 06/330, 06/335, 06/340, 06/345, 06/350, 06/355, 06/360, 06/365, 06/370, 06/375,	(i) To insert, inspect, maintain, adjust, repair, remove, retain and renew soil nails at a depth at least 1 metre below the current surface of the land together with access for all necessary

<p>06/380, 06/385, 06/390, 06/395, 06/400, 06/405, 06/410, 06/415, 06/420, 06/425, 06/430, 06/435, 06/440, 06/445, 06/450, 06/455, 06/460, 06/465, 06/470, 06/475, 06/480, 06/485, 06/490, 06/495, 06/500, 06/510, 06/520</p>	<p>workmen, vehicles, machinery and other apparatus at any time in, through and under the land for those purposes;</p> <p>(ii) To enter, with any necessary workmen, contractors or other authorised persons and bring necessary plant, equipment, materials and vehicles onto the land and to remain thereon for so long as is reasonably required for the purposes of—</p> <p>(a) carrying out site soil and environmental surveys and environmental mitigation measures and geotechnical ecological archaeological and site investigations; and</p> <p>(b) making trial holes in such positions to investigate the nature of the surface layer and subsoil and taking soil samples.</p> <p>(iii) To undertake works to upgrade, stabilise, repair, improve, install or replace fences; and</p> <p>(iv) A restrictive covenant not to do anything or allow anything to be done on the land which may cause damage to the soil nails or other subsoil works or affect their proper and efficient operation.</p>
<p>06/566</p>	<p>To install, lay, maintain, use, operate, retain, renew, repair, replace, inspect and remove electrical apparatus and to distribute electricity through the installed cables..</p>
<p>06/634, 06/644</p>	<p>To access, pass and repass and remain upon the land with or without plant and machinery for the purposes of inspecting, repairing, maintaining renewing, replacing and removing railway and the abutment and arches of a viaduct on adjoining land.</p>
<p>06/640</p>	<p>To access, pass and repass and remain upon the land with or without plant and machinery for the purposes of inspecting, repairing, maintaining, renewing, replacing and removing the abutment and arches of a viaduct on adjoining land.</p>
<p>06/641, 06/642, 06/643</p>	<p>To access, pass and repass and remain upon the land with or without plant and machinery for the purposes of inspecting, repairing, maintaining renewing, replacing and removing a railway and the abutment and arches of a viaduct on adjoining land.</p>
<p>06/646</p>	<p>To access, pass and repass and remain upon the land with or without plant and machinery for the purposes of inspecting, repairing, maintaining, renewing, replacing and removing a railway and the abutment and arches of a viaduct on adjoining land.</p>

07/71, 07/73, 07/77, 07/78, 07/130	To access, pass and repass with or without vehicles (such vehicles being limited to no more than 3.5 tonnes laden in weight) to access the adjoining railway.
08/12, 08/13	To access, pass and repass and remain upon the land with or without vehicles to access adjoining land.
08/45	To access, pass and repass and remain upon the land with or without vehicles to access adjoining land.
09/12, 09/13, 09/14	To access, remain upon, pass and repass and access adjoining land for the inspection, construction, operation, use and maintenance of the authorised development.

SCHEDULE 11

Article 27

Modification of compensation and compulsory purchase enactments for creation of new rights or imposition of restrictions

Compensation enactments

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land apply, with the necessary modifications as respects compensation, in the case of a compulsory acquisition under this Order of a right by the creation of a new right or imposition of a restrictive covenant as they apply as respects compensation on the compulsory purchase of land and interests in land.

2.—(1) Without limitation on the scope of paragraph 1, the Land Compensation Act 1961 has effect subject to the modifications set out in sub-paragraph (2).

(2) For section 5A(5A) (relevant valuation date) of the 1961 Act **(a)** substitute—

“(5A) If—

- (a) the acquiring authority enters on land for the purpose of exercising a right in pursuance of a notice of entry under section 11(1) of the 1965 Act (as modified by paragraph 5(5) of Schedule 11 to Portishead Branch Line (MetroWest Phase 1) Order 202X(a) (“the 202X Order”);
- (b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A to the 1965 Act (as substituted by paragraph 5(8) of Schedule 11 to the 202X Order) to acquire an interest in the land; and
- (c) the acquiring authority enters on and takes possession of that land

the authority is deemed for the purposes of subsection (3)(a) to have entered on that land where it entered on that land for the purpose of exercising that right.”

3.—(1) Without limitation on the scope of paragraph 1, the Land Compensation Act 1973 **(b)** has effect subject to the modifications set out in sub-paragraph (2).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 (measure of compensation in case of severance) of the 1965 Act as substituted by paragraph 5(3)—

(a) 1961 c. 33. Section 5A(5A) was inserted by paragraph 4(2) of Schedule 17(2) to the Housing and Planning Act 2016 (c. 22).

(b) 1973 c. 26.

- (a) for “land is acquired or taken from” substitute “a right or restrictive covenant over land is purchased from or imposed on”; and
- (b) for “acquired or taken from him” substitute “over which the right is exercisable or the restrictive covenant enforceable”.

Application of Part 1 of the 1965 Act

4. Part 1 (compulsory purchase under Acquisition of Land Act 1946) of the 1965 Act, as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and modified by article 25 (modification of Part 1 of the 1965 Act)) to the acquisition of land under article 24 (compulsory acquisition of land), applies to the compulsory acquisition of a right by the creation of a new right, or to the imposition of a restrictive covenant under article 27(1) (compulsory acquisition of rights or imposition of covenants)—

- (a) with the modification specified in paragraph 5; and
- (b) with such other modifications as may be necessary.

5.—(1) The modifications referred to in paragraph 4(a) are as follows.

(2) References in the 1965 Act to land are, in the appropriate contexts, to be read (according to the requirements of the particular context) as referring to, or as including references to—

- (a) the right acquired or to be acquired, or the restriction imposed or to be imposed; or
- (b) the land over which the right is or is to be exercisable, or the restriction is or is to be enforceable.

(3) For section 7 (measure of compensation in case of severance) of the 1965 Act substitute—

“7. In assessing the compensation to be paid by the acquiring authority under this Act, regard must be had not only to the extent (if any) to which the value of the land over which the right is to be acquired or the restrictive covenant is to be imposed is depreciated by the acquisition of the right or the imposition of the covenant but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”

(4) The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

- (a) section 9(4) (failure by owners to convey);
- (b) paragraph 10(3) of Schedule 1 (owners under incapacity);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land)

are modified to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired or the restrictive covenant which is to be imposed is vested absolutely in the acquiring authority.

(5) Section 11 (powers of entry) of the 1965 Act is modified to secure that, where the acquiring authority has served notice to treat in respect of any right or restriction, as well as the notice of entry required by subsection (1) of that section (as it applies to a compulsory acquisition under article 19 (construction and maintenance of new or altered streets)), it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restriction; and sections 11A (powers of entry: further notices of entry), 11B (counter-notice requiring possession to be taken on specified date)(a), 12 (penalty for unauthorised entry)(b) and 13 (entry on warrant in the event of obstruction) of the 1965 Act are modified correspondingly.

(a) 1965 c. 56. Section 11B was inserted by section 187(3) of the Housing and Planning Act 2016 (c. 22).

(b) 1965 c. 56. Section 12 was amended by paragraph 4 of Schedule 16 to the Housing and Planning Act 2016 (c. 22).

(6) Section 20 (protection for interests of tenants at will etc.) of the 1965 Act^(a) applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right or the enforcement of the restrictive covenant in question.

(7) Section 22 (interests omitted from purchase) of the 1965 Act as modified by article 25(4) (modification of Part 1 of the 1965 Act) is also modified so as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired or enforce the restrictive covenant imposed, subject to compliance with that section as respects compensation.

(8) For Schedule 2A to the 1965 Act substitute—

“SCHEDULE 2A COUNTER-NOTICE REQUIRING PURCHASE OF LAND

Introduction

1.—(1) This Schedule applies where an acquiring authority serve a notice to treat in respect of a right over, or restrictive covenant affecting, the whole or part of a house, building or factory and have not executed a general vesting declaration under section 4 (execution of declaration) of the 1981 Act as applied by article 30 (application of the Compulsory Purchase (Vesting Declarations) Act 1981) of the Portishead Branch Line (MetroWest Phase 1) Order 202X in respect of the land to which the notice to treat relates.

(2) But see article 31 (acquisition of subsoil or airspace only) of the Portishead Branch Line (MetroWest Phase 1) Order 202X which excludes the acquisition of subsoil or airspace only from this Schedule.

2. In this Schedule “house” includes any park or garden belonging to a house.

Counter-notice requiring purchase of land

3. A person who is able to sell the house, building or factory (“the owner”) may serve a counter-notice requiring the authority to purchase the owner’s interest in the house, building or factory.

4. A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

Response to counter-notice

5. On receiving a counter-notice, the acquiring authority must decide whether to—

- (a) withdraw the notice to treat,
- (b) accept the counter-notice, or
- (c) refer the counter-notice to the Upper Tribunal.

6. The authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).

(a) 1965 c. 56. Section 20 was amended by paragraph 4 of Schedule 15(1) to the Planning and Compensation Act 1991 (c. 34) and paragraph 70 of Schedule 1 to S.I. 2009/1307.

7. If the authority decide to refer the counter-notice to the Upper Tribunal they must do so within the decision period.

8. If the authority do not serve notice of a decision within the decision period they are to be treated as if they had served notice of a decision to withdraw the notice to treat at the end of that period.

9. If the authority serve notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in the house, building or factory.

Determination by Upper Tribunal

10. On a referral under paragraph 7, the Upper Tribunal must determine whether the acquisition of the right or the imposition of the restrictive covenant would—

- (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or
- (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

11. In making its determination, the Upper Tribunal must take into account—

- (a) the effect of the acquisition of the right or the imposition of the covenant,
- (b) the use to be made of the right or covenant proposed to be acquired or imposed, and
- (c) if the right or covenant is proposed to be acquired or imposed for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

12. If the Upper Tribunal determines that the acquisition of the right or the imposition of the covenant would have either of the consequences described in paragraph 10, it must determine how much of the house, building or factory the authority ought to be required to take.

13. If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.

14.—(1) If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

(2) If the acquiring authority withdraws the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.

(3) Any dispute as to the compensation is to be determined by the Upper Tribunal.”

SCHEDULE 12

Article 33

Land of which temporary possession may be taken

<i>(1)</i> <i>Location</i>	<i>(2)</i> <i>Number of land shown on land plan</i>	<i>(3)</i> <i>Purpose for which temporary possession may be taken</i>	<i>(4)</i> <i>Relevant part of the authorised development</i>
In the District of North Somerset,	01/70, 01/75, 01/76, 01/77	Working space and access for	Work No. 2

Portishead		construction	
In the District of North Somerset, Portishead	01/91	Working space and access for construction	Work No. 2A
In the District of North Somerset, Portishead	01/111, 01/112	Access, working space, materials storage, compound and lay down area for construction	Work Nos. 1, 7, 7A, 7C, 7D and 7E
In the District of North Somerset, Portishead	01/210	Access, working space for construction and ecological mitigation	Work Nos. 1, 7 and 7B
In the District of North Somerset, Portishead	01/211, 01/212, 01/216	Access, working space for construction and ecological mitigation	Work Nos. 1, 7 and 7B
In the District of North Somerset, Portishead	01/220, 01/221	Access, working space and materials storage, compound, lay down area for construction and diversionary route for path	Work Nos. 1, 7, 7C, 7D and 7E
In the District of North Somerset, Portishead	01/222	Access, working space for construction	Work Nos. 1, 5, 7, 7A and 7D
In the District of North Somerset, Portishead	01/226	Access, working space, and ecological mitigation for construction	Work Nos. 1, 5 and 7A
In the District of North Somerset, Portishead	01/240, 01/241, 01/250	Access, working space for construction and ecological mitigation	Work Nos. 1 and 7
In the District of North Somerset, Portishead	01/251, 01/265	Access, working space for construction and diversionary route for path	Work Nos. 1 and 7
In the District of North Somerset, Portishead	01/296, 01/297	Access, working space for construction and ecological mitigation	Work No. 1
In the District of North Somerset, Portishead	01/310	Access, haul road, materials storage and working space for construction	Work Nos. 1, 1A, 1B, 1C and 8
In the District of North Somerset, Portbury	02/05, 02/06, 02/07, 02/08, 02/10, 02/20, 02/26, 02/27	Access and ecological mitigation	Work No. 1
In the District of North Somerset, Portbury	02/30	Access, working space for construction and ecological mitigation	Work Nos. 1 and 9
In the District of	02/31, 02/32	Access and ecological	Work No. 1

North Somerset, Portbury		mitigation	
In the District of North Somerset, Portbury	02/35	Temporary construction compound and materials storage	Work Nos. 1, 9 and 10A
In the District of North Somerset, Portbury	02/36, 02/37	Temporary diversion of permissive cycle path	Work Nos .9 and 10A
In the District of North Somerset, Portbury	02/40, 02/41, 02/45, 02/46, 02/75, 02/76, 02/82	Access, construction haul road, material storage and ecological mitigation works	Work Nos. 1, 1A, 1B, 1C and 8
In the District of North Somerset, Portbury	02/60, 02/65, 02/120	Access, haul road, material storage and working space for construction	Work Nos. 1, 1A, 1B, 1C and 11A
In the District of North Somerset, Portbury	02/85, 02/122	Access, haul road, visibility splays and working space for construction	Work Nos. 1, 1A, 1B, 1C and 11A
In the District of North Somerset, Portbury	02/116	working space and access for construction and ecological mitigation	Work No. 1
In the District of North Somerset, Portbury	02/118	working space and access for construction and ecological mitigation	Work No. 1
In the District of North Somerset, Portbury	02/145	Access, materials storage, temporary construction compound and working space	Work Nos. 1, 1A, 1B, 1C, 7, 12, 12A, 20A and 22
In the District of North Somerset, Portbury	02a/10, 02a/15	Access, haul road visibility splays and working space	Work Nos. 8, 11 and 11A
In the District of North Somerset, Portbury	02b/05	Access, materials storage, temporary construction compound and working space	Work Nos. 1, 1A, 1B, 1C, 7, 12, 12A, 20A and 22
In the District of North Somerset, Portbury	03/10	Access, materials storage, temporary construction compound and working space	Work Nos. 1, 1A, 1B, 1C, 7, 12, 12A, 20A and 22
In the District of North Somerset, Portbury	03/21	Access, working space and environmental mitigation works	Work No. 1
In the District of North Somerset, Portbury	03/35, 03/36, 03/37, 03/38	Access and environmental mitigation works	Work No. 1
In the District of North Somerset,	03/47, 03/67, 03/68	Access, working space and	Work No. 1

Portbury		environmental mitigation works	
In the District of North Somerset, Portbury	03/65	Working space and works to adjacent disused station platform	Work No. 1
In the District of North Somerset, Portbury	03/71, 03/76	Access, material storage, working space and environmental mitigation	Work No. 1A
In the District of North Somerset, Portbury	03/80	Access, working space and visibility splay	Work No. 1A
In the District of North Somerset, Portbury	04/06, 04/07, 04/08	Access, working space and environmental mitigation	Work No. 1A
In the District of North Somerset, Portbury	04/10, 04/13, 04/15	Access, material storage, working space and environmental mitigation	Work No. 1A
In the District of North Somerset, Portbury	04/20	Access, turning space, materials storage, working space and environmental mitigation	Work Nos. 1, 1A, 1B, 1C and 13
In the District of North Somerset, Portbury	04/25, 04/46	Access, visibility splays, working space and environmental mitigation	Work No. 13
In the District of North Somerset, Portbury	04/41	Access, visibility splays, working space and environmental mitigation	Work No. 13
In the District of North Somerset, Portbury	04/42	Access, working space, materials storage and environmental mitigation	Work Nos. 1, 1A, 1B, 1C and 13
In the District of North Somerset, Portbury	04/55	Working space and vegetation clearance	Work No.14
In the District of North Somerset, Easton in Gordano	04/90	Working space and vegetation clearance	Work Nos. 1A, 14A and 14B
In the District of North Somerset, Easton in Gordano	04/105	Working space and vegetation clearance	Work No. 1A
In the District of North Somerset, Easton in Gordano	05/10	Working space, access and vegetation clearance	Work Nos . 1A and 15
In the District of North Somerset, Easton in Gordano	05/17, 05/18	Access to works	Work Nos. 1, 1A, 16, 16A, 16C, 17, 18, 19, 20A and 22

In the District of North Somerset, Easton in Gordano	05/25, 05/106	Access and vegetation clearance	Work Nos. 1, 1A, 16, 16A, 16C, 17, 18, 19, 20A and 22
In the District of North Somerset, Easton in Gordano	05/26, 05/28	Working space, access and vegetation clearance	Work Nos. 1, 1A, 16, 16A, 16C, 17, 18, 19, 20A and 22
In the District of North Somerset, Easton in Gordano	05/113	Working space, access and vegetation clearance	Work Nos. 1, 1A, 16, 16A, 16C, 17, 18, 19, 20A and 22
In the District of North Somerset, Easton in Gordano	05/150, 05/152	Access, materials storage, temporary construction compound and working space	Work Nos. 1, 1A, 1B, 1C, 16, 16A, 16C, 17, 17A, 18, 20A and 22
In the District of North Somerset, Easton in Gordano	05/170	Temporary construction compound, materials storage	Work Nos. 1, 1A, 1B, 1C, 16, 16A, 16C, 18, 19, 20A and 22
In the District of North Somerset, Lodway	06/15	Working space, access and vegetation clearance	Work No. 1A
In the District of North Somerset, Lodway	06/30	Access, materials storage, temporary construction compound and working space	Work Nos. 1, 1A, 1B, 1C, 16, 16A, 16C, 17, 17A, 18, 20A and 22
In the District of North Somerset, Lodway	06/35,06/36, 06/40, 06/45, 06/50, 06/65	Working space and access to works	Work Nos. 1A, 1B, 1C, 17, 17A, 18 and 20A
In the District of North Somerset, Pill	06/60, 06/105	Working space , oversail for crane and access to works	Work Nos. 1B, 1C, 20, 20A and 20B
In the District of North Somerset, Pill	06/61, 06/62, 06/63	Temporary diversion of cycle path	Work Nos. 1B, 1C, 20, 20A and 20B
In the District of North Somerset, Pill	06/70, 06/75, 06/85, 06/90, 06/95, 06/100, 06/140, 06/145, 06/155	Working space and access to works	Work Nos. 1B, 1C, 20A and 20B
In the District of North Somerset, Pill	06/190	Access to works	Work Nos. 1B, 1C, 20A and 20B
In the District of North Somerset, Pill	06/532, 06/535	Working space and access to works	Work Nos. 22A and 22B
In the District of North Somerset, Pill	06/533	Temporary compound	Work Nos. 22A and 22B
In the District of North Somerset, Pill	06/550, 06/555, 06/556	Access to Works	Work Nos. 1B, 1C and 22
In the District of North Somerset, Pill	06/596, 06/597, 06/598	Access to Works, demolition and replacement of wall	Work Nos. 1B, 1C and 20A
In the District of North Somerset, Pill	06/632, 06/633, 06/636	Access to Works	Work Nos. 1B and 1C
In the District of North Somerset, Pill	06/647, 06/661, 06/666, 06/705, 06/710, 06/730	Working space and access to works	Work Nos. 1B and 1C
In the District of	07/05, 07/10, 07/15,	Working space access	Work Nos. 1B and 1C

North Somerset, Pill	07/20, 07/25, 07/30, 07/35, 07/36, 07/44, 07/46, 07/51, 07/52, 07/53, 07/55, 07/56, 07/58, 07/59, 07/60, 07/65, 07/70, 07/80, 07/85, 07/90, 07/100, 07/105, 07/110, 07/111, 07/112, 07/113, 07/114, 07/116, 07/117, 07/121	to works and embankment strengthening	
In the District of North Somerset, Ham Green	08/11, 08/20, 08/26	Working space and access to works	Work Nos. 24 and 24A
In the District of North Somerset, Ham Green	08/21, 08/22, 08/23, 08/24	Access to works	Installation of fencing and minor works to Parson Street to Royal Portbury Dock railway
In the District of North Somerset, Pill	08/50, 08/60, 08/61	Access to works	Work Nos. 24 and 24A
In the District of North Somerset, Abbots Leigh	08/71	Access to works and materials storage	Installation of fencing and minor works to Parson Street to Royal Portbury Dock railway
In the District of North Somerset, Abbots Leigh	09/11	Access to works and materials storage	Installation of fencing and minor works to Parson Street to Royal Portbury Dock railway
In the District of North Somerset, Abbots Leigh	09/20	Access to works and materials storage	Storage of materials, installation of fencing and minor works to Parson Street to Royal Portbury Dock railway
In the District of North Somerset, Abbots Leigh	09/22, 09/23, 09/25	Access to works	Installation of fencing, works to retaining walls and minor works to Parson Street to Royal Portbury Dock railway
In the District of North Somerset, Abbots Leigh	10/06	Access to works	Installation of fencing, works to retaining walls and minor works to Parson Street to Royal Portbury Dock railway
In the City and County of Bristol, Abbots Leigh	10/11	Access to works	Installation of fencing, works to retaining walls and minor works to Parson Street to Royal Portbury Dock railway

In the City and County of Bristol, Abbots Leigh	10/25	Access to works	Installation of fencing, works to retaining walls and minor works to Parson Street to Royal Portbury Dock railway
In the District of North Somerset, Abbots Leigh	10/30	Access to works	Installation of fencing, works to retaining walls and minor works to Parson Street to Royal Portbury Dock railway
In the District of North Somerset, Abbots Leigh	10/35	Access to works, rock picking, rock bolting, vegetation clearance, working space and environmental mitigation	Vegetation clearance, rock bolting and rock picking for the protection of the adjacent Parson Street to Royal Portbury Dock railway, ecological mitigation, installation of fencing and access for minor works, ecological mitigation
In the District of North Somerset, Abbots Leigh	11/06	Access to works, rock picking, rock bolting, vegetation clearance, working space and environmental mitigation	Vegetation clearance, rock bolting, and rock picking for the protection of the adjacent Parson Street to Royal Portbury Dock railway, ecological mitigation, installation of fencing and access for minor works
In the District of North Somerset, Abbots Leigh	11/07	Access to works working space and environmental mitigation	Access for vegetation clearance and rock picking for the protection of the Parson Street to Royal Portbury Dock railway, ecological mitigation
In the City and County of Bristol, Abbots Leigh	11/10, 11/15	Access to works and working space	Installation of fencing, works to retaining walls and minor works to Parson Street to Royal Portbury Dock railway, ecological mitigation
In the City and County of Bristol, Abbots Leigh	11/20	Access to works and working space	Installation of fencing, works to retaining walls and minor works to Parson Street to Royal Portbury Dock railway,

In the City and County of Bristol, Abbots Leigh	11/25	Access to works and working space	ecological mitigation Installation of fencing, works to retaining walls and minor works to Parson Street to Royal Portbury Dock railway, ecological mitigation
In the District of North Somerset, Abbots Leigh	11/41, 11/42	Access to works, rock picking, rock bolting, vegetation clearance, working space and environmental mitigation	Vegetation clearance, rock bolting and rock picking for the protection of the adjacent railway, installation of fencing and access for minor works to Parson Street to Royal Portbury Dock railway, ecological mitigation.
In the District of North Somerset, Abbots Leigh	11/61	Access to works	Vegetation clearance and rock picking for the protection of Parson Street to Royal Portbury Dock railway, ecological mitigation
In the District of North Somerset, Abbots Leigh	11/65, 11/70, 11/75,	Access to works	Vegetation clearance and rock picking for the protection of Parson Street to Royal Portbury Dock railway, ecological mitigation
In the District of North Somerset, Abbots Leigh	11/80	Access to works, rock picking, rock bolting, vegetation clearance, working space and environmental mitigation	Vegetation clearance, rock bolting and rock picking for the protection of the adjacent railway, installation of fencing and access for minor works to Parson Street to Royal Portbury Dock railway, ecological mitigation
In the District of North Somerset, Abbots Leigh	11a/05	Access to works, rock picking, rock bolting, vegetation clearance, working space and environmental mitigation	Vegetation clearance, rock bolting and rock picking for the protection of Parson Street to Royal Portbury Dock railway, ecological mitigation.
In the District of North Somerset, Abbots Leigh	11a/10, 11a/15	Access to works	Access for vegetation clearance and rock picking for the protection of the

			Parson Street to Royal Portbury Dock railway, ecological mitigation
In the District of North Somerset, Abbots Leigh	11b/05, 11b/10, 11b/15, 11b/20, 11b/30, 11b/35	Access to works	Access for vegetation clearance and rock picking for the protection of the Parson Street to Royal Portbury Dock railway, ecological mitigation
In the District of North Somerset, Abbots Leigh	11b/25	Access to works	Micro compound, access for vegetation clearance and rock picking for the protection of the Parson Street to Royal Portbury Dock railway, ecological mitigation
In the District of North Somerset, Abbots Leigh	11c/05, 11c/10, 11c/15	Access to works	Access for vegetation clearance and rock picking for the protection of the Parson Street to Royal Portbury Dock railway, ecological mitigation
In the District of North Somerset, Abbots Leigh	12/07 12/10, 12/20, 12/21, 12/30	Access to works, rock picking, rock bolting, vegetation clearance, working space and environmental mitigation	Work No. 25, vegetation clearance, rock bolting and rock picking for the protection of the Parson Street to Royal Portbury Dock railway, ecological mitigation, installation of fencing and access for minor works to railway
In the City and County of Bristol, Abbots Leigh	12/25	Access to works	Work No. 25 Vegetation clearance, rock bolting and rock picking for the protection of the Parson Street to Royal Portbury Dock railway, ecological mitigation, installation of fencing and access for minor works to railway.
In the District of North Somerset, Abbots Leigh	13/07, 13/31, 13/32	Access to works, rock picking, rock bolting, vegetation clearance, working space and	Vegetation clearance, rock bolting and rock picking for the protection of the

		environmental mitigation	Parson Street to Royal Portbury Dock railway, ecological mitigation, installation of fencing and access for minor works to railway
In the City and County of Bristol, Abbots Leigh	13/33, 13/36, 13/40	Access to works	Work No. 25 Vegetation clearance, rock bolting and rock picking for the protection of the Parson Street to Royal Portbury Dock railway, ecological mitigation, installation of fencing and access for minor works to railway
In the District of North Somerset, Abbots Leigh	13/55	Access to works, rock picking, rock bolting, vegetation clearance, working space and environmental mitigation	Vegetation clearance, rock bolting and rock picking for the protection of the Parson Street to Royal Portbury Dock railway, ecological mitigation, installation of fencing and access for minor works to existing railway
In the District of North Somerset, Abbots Leigh	14/05	Access to works, rock picking, rock bolting, vegetation clearance, working space and environmental mitigation	Vegetation clearance, rock bolting and rock picking for the protection of the Parson Street to Royal Portbury Dock railway, ecological mitigation
In the City and County of Bristol	14/10, 14/25, 14/35	Access to works	Work No. 25 Vegetation clearance, rock bolting and rock picking for the protection of the Parson Street to Royal Portbury Dock railway, ecological mitigation, installation of fencing and access for minor works to railway
In the City and County of Bristol	15/15	Temporary construction compound, materials storage and access to works	Work Nos. 26, 26A, installation of fencing and access for minor works to Parson Street to Royal Portbury Dock railway
In the City and	16/56, 16/57. 16/58,	Access to works	Work No. 28

County of Bristol	16/61, 16/62, 16/63, 16/75, 16/80, 16/85		
In the City and County of Bristol	17/05, 17/20	Temporary construction compound, materials storage and access to works	Work No. 29
In the City and County of Bristol	17/10, 17/15	Access to works	Work No. 29

SCHEDULE 13

Article 44

Hedgerows

PART 1

Hedgerows to be removed

<i>(1)</i> <i>Location of hedgerow</i>	<i>(2)</i> <i>Work to be carried out</i>	<i>(3)</i> <i>Relevant part of the authorised</i>
North of Sheepway and east of Fennel Way along the south side of the disused railway line shown marked H2/1 on sheet 2 of the hedgerow location plan.	Removal of part of a hedgerow to allow for the temporary construction haul road. Hedgerow to be replanted on completion of works.	Work no. 8
North side of Sheepway west of bridge over disused railway line shown marked H2/2 on sheet 2 of the hedgerow location plan.	Removal of part of a hedgerow to allow for the temporary construction haul road crossing over Sheepway. Hedgerow to be replanted on completion of works.	Work no. 8
South side of Sheepway west of bridge over disused railway line shown marked H2/3 on sheet 2 of the hedgerow location plan.	Removal of end of the hedgerow to allow for the temporary construction haul road east of Sheepway. Hedgerow to be replanted on completion of works.	Work no. 11A
South side of the disused railway line east of Shipway Gate Farm shown marked H2/4 on sheet 2 of the hedgerow location plan.	Removal of end of the hedgerow to allow for the temporary construction haul road. Hedgerow to be replanted on completion of works.	Work no. 11A
South side of the disused railway line east of Shipway Gate Farm shown marked H2/5 on sheet 2 of the hedgerow location plan.	Removal of end of the hedgerow to allow for the temporary construction haul road. Hedgerow to be replanted on completion of works.	Work no. 11A
South side of the disused railway line east of Shipway Gate Farm shown marked H2/6 on sheet 2 of the	Removal of end of the hedgerow to allow for the temporary construction haul road. Hedgerow to be	Work no. 12A

hedgerow location plan.	replanted on completion of works.	
South of the disused railway line and north of the Portbury Hundred, shown marked H3/1 on sheet 2 of the hedgerow location plan.	Removal of part of hedgerow for access within the construction compound. Hedgerow to be replanted on completion of works.	Work no. 12A
Lodway Farm on southern boundary of the disused railway line, shown marked H5/1 on sheets 5 and 6 of the hedgerow location plan.	Removal of part of hedgerow adjacent to the disused line. Hedgerow to be replanted on completion of works.	Works no. 1A and 17
Lodway Farm, shown marked H5/2 on sheets 5 and 6 of the hedgerow location plan.	Removal of part of hedgerow for access within the construction compound. Hedgerow to be replanted on completion of works.	Work no. 17
South side of Chapel Pill Lane, Ham Green, Pill, shown marked H8/1 on sheet 8 of the hedgerow location plan.	Removal of part of hedgerow for new access.	Work no. 24

PART 2

Important Hedgerow

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Reference of hedgerow</i>
In the district of North Somerset, at Lodway, Pill	The important hedgerow marked 1 on the important hedgerow plan

SCHEDULE 14

Article 46

Traffic Regulation

In the district of North Somerset

<i>(1)</i> <i>Road</i>	<i>(2)</i> <i>Extent</i>	<i>(3)</i> <i>Measure</i>
Harbour Road, Portishead	Between the junction of Harbour Road with Harbour Road (leading to Harbour Road Trading Estate) and the junction of Harbour Road with re-aligned Quays Avenue, as shown coloured red on the permanent traffic regulation order plans (Portishead Station)	Prohibition of waiting at any time.
Quays Avenue, Portishead	Between the junction of Quays Avenue with the realigned Harbour Road to the junction of Quays Avenue with Wyndham Way as shown	Prohibition of waiting at any time.

	coloured red on the permanent traffic regulation order plans (Portishead Station)	
Phoenix Way, Portishead	Between the junction of Phoenix Way with the realigned Quays Avenue to a point 47 metres west of the junction of Phoenix Way with Marjoram Way as shown coloured red on the permanent traffic regulation order plans (Portishead Station)	Prohibition of waiting at any time (save for designated parking bays).
Portbury Hundred, Portbury	At a point 457 metres west of the junction of the A369 Portbury Hundred classified road and Station Road, Portbury, either on to or from the highway known as Portbury Hundred at the location shown on the permanent traffic regulation order plans (A369 Portbury Hundred)	Prohibition of right turn manoeuvres
Monmouth Road, Pill	From the junction of Monmouth Road with Crusty Lane to the junction of Monmouth Road with Station Road as shown coloured red on the permanent traffic regulation order plans (Pill Station)	Prohibition of waiting at any time.
Station Road, Pill	From the junction of Station Road with Monmouth Road to the junction of Station Road with Heywood Road as shown in the locations coloured red on the permanent traffic regulation order plans (Pill Station)	Prohibition of waiting at any time.
New Road, Chapel Row and Myrtle Hill, Pill	To the extent shown coloured red on the permanent traffic regulation order plans (Pill Station)	Prohibition of waiting at any time.
Sambourne Lane, Pill	To the extent shown coloured red on the permanent traffic regulation order plans (Pill Station)	Prohibition of waiting at any time.
Macrae Road, The Sanctuary and Hart Close gyratory, Ham Green, Pill	At the junction of Macrae Road and Hart Close, as shown coloured red on the permanent traffic regulation order plans (Ham Green)	Prohibition of waiting at any time.
Junction of Ham Green and Macrae Road, Ham Green, Pill	At the junction of Ham Green and Macrae Road as shown coloured red on the permanent traffic regulation order plans	Prohibition of waiting at any time.

SCHEDULE 15

Article 52

Amendment of Local Legislation

Byelaws

<i>(1)</i> Title	<i>(2)</i> Byelaw to be <i>disapplied</i>
North Somerset Levels Internal Drainage Board Land Drainage Byelaws 2004	Byelaw 3 (control of introduction of water and increases in flow or volume of water); Byelaw 7 (detrimental substances not to be put in watercourses); Byelaw 14 (vehicles not to be driven on banks); Byelaw 15 (banks not to be used for storage); Byelaw 17 (fences, excavations, pipes, etc.) but only insofar as it relates to 17 (a), (b), (c) and (e); Byelaw 24 (damage to property of the Board).

SCHEDULE 16

Article 53

Protective Provisions

PART 1

Protection for Network Rail Infrastructure Limited

1. The following provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between the undertaker and Network Rail and, in the case of paragraph 15, any other person on whom rights or obligations are conferred by that paragraph.

2. In this Schedule—

“construction” includes execution, placing, alteration and reconstruction and “construct” and “constructed” have corresponding meanings;

“the engineer” means an engineer appointed by Network Rail for the purposes of this Order;

“network licence” means the network licence, as the same is amended from time to time, granted to Network Rail Infrastructure Limited by the Secretary of State in exercise of his powers under section 8 (licences) of the Railways Act 1993(a);

“Network Rail” means Network Rail Infrastructure Limited and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes, and for the purpose of this definition “associated company” means any company which is (within the meaning of section 1159 (meaning of “subsidiary” etc.) of the Companies Act 2006(b)) the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited;

(a) 1993 c. 43. Section 8 was amended by regulation 2(2) and Part 1 paragraph 1(d) of the Schedule to S.I. 2015/1682, sections 216 and 274 of and Schedule 17 to the Transport Act 2000 (c. 38), sections 1(1) and 59(6) of, and Schedule 1 and 13 to, the Railways Act 2005 (c. 14), section 16(5) of, and Schedule 2 to, the Railways and Transport Safety Act 2003 (c. 20).

(b) 2006 c. 46.

“plans” includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of railway property;

“railway operational procedures” means procedures specified under any access agreement (as defined in the Railways Act 1993) or station lease;

“railway property” means any railway belonging to Network Rail Infrastructure Limited and—

- (a) any station, land, works, apparatus and equipment belonging to Network Rail Infrastructure Limited or connected with any such railway; and
- (b) any easement or other property interest held or used by Network Rail Infrastructure Limited for the purposes of such railway or works, apparatus or equipment; and

“specified work” means so much of any of the authorised development as is situated upon, across, under, over or within 15 metres of, or may in any way adversely affect, railway property.

3.—(1) Where under this Part of this Schedule Network Rail is required to give its consent or approval in respect of any matter, that consent or approval is subject to the condition that Network Rail complies with any relevant railway operational procedures and any obligations under its network licence or under statute.

(2) In so far as any specified work or the acquisition or use of railway property is or may be subject to railway operational procedures, Network Rail must—

- (a) co-operate with the undertaker with a view to avoiding undue delay and securing conformity as between any plans approved by the engineer and requirements emanating from those procedures; and
- (b) use their reasonable endeavours to avoid any conflict arising between the application of those procedures and the proper implementation of the authorised development pursuant to this Order.

4.—(1) The undertaker must not exercise the powers conferred by articles 24 (compulsory acquisition of land) or 27 (Compulsory acquisition of rights or imposition of covenants) or the powers conferred by section 11(3) (powers of entry) of the 1965 Act in respect of any railway property unless the exercise of such powers is with the consent of Network Rail.

(2) The undertaker must not in the exercise of the powers conferred by this Order prevent pedestrian or vehicular access to any railway property, unless preventing such access is with the consent of Network Rail.

(3) The undertaker must not exercise the powers conferred by sections 271 (extinguishment of rights of statutory undertakers: preliminary notices) or 272 (extinguishment of rights of electronic communications code network operators: preliminary notices) of the 1990 Act^(a), as applied by article 37 (statutory undertakers and electronic communications code network operators), in relation to any right of access of Network Rail to railway property, but such right of access may be diverted with the consent of Network Rail.

(4) The undertaker must not under the powers of this Order acquire or use or acquire new rights over any railway property except with the consent of Network Rail.

(5) Where Network Rail is asked to give its consent pursuant to this paragraph, such consent must not be unreasonably withheld but may be given subject to reasonable conditions.

5.—(1) The undertaker must before commencing construction of any specified work supply to Network Rail proper and sufficient plans of that work for the reasonable approval of the engineer and the specified work must not be commenced except in accordance with such plans as have been approved in writing by the engineer or settled by arbitration.

(a) 1990 c. 8. Section 272 was amended by section 406(1) of and paragraph 103 of Schedule 17 to the Communications Act 2003 (c. 21).

(2) The approval of the engineer under sub-paragraph (1) must not be unreasonably withheld, and if by the end of the period of 28 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not intimated his disapproval of those plans and the grounds of disapproval the undertaker may serve upon the engineer written notice requiring the engineer to intimate his approval or disapproval within a further period of 28 days beginning with the date upon which the engineer receives written notice from the undertaker. If by the expiry of the further 28 days the engineer has not intimated his approval or disapproval, the engineer shall be deemed to have approved the plans as submitted.

(3) If by the end of the period of 28 days beginning with the date on which written notice was served upon the engineer under sub-paragraph (2), Network Rail gives notice to the undertaker that Network Rail desires itself to construct any part of a specified work which in the opinion of the engineer will or may affect the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker desires such part of the specified work to be constructed, Network Rail must construct it with all reasonable dispatch on behalf of and to the reasonable satisfaction of the undertaker in accordance with the plans approved or deemed to be approved or settled under this paragraph, and under the supervision (where appropriate and if given) of the undertaker.

(4) When signifying approval of the plans the engineer may specify any protective works (whether temporary or permanent) which in his opinion should be carried out before the commencement of the construction of a specified work to ensure the safety or stability of railway property or the continuation of safe and efficient operation of the railways of Network Rail or the services of operators using the same (including any relocation de-commissioning and removal of works, apparatus and equipment necessitated by a specified work and the comfort and safety of passengers who may be affected by the specified works), and such protective works as may be reasonably necessary for those purposes must be constructed by Network Rail or by the undertaker, if Network Rail so desires, and such protective works must be carried out at the expense of the undertaker in either case with all reasonable dispatch and the undertaker must not commence the construction of the specified works until the engineer has notified the undertaker that the protective works have been completed to the engineer's reasonable satisfaction.

6.—(1) Any specified work and any protective works to be constructed by virtue of paragraph 5(4) must, when commenced, be constructed—

- (a) with all reasonable dispatch in accordance with the plans approved or deemed to have been approved or settled under paragraph 5;
- (b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer;
- (c) in such manner as to cause as little damage as is possible to railway property; and
- (d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe use of any railway of Network Rail or the traffic thereon and the use by passengers of railway property.

(2) If any damage to railway property or any such interference or obstruction shall be caused by the carrying out of, or in consequence of the construction of a specified work, the undertaker must, notwithstanding any such approval, make good such damage and must pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction.

(3) Nothing in this Part of this Schedule imposes any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligence of Network Rail or its servants, contractors or agents or any liability on Network Rail with respect of any damage, costs, expenses or loss attributable to the negligence of the undertaker or its servants, contractors or agents.

7. The undertaker must—

- (a) at all times afford reasonable facilities to the engineer for access to a specified work during its construction; and
- (b) supply the engineer with all such information as the engineer may reasonably require with regard to a specified work or the method of constructing it.

8. Network Rail must at all times afford reasonable facilities to the undertaker and its agents for access to any works carried out by Network Rail under this Part of this Schedule during their construction and must supply the undertaker with such information as it may reasonably require with regard to such works or the method of constructing them.

9.—(1) If any permanent or temporary alterations or additions to railway property, are reasonably necessary in consequence of the construction of a specified work, or during a period of 24 months after the completion of that work in order to ensure the safety of railway property or the continued safe operation of the railway of Network Rail, such alterations and additions may be carried out by Network Rail and if Network Rail gives to the undertaker reasonable notice of its intention to carry out such alterations or additions (which must be specified in the notice), the undertaker must pay to Network Rail the reasonable cost of those alterations or additions including, in respect of any such alterations and additions as are to be permanent, a capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by Network Rail in maintaining, working and, when necessary, renewing any such alterations or additions.

(2) If during the construction of a specified work by the undertaker, Network Rail gives notice to the undertaker that Network Rail desires itself to construct that part of the specified work which in the opinion of the engineer is endangering the stability of railway property or the safe operation of traffic on the railways of Network Rail then, if the undertaker decides that part of the specified work is to be constructed, Network Rail must assume construction of that part of the specified work and the undertaker must, notwithstanding any such approval of a specified work under paragraph 5(3), pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may suffer by reason of the execution by Network Rail of that specified work.

(3) The engineer must, in respect of the capitalised sums referred to in this paragraph and paragraph 10(a) provide such details of the formula by which those sums have been calculated as the undertaker may reasonably require.

(4) If the cost of maintaining, working or renewing railway property is reduced in consequence of any such alterations or additions a capitalised sum representing such saving must be set off against any sum payable by the undertaker to Network Rail under this paragraph.

10. The undertaker must repay to Network Rail all reasonable fees, costs, charges and expenses reasonably incurred by Network Rail—

- (a) in constructing any part of a specified work on behalf of the undertaker as provided by paragraph 5(3) or in constructing any protective works under the provisions of paragraph 5(4) including, in respect of any permanent protective works, a capitalised sum representing the cost of maintaining and renewing those works;
- (b) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer of the construction of a specified work;
- (c) in respect of the employment or procurement of the services of any inspectors, signalmen, watchmen and other persons whom it shall be reasonably necessary to appoint for inspecting, signalling, watching and lighting railway property and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of a specified work;
- (d) in respect of any special traffic working resulting from any speed restrictions which may in the opinion of the engineer, require to be imposed by reason or in consequence of the construction or failure of a specified work or from the substitution or diversion of services which may be reasonably necessary for the same reason; and
- (e) in respect of any additional temporary lighting of railway property in the vicinity of the specified works, being lighting made reasonably necessary by reason or in consequence of the construction or failure of a specified work.

11.—(1) In this paragraph—

“EMI” means, subject to sub-paragraph (2), electromagnetic interference with Network Rail apparatus generated by the operation of the authorised development where such interference is of a level which adversely affects the safe operation of Network Rail’s apparatus; and

“Network Rail’s apparatus” means any lines, circuits, wires, apparatus or equipment (whether or not modified or installed as part of the authorised development) which are owned or used by Network Rail for the purpose of transmitting or receiving electrical energy or of radio, telegraphic, telephonic, electric, electronic or other like means of signalling or other communications.

(2) This paragraph applies to EMI only to the extent that such EMI is not attributable to any change to Network Rail’s apparatus carried out after approval of plans under paragraph 5(1) for the relevant part of the authorised development giving rise to EMI (unless the undertaker has been given notice in writing before the approval of those plans of the intention to make such change).

(3) Subject to sub-paragraph (5), the undertaker must in the design and construction of the authorised development take all measures necessary to prevent EMI and must establish with Network Rail (both parties acting reasonably) appropriate arrangements to verify their effectiveness.

(4) In order to facilitate the undertaker’s compliance with sub-paragraph (3)—

- (a) the undertaker must consult with Network Rail as early as reasonably practicable to identify all Network Rail’s apparatus which may be at risk of EMI, and thereafter must continue to consult with Network Rail (both before and after formal submission of plans under paragraph 5(1)) in order to identify all potential causes of EMI and the measures required to eliminate them;
- (b) Network Rail must make available to the undertaker all information in the possession of Network Rail reasonably requested by the undertaker in respect of Network Rail’s apparatus identified pursuant to sub-paragraph (a); and
- (c) Network Rail must allow the undertaker reasonable facilities for the inspection of Network Rail’s apparatus identified pursuant to sub-paragraph (a).

(5) In any case where it is established that EMI can only reasonably be prevented by modifications to Network Rail’s apparatus, Network Rail must not withhold its consent unreasonably to modifications of Network Rail’s apparatus, but the means of prevention and the method of their execution must be selected in the reasonable discretion of Network Rail, and in relation to such modifications sub-paragraph 5(1) has effect subject to this sub-paragraph.

(6) If at any time prior to the commencement of regular revenue-earning operations on the authorised railway comprised in the authorised development and notwithstanding any measures adopted pursuant to sub-paragraph (3), the testing or commissioning of the authorised development causes EMI then the undertaker must immediately upon receipt of notification by Network Rail of such EMI either in writing or communicated orally (such oral communication to be confirmed in writing as soon as reasonably practicable after it has been issued) forthwith cease to use (or procure the cessation of use of) the undertaker’s apparatus causing such EMI until all measures necessary have been taken to remedy such EMI by way of modification to the source of such EMI or (in the circumstances, and subject to the consent, specified in sub-paragraph (5)) to Network Rail’s apparatus.

(7) In the event of EMI having occurred—

- (a) the undertaker must afford reasonable facilities to Network Rail for access to the undertaker’s apparatus in the investigation of such EMI;
- (b) Network Rail must afford reasonable facilities to the undertaker for access to Network Rail’s apparatus in the investigation of such EMI; and
- (c) Network Rail must make available to the undertaker any additional material information in its possession reasonably requested by the undertaker in respect of Network Rail’s apparatus or such EMI.

(8) Where Network Rail approves modifications to Network Rail’s apparatus pursuant to sub-paragraphs (5) or (6)—

- (a) Network Rail must allow the undertaker reasonable facilities for the inspection of the relevant part of Network Rail's apparatus;
- (b) any modifications to Network Rail's apparatus approved pursuant to those sub-paragraphs must be carried out and completed by the undertaker in accordance with paragraph (6).

(9) To the extent that it would not otherwise do so, the indemnity in paragraph 15(1) applies to the costs and expenses reasonably incurred or losses suffered by Network Rail through the implementation of the provisions of this paragraph (including costs incurred in connection with the consideration of proposals, approval of plans, supervision and inspection of works and facilitating access to Network Rail's apparatus) or in consequence of any EMI to which sub-paragraph (6) applies.

(10) For the purpose of paragraph 10(a) any modifications to Network Rail's apparatus under this paragraph shall be deemed to be protective works referred to in that paragraph.

(11) In relation to any dispute arising under this paragraph the reference in article 56 (arbitration) to the Institution of Civil Engineers shall be read as a reference to the Institution of Electrical Engineers.

12. If at any time after the completion of a specified work, not being a work vested in Network Rail, Network Rail gives notice to the undertaker informing it that the state of maintenance of any part of the specified work appears to be such as adversely affects the operation of railway property, the undertaker must, on receipt of such notice, take such steps as may be reasonably necessary to put that specified work in such state of maintenance as not adversely to affect railway property.

13. The undertaker must not provide any illumination or illuminated sign or signal on or in connection with a specified work in the vicinity of any railway belonging to Network Rail unless it has first consulted Network Rail and it must comply with Network Rail's reasonable requirements for preventing confusion between such illumination or illuminated sign or signal and any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway.

14. Any additional expenses which Network Rail may reasonably incur in altering, reconstructing or maintaining railway property under any powers existing at the making of this Order by reason of the existence of a specified work must, provided that 56 days' previous notice of the commencement of such alteration, reconstruction or maintenance has been given to the undertaker, be repaid by the undertaker to Network Rail.

15.—(1) The undertaker must pay to Network Rail all reasonable costs, charges, damages and expenses not otherwise provided for in this Part of this Schedule which may be occasioned to or reasonably incurred by Network Rail—

- (a) by reason of the construction or maintenance of a specified work or the failure thereof or
- (b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon a specified work;

and the undertaker must indemnify and keep indemnified Network Rail from and against all claims and demands arising out of or in connection with a specified work or any such failure, act or omission: and the fact that any act or thing may have been done by Network Rail on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under the engineer's supervision shall not (if it was done without negligence on the part of Network Rail or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this sub-paragraph.

(2) Network Rail must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of such a claim or demand shall be made without the prior consent of the undertaker.

(3) The sums payable by the undertaker under sub-paragraph (1) shall include a sum equivalent to the relevant costs.

(4) Subject to the terms of any agreement between Network Rail and a train operator regarding the timing or method of payment of the relevant costs in respect of that train operator, Network Rail must promptly pay to each train operator the amount of any sums which Network Rail receives under sub-paragraph (3) which relates to the relevant costs of that train operator.

(5) The obligation under sub-paragraph (3) to pay Network Rail the relevant costs shall, in the event of default, be enforceable directly by any train operator concerned to the extent that such sums would be payable to that operator pursuant to sub-paragraph (4).

(6) In this paragraph—

“the relevant costs” means the costs, direct losses and expenses (including loss of revenue) reasonably incurred by each train operator as a consequence of any restriction of the use of Network Rail’s railway network as a result of the construction, maintenance or failure of a specified work or any such act or omission as mentioned in subparagraph (1); and

“train operator” means any person who is authorised to act as the operator of a train by a licence under section 8 (licences) of the Railways Act 1993.

16. Network Rail must, on receipt of a request from the undertaker, from time to time provide the undertaker free of charge with written estimates of the costs, charges, expenses and other liabilities for which the undertaker is or will become liable under this Part of this Schedule (including the amount of the relevant costs mentioned in paragraph 15) and with such information as may reasonably enable the undertaker to assess the reasonableness of any such estimate or claim made or to be made pursuant to this Part of this Schedule (including any claim relating to those relevant costs).

17. In the assessment of any sums payable to Network Rail under this Part of this Schedule there must not be taken into account any increase in the sums claimed that is attributable to any action taken by or any agreement entered into by Network Rail if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining the payment of those sums by the undertaker under this Part of this Schedule or increasing the sums so payable.

18. The undertaker and Network Rail may, subject in the case of Network Rail to compliance with the terms of its network licence, enter into, and carry into effect, agreements for the transfer to the undertaker of—

- (a) any railway property shown on the lands plans and described in the book of reference;
- (b) any lands, works or other property held in connection with any such railway property; and
- (c) any rights and obligations (whether or not statutory) of Network Rail relating to any railway property or any lands, works or other property referred to in this paragraph.

19. Nothing in this Order, or in any enactment incorporated with or applied by this Order, prejudices or affects the operation of Part I of the Railways Act 1993.

20. The undertaker must give written notice to Network Rail if any application is proposed to be made by the undertaker for the Secretary of State’s consent, under article 10 (consent to transfer of benefit of order) of this Order and any such notice must be given no later than 28 days before any such application is made and must describe or give (as appropriate)—

- (a) the nature of the application to be made;
- (b) the extent of the geographical area to which the application relates; and
- (c) the name and address of the person acting for the Secretary of State to whom the application is to be made.

21. The undertaker must no later than 28 days from the date that the plans and documents submitted to and certified by the Secretary of State in accordance with article 55 (documents to be certified) are certified by the Secretary of State, provide a set of those plans and documents to Network Rail in the form of a computer disc with read only memory.

PART 2

Protection for Electricity, Gas, Water, Petroleum and Sewerage Undertakers

22. In this Part of this Schedule “North Somerset District Council” shall mean the undertaker and where relevant any person to whom the powers contained in this Order are conferred in so far as that person’s activities in reliance on the powers in this Order affect the land and apparatus of the relevant statutory undertaker

23. For the protection of the undertakers referred to in this Part of this Schedule the following provisions, unless otherwise agreed in writing between North Somerset District Council and the undertaker concerned, have effect.

24. In this Part of this Schedule—

“alternative apparatus” means alternative apparatus adequate to enable the undertaker in question to fulfil its statutory functions in a manner not less efficient than previously;

“apparatus” means—

- (a) in the case of an electricity undertaker, electric lines or electrical plant (as defined in the Electricity Act 1989(a)), belonging to or maintained by that undertaker;
- (b) in the case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by a gas transporter for the purposes of gas supply;
- (c) in the case of a water undertaker, mains, pipes or other apparatus belonging to or maintained by that undertaker for the purposes of water supply; and
- (d) in the case of a sewerage undertaker—
 - (i) any drain or works vested in the undertaker under the Water Industry Act 1991(b); and
 - (ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) (adoption of sewers and disposal works) of that Act(c) or an agreement to adopt made under section 104 (agreements to adopt sewer, drain or sewage disposal works, at future date) of that Act,

and includes a sludge main, disposal main (within the meaning of section 219 (general interpretation) of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works,

and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“functions” includes powers and duties;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over or upon land; and

“undertaker” means—

- (a) any licence holder within the meaning of Part 1 of the Electricity Act 1989(d);
- (b) a gas transporter within the meaning of Part 1 of the Gas Act 1986(e);
- (c) a water undertaker within the meaning of the Water Industry Act 1991; and
- (d) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991,

(a) 1989 c. 29.

(b) 1991 c. 56.

(c) 1991 c. 56. Section 102(4) was amended by section 56 of and Schedule 7 to the Water Act 2014 (c. 21), and section 96(1) of the Water Act 2003 (c. 37).

(d) 1989 c. 29. A new section 6 was substituted by section 30 of the Utilities Act 2000 (c. 27) and was further amended by sections 136 and 145(5) – (7) of and Schedules 19 and 23(1) to the Energy Act 2004 (c. 20), S.I. 2012/2400 and S.I. 2011/2704. There are other amendments to section 6 but none are relevant to this Order.

(e) 1986 c. 44. A new section 7 was substituted by section 5 of the Gas Act 1995 (c. 45), and was further amended by section 76 of the Utilities Act 2000 (c. 27).

for the area of the authorised development, and in relation to any apparatus, means the undertaker to whom it belongs or by whom it is maintained.

25. This Part of this Schedule does not apply to apparatus in respect of which the relations between North Somerset District Council and the undertaker are regulated by the provisions of Part 3 of the 1991 Act.

26. Regardless of any provision in this Order or anything shown on the land plans, North Somerset District Council must not acquire any apparatus otherwise than by agreement.

27.—(1) If, in the exercise of the powers conferred by this Order, North Somerset District Council acquires any interest in any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of an undertaker to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the undertaker in question.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, North Somerset District Council requires the removal of any apparatus placed in that land, it must give to the undertaker in question written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order an undertaker reasonably needs to remove any of its apparatus) North Somerset District Council must, subject to sub-paragraph (3), afford to the undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of North Somerset District Council and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, the undertaker in question must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of North Somerset District Council under this Part of this Schedule is to be constructed in such manner and in such line or situation as may be agreed between the undertaker in question and the undertaker or in default of agreement settled by arbitration in accordance with article 56 (arbitration).

(5) The undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 56 (arbitration), and after the grant to the undertaker of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by North Somerset District Council to be removed under the provisions of this Part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if North Somerset District Council gives notice in writing to the undertaker in question that it desires itself to execute any work, or part of any work in connection with the construction or removal of apparatus in any land of North Somerset District Council, that work, instead of being executed by the undertaker, must be executed by North Somerset District Council without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the undertaker.

(7) Nothing in sub-paragraph (6) authorises North Somerset District Council to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within 300 millimetres of the apparatus.

28.—(1) Where, in accordance with the provisions of this Part of this Schedule, North Somerset District Council affords to an undertaker facilities and rights for the construction and maintenance in land of North Somerset District Council of alternative apparatus in substitution for apparatus to be removed, those facilities and rights are to be granted upon such terms and conditions as may be

agreed between North Somerset District Council and the undertaker in question or in default of agreement settled by arbitration in accordance with article 56 (arbitration).

(2) In settling those terms and conditions in respect of alternative apparatus to be constructed in or along any railway, the arbitrator must—

- (a) give effect to all reasonable requirements of Network Rail for ensuring the safety and efficient operation of the railway which forms or is to form part of Network Rail's network and for securing any subsequent alterations or adaptations of the alternative apparatus which may be required to prevent interference with any proposed works of Network Rail or North Somerset District Council or the traffic on the railway; and
- (b) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to the terms and conditions, if any, applicable to the apparatus constructed in or along the railway for which the alternative apparatus is to be substituted.

(3) If the facilities and rights to be afforded by North Somerset District Council in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to the undertaker in question than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by North Somerset District Council to that undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

29.—(1) Not less than 28 days before starting the execution of any works of the type referred to in paragraph 27(2) that are near to, or will or may affect, any apparatus the removal of which has not been required by North Somerset District Council under paragraph 27(2), North Somerset District Council must submit to the undertaker in question a plan, section and description of the works to be executed.

(2) Those works are to be executed only in accordance with the plan, section and description submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the undertaker is entitled to watch and inspect the execution of those works.

(3) Any requirements made by an undertaker under sub-paragraph (2) must be made within a period of 21 days beginning with the date on which a plan, section and description under sub-paragraph (1) are submitted to it.

(4) If an undertaker in accordance with sub-paragraph (3) and in consequence of the works proposed by North Somerset District Council, reasonably requires the removal of any apparatus and gives written notice to North Somerset District Council of that requirement, paragraphs 23 to 28 apply as if the removal of the apparatus had been required by North Somerset District Council under paragraph 27(2).

(5) Nothing in this paragraph precludes North Somerset District Council from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan, section and description instead of the plan, section and description previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan, section and description.

(6) North Somerset District Council is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to the undertaker in question notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

30.—(1) Subject to the following provisions of this paragraph, North Somerset District Council must repay to an undertaker the reasonable expenses incurred by that undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus (including costs or compensation payable in connection with

the acquisition of land for that purpose) which may be required in consequence of the execution of any such works as are referred to in paragraph 27(2).

(2) The value of any apparatus removed under the provisions of this Part of this Schedule is to be deducted from any sum payable under sub-paragraph (1), that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was;

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by North Somerset District Council or, in default of agreement, is not determined by arbitration in accordance with article 56 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the undertaker in question by virtue of sub-paragraph (1) is to be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus must not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole must be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to an undertaker in respect of works by virtue of sub-paragraph (1) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

31.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works referred to in paragraph 27(2), any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of an undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any undertaker, North Somerset District Council must—

- (a) bear and pay the cost reasonably incurred by that undertaker in making good such damage or restoring the supply; and
- (b) make reasonable compensation to that undertaker for any other expenses, loss, damages, penalty or costs incurred by the undertaker,

by reason or in consequence of any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on North Somerset District Council with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an undertaker, its officers, servants, contractors or agents.

(3) An undertaker must give North Somerset District Council reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of North Somerset District Council which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

32. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between North Somerset District Council or Network Rail and an

undertaker in respect of any apparatus laid or erected in land belonging to North Somerset District Council or Network Rail on the date on which this Order is made.

PART 3

Protection for Operators of Electronic Communications Code Networks

33.—(1) For the protection of any operator, the following provisions, unless otherwise agreed in writing between the undertaker and the operator, have effect.

(2) In this Part of this Schedule—

“conduit system” has the same meaning as in the electronic communications code and references to providing a conduit system are to be construed in accordance with paragraph 1(3A) of that code;

“electronic communications apparatus” has the same meaning as in the electronic communications code;

“the electronic communications code” has the same meaning as in Chapter 1 of Part 2 of the 2003 Act^(a);

“electronic communications code network” means—

(a) so much of an electronic communications network or conduit system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 (application of the electronic communications code) of the 2003 Act; and

(b) an electronic communications network which the Secretary of State is providing or proposing to provide;

“electronic communications code operator” means a person in whose case the electronic communications code is applied by a direction under section 106 of the 2003 Act; and

“operator” means the operator of an electronic communications code network.

34. The exercise of the powers of article 37 (statutory undertakers and electronic communications code network operators) is subject to paragraph 23 of Schedule 2 to the Telecommunications Act 1984^(b).

35.—(1) Subject to sub-paragraphs (2) to (4), if as the result of the authorised development or its construction, or of any subsidence resulting from any of the works comprised in the authorised development—

(a) any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or other property of an operator; or

(b) there is any interruption in the supply of the service provided by an operator,

the undertaker must bear and pay the cost reasonably incurred by the operator in making good such damage or restoring the supply and must—

(c) make reasonable compensation to an operator for loss sustained by it; and

(d) indemnify an operator against claims, demands, proceedings, costs, damages and expenses which may be made or taken against, or recovered from, or incurred by, an operator by reason, or in consequence of, any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an operator, its officers, servants, contractors or agents.

(a) See section 106.

(b) 1984 c. 12.

(3) The operator must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand may be made without the consent of the undertaker which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) Any difference arising between the undertaker and the operator under this paragraph is to be referred to and settled by arbitration under article 56 (arbitration).

36. This Part of this Schedule does not apply to—

- (a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by the provisions of Part 3 of the 1991 Act; or
- (b) any damage, or any interruption, caused by electro-magnetic interference arising from the construction or use of the authorised development.

37. Nothing in this part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker or Network Rail and an operator in respect of any apparatus laid or erected in land belonging to the undertaker or Network Rail on the date on which this Order is made.

PART 4

Protection for the Environment Agency

38.—(1) The following provisions apply for the protection of the Agency unless otherwise agreed in writing between the undertaker and the Agency.

(2) In this Part of this Schedule—

“the Agency” means the Environment Agency;

“emergency” means a situation which—

- (a) is unexpected, in that there is little or no warning, or aspects of the event could not have reasonably been predicted in advance;
- (b) is a serious event presenting a risk of harm or damage to people, property or the environment; and
- (c) requires a need for urgent action, in that immediate action is required to address the risk of harm, repair or prevent a worsening of the situation; and

“relevant watercourse” has the same meaning as in article (powers in relation to relevant watercourses).

(3) Where in the exercise of the powers conferred by this Order, the undertaker proposes to interfere with or obstruct access by the Agency to a relevant watercourse, it must give the Agency 56 days’ written notice of that requirement.

39.—(1) Where in the exercise of the powers conferred by this Order, the undertaker proposes to interfere with or obstruct access by the Agency to a relevant watercourse, it must give the Agency 56 days’ written notice of that requirement.

(2) Except in cases of emergency where the undertaker interferes with or obstructs access by the Agency to a relevant watercourse and it is not possible for the undertaker to give the Agency the notice required under sub-paragraph (1), a suitable alternative access must be provided prior to and for the duration of any such interference.

40. If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest of the Agency in any land or proposes to interfere with, or remove, any of the Agency’s apparatus it must give the Agency 56 days’ written notice before any such interest is acquired or any apparatus is interfered with or removed.

41. The undertaker must indemnify the Agency in respect of all costs, charges and expenses which it may reasonably incur or which it may sustain in the examination of plans or other matters under this Part of this Schedule.

42. Any dispute arising between the undertaker and the Agency under this Part of this Schedule is to be determined by arbitration in accordance with article 56 (arbitration) of this Order.

PART 5

Protection for First Corporate Shipping Limited

43. The provisions of this Part have effect unless otherwise agreed in writing between the undertaker and BPC.

44. In this Part—

“access works” means works—

- (a) on, over or under or otherwise affecting a private street or any public right of way on BPC’s property, including the kerbs, splitter islands, footways, verges and carriageway of such street and any road markings, signing, signals, and other street furniture;
- (b) to alter, modify, improve, create or provide any means of access (whether temporary or otherwise) on or across BPC’s property or to or from any private street or any other part of BPC’s property or to or from any dock public road;
- (c) to alter the layout of any private street or any public right of way on BPC’s property; and
- (d) to position or install plant or equipment on or over any private street or any public right of way on BPC’s property,

and includes, without limitation on the scope of the foregoing, any works under article 13 (street works and power to alter layout etc., of streets) or article 17 (access to works) in respect of or affecting any private street or any public right of way on BPC’s property;

“ancillary works” means embankments, earthworks, retaining structures or works, planting, landscaping or other mitigation, fencing and all other works falling within the descriptions of the further associated development set out in paragraphs (a) to (x) (inclusive) of Schedule 1;

“BPC” means First Corporate Shipping Limited (registered company number 2542406), trading as The Bristol Port Company, being the statutory harbour authority and competent harbour authority for the Port;

“BPC’s apparatus” means all and any gas, oil and water pipes, water tanks, cisterns, drains and drainage works, sewers, pumps, electric and communication wires, cables and plant ducts, conduits, governors, transformers, meters and any other service media, surface water interceptors (and whether in all cases for drainage, gas, oil water, electricity, telephone, television, data and information transmission of any other service) on BPC’s property;

“BPC’s property” means the whole and each of every part of all the leasehold and freehold land and rights and the benefit of all covenants, owned by or vested in BPC at Avonmouth, Chittening and Portbury—

- (a) upon, across, under, over or in respect of or affecting which any powers conferred by this Order may be exercised; or
- (b) upon, across, under or over which there is situated anything over or in respect of which any such powers may be exercised,

and includes, without limitation on the scope of the foregoing, the Port’s railway and any private street but does not include the Court House Farm terminable access;

“BPC’s representative” means the person appointed by BPC from time to time to be its representative for the purposes of this Order;

“certified documents” means any and all of the plans and documents certified by the Secretary of State for the purpose of this Order;

“construction” includes execution, placing, alteration and reconstruction and “construct” and “constructed” have corresponding meanings;

“construction access rights” means any and all powers conferred on the undertaker by this Order to exercise temporary powers of access over any land with or without vehicles, plant and equipment including, without limitation on the scope of the foregoing, any ancillary powers to remove buildings and vegetation from that land and to construct works for the purpose of providing a means of access;

“Court House Farm easement” means a Deed of Grant of Easement dated 4 September 2017 made between Network Rail and First Corporate Shipping Limited t/a The Bristol Port Company;

“Court House Farm terminable access” means the existing crossing at grade over the disused Portishead Branch Line which is described in the Court House Farm easement;

“dock public road” means each of the streets known as Marsh Lane, Royal Portbury Dock Road (including the roundabout at its junction with Portbury Way and Gordano Way), Redland Avenue, Gordano Way, Garonor Way and Portbury Way to the extent that it is maintainable highway;

“drainage works” means works—

- (a) to create, alter or remove any culvert or other crossing over, under or affecting any watercourse or drainage ditch on, over or under BPC’s property or which drains water to or from BPC’s property; and
- (b) to make any opening or connection into any watercourse belonging to or to lay down, take up or alter any pipes for that purpose;

“environmental protection works” means measures reasonably required to be carried out on or in respect of Work No. 18 to protect the scrub environment and water bodies established and managed by BPC;

“highway access land” means any and all of parcels 5/30, 5/61, 5/62, 5/65 and 5/70;

“landscaping works” means—

- (a) removing, cutting back, felling, lopping, pruning or reducing in any way any hedge, hedgerow, tree, shrub or other vegetation on BPC’s property; and
- (b) planting new or replacement hedges, hedgerows, trees, shrubs or other vegetation on BPC’s property

and includes, without limitation on the scope of the foregoing, any works on BPC’s property under article 43 (felling or lopping of trees) or article 44 (hedgerows);

“maintainable highway” has the same meaning as in section 86(1) of the 1991 Act;

“Marsh Lane track” means the private street referred to in Schedule 3 and there described as Access Road to the M5 Avonmouth Bridge east of Marsh Lane, Easton-in-Gordano;

“Marsh Lane track land” means any and all of parcels 5/25, 5/95, 5/100, 5/105, 5/106, 5/112 and 5/113 and that part of parcel 5/28 which lies to the east of an imaginary line projected in a northerly direction across the disused railway line at 126 miles 78 chains and includes the Marsh Lane track;

“plans” includes sections, elevations, designs and design data, drawings, calculations, specifications, programmes, method statements, assessments of risk relating to the construction, carrying out, maintenance and, where appropriate, removal of any work;

“Port” means the port and harbour of Bristol;

“Port’s railway” means the railway owned by BPC leading from Portbury Junction, Pill to the Royal Portbury Dock;

“powers of temporary possession” means the powers conferred by article 33 (temporary use of land for carrying out the authorised development);

“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 but excluding any such activities carried out under article 23 (authority to survey and investigate land) or the powers conferred by section 11(3) (powers of entry) of the 1965 Act as applied by this Order in respect of any of BPC's property;

“private street” means any street on BPC's property which is not a maintainable highway;

“public path land” means any and all of parcels 5/27, 5/101, 5/102, 5/130, 5/131, 5/135 and 5/136;

“rail link land” means any and all of parcels 5/104, 5/107, 5/108, 5/165, 5/171, 6/25 and 6/55;

“railway rights land” means any and all of parcels 5/95, 5/100, 5/105, 5/122, 5/137, 5/140, 5/141, 6/10, 6/15, 6/20 6/55, 6/60 and 6/80;

“relevant works” means that part of Work 1C that is on the Port's railway and Works Nos. 14, 14A, 14B, 15, 16, 16A, 16C, 18, 19 and 20;

“specified work” means—

- (a) that part of Work No. 1C that is on the Port's railway;
- (b) the whole of Work Nos. 14, 14A, 15, 16, 16A, 16C, 18, 19 and 20;
- (c) all access works and drainage works; and
- (d) so much of all other parts of the authorised development and of any works to be carried out under the powers conferred by article 33 as is situated upon, across, under, over or within 5 metres of BPC's property, including all environmental mitigation and restoration measures;

(2) In this Part—

- (a) references to the undertaker include references to any person to or in which any or all of the benefit of the provisions of this Order and any related statutory powers are transferred or are vested pursuant to any provision of this Order and any person which may by virtue of any agreement made pursuant to article 11 (agreements with Network Rail) whether alone or jointly with another exercise any or all of the powers contained in this Order;
- (b) references to numbered parcels are to the parcels of land so numbered in the book of reference;
- (c) references to a requirement to consult include that consultation must take place in good faith and in a timely manner with the provision of all reasonably necessary information and so that the party concerned must act reasonably in taking into account the reasonable comments made by the other party in response; and
- (d) references to BPC's consent, agreement or approval are to BPC's prior consent, agreement or approval given in writing.

45. Nothing in this Order affects—

- (a) any right of BPC to use the Court House Farm terminable access; or
- (b) the provisions of the Court House Farm easement or any other agreement relating to the Court House Farm terminable access

and accordingly the following provisions of this Part of this Schedule do not apply as regards the Court House Farm terminable access.

46. The undertaker must give written notice to BPC if any application is proposed to be made by the undertaker for the Secretary of State's consent under article 10 (consent to transfer of benefit of order) and any such notice must be given no later than 28 days before any such application is made and must describe or give (as appropriate)—

- (a) the nature of the application to be made;
- (b) the extent of the geographical area to which the application relates; and
- (c) the name and address of the person acting for the Secretary of State to whom the application is to be made.

47.—(1) No agreement made under article 11 (agreements with Network Rail) may authorise or permit the exercise by Network Rail, or by the undertaker, or by Network Rail and the undertaker jointly, of any powers and rights of Network Rail and the undertaker (as the case may be) under any BPC contract or affecting any of BPC’s property.

(2) In sub-paragraph (1), “BPC contract” means all and any contracts, licences, easements and other agreements, permissions and consents to which BPC is a party or of which it has the benefit.

Watercourses and drainage

48.—(1) No part of any impounded dock at the Port is included within the definition of “watercourse” for any purpose of this Order.

(2) The undertaker must not without BPC’s consent (such consent not to be unreasonably withheld or delayed but which may be given subject to reasonable conditions) create any new discharges for water into any watercourse belonging to or used by BPC.

(3) Without limitation on the scope of sub-paragraph (2), any consent given by BPC under this paragraph—

- (a) may be given subject to reasonable conditions as to the quantities of water permitted to be discharged and as to the duration of any use of the relevant watercourse by the undertaker; and
- (b) does not obviate the need for the undertaker to obtain any further consents required in relation to the activity concerned.

(4) In the exercise of any power under article 22 (discharge of water), the undertaker must not damage or interfere with the bed or banks of any watercourse in, on, over or under BPC’s property.

Surveys

49.—(1) The undertaker must not exercise the powers conferred by article 23 (authority to survey and investigate land) or the powers conferred by section 11(3) (powers of entry) of the 1965 Act as applied by this Order in respect of any of BPC’s property—

- (a) outside the Order limits except to the extent that BPC agrees for the purpose of carrying out non-intrusive surveys, investigations and monitoring only;
- (b) other than to the extent that the exercise of such powers is necessary in connection with carrying out the authorised development; and
- (c) other than by prior agreement with BPC on each and every occasion, such agreement not to be unreasonably withheld or delayed but which may be given subject to reasonable conditions, and on at least 14 days’ notice.

(2) When requesting BPC’s agreement to access under sub-paragraph (1) the undertaker must provide to BPC full details of the property to which access is requested, the activities proposed (including risk assessments and method statements and intended duration of the activities), the identity of the persons who would undertake them and any apparatus that might be left on the affected property.

(3) BPC is, without limitation on the scope of sub-paragraph (1)(c)—

- (a) entitled to refuse access as requested by the undertaker on any occasion for operational reasons, in which case BPC must act reasonably and without delay in seeking to offer alternative arrangements; and
- (b) entitled as a condition of its agreement on any occasion to require the production of evidence of the existence of adequate insurance with insurers of repute, the proceeds of which will be available to cover all liability, costs, claims, expenses and demands which may arise as a result of that access.

(4) The undertaker must remove any equipment left on, over or under BPC’s property as soon as reasonably possible after completion of the relevant surveys and investigations.

(5) The undertaker must, at its own expense, deliver to BPC as soon as reasonably practicable after their production on a non-reliance basis copies in an electronic format of all survey and ground investigation reports carried out in respect of BPC's property under the powers conferred by article 23 or the powers conferred by section 11(3) of the 1965 Act as applied by this Order, which reports BPC may use and provide to others (on a non-reliance basis) free of cost in connection with works and operations at the Port.

(6) The undertaker must, before submitting any survey, proposed measures or strategy relating to the Marsh Lane track to the relevant planning authority for approval in accordance with requirement 35 in schedule 2, consult with BPC in relation to the content of all such surveys, measures and strategies.

Streets, access and public rights of way

50.—(1) The undertaker must not in carrying out any works or exercising the powers conferred by this Order cause pedestrian or vehicular access to or across any of BPC's property (including access for cargo operations but excluding access over the Court House Farm terminable access) to be interfered with or obstructed, other than with the consent of BPC, not to be unreasonably withheld or delayed, or, if the carrying out of works or exercising the powers relate to a dock public road, unless the undertaker has first consulted with BPC.

(2) Without limitation on the scope of sub-paragraph (1), the undertaker must not exercise any powers under—

- (a) article 13(1) (street works and power to alter layout etc., of streets) in respect of or so as to affect the Marsh Lane track other than by prior agreement with BPC such agreement not to be unreasonably withheld or delayed but which may be given subject to reasonable conditions;
- (b) article 13(1) in respect of or so as to affect any dock public road unless it has first consulted with BPC; or
- (c) article 13(2) in respect of or so as to affect any private street on any part of BPC's property.

(3) With the exception of the locations specified in columns (1) and (2) of Schedule 7 and shown on sheet 5 of the compounds, haul roads and access to works plan as AW5.1 (access from the highway known as Marsh Lane, Easton in Gordano, north of the disused Portishead Branch railway line) and AW5.3 (access from the highway known as Marsh Lane, Easton in Gordano, south of the disused Portishead Branch railway line) the undertaker must not pursuant to any powers in this Order carry out any works to create or improve any means of access affecting any private street or any public right of way on BPC's property or any other part of BPC's property or any dock public road.

(4) In carrying out any access works, the undertaker must not so far as reasonably practicable interfere with or obstruct the free, uninterrupted and safe use by other traffic of any street or interfere with street furniture, signage and lighting masts.

(5) Without limitation on the scope of sub-paragraph (1), the undertaker must not exercise any powers under article 15(1) (temporary stopping up of streets and public rights of way) in respect of:

- (a) the Marsh Lane track (except to the extent permitted by article 15(5)) or any other private street; or
- (b) Royal Portbury Dock Road without BPC's consent, such consent not to be unreasonably withheld or delayed but which may be given subject to reasonable conditions.

(6) Despite any provision in this Order, the undertaker must not, except with the agreement of BPC, exercise any power under article 15 or article 46 to use or to authorise the use of any private street or any dock public road or any public right of way on BPC's property as a temporary working site or as a parking place.

(7) The undertaker must exercise the power granted to it under paragraph (5) of article 15 to stop up public rights of way LA8/67/10 and LA/8/68/10 to the extent specified in column (3) of Part 2

of Schedule 5 (Bridleways and footpaths to be temporarily suspended for which no substitute is to be provided during suspension), throughout the period of operation or use of the Lodway Farm construction compound to be constructed as Work No. 17 and the temporary construction compound located under the M5 Avonmouth Bridge.

(8) Despite paragraphs (1) and (2) of article 19—

- (a) any street constructed under this Order on BPC's property; and
- (b) the altered or diverted part of any street altered or diverted under this Order on BPC's property

must be maintained by and at the expense of the relevant highway authority at all times from its completion.

(9) If the undertaker acquires, whether compulsorily or by agreement, any of BPC's property within the Order limits, or any right or interest in or over such property, which property is subject to a public right of way, from the date of the acquisition of the relevant land, right or interest or from the date of entry onto the land by the undertaker under section 11(1) of the 1965 Act (power of entry), whichever is the earlier, any liability or responsibility of BPC to the relevant highway authority for or in respect of the maintenance of that public right of way is extinguished and that public right of way shall after that date instead be maintained by and at the expense of the relevant highway authority.

(10) Without limitation on the scope of any other provision in this Part if any damage to any public right of way on BPC's property is caused in the exercise of any powers under this Order or by carrying out of, or in consequence of the construction of, any works under this Order, the undertaker must make good such damage and pay to BPC all reasonable expenses to which BPC may be put by reason of any such damage.

(11) The undertaker must not exercise any powers under article 13, article 15 or article 46 (traffic regulation) over or in respect of any part of BPC's property or any dock public road after completion of construction of the authorised development.

Acquisition and use of land

51.—(1) The undertaker must not exercise the powers conferred by section 271 (extinguishment of rights of statutory undertakers: preliminary notices) of the 1990 Act in relation to any rights of BPC over or in respect of the railway rights land or the highways access land.

(2) If the undertaker acquires any interest in the railway rights land or the highways access land, whether compulsorily or by agreement, no rights of BPC over or in respect of the railway rights land or the highways access land so acquired must be extinguished.

Use of land and execution, maintenance and use of the authorised development

52.—(1) Despite any provision in this Order or anything shown on the land plan, the undertaker must not except with the agreement of BPC—

- (a) exercise any powers of temporary possession over or in respect of parcel 5/75 or (if and to the extent they form part of BPC's property) parcel 5/85 or parcel 5/86 unless BPC fails, within 14 days of a request by the undertaker, to make available for exercise by the undertaker in substitution for the exercise of the relevant powers temporary rights of access over other land which are sufficient (whether alone or in conjunction with the exercise by the undertaker of other powers under this Order) to enable the undertaker to gain access in connection with the construction of the authorised development, with such vehicles, plant and equipment as may be necessary, from access point AW5.3 shown on the compounds, haul roads and access to works plan to the accommodation bridge (and associated walls, embankments and structures) on land adjacent to parcel 05/86 and to the culvert, watercourse and head wall situated on land adjacent to parcel 05/85; or
- (b) other than any construction access rights which may be authorised by or pursuant to the terms of this Order over the Marsh Lane track or parcels 05/75, 05/103, 05/104, 05/107, 05/108, 05/165, 05/171, 06/25, any part of 05/112 that is not part of the Marsh Lane

Track, or over bridleways and footpaths that are open to the public), exercise any construction access rights over BPC's property or otherwise use any part of BPC's property for the purpose of gaining access to any part of the authorised development or to any other land or in connection with the construction or maintenance of the authorised development.

(2) Any exercise of powers of temporary possession by the undertaker in respect of the rail link land or the Marsh Lane track land which may be permitted pursuant to the terms of this Order is subject to, and in common with, the use of the rail link land and the Marsh Lane track land by BPC and by any other person acting with BPC's authority or which may have rights to use the rail link land and the Marsh Lane track land.

53.—(1) If required to do so by BPC (acting reasonably), the undertaker must at its cost and expense procure that surveys are carried out to a specification approved by BPC (acting reasonably) to show the condition of any land of which temporary possession is taken under article 33 (together with all associated structures) before the undertaker's use of it begins and after that use ends.

(2) The undertaker must promptly after receipt of reasonable demand by BPC and at the undertaker's cost and expense make good any and all damage and wear and tear caused to any part of BPC's property which is used by the undertaker in connection with the construction or maintenance of the authorised development where in BPC's reasonable opinion the rectification of such damage, wear or tear is necessary in the interests of safety or security.

(3) If required to do so by BPC (acting reasonably), the undertaker must permit BPC to inspect the execution of all works of rectification being carried out under this paragraph in order to ensure compliance by the undertaker with the requirements of this paragraph.

54.—(1) The undertaker must present to BPC not less than three months before the intended date of commencing construction the draft programme for the execution of each part of the authorised development on BPC's property.

(2) The undertaker must consult with BPC in relation to the draft programme and must present its final programme for the execution of the authorised development on BPC's property to BPC not less than four weeks before the intended date of commencing construction.

(3) The undertaker must not enter on or take temporary possession of any part of BPC's property unless it has served at least 14 days' written notice on BPC of its intended entry onto that part.

(4) In this paragraph "intended date of commencing construction" means the first date on which the undertaker wishes to commence construction of any part of the authorised development on, under or over any part of BPC's property, including carrying out any preparatory activities.

(5) In the exercise of any powers of temporary possession in respect of any part of BPC's property and in the commencement and execution of the authorised development on BPC's property the undertaker must—

- (a) proceed diligently with the works affecting each part of BPC's property; and
- (b) notify BPC in writing of the completion of the relevant part of the authorised development affecting each part of BPC's property within fourteen days of its completion.

(6) In the exercise of any powers of temporary possession in respect of any part of BPC's property the undertaker must not—

- (a) except with the agreement of BPC, provide or authorise the provision of car parking or storage (for materials or other items) facilities on any part of BPC's property other than within Work No. 16A;
- (b) demolish or remove any buildings; or
- (c) except as BPC agrees, construct or carry out on BPC's property any works comprising fencing, any mitigation works, ground or rock stability, geotechnical or strengthening works other than works which are of a temporary nature.

(7) In addition to and without limitation on the scope of the undertaker's other obligations under this Order (including those in article 33(4) and Schedule 2), before giving up possession of any part of BPC's property in respect of which any powers of temporary possession have been exercised the undertaker must remove any works constructed in contravention of sub-paragraph (6) or paragraph 55.

Works

55. Despite any provision of this Order or anything shown on the certified documents except as BPC may agree—

- (a) no part of Work No. 14 or any ancillary works associated with Work No. 14 must be constructed or maintained on parcel 04/55; and
- (b) other than works of a temporary nature, no ancillary works associated with any relevant works or with Work No. 1A or Work No. 1B must be constructed or maintained upon, across, under or over BPC's property of which only temporary possession is taken under this Order over which the undertaker does not, under this Order, acquire rights authorising the retention of those ancillary works.

56.—(1) The undertaker must before commencing construction of any specified work supply to BPC proper and sufficient plans of that work for BPC's approval and the specified work must not be commenced or executed except in accordance with such plans as have been approved in writing by BPC.

(2) Subject to sub-paragraph (3), BPC's approval under sub-paragraph (1) must not be unreasonably withheld or delayed, but may be given subject to reasonable conditions.

(3) BPC's approval to plans must not be unreasonably withheld or delayed, but may be given subject to reasonable conditions—

- (a) in respect of all or any of Work Nos. 1C and 19 on BPC Property, if and in so far as the proposed works comprise and, following design development, are broadly consistent with the works shown on drawings W1097B-ARP-DRG-ECV-000305, W1097B-ARP-DRG-ECV-000330 and W1097B-ARP-DRG-ECV-000331;
- (b) in respect of Work No. 18 if and in so far as the proposed works comprise and, following design development, are broadly consistent with the Bridleway Extension Under the Elevated M5 Plan, and
- (c) in respect of Work No. 16C, if and in so far as the proposed works comprise only work necessary to renew the level crossing in modern equivalent form.

(4) Where under sub-paragraph (2) or (3) BPC's approval to plans submitted by the undertaker under sub-paragraph (1) cannot be unreasonably withheld or delayed if by the end of the period of 28 days beginning with the date on which such plans have been supplied to BPC, BPC has not intimated disapproval of those plans and the grounds of disapproval the undertaker may serve upon BPC written notice requiring BPC to intimate approval or disapproval within a further period of 28 days beginning with the date upon which BPC receives written notice from the undertaker. If by expiry of the further period of 28 days BPC has not intimated approval or disapproval, BPC is deemed to have approved the plans as submitted.

(5) When signifying approval of plans submitted under sub-paragraph (1), BPC may specify any protective works (whether temporary or permanent) which in BPC's opinion should be carried out before the commencement of the construction of a specified work to ensure the safety or stability of BPC's property or the continuation of safe and efficient operation of the Port (including the Port's railway) and such protective works as may be reasonably necessary for those purposes are to be constructed by BPC but at the expense of the undertaker, or if BPC so desires such protective works must be carried out by the undertaker at its own expense with all reasonable dispatch, and the undertaker must not commence the construction of the specified work until BPC has notified the undertaker that the protective works have been completed to BPC's reasonable satisfaction.

(6) When signifying approval of plans submitted under sub-paragraph (1) in relation to Work No. 18, BPC may specify any environmental protection works which in BPC's reasonable opinion

should be implemented before the commencement of, or during, the construction of Work No. 18 and such environmental protection works as may be reasonably necessary for those purposes are to be implemented by BPC but at the expense of the undertaker, or if BPC so desires such environmental protection works must be implemented by the undertaker at its own expense with all reasonable dispatch, and except to the extent BPC may agree the undertaker must not commence the construction of the specified work until BPC has notified the undertaker that any and all relevant environmental protection works have been implemented to BPC's reasonable satisfaction.

57.—(1) Any specified work and any protective works (and any environmental protection works connected with Work No. 18) to be constructed or implemented by virtue of paragraph 56(5) or 56(6) must, when commenced, be constructed and implemented with all reasonable dispatch in accordance with the plans approved or deemed to have been approved under paragraph 56—

- (a) under BPC's supervision (where appropriate and if given) and to BPC's reasonable satisfaction;
- (b) in such manner as to cause as little damage as is possible to BPC's property; and
- (c) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe and efficient operation of the Port (including use of the Port's railway or the traffic on it).

(2) If any damage to BPC's property or any such interference or obstruction is caused by the carrying out of, or in consequence of the construction of, a specified work, the undertaker must, regardless of any approval described in paragraph 56(1), make good such damage and pay to BPC all reasonable expenses to which BPC may be put and compensation for any loss which it may sustain by reason of any such damage, interference or obstruction.

(3) Nothing in this Part of this Schedule imposes—

- (a) any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligence of BPC or its servants, contractors or agents; or
- (b) any liability on BPC with respect to any damage, costs, expenses or loss attributable to the negligence of the undertaker or its servants, contractors or agents.

58. The undertaker must—

- (a) at all times afford reasonable facilities to BPC's representative (or to a person nominated by BPC's representative) for access to a specified work during its construction; and
- (b) supply BPC with all such information as BPC's representative may reasonably require with regard to a specified work or the method of constructing it.

59. BPC must at all times afford reasonable facilities to the undertaker and its agents for access to any works carried out by BPC under this Part during their construction and must supply the undertaker with such information as it may reasonably require with regard to such works or the method of constructing them.

60.—(1) If any permanent or temporary alterations or additions to BPC's property, or any protective works under paragraph 56(5), are reasonably necessary during the construction of a specified work, or during a period of 12 months after the opening for public use of any part of the authorised development that includes a specified work, in consequence of the construction of that specified work, such alterations and additions may be carried out by BPC and if BPC gives to the undertaker reasonable notice of its intention to carry out such alterations or additions, the undertaker must pay to BPC all costs reasonably and properly incurred in constructing those alterations or additions including, in respect of any such alterations and additions as are to be permanent, a capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by BPC in maintaining, working and, when necessary, renewing any such alterations or additions.

(2) If the cost of maintaining, working or renewing BPC's property is reduced in consequence of any such alterations or additions a capitalised sum representing such saving must be set off against any sum payable by the undertaker to BPC under this paragraph.

61. The undertaker must repay to BPC all fees, costs, charges and expenses reasonably and properly incurred by BPC—

- (a) in constructing any protective works under the provisions of paragraph 56(5) and in the implementing of any environmental protection works under the provisions of paragraph 56 (6) including, in respect of any permanent protective works or permanent environmental protection works, a capitalised sum representing the cost of maintaining and renewing those works;
- (b) in respect of BPC's representative's approval of plans submitted by the undertaker and the supervision by BPC of the construction of a specified work and otherwise in connection with the implementation of the provisions of this Part;
- (c) in respect of the employment or procurement of the services of any persons whom it is reasonably necessary to appoint for inspecting, watching and lighting BPC's property (including the Port's railway) and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of a specified work; and
- (d) in respect of any additional temporary lighting of BPC's property in the vicinity of the specified works, being lighting made reasonably necessary by reason or consequence of the construction or failure of a specified work.

62. If at any time after the completion of a specified work BPC gives notice to the undertaker informing it that the state of maintenance of any part of the specified work appears to be such as adversely affects the operation or use of any of BPC's property (including the Port's railway) in connection with carrying on BPC's statutory undertaking, the undertaker must, on receipt of such notice, take such steps as may be reasonably necessary to put that specified work in such state of maintenance as not to adversely affect the operation or use of such property in that connection.

63. Any additional expenses which BPC may reasonably incur in altering, reconstructing, working, or maintaining under any powers existing at the making of this Order any of BPC's property in connection with carrying on BPC's statutory undertaking by reason of the existence of a specified work, provided that 56 days' previous notice of the commencement of such alteration, reconstruction, working or maintenance has been given to the undertaker, are to be repaid by the undertaker to BPC.

64.—(1) The undertaker must pay to BPC all costs, charges, damages and expenses not otherwise provided for in this Part (but subject to article 41 (no double recovery)) which may be occasioned to or reasonably and properly incurred by BPC—

- (a) by reason of the construction, working, maintenance of a specified work or the failure of such a work; or
- (b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon a specified work

and the undertaker must indemnify BPC from and against all costs, claims and demands arising out of or in connection with a specified work or any such failure, act or omission; and the fact that any act or thing may have been done BPC on behalf of the undertaker or in accordance with plans approved by BPC or in accordance with any requirement of BPC's representative or under BPC's representative's supervision will not (if it was done without negligence on the part of BPC or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this sub-paragraph.

(2) BPC must give the undertaker reasonable notice of any such claim or demand made by a third party as soon as reasonably practicable after BPC becomes aware of it and must make no settlement or compromise of such a claim or demand in excess of £10,000 without the prior consent of the undertaker (such consent not to be unreasonably withheld or delayed).

65. BPC must, on receipt of a request from the undertaker, from time to time provide free of charge with written estimates of the costs, charges, expenses and other liabilities for which the undertaker is or will become liable under this Part and with such information as may reasonably

enable the undertaker to assess the reasonableness of any such estimate or claim made or to be made under this Part.

66. In the assessment of any sums payable to BPC under this Part there must not be taken into account any increase in the sums claimed that is attributable to any action taken by or any agreement entered into by BPC if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining the payment of those sums by the undertaker under this Part or increasing the sums so payable.

BPC's apparatus

- 67.—**(1) Despite any provision of this Order or anything shown on the land plan—
- (a) the undertaker must not acquire any of BPC's apparatus other than by agreement;
 - (b) any right of BPC to maintain any of BPC's apparatus in land must not be extinguished other than with BPC's agreement; and
 - (c) the undertaker must not alter, divert, remove, replace, reposition, relocate or repair any of BPC's apparatus other than with BPC's consent (not to be unreasonably withheld or delayed in respect of any specified work).

The Port's railway

- 68.** For the purpose of this Order—
- (a) no part of the Port's railway is, or will become by virtue of this Order or the execution of the authorised development, existing operational railway or operational railway; and
 - (b) no part of BPC's property or of any other land over which the Port's railway is located (whether or not that land is owned by BPC) is, or will become by virtue of this Order or the execution of the authorised development, operational railway land or currently operational railway land or form part of the railway authorised by this Order to which article 39 (operation and use of railways) applies.

Trees and other vegetation

69.—(1) Despite any provision in this Order and anything shown on the certified documents, in the exercise of any powers under this Order and in the construction, maintenance and operation of the authorised development the undertaker must not—

- (a) plant new or replacement trees, hedges, hedgerows, shrubs or other vegetation on BPC's property otherwise than with BPC's consent, such consent not to be unreasonably withheld or delayed; or
- (b) remove, cut back, fell or lop, prune or reduce in any way any other hedge, tree, shrub or other vegetation on BPC's property otherwise than with BPC's consent, such consent not to be unreasonably withheld or delayed.

General

70. The undertaker must in the exercise of any powers under this Order and in the construction, maintenance and operation of the authorised development secure compliance with and implementation of all and any applicable conditions attached to any relevant consent, agreement or approval given by BPC for the purpose of this Part.

71. Article 49 (procedure in relation to further approvals, etc) will not apply in relation to any consent, agreement or approval from BPC required under this Order.

PART 6

Protection for Exolum Pipeline System Ltd

72. The provisions of this Part have effect for the protection of the Exolum undertaker referred to in this Part unless otherwise agreed in writing between the undertaker and the Exolum undertaker.

73. In this Part—

“alternative apparatus” means alternative apparatus adequate to enable the Exolum undertaker to fulfil its statutory functions in a manner not less efficient than previously;

“apparatus” means the pipeline, or any part of it, belonging to or maintained by the Exolum undertaker, which is within the Order limits, and includes any structure in which that apparatus is or is to be lodged or which gives or will give access to apparatus;

“Exolum undertaker” means Exolum Pipeline System Ltd (registered company number 09497223) or any successor in title to the Exolum undertaker in respect of the apparatus;

“functions” includes powers and duties; and

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over or upon land.

74. Despite any provision of this Order or anything shown on the land plan, the undertaker must not acquire any apparatus otherwise than by agreement.

75.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which the apparatus is placed, that apparatus must not be removed under this Part and any right of the Exolum undertaker to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the Exolum undertaker.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to the Exolum undertaker written notice of that requirement, together with a plan and section of the work proposed.

(3) If alternative apparatus or any part of such apparatus is to be constructed as a consequence of the removal of apparatus placed in the land referred to in sub-paragraph (2), the Exolum undertaker, must on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in other land in which the alternative apparatus is to be constructed.

(4) The Exolum undertaker must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 56 (arbitration), and after the grant to the Exolum undertaker of any such facilities and rights as are referred to in sub-paragraph (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part.

(5) Regardless of anything in sub-paragraph (4), if the undertaker gives notice in writing to the Exolum undertaker that it desires itself to execute any work, or part of any work in connection with the construction or removal of apparatus, that work, instead of being executed by the Exolum undertaker, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the Exolum undertaker.

(6) Nothing in sub-paragraph (5) authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within 300 millimetres of the apparatus.

76.—(1) Not less than 28 days before starting the execution of any works of the type referred to in paragraph 75(2) that are near to, or will or may affect, any apparatus the removal of which has

not been required by the undertaker under that sub-paragraph, the undertaker must submit to the Exolum undertaker a plan, section and description of the works to be executed.

(2) Those works must be executed only in accordance with the plan, section and description submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the Exolum undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the Exolum undertaker is entitled to watch and inspect the execution of those works.

(3) In relation to works which will or may be situated on, over, under or within 15 metres measured in any direction of the apparatus or (wherever situated) will impose any load directly upon the apparatus or involve embankment works within 15 metres of the apparatus, the information to be submitted to the Exolum undertaker under sub-paragraph 76(1) shall be submitted not less than 35 days before the works are started and shall include a method statement describing:

- (a) the exact position of the works;
- (b) the level at which the works are to be constructed or renewed;
- (c) the manner of their construction or renewal;
- (d) the position of the apparatus; and
- (e) by way of detailed drawings, every alteration proposed to be made to the apparatus

to permit the Exolum undertaker to assess whether any protective works or monitoring of adjoining activities or works are necessary, acting reasonably.

(4) Any requirements made by the Exolum undertaker under sub-paragraph (2) must be made within a period of 28 days beginning with the date on which a plan, section and description under sub-paragraph (1) re-submitted to it.

(5) If the Exolum undertaker in accordance with sub-paragraph (4) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraph 75 applies as if the removal of the apparatus had been required by the undertaker under sub-paragraph (2) of that paragraph.

(6) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan, section and description instead of the plan, section and description previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan, section and description.

(7) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to the Exolum undertaker notice as soon as is reasonably practicable and a plan, section and description of the works referred to in sub-paragraph (1) as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) and sub-paragraph (3) in so far as is reasonably practicable in the circumstances.

(8) Where, in the reasonable opinion of the Exolum undertaker or the undertaker, anything done in the exercise of the powers conferred by this Order might interfere with the cathodic protection forming part of apparatus or any apparatus might interfere with the proposed or existing cathodic protection forming part of the undertaker's works, the Exolum undertaker and the undertaker must co-operate in carrying out any tests which they consider reasonably necessary for ascertaining the nature and extent of such interference, and measures reasonably necessary for providing or preserving such cathodic protection.

77.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to the Exolum undertaker the proper and reasonable expenses reasonably incurred by the Exolum undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus including those expenses incurred through stopping and restoring supply to the apparatus.

(2) The value of any apparatus removed under the provisions of this Part of the Schedule is to be deducted from any sum payable under paragraph (1), that value being calculated after removal.

78.—(1) If in accordance with the provisions of this Part—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was, and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 56 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the Exolum undertaker by virtue of paragraph 77(1) is to be reduced by the amount of that excess.

(2) For the purposes of sub-paragraph (1), the extension of the apparatus to a length greater than the length of the existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus.

(3) An amount which apart from this sub-paragraph would be payable to the Exolum undertaker in respect of works by virtue of paragraph 77(1) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the Exolum undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

79. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker or Network Rail and the Exolum undertaker in respect of any apparatus laid or erected in land belonging to the undertaker or Network Rail on the date on which this Order is made.

PART 7

For the protection of Western Power Distribution Limited (South West) Plc

Application

80. For the protection of Western Power Distribution Limited (South West) plc as referred to in this Part 7 of Schedule 16 the following provisions, unless otherwise agreed in writing between the undertaker and Western Power Distribution Limited (South West) plc have effect.

Interpretation

81. In this Part of this Schedule—

“alternative apparatus” means alternative apparatus adequate to enable WPD to fulfil its statutory functions in a manner not less efficient than previously;

“alternative rights” means all and any necessary legal easements, consents, or permissions required by WPD in order to permit or authorise a diversion;

“apparatus” means electric lines or electrical plant as defined in the Electricity Act 1989, belonging to or maintained by WPD;

“diversion” means an alteration to the WPD network in order to enable or facilitate the authorised development;

“functions” includes powers and duties;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over or upon land;

“plan” or “plans” includes all designs, drawings, specifications, method statements, programmes, calculations, risk assessments and other documents that are reasonably necessary to properly and sufficiently describe and assess the works to be executed;

“specified work” means so much of any of the authorised development that is carried out within 6 metres of any apparatus;

“WPD” means Western Power Distribution (South West) plc (company number 02366894) whose registered office is at Avonbank, Feeder Road, Bristol BS2 0TB;

“WPD network” means WPD’s distribution network operated pursuant to its distribution licence issued pursuant to section 6 of the Electricity Act 1989; and

for the avoidance of doubt, all other terms as defined in article 2 (interpretation) of this Order.

Precedence of 1991 Act in respect of apparatus in streets

82. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and WPD are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

No acquisition or extinguishment except by agreement

83. Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.

Removal of apparatus

84.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or requires that WPD’s apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule and any right of WPD to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed and is in operation and access to it has been provided if necessary to the reasonable satisfaction of WPD in accordance with sub-paragraphs (2) to (11).

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to WPD written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order WPD reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraphs (2)(a), (b) and (c), afford to WPD the necessary facilities and rights for the construction of alternative apparatus in other land owned or controlled by the undertaker and subsequently for the maintenance of that apparatus.

- (a) If, for the purpose of executing any works, the undertaker requires to remove or divert any apparatus placed within the Order land, and alternative apparatus or any part of such alternative apparatus is to be constructed in land other than the Order land as a consequence of the removal or diversion of apparatus, then the undertaker shall use its reasonable endeavours to obtain alternative rights in other land in which the alternative apparatus is to be constructed.
- (b) Should the undertaker not be able to obtain the alternative rights required under sub-paragraph (a) then the undertaker and WPD shall use reasonable endeavours to agree a reasonably practicable and mutually agreeable alternative engineering solution which does not require alternative apparatus to be constructed in land other than Order land and does not require alternative rights.
- (c) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker and the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (a) and an alternative engineering solution cannot be agreed in accordance with sub-paragraph (b), WPD shall on receipt of written notice to that effect from the undertaker, take such steps as are reasonable in the

circumstances to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation shall not extend to a requirement on WPD to use its compulsory purchase powers to this end unless WPD elects to do so.

(3) Any alternative apparatus required pursuant to sub-paragraph (2) must be constructed in such manner and in such line or situation as may be agreed between WPD and the undertaker or in default of agreement settled in accordance with paragraph 87.

(4) WPD must, after the alternative apparatus to be provided or constructed has been agreed or settled pursuant to paragraph 87, and after the grant to WPD of any such facilities and rights as are referred to in sub-paragraph (2), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(5) Regardless of anything in sub-paragraph (4), if the undertaker gives notice in writing to WPD that it desires itself to execute any work, or part of any work in connection with the construction or removal of apparatus in any land of the undertaker, that work, instead of being executed by WPD, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of WPD.

(6) Nothing in sub-paragraph (5) authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within 600 millimetres of the apparatus.

(7) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to WPD facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and WPD or in default of agreement settled in accordance with paragraph 87.

(8) In settling those terms and conditions in respect of alternative apparatus to be constructed in the land of the undertaker, the expert must—

- (a) give effect to all reasonable requirements of the undertaker for ensuring the safety and efficient operation of the authorised development and for securing any subsequent alterations or adaptations of the alternative apparatus which may be required to prevent interference with any proposed works of the undertaker; and
- (b) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to the terms and conditions, if any, applicable to the apparatus constructed in the land for which the alternative apparatus is to be substituted.

(9) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the expert less favourable on the whole to WPD than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the expert must make such provision for the payment of compensation by the undertaker to WPD as appears to the expert to be reasonable having regard to all the circumstances of the particular case.

(10) If in accordance with the provisions of this Part of this Schedule WPD require that alternative apparatus of better type, of greater capacity or of greater dimensions, or at a greater depth is necessary in substitution for existing apparatus which for WPD's network requirements is over and above what is necessary as a consequence of and for the purpose of the authorised development WPD must deduct the cost of such additional requirements from the amount payable by the undertaker pursuant to sub-paragraph 86(1).

(11) For the purposes of sub-paragraph (10)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

85.—(1) Not less than 28 days before the undertaker intends to start the execution of any specified work, the undertaker must submit to WPD a plan, section and description of the works to be executed. Any submission must note the time limits imposed on WPD under sub-paragraph (3).

(2) Subject to sub-paragraph (3) the undertaker must not commence any works to which sub-paragraph (1) applies until WPD has given written approval of the plan so submitted, and identified any reasonable requirements it has in relation to the carrying out of the works such approval not to be unreasonably withheld or delayed.

(3) If by the expiry of 21 days beginning with the date on which a plan, section and description under sub-paragraph (1) are submitted WPD has not advised the undertaker in writing of its approval or disapproval of the plans and any reasonable requirements for the alteration or otherwise for the protection of the apparatus, or for securing access to it, it shall be deemed to have approved the plans, sections or descriptions as submitted.

(4) The works referred to in sub-paragraph (1) must be executed only in accordance with the plan, section and description submitted under sub-paragraph (1) and in accordance with any reasonable requirements as may be notified in accordance with sub-paragraph (2) by WPD and WPD is entitled to watch and inspect the execution of those works.

(5) At all times when carrying out any works authorised under the Order the undertaker must comply with WPD's Avoidance of Danger from Electricity Overhead Lines and Underground Cables (2014), the Energy Network Association's A Guide to the Safe Use of Mechanical Plant in the Vicinity of Electricity Overhead Lines (undated), the Health and Safety Executive's GS6 Avoiding Danger from Overhead Power Lines and the Health and Safety Executive's HSG47 Avoiding Danger from Underground Services (Third Edition) (2014) as the same may be replaced from time to time.

(6) If WPD, in accordance with sub-paragraph (2) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement subject to sub-paragraph (3), paragraphs 84(1) to (6) apply as if the removal of the apparatus had been required by the undertaker under sub-paragraph 84(2).

(7) Nothing in this paragraph 85 precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan, section and description instead of the plan, section and description previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan, section and description.

(8) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to WPD notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

Expenses and costs

86.—(1) Subject to the following provisions of this paragraph, the undertaker must pay to WPD the proper and reasonable expenses reasonably incurred by WPD in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any alternative apparatus arising as a result of the powers conferred upon the undertaker pursuant to this Order.

(2) Subject to sub-paragraphs (3) and (4), if by reason or in consequence of the construction of any specified work, any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of WPD the undertaker is to—

- (a) bear and pay the cost reasonably incurred by WPD in making good such damage or restoring the supply; and

(b) reimburse WPD for any other expenses, loss, damages, penalty or costs reasonably and properly incurred by WPD of such damage, by reason or in consequence of any such damage or interruption.

(3) Nothing in sub-paragraph (2) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of WPD, its officers, servants, contractors or agents.

(4) WPD must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker which, if it withholds such consent, is to have the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(5) WPD shall not be liable to the undertaker for any losses or costs incurred by the undertaker resulting from delays to the authorised development as a result of its failure to undertake works to deliver any alternative apparatus.

Expert determination

87.—(1) Article 56 (arbitration) applies to any difference as to the legal interpretation of this Schedule and as provided for in sub-paragraph (7).

(2) Save as provided for in sub-paragraph (1) or sub-paragraph (7) any difference under this Part of this Schedule must be referred to and settled by a single independent and suitable person who holds appropriate professional qualifications and is a member of a professional body relevant to the matter in dispute acting as an expert, such person to be agreed by the differing parties or, in the absence of agreement, identified by the President of the Institution of Civil Engineers.

(3) All parties involved in settling any difference must use reasonable endeavours to do so within 14 days from the date of a dispute first being notified in writing by one party to the other and in the absence of the difference being settled within that period the expert must be appointed within 21 days of the notification of the dispute.

(4) The fees of the expert are payable by the parties in such proportions as the expert may determine or, in the absence of such determination, equally.

(5) The expert must—

- (a) invite the parties to make submission to the expert in writing and copied to the other party to be received by the expert within 21 days of the expert's appointment;
- (b) permit a party to comment on the submissions made by the other party within 14 days of receipt of the submission;
- (c) issue a decision within 28 days of receipt of the submissions under sub-paragraph (5)(a); and
- (d) give reasons for the decision.

(6) The expert must consider where relevant—

- (a) the development outcome sought by the undertaker;
- (b) the ability of the undertaker to achieve its outcome in a timely and cost-effective manner;
- (c) the nature of the power sought to be exercised by the undertaker;
- (d) the effectiveness, cost and reasonableness of proposals for mitigation arising from any party; and
- (e) any other important and relevant consideration.

(7) Any determination by the expert is final and binding, except in the case of manifest error in which case the difference that has been subject to expert determination may be referred to and settled by arbitration under article 56.

88. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker or Network Rail and WPD in respect of any apparatus laid or erected in land belonging to the undertaker or Network Rail on the date on which this Order is made.

89. The provisions of Part 2 of this Schedule do not apply in relation to WPD or any apparatus of WPD.

PART 8

For the mutual protection of National Grid and the Railway Undertaker

Preliminary

Application

90. For the protection of National Grid and the railway undertaker referred to in this Part of this Schedule the following provisions will, unless otherwise agreed in writing between the railway undertaker and National Grid, have effect.

Interpretation

91. In this Part of this Schedule—

“1991 Act” means the New Roads and Street Works Act 1991;

“2016 Order” means the National Grid (Hinkley Point C Connection Project) Order 2016 as amended;

“alternative apparatus” means appropriate alternative apparatus to the satisfaction of National Grid to enable it to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means electric lines or electrical plant as defined in the Electricity Act 1989, belonging to or maintained by National Grid, together with any replacement apparatus and such other apparatus constructed that becomes operational apparatus of National Grid for the purposes of transmission, distribution and/or supply and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

“authorised works” has the same meaning as is given to the term “authorised development” in article 2 of this Order and includes any associated development authorised by the Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Schedule;

“commence” has the same meaning as in article 2 of this Order and commencement shall be construed to have the same meaning;

“existing apparatus” means apparatus which is sited in, over, or under land on 19 April 2021 and belonging to or maintained by National Grid on that date “existing electricity tower” shall be construed accordingly;

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by the railway undertaker (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, shall require the railway undertaker to submit for National Grid’s approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“maintain” and “maintenance” shall include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of National Grid including construct, use, repair, alter, inspect, renew or remove the apparatus;

“National Grid” means National Grid Electricity Transmission plc (registered company number 2366977);

“parent company” means a parent company of the railway undertaker acceptable to and which shall have been approved by National Grid acting reasonably;

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

“railway property” means—

- (a) any railway belonging to the railway undertaker;
- (b) any stations, land, works, apparatus and equipment belonging to the railway undertaker and connected with any such railway; and
- (c) any easement or other property interest held or used by the railway undertaker for the purposes of such railway or works, apparatus or equipment;

“railway undertaker” means the undertaker as defined in article 2 of this Order and, in relation to property owned by Network Rail, Network Rail;

“the relevant 2016 Order development” means so much of any of the development authorised under the 2016 Order as will or may be situated under, over or within 15 metres of, or which may in any way adversely affect, railway property;

“the relevant authorised development” means so much of any of the authorised development or activities undertaken in association with the authorised development as will or may be situated under, over, or within 15 metres measured in any direction of any apparatus proposed to be constructed or installed by National Grid under the powers of the 2016 Order; and

“specified railway works” means any of the authorised works or activities undertaken in association with the authorised works which—

- (a) will or may be situated over, or within 15 metres measured in any direction of any existing apparatus the removal of which has not been required by the railway undertaker under paragraph 99(2) or otherwise; and/or
- (b) may in any way adversely affect any existing apparatus the removal of which has not been required by the railway undertaker under paragraph 99(2) or otherwise.

92. Except for paragraphs 96 (apparatus of National Grid in stopped up streets), 100 (retained existing apparatus), 101 (expenses) and 102 of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of the railway undertaker, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the railway undertaker and National Grid are regulated by the provisions of Part 3 of the 1991 Act.

93. The provisions of the 2016 Order take effect subject to the provisions of this Part.

94. The provisions of Part 2 of this Schedule do not apply in relation to National Grid or any apparatus of National Grid.

Duty to co-operate

95.—(1) The railway undertaker and National Grid will co-operate and work together to secure that the works proposed to be carried out by National Grid under the powers of the 2016 Order and the authorised works to be carried out by the railway undertaker under this Order will so far as reasonably possible be programmed, and arrangements for the carrying out of those works will be made, so as, so far as reasonably possible, to avoid undue delay or any conflict arising between the carrying out of those proposed works and the implementation of the authorised development.

(2) Any consent, agreement or approval by National Grid or the railway undertaker under this Part of this Schedule must not be unreasonably withheld or delayed.

Provisions for the protection of National Grid

Apparatus of National Grid in stopped up streets

96.—(1) Without prejudice to the generality of any other protection afforded to National Grid elsewhere in the Order, where any street is stopped up under article 14 (permanent stopping up of streets), if National Grid has any apparatus in the street or accessed via that street National Grid will be entitled to the same rights in respect of such apparatus as it enjoyed immediately before the stopping up and the railway undertaker will grant to National Grid, or will procure the granting to the National Grid of, legal easements reasonably satisfactory to it in respect of such apparatus and access to it prior to the stopping up of any such street or highway.

(2) Notwithstanding the temporary stopping up or diversion of any highway under the powers of article 15 (temporary stopping up of streets and public rights of way), National Grid will be at liberty at all times to take all necessary access across any such stopped up highway and/or to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway.

Acquisition of land

97.—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the railway undertaker may not acquire or extinguish any land interest or apparatus or override any easement and/or other interest of National Grid, including any rights contained in the 2016 Order, otherwise than by agreement.

(2) As a condition of agreement between the parties in paragraph 5(1), prior to the carrying out of any part of the authorised works (or in such other timeframe as may be agreed between National Grid and the undertaker) that are subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement and/or other legal or land interest of National Grid and/or affects the provisions of any enactment or agreement regulating the relations between National Grid and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as National Grid reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between National Grid and the undertaker acting reasonably and which must be no less favourable on the whole to National Grid unless otherwise agreed by National Grid, and it will be the responsibility of the undertaker to procure and/or secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.

(3) The railway undertaker and National Grid agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation and/or removal of existing apparatus (including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by National Grid and/or other enactments relied upon by National Grid as of right or other use in relation to the apparatus, then the provisions in this Schedule shall prevail.

(4) Any agreement or consent granted by National Grid under paragraph 100 or any other paragraph of this Part of this Schedule, shall not be taken to constitute agreement under paragraph (1).

Provisions relating to existing apparatus

Removal of existing apparatus

98.—(1) If, in the exercise of the agreement reached in accordance with paragraph 97 or in any other authorised manner, the railway undertaker acquires any interest in any land in which any

apparatus is placed or requires that National Grid's existing apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule and any right of National Grid to maintain that existing apparatus in that land must not be extinguished, until alternative apparatus has been constructed, and is in operation to the reasonable satisfaction of National Grid in accordance with sub-paragraphs (2) to (5) inclusive.

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the railway undertaker requires the removal of any existing apparatus placed in that land, it must give to National Grid 56 days' advance written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order National Grid reasonably needs to remove any of its apparatus) the railway undertaker must, subject to sub-paragraph (3), afford to National Grid to its satisfaction (taking into account paragraph 99(1) below) the necessary facilities and rights for the construction of alternative apparatus in other land of or land secured by the railway undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of or land secured by the railway undertaker, or the railway undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, National Grid must, as soon as is reasonably possible and on receipt of a written notice to that effect from the railway undertaker, take such steps as are reasonable in the circumstances in an endeavour to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation shall not extend to the requirement for National Grid to use its compulsory purchase powers to this end unless it elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the railway undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between National Grid and the railway undertaker or in default of agreement settled by arbitration in accordance with article 56 (arbitration).

(5) National Grid must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 56, and subject to the grant to National Grid of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the railway undertaker to be removed under the provisions of this Part of this Schedule.

Facilities and rights for alternative apparatus

99.—(1) Where, in accordance with paragraph 98 of this Part of this Schedule, the railway undertaker affords to or secures for National Grid facilities and rights in land for the construction, use, maintenance and protection of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the railway undertaker and National Grid and must be no less favourable on the whole to National Grid than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by National Grid.

(2) If the facilities and rights to be afforded by the railway undertaker and agreed with National Grid under paragraph (1) above in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to National Grid than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the matter will be referred to arbitration in accordance with article 56 (arbitration) and the arbitrator shall make such provision for the payment of compensation by the railway undertaker to National Grid as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained existing apparatus

100.—(1) Not less than 56 days before the commencement of any specified railway works that are near to, or will or may affect, any existing apparatus the removal of which has not been required by the railway undertaker under paragraph 98(2) or otherwise, the railway undertaker must submit to National Grid a plan of the works to be executed and seek from National Grid details of the underground extent of their electricity tower foundations.

(2) In relation to specified railway works which will or may be situated on, over, under or within (i) 15 metres measured in any direction of any existing apparatus, or (ii) involve embankment works within 15 metres of any existing apparatus, the plan to be submitted to National Grid under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant;
- (d) the position of all existing apparatus as provided by National Grid under sub-paragraph (1);
- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus;
- (f) any intended maintenance regimes; and
- (g) an assessment of risks of rise of earth issues.

(3) In relation to any works which will or may be situated on, over, under or within 10 metres of any part of the foundations of an existing electricity tower or between any two or more existing electricity towers, the plan to be submitted under sub-paragraph (1) must, in addition to the matters set out in sub-paragraph (2), include a method statement describing—

- (a) details of any cable trench design including route, dimensions, clearance to pylon foundations;
- (b) demonstration that pylon foundations will not be affected prior to, during and post construction;
- (c) details of load bearing capacities of trenches;
- (d) details of cable installation methodology including access arrangements, jointing bays and backfill methodology;
- (e) a written management plan for high voltage hazard during construction and ongoing maintenance of the cable route;
- (f) written details of the operations and maintenance regime for the cable, including frequency and method of access;
- (g) assessment of earth rise potential if reasonably required by National Grid's engineers; and
- (h) evidence that trench bearing capacity is to be designed to 26 tonnes to take the weight of overhead line construction traffic.

(4) The railway undertaker must not commence any works to which sub-paragraphs (2) or (3) apply until National Grid has given written approval of the plan so submitted or they have been settled by arbitration under article 56 (arbitration).

(5) Any approval of National Grid required under sub-paragraphs (2) or (3)—

- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (6) or (8); and
- (b) must not be unreasonably withheld.

(6) In relation to any work to which sub-paragraphs (2) or (3) apply, National Grid may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any existing apparatus.

(7) Works to which this paragraph applies must only be executed in accordance with the plan, submitted under sub-paragraph (1) or as relevant sub-paragraph (5), as approved or as amended from time to time by agreement between the railway undertaker and National Grid and in accordance with such reasonable requirements as may be made in accordance with sub-paragraphs (6) or (8) by National Grid for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and National Grid will be entitled to watch and inspect the execution of those works.

(8) Where National Grid requires any protective works to be carried out by itself or by the railway undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to National Grid's satisfaction prior to the commencement of any authorised works (or any relevant part thereof) for which protective works are required and National Grid shall give 56 days' notice of such works from the date of submission of a plan pursuant to this paragraph (except in an emergency).

(9) If National Grid in accordance with sub-paragraphs (6) or (8) and in consequence of the works proposed by the railway undertaker, reasonably requires the removal of any existing apparatus and gives written notice to the railway undertaker of that requirement, paragraphs 90 to 92 and 94 to 96 apply as if the removal of the apparatus had been required by the railway undertaker under paragraph 98(2).

(10) Nothing in this paragraph precludes the railway undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the authorised works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph shall apply to and in respect of the new plan.

(11) The railway undertaker will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to National Grid notice as soon as is reasonably practicable and a plan of those works and must—

- (a) comply with sub-paragraphs (6), (7) and (8) insofar as is reasonably practicable in the circumstances; and
- (b) comply with sub-paragraph (12) at all times.

(12) At all times when carrying out any works authorised under the Order, the railway undertaker must comply with National Grid's policies for development near overhead lines EN43-8 and HSE's guidance note 6 "Avoidance of Danger from Overhead Lines".

Expenses

101.—(1) Subject to the following provisions of this paragraph, the railway undertaker must pay to National Grid on demand all charges, costs and expenses reasonably anticipated or incurred by National Grid in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any existing apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works as are referred to in this Part of this Schedule including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid by National Grid in connection with the acquisition of rights or the exercise of statutory powers for such existing apparatus including without limitation all costs incurred by National Grid as a consequence of National Grid;
 - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 98(3); or
 - (ii) exercising any compulsory purchase powers in the Order transferred to or benefitting National Grid;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;

- (d) the approval of plans;
- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works; and
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule.

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the railway undertaker or, in default of agreement, is not determined by arbitration in accordance with article 56 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to National Grid by virtue of sub-paragraph (1) will be reduced by the amount of that excess save where it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the railway undertaker.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) Any amount which apart from this sub-paragraph would be payable to National Grid in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on National Grid any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

102.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works authorised by this Part of this Schedule or in consequence of the construction, use, maintenance or failure of any of the authorised works by or on behalf of the railway undertaker or in consequence of any act or default of the railway undertaker (or any person employed or authorised by him) in the course of carrying out such works, including without limitation works carried out by the railway undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised works) or property of National Grid, or there is any interruption in any service provided, or in the supply of any goods, by National Grid, or National Grid becomes liable to pay any amount to any third party, the railway undertaker will—

- (a) bear and pay on demand the cost reasonably incurred by National Grid in making good such damage or restoring the supply; and

(b) make reasonable compensation to that undertaker for any other expenses, loss, damages, penalty or costs incurred by the undertaker.

(2) The fact that any act or thing may have been done by National Grid on behalf of the railway undertaker or in accordance with a plan approved by National Grid or in accordance with any requirement of National Grid or under its supervision will not (unless sub-paragraph (3) applies), excuse the railway undertaker from liability under the provisions of sub-paragraph (1) unless National Grid fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) shall impose any liability on the railway undertaker in respect of any damage or interruption to the extent that it is attributable to the neglect or default of National Grid, its officers, servants, contractors or agents.

(4) National Grid must give the railway undertaker reasonable notice of any such third party claim or demand and no settlement or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the railway undertaker and considering their representations.

Enactments and agreements

103. Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between National Grid and the railway undertaker, nothing in this Part of this Schedule shall affect the provisions of any enactment or agreement regulating the relations between the railway undertaker and National Grid in respect of any apparatus laid or erected in land belonging to the railway undertaker on the date on which this Order is made.

Co-operation

104. Where in consequence of the proposed construction of any of the authorised works, the railway undertaker or National Grid requires the removal of apparatus under paragraph 98(2) or National Grid makes requirements for the protection or alteration of apparatus under paragraph 100, the railway undertaker shall use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of National Grid's undertaking and National Grid shall use its best endeavours to co-operate with the railway undertaker for that purpose.

Access

105. If in consequence of the agreement reached in accordance with paragraph 97(1) or the powers granted under this Order the access to any apparatus is materially obstructed, the railway undertaker must provide such alternative means of access to such apparatus as will enable National Grid to maintain or use the apparatus no less effectively than was possible before such obstruction

Provisions for the protection of National Grid's proposed works and for the railway undertaker

106. As soon as reasonably practicable after the coming into force of this Order, and in any event no later than 70 days before commencing a part of the relevant 2016 Order development, National Grid will give the railway undertaker plans of the works to be carried out including in particular a method statement and the exact position of the works and sufficient details to enable the engineer to ascertain the impact of the works on railway property and on the carrying out of the authorised works and for the railway undertaker to give the details set out in paragraph 107.

107.—(1) As soon as reasonably practicable after the coming into force of this Order, and in any event no later than 56 days before commencing any of the relevant authorised development, the railway undertaker will give National Grid plans of the works to be carried out comprised in that development which must include a method statement and describe the position of the proposed

apparatus as provided by National Grid under sub-paragraph (1) and the matters set out in paragraph 100(2)(a) to 100(2)(c) and 100(2)(e) to 100(2)(g).

(2) In relation to any works which will or may be situated on, over or within 10 metres of any part of the foundations of a proposed electricity tower or between any two or more proposed electricity towers, the plan to be submitted under sub-paragraph (1) must, in addition to the matters set out in that sub-paragraph, include a method statement describing the matters set out in paragraph 100(3) so far as relevant in this scenario.

(3) Paragraphs 100(4) to 100(8) and 100(10) to 100(12) apply in relation to works to which sub-paragraph (1) or (2) applies.

108. Part 4 of Schedule 15 to the 2016 Order (protection for railway interests) has effect as if any reference to Network Rail included a reference to the railway undertaker and if references to railway property included the authorised development.

General

Arbitration

109. Save for differences or disputes arising under paragraph 98(2), 98(4), 99(1), 100 and 101(5) any difference or dispute arising between the railway undertaker and National Grid under this Part of this Schedule must, unless otherwise agreed in writing between the railway undertaker and National Grid, be determined by arbitration in accordance with article 56 (arbitration).

Notices

110. The plans submitted to National Grid by the railway undertaker pursuant to paragraph 100 must be sent to National Grid Plant Protection at plantprotection@nationalgrid.com or such other address as National Grid may from time to time appoint instead for that purpose and notify to the railway undertaker in writing.

PART 9

For the protection of Wales and West Utilities (“WWU”)

111. In this Part of this Schedule “North Somerset District Council” shall mean the undertaker and where relevant any person to whom the powers contained in this Order are conferred in so far as that person’s activities in reliance on the powers in this Order affect the land and apparatus of WWU.

112. For the protection of WWU in this Part of this Schedule the following provisions, unless otherwise agreed in writing between North Somerset District Council and WWU, have effect.

113. In this Part of this Schedule—

“alternative apparatus” means alternative apparatus adequate to enable WWU to fulfil its statutory functions in a manner not less efficient than previously;

“apparatus” means any mains, pipes or other apparatus belonging to or maintained by WWU for the purposes of gas supply and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“functions” includes powers and duties;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over or upon land; and

“WWU” means Wales & West Utilities Limited (Company No. 05046791) whose registered office is at Wales & West House, Spooner Close Coedkernew, Newport, South Wales, NP10 8FZ, a gas transporter within the meaning of Part 1 of the Gas Act 1986(a).

114. This Part of this Schedule does not apply to apparatus in respect of which the relations between North Somerset District Council and WWU are regulated by the provisions of Part 3 of the 1991 Act.

115. Regardless of any provision in this Order or anything shown on the land plans, North Somerset District Council must not acquire any apparatus otherwise than by agreement.

116.—(1) If, in the exercise of the powers conferred by this Order, North Somerset District Council acquires any interest in any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of WWU to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of WWU.

(2) If, for the purpose of executing any works authorised by this Order in, on, over, or under any land purchased, held, appropriated or used under this Order, North Somerset District Council requires the removal of any apparatus placed in that land, it must give to WWU written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order WWU reasonably needs to remove any of its apparatus) North Somerset District Council must, subject to sub-paragraph (3), afford to WWU the necessary facilities and rights for the construction of alternative apparatus in other land of North Somerset District Council and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of North Somerset District Council, or North Somerset District Council is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, WWU must, on receipt of a written notice to that effect from North Somerset District Council, as soon as reasonably practicable use reasonable endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed, or agree with North Somerset District Council an alternative route for the alternative apparatus over land in respect of which it is possible for North Somerset District Council to obtain the relevant facilities and rights. For the avoidance of doubt, WWU shall not be obliged to exercise its compulsory purchase powers pursuant to the Gas Act 1986 in order to obtain any such facilities or rights and WWU shall retain an absolute discretion as to whether it shall choose to exercise those powers.

(4) Any alternative apparatus to be constructed in land of North Somerset District Council under this Part of this Schedule is to be constructed in such manner and in such line or situation as may be agreed between WWU and North Somerset District Council, or in default of agreement settled by arbitration in accordance with article 56 (arbitration).

(5) WWU must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration as referred to in sub-paragraph (4) in accordance with article 56 (arbitration), and after the grant to WWU of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed as soon as reasonably practicable to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by North Somerset District Council to be removed under the provisions of this Part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if North Somerset District Council gives notice in writing to WWU that it desires itself to execute any work, or part of any work in connection with the construction or removal of apparatus in any land of North Somerset District Council, that work, instead of being executed by WWU, must be executed by North Somerset District Council

(a) 1986 c. 44. A new section 7 was substituted by section 5 of the Gas Act 1995 (c.45), and was further amended by section 76 of the Utilities Act 2000 (c. 27)

without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of WWU.

(7) Nothing in sub-paragraph (6) authorises North Somerset District Council to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within 300 millimetres of the apparatus.

117.—(1) Where, in accordance with the provisions of this Part of this Schedule, North Somerset District Council affords to WWU facilities and rights for the construction and maintenance in land of North Somerset District Council of alternative apparatus in substitution for apparatus to be removed, those facilities and rights are to be granted upon such terms and conditions as may be agreed between North Somerset District Council and WWU or in default of agreement settled by arbitration in accordance with article 56 (arbitration).

(2) In settling those terms and conditions in respect of alternative apparatus to be constructed in or along any railway of North Somerset District Council, the arbitrator must—

- (a) give effect to all reasonable requirements of Network Rail and North Somerset District Council for ensuring the safety and efficient operation of the railway which forms or is to form part of Network Rail's network and for securing any subsequent alterations or adaptations of the alternative apparatus which may be required to prevent interference with any proposed works of Network Rail or North Somerset District Council or the traffic on the railway; and
- (b) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to the terms and conditions, if any, applicable to the apparatus constructed in or along the railway for which the alternative apparatus is to be substituted.

(3) If the facilities and rights to be afforded by North Somerset District Council in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to WWU than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by North Somerset District Council to WWU as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

118.—(1) Not less than 28 days before starting the execution of any works of the type referred to in paragraph 116(2) that are near to, or will or may affect, any apparatus the removal of which has not been required by North Somerset District Council under paragraph 116(2), North Somerset District Council must submit to WWU a plan, section and description of the works to be executed.

(2) Those works are to be executed only in accordance with the plan, section and description submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by WWU for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and WWU is entitled to watch and inspect the execution of those works.

(3) Any requirements made by WWU under sub-paragraph (2) must be made within a period of 21 days beginning with the date on which a plan, section and description under sub-paragraph (1) are submitted to it.

(4) If WWU in accordance with sub-paragraph (3) and in consequence of the works proposed by North Somerset District Council, reasonably requires the removal of any apparatus and gives written notice to North Somerset District Council of that requirement, paragraphs 111 to 116 apply as if the removal of the apparatus had been required by North Somerset District Council under paragraph 116(2).

(5) Nothing in this paragraph precludes North Somerset District Council from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan, section and description instead of the plan, section and description previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan, section and description.

(6) North Somerset District Council is not required to comply with sub-paragraph (1) in a case of emergency, but in that case it must give to WWU notice as soon as reasonably practicable and a plan, section and description of those works as soon as reasonably practicable if possible before carrying out those works, or if not, as soon as reasonably practicable afterwards and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

(7) For the avoidance of doubt, whenever North Somerset District Council carries out any works in the vicinity of any apparatus of WWU and whether or not WWU has made any requirements pursuant to sub-paragraph (2) above, North Somerset District Council shall comply with—

- (a) all applicable health and safety laws, including the Construction (Design and Management) Regulations 2015;
- (b) the Pipeline Safety Regulations 1996; and
- (c) the safety guidance published from time to time by WWU and the HSE.

119.—(1) Subject to the following provisions of this paragraph, North Somerset District Council must repay to WWU the reasonable expenses incurred by WWU in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus (including: a) costs or compensation payable in connection with the acquisition of land for that purpose; and b) any reasonable legal or other professional costs properly incurred relating to any such works to apparatus, or to the provision of alternative apparatus) which may be required in consequence of the execution of any such works as are referred to in paragraph 116(2).

(2) If in accordance with the provisions of this Part of this Schedule WWU require that alternative apparatus of better type, of greater capacity or of greater dimensions, or at a greater depth is necessary in substitution for existing apparatus which for WWU's requirements is over and above what is necessary as a consequence of and for the purpose of the authorised development WWU must deduct the cost of such additional requirements from the amount payable by North Somerset District Council pursuant to sub-paragraph 119(1).

(3) For the purposes of sub-paragraph 119(2) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus.

(4) For the avoidance of doubt and subject to paragraph 114, the provisions of paragraph 118(1) above shall require North Somerset District Council to repay the full costs of any works carried out to WWU's apparatus, or in order to protect that apparatus, or in consequence of any works carried out in the vicinity of that apparatus by North Somerset District Council.

120.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works referred to in paragraph 116(2), any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of WWU, or there is any interruption in any service provided, or in the supply of any goods, by WWU, North Somerset District Council must—

- (a) bear and pay the cost reasonably incurred by WWU in making good such damage or restoring the supply; and
- (b) make reasonable compensation to WWU for any other expenses, loss, damages, penalty or costs incurred by WWU,

by reason or in consequence of any such damage or interruption.

(2) Nothing in sub-paragraph (1) imposes any liability on North Somerset District Council with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of WWU, its officers, servants, contractors or agents.

(3) WWU must give North Somerset District Council reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of North Somerset District Council which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

121. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between North Somerset District Council or Network Rail and WWU in respect of any apparatus laid or erected in land belonging to North Somerset District Council or Network Rail on the date on which this Order is made.

122. The provisions of Part 2 of this Schedule do not apply in relation to WWU or any apparatus of WWU.

PART 10

For the protection of the National Trust

123.—(1) The provisions of this Part of this Schedule have effect for the protection of the Trust unless otherwise agreed in writing between the undertaker and the Trust.

(2) In this Part of this Schedule—

“activities” means vegetation clearance, removal of loose rocks, rock scaling, insertion of rock bolts and erecting catch fences and associated stays, cables and anchors;

“construction” includes execution, placing, erecting and insertion, and “construct” and “constructed” have corresponding meanings;

“emergency” means a situation which—

- (a) is unexpected, in that there is little or no warning, or aspects of the event could not have reasonably been predicted in advance;
- (b) is a serious event presenting a risk of harm or damage to people, property or the environment; and
- (c) requires a need for urgent action, in that immediate action is required to address the risk of harm, repair or prevent a worsening of the situation;

“plans” includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and assessments of risk relating to the construction, carrying out, maintenance and, where appropriate, removal of any work and details of the extent, timing and duration of any proposed occupation of property belonging to the Trust for the purpose of engaging in the activities;

“Quarry Bridge 2 works” means the reconstruction of the accommodation bridge under the railway at 122 miles 74 chains providing access to the property of the Trust;

“the Trust” means The National Trust for Places of Historic Interest or Natural Beauty (Registered Charity 205846); and

“Trust property” means any property belonging to the Trust.

Powers of compulsory acquisition

124. The powers of article 27 (compulsory acquisition of rights or imposition of covenants) and article 31 (Acquisition of subsoil or airspace only) may only be exercised in relation to Trust property with the consent of the Trust.

Works provisions

125.—(1) The undertaker must before commencing activities on Trust property or the Quarry Bridge 2 works under the powers of the Order supply to the Trust proper and sufficient plans and method statements for the proposed activities for the reasonable approval of the Trust and the activities must not be commenced except in accordance with such plans and method statements as have been approved in writing by the Trust or settled in accordance with paragraph 132.

(2) The approval of the Trust under sub-paragraph (1) must not be unreasonably withheld, and if by the end of the period of 28 days beginning with the date on which such plans have been

supplied to the Trust the Trust has not indicated its disapproval of those plans and the grounds of disapproval the undertaker may serve upon the Trust written notice requiring the Trust to intimate its approval or disapproval within a further period of 14 days beginning with the date upon which Trust receives written notice from the undertaker. If by the expiry of the further 14 days the Trust has not intimated its approval or disapproval, the Trust will be deemed to have approved the plans as submitted.

126.—(1) Any activities to be carried out by virtue of paragraph 125 must, when commenced, be carried out—

- (a) with all reasonable dispatch in accordance with the plans approved or deemed to have been approved or settled under paragraph 125;
- (b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the Trust;
- (c) in such manner as to cause as little damage as is possible to the Trust’s property; and
- (d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe access to Trust property.

(2) If any damage to Trust property or any such interference or obstruction shall be caused by the carrying out of, or in consequence of the entry on to Trust property, the undertaker must, notwithstanding any such approval, make good such damage and must pay to the Trust all reasonable expenses to which the Trust may be put by reason of any such damage, interference or obstruction.

(3) Nothing in this Part of this Schedule imposes—

- (a) any liability on the undertaker with respect to any damage, costs, expenses or loss attributable to the negligence of the Trust or its servants, contractors or agents; or
- (b) any liability on the Trust with respect to any damage, costs, expenses or loss attributable to the negligence of the undertaker or its servants, contractors or agents.

127. The undertaker must—

- (a) at all times afford reasonable facilities to the Trust for access to inspect the activities of the undertaker on Trust property; and
- (b) supply the Trust with all such information as the Trust may reasonably require with regard to activities of the undertaker on Trust property.

128.—(1) Subject to sub-paragraph (2) the undertaker must not in the exercise of the powers conferred by this Order prevent pedestrian or vehicular access to any Trust property, unless preventing such access is with the consent of the Trust or is in the case of an emergency.

(2) Sub-paragraph (1) does not apply to the Quarry Bridge 2 works while they are under construction, save that access to any Trust property must not be prevented in the case of an emergency.

129.—(1) Subject to sub-paragraph (2) where in the exercise of the powers conferred by this Order, the undertaker proposes to interfere with or obstruct access by the Trust to Trust property, it must give the Trust 56 days’ written notice of that requirement.

(2) Sub-paragraph (1) does not apply in the case of an emergency.

130. Where under this Part of this Schedule the Trust is required to give its consent or approval in respect of any matter, that consent or approval must not be unreasonably withheld or delayed but may be subject to reasonable conditions.

131. The undertaker must repay to the Trust all costs, charges and expenses which it may reasonably incur or which it may sustain—

- (a) in the examination of plans under this Part of this Schedule;
- (b) in respect of the approval of plans submitted by the undertaker and the supervision by the Trust of the carrying out or construction of any activities or the Quarry Bridge 2 works

and otherwise in connection with the implementation of the provisions of this Part of this Schedule; and

- (c) in respect of the employment or procurement of the services of any persons whom it is reasonably necessary to appoint for inspecting and watching the activities of the undertaker on Trust property.

Expert determination

132.—(1) Article 56 (arbitration) applies to any difference as to the legal interpretation of this Part of this Schedule and as provided for in sub-paragraph (7).

(2) Save as provided for in sub-paragraph (1) or sub-paragraph (7) any difference under this Part of this Schedule must be referred to and settled by a single independent and suitable person who holds appropriate professional qualifications and is a member of a professional body relevant to the matter in dispute acting as an expert, such person to be agreed by the differing parties or, in the absence of agreement, identified by the President of the Institution of Civil Engineers.

(3) All parties involved in settling any difference must use all reasonable endeavours to do so within 14 days from the date of a dispute first being notified in writing by one party to the other and in the absence of the difference being settled within that period the expert must be appointed within 21 days of the notification of the dispute.

(4) The fees of the expert are payable by the parties in such proportions as the expert may determine or, in the absence of such determination, equally.

(5) The expert must—

- (a) invite the parties to make submission to the expert in writing and copied to the other party to be received by the expert within 21 days of the expert's appointment;
- (b) permit a party to comment on the submissions made by the other party within 14 days of receipt of the submission;
- (c) issue a decision within 28 days of receipt of the submissions under sub-paragraph (5)(a); and
- (d) give reasons for the decision.

(6) The expert must consider where relevant—

- (a) the development outcome sought by the undertaker;
- (b) the ability of the undertaker to achieve its outcome in a timely and cost-effective manner;
- (c) the nature of the power sought to be exercised by the undertaker;
- (d) the effectiveness, cost and reasonableness of proposals for mitigation arising from any party; and
- (e) any other important and relevant consideration.

(7) Any determination by the expert is final and binding, except in the case of manifest error in which case the difference that has been subject to expert determination may be referred to and settled by arbitration under article 56 (arbitration).

SCHEDULE 17

Article 55

Documents to be Certified

Documents for certification that they are true copies of the documents referred to in this Order—

<i>(1)</i> <i>Document</i>	<i>(2)</i> <i>Drawing Number</i>	<i>(3)</i> <i>Revision</i>
Ashton Vale Road and Winterstoke Road Highway Works Plan	674946.BD.29.01-SK31 Rev L	2

The Avon Gorge Vegetation Management Plan	-	2
The book of reference	-	4
Bridleway Extension under the Elevated M5 plan	467470.BQ.04.20-520 Rev H	1
Cattle Creep Proposed General Arrangement drawing	W1097B-ARP-DRG-ECV-300003 and W1097B-ARP-DRG-ECV-300004	1
The Code of Construction Practice	-	2
The compounds, haul roads and access to works plan	674946.BQ.42.01-380 to 674946.BQ.42.01-403 Rev G	4
The crossings to be extinguished plans	674946.BQ.42.01-410 to 674946.BQ.42.01-426 Rev F	2
Construction Traffic Management Plan	-	2
Design and Access Statement	-	1
The design drawings	See requirement 4	See requirement 4
Diversion routes for pedestrians and cyclists	674946.BQ.42.01-031 Rev D to -047 Rev D	1
Earthworks	W1097B-ARP-DRG-EGE 300001 Rev A02 to W1097B ARP-DRG-EGE-300008 Rev A02	1
The environmental master plan	674946-001-024-A ES-C	3
The environmental statement	The Environmental Statement	
	Volume 1: Document reference 6.2	1
	Volume 2: Document references 6.3 to 6.5, 6.8, 6.9, 6.13, 6.14, 6.17 and 6.21	1
	Volume 2: Document references 6.6, 6.7, 6.11, 6.15, 6.16, 6.18, 6.19 and 6.20	2
	Volume 2: Document references 6.10 and 6.12	3
	Volume 3: Document reference 6.24 Figures	2
	Volume 4: Document reference 6.25	
	Appendices 4.4 to 4.8, 5, 8, 9.3A/B, 9.7 to 9.10, 10.1, 10.2, 11.1, 11.2, 13, 14, 17.1 to 17.4 and 18	1
	Appendices 1.1 to 1.3, 4.1, 9.1, 9.2, 9.3C, 9.4 to 9.6, 11.3, 11.4	2
	Appendices 4.2, 4.3, 7, 9, 11 to 9.18	3
		2
	Appendix 16.1 (part 1)	2
	Appendix 16.1 (part 2) Figures Vol 1	2
	Appendix 16.1 Appendix L	1

	(part 16) and N (part 18) Appendix 16.1 (part 3) Figures Vol 2 and (part 4) Vol 3 Appendix 16.1 Appendices A to K (parts 5 to 15) and M (part 17)	1
Fencing Grades Summary		1
General arrangement plans	674946.BQ.42.01-570 to 674946.BQ.42.01-593 Rev J	4
Habitat impacted by construction works within the Avon Gorge Woodlands SAC plan	674946-004-004-A Rev ES A	1
Ham Green highway works plans	467470.BQ.04.20-222 to 224	1
The hedgerow location plan	674946.BQ.42.01-600 A	1
The important hedgerow plan	674946-006-020-A	2
The land plan	-	3
The Master Construction Environmental Management Plan	-	4
The permanent and temporary stopping up and diversion plan	674946.BQ.42.01-480 to 674946.BQ.42.01-481 Rev H 674946.BQ.42.01-484 to 674946.BQ.42.01-486 Rev H 674946.BQ.42.01-496 Rev H	2
The permanent traffic regulation order plans	467470.BQ.04.20-160 467470.BQ.04.20-215 467470.BQ.04.20-225 467470.BQ.04.20.601	1
Portbury Hundred location of additional tree planting plans	467470.BQ.04.20-610 to 467470.BQ.04.20-613	1
Railway landscape plans (disused line)	674946.BJ.35.01-01 to 674946.BJ.35.01-08 Rev K	3
Section drawings (Longitudinal Profile of Railway Alignment and Cross Section Plans)	W1097B-ARP-DRG-ETR- 001301 to 01309 467470.BQ.04.20-104 Rev B 467470.BQ.04.20-219 Rev B 467470.BQ.04.20-292 Rev B 467470.BQ.04.20-410 Rev B 467470.BQ.04.20-531 Rev B 467470.BQ.04.20-630 Rev B 467470.BQ.04.20-SK300- SK304 Rev I 674946.BD.29.01-SK33 Rev A W1097B-ARP-DRG-EST- 300003 to 300005 W1097B-ARP-DRG-EST- 300017 W1097B-ARP-DRG-EGE- 300006 W1097B-ARP-DRG-EGE- 300009	1

W1097B-ARP-DRG-EST-300012 to 300016		
Schedule of mitigation	-	4
Surface water drainage strategy for Portishead and Pill stations, haul roads and compounds		1
The works plans	674946.BQ.42.01-300 to 674946.BQ.42.01-324 Rev P	6
The National Cycle Network (NCN) temporary and permanent work plans	467470.BQ.04.20-530 Rev H 467470.BQ.04.20-540 Rev I 467470.BQ.04.20-550 Rev E 467470.BQ.04.20-551 Rev E 467470.BQ.04.20-552 Rev F 467470.BQ.04.20-553 Rev E 467470.BQ.04.20-554 Rev B	2
The new highways plan	674946.BQ.42.01-510 to 674946.BQ.42.01-511 Rev G 674946.BQ.42.01-515 Rev G 674946.BQ.42.01-525 to 674946.BQ.42.01-526 Rev G	2

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises North Somerset District Council to construct a new railway on the formation of the disused Portishead Branch Line railway and to carry out works to upgrade the existing freight only Parson Street to Royal Portbury Dock railway to allow it to be used for passenger railway services.

The purpose of this Order is to allow passenger services to run between Portishead and Bristol and to connect into the wider national railway network. The railway will, once open to passenger services, be owned and maintained by Network Rail Infrastructure limited.

The works also necessitate the diversion of an existing public footpath that crosses the railway at Barons Close, Ashton, Bristol.

The Order permits North Somerset District Council to acquire, compulsorily or by agreement, land and rights in land and to use land for this purpose.

The Order also makes provision in connection with the maintenance of the new section of railway.

A copy of the Order plans and the book of reference mentioned in this Order and certified in accordance with article 55 (documents to be certified) of this Order may be inspected free of charge during working hours at the offices of North Somerset District Council at Town Hall, Walliscote Grove Road, Weston–super–Mare BS23 1UJ or (during periods in which restrictions on movement are in place under the Health Protection (Coronavirus, Restrictions) (All Tiers) (England) Regulations 2020 (S.I. 2020/1374) (or other relevant Government legislation)) on the website <https://metrowestphase1.org/final-dco-examination-documents/>.

APPENDIX D: DEVELOPMENT PLAN POLICIES

North Somerset District Council:

North Somerset Core Strategy (2017)	
CS1	Addressing climate change and carbon reduction
CS2	Delivering sustainable design and construction
CS3	Environmental impacts and flood risk management
CS4	Nature Conservation
CS5	Landscape and the Historic Environment
CS6	Green Belt
CS7	Waste
CS9	Green Infrastructure
CS10	Transport and movement
CS11	Parking
CS12	Achieving high quality design and place making
CS20	Supporting a successful economy
CS22	Tourism
CS24	Royal Portbury Dock
CS26	Healthy living and healthcare
CS31	Clevedon, Nailsea and Portishead
CS32	Service villages
CS33	Smaller settlements and the countryside
CS34	Infrastructure delivery and development contributions

North Somerset Sites and Policies Plan Part 1: Development Management Policies (2016)	
DM1	Flooding and Drainage
DM3	Conservation Areas
DM4	Listed Buildings
DM5	Historic Parks and Gardens
DM6	Archaeology

DM7	Non-designated heritage assets
DM8	Nature conservation
DM9	Trees
DM10	Landscape
DM12	Development within the Green Belt
DM19	Green Infrastructure
DM21	Motorway junctions
DM22	Existing and proposed railway lines
DM24	Safety, traffic and provision of infrastructure etc associated with development
DM25	Public rights of way, pedestrian and cycle access
DM26	Travel plans
DM28	Parking standards
DM29	Car parks
DM32	High quality design and place making
DM33	Inclusive access
DM47	Proposals for economic development within towns and defined settlements
DM49	Royal Portbury Dock
DM60	Town centres
DM68	Protection of sporting, recreation, cultural and community facilities
DM70	Development infrastructure
DM71	Development contributions

North Somerset Sites and Policies Plan Part 2: Site Allocations (2018)

SA1	Allocated residential sites
SA2	Settlement boundaries
SA3	Sites allocated for a mix of uses
SA6	Undesignated green space
SA7	Strategic Gaps

Long Ashton Neighbourhood Plan (2015)	
ENV2	Protecting trees and woodland
ENV3	Maintaining and enhancing public rights of way
ENV5	Conserving and enhancing wildlife, biodiversity and historic assets, including designated areas of local ecological and landscape value
ENV6	Protection against flooding
T1	Encouraging sustainable modes of transport
T3	Mitigation for highways/transport infrastructure affecting Long Ashton

Supplementary Planning Documents
Creating Sustainable Buildings and Places (2015);
Parking Standards (2013);
Travel Plans (2010)
Biodiversity and Trees (2005)
North Somerset and Mendip Bats Special Area of Conservation – Guidance on Development (2018)
Landscape Character Assessment (2018)
Development contributions

Bristol City Council:

Bristol Development Framework Core Strategy (2011)	
BCS4	Avonmouth and Bristol Port
BCS6	Green Belt
BCS8	Delivering a thriving economy
BCS9	Green Infrastructure
BCS10	Transport and access improvements
BCS11	Infrastructure and developer contributions
BCS13	Climate change
BCS15	Sustainable design and construction

BCS16	Flood risk and water management
BCS20	Effective and efficient use of land
BCS22	Conservation and the historic environment
BCS23	Pollution

Bristol Local Plan – Site Allocations and Development Management Policies (2014)

DM1	Presumption in favour of sustainable development
DM14	Health impacts of development
DM15	Green infrastructure provision
DM16	Open space for recreation
DM17	Development involving existing green infrastructure
DM19	Development and nature conservation
DM22	Development adjacent to waterways
DM23	Transport development management
DM24	Transport schemes
DM25	Greenways
DM26	Local character and distinctiveness
DM27	Layout and form
DM28	Public realm
DM31	Heritage Assets
DM33	Pollution control, air quality and water quality
DM34	Contaminated land
DM35	Noise mitigation
DM37	Unstable Land

Supplementary Planning Documents

Planning Obligations (2012)

PAN2 – Conservation Area Enhancement Statements (1993)

NSDC and BCC

West of England Joint Waste Core Strategy (2011)	
Policy 1	Waste Prevention