



MetroWest+

Portishead Branch Line (MetroWest Phase 1)

TR040011

Applicant: North Somerset District Council

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THE PORTISHEAD BRANCH LINE (METROWEST PHASE 1) ORDER

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THE PORTISHEAD BRANCH LINE (METROWEST PHASE 1) ORDER

STATEMENT OF REASONS

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1. INTRODUCTION

- 1.1 This Statement of Reasons (the **Statement**) relates to an application by North Somerset District Council (the **Applicant**) to the Secretary of State under the Planning Act 2008 (the **Application**) for the Portishead Branch Line (MetroWest Phase 1) Order (the **Order**).
- 1.2 The Order would grant the Applicant powers to construct a new railway on the trackbed of the branch line from Portishead to Pill. The Nationally Significant Infrastructure Project (**NSIP**) is the new railway from Portishead to a location between Pill Viaduct and Pill Tunnel Western Portal (and which will be known as Pill Junction) where the new railway will join the existing freight only railway to Royal Portbury Dock.
- 1.3 Development consent is also sought for development associated with the NSIP, including:
- 1.3.1 works to the highway and public right of way network in Portishead;
 - 1.3.2 a new station in Portishead;
 - 1.3.3 permanent maintenance compounds;
 - 1.3.4 temporary works along the route of the NSIP such as haul roads and compounds;
 - 1.3.5 a new station and car park at Pill,
 - 1.3.6 works to the existing railway between Pill and Ashton Junction in Bristol;
 - 1.3.7 works to provide permanent and temporary compounds between Pill and Ashton;
 - 1.3.8 works to provide protection from rock fall in the Avon Gorge; and
 - 1.3.9 works to the junction of Winterstoke Road and Ashton Vale Road in Bristol.
- 1.4 The NSIP and the associated development are referred to collectively as the **DCO Scheme** in this Statement.
- 1.5 This Statement has been prepared for compliance with the requirements of Regulation 5(2)(h) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (the **APFP Regulations**) and in accordance with the (former) Department for Communities and Local Government guidance, “*Planning Act 2008: Guidance related to procedures for compulsory acquisition*” (the **Guidance**).
- 1.6 This Statement is submitted as an Application document because the Order would, if made as drafted, authorise the compulsory acquisition of land and of new or existing rights over

land, as well as the additional compulsory acquisition powers described in section 3 of this Statement.

- 1.7 References to numbered sections or paragraphs are to sections or paragraphs of this Statement. References within this Statement to other documents ("Document. 0.0") are to the PINS document reference numbers of documents accompanying the Application.
- 1.8 This Statement also refers to the Applicant's reasons for seeking highway improvement, stopping up and traffic regulation powers in the Order, as well as powers to close accommodation and occupation crossings. It also explains the impacts of the DCO Scheme on utilities.
- 1.9 In accordance with the requirements of the APFP Regulations and Guidance, the Applicant has provided the following documents relating to the compulsory acquisition powers sought as part of the Application:
 - 1.9.1 this Statement;
 - 1.9.2 a statement to explain how the proposals contained in the Order for compulsory acquisition will be funded (the **Funding Statement**) (Doc. 4.2);
 - 1.9.3 plans showing the land which would be acquired (the **land plan**) (Doc. 2.2); and
 - 1.9.4 a book of reference containing details of the land which would be acquired and the names and addresses of all those who may be affected by the proposed acquisition (the **Book of Reference**) (Doc. 4.3).
- 1.10 The land to which this Statement relates (the **Land**) is more fully described in section 5 of this Statement.

MetroWest, MetroWest Phases and the DCO Scheme

MetroWest is a major cross-authority-boundary rail scheme for improving passenger rail services in the Bristol Sub Region. MetroWest is promoted by the four West of England Local Authorities – North Somerset District Council, Bristol City Council, South Gloucestershire Council and Bath and North East Somerset Council. The West of England Combined Authority (**WECA**) takes strategic leadership of MetroWest. MetroWest is supported by the West of England Local Enterprise Partnership (**LEP**).

- 1.11 *MetroWest Phase 1* is a rail scheme that proposes to:
- 1.11.1 upgrade the local passenger train service for the Severn Beach Line
 - 1.11.2 upgrade the Bath Spa to Bristol Line to a half hourly service and
 - 1.11.3 re-open the Portishead Line with new stations at Portishead and Pill (the DCO Scheme).

The DCO Scheme forms a key element of MetroWest Phase 1.

- 1.12 *MetroWest Phase 1 A* consists of improvements to the existing railway network between Bristol Temple Meads and Bath (together with a turnback facility east of Bath at Bathampton).
- 1.13 *MetroWest Phase 1B* comprises:
- 1.13.1 the re-opening of the Portishead Branch Line (the DCO Scheme); and
 - 1.13.2 works on the existing Railway between Ashton Junction and Bristol Temple Meads.
- 1.14 The DCO Scheme is the major element of MetroWest Phase 1B and consists of the re-opening of the railway from Portishead to Ashton Junction, including the re-opening of the railway from Portishead to Portbury Junction and associated works between Portbury Junction to Ashton Junction.
- 1.15 Any works for MetroWest Phase 1A, together with that part of MetroWest 1B from Ashton Junction to Bristol Temple Meads (save for a compound for works at the Freightliner Limited facility at Liberty Lane, Bristol) are proposed to be carried out under Network Rail Infrastructure Limited's existing permitted development rights as work to its existing operational railway.
- 1.16 Only the Works from Portishead to Ashton Junction form the DCO Scheme and are included in the Application therefore.
- 1.17 The Application is made by North Somerset District Council (the Applicant) on behalf of itself and the other West of England authorities and WECA, and in consultation with Network Rail Infrastructure Limited.

2. SUMMARY OF THIS STATEMENT

- 2.1 This Statement explains why it is necessary and justifiable for the Order to contain the compulsory acquisition powers which relate to the Land.
- 2.2 Regulation 5(2)(h) of the APFP Regulations requires a statement of reasons if a proposed order would authorise the compulsory acquisition of land or an interest in or a right over land.
- 2.3 In addition to authorising the acquisition of land and rights and interference with existing rights, the Order includes powers to create new rights over or in land (including restrictive covenants), to extinguish private rights, to exercise rights in relation to highways and to make temporary use of land (to the exclusion of other users) for construction and maintenance.
- 2.4 All these additional powers relate to the ownership, occupation and use of land and will or may interfere with property rights and interests. They are also subject to obligations to pay compensation where valid claims are made. As the justification for seeking these additional powers raises all the same issues as apply to the acquisition of land and rights, this Statement also relates to them. The expression “compulsory acquisition powers” accordingly includes these additional powers.

Powers Analogous to Powers of Compulsory Acquisition (Section 3)

- 2.5 Other powers sought in the Order relate to land or may interfere with property rights and interests, as they:
- 2.5.1 impact on minerals rights and ownership;
 - 2.5.2 affect the ability to access or use highways and streets;
 - 2.5.3 provide powers to override or extinguish existing interests in land;
 - 2.5.4 provide powers to use land temporarily without compulsory purchase of the land;
and
 - 2.5.5 provide powers to cut trees, acquire subsoil or air rights only or to appropriate streets.

- 2.6 Further details of the various powers, the justification for them and commentary on the relevant compensation provisions in the draft Order are set out in Part 3 to this Statement.
- 2.7 Specific topics are then dealt with in the appendices and schedules to this Statement.

Background to the DCO Scheme – The Metrowest Phase 1 Project (Section 4)

- 2.8 This section explains the background to the DCO Scheme and the wider MetroWest Phase 1 project.
- 2.9 It also refers to Appendix 1 which provides background detail to MetroWest.

Description of the Land subject to Compulsory Acquisition (Section 5)

- 2.10 The Portishead Branch Line Railway was constructed in the 1860s and ran between Parson Street Junction in Bristol and the town of Portishead. It closed to passenger trains in 1964 and freight operations ceased in the 1980s. In this Statement Portishead Branch Line Railway refers to the whole of the railway between Parson Street Junction and Portishead.
- 2.11 In 2001 part of the Portishead Branch Line Railway was restored to freight use between Parson Street Junction and Portbury Junction, to the west of the village of Pill, to connect to a new railway built by the Bristol Port Company to serve its Royal Portbury Dock. This railway is described as the Existing Freight Line in this Statement.
- 2.12 Part of the railway between Portbury Junction and Portishead was transferred to the Applicant and has ceased to be operational railway. The remainder which was retained by Network Rail remains authorised by its original authorising Acts but has not been used for railway services for some years and some of the track has been removed. Both parts are together referred to in this Statement and in other documents forming the DCO Scheme submission as “the Disused Railway”.
- 2.13 Development consent is sought to construct a new railway, utilising the trackbed of the disused Railway. This part of the DCO Scheme is a Nationally Significant Infrastructure Project (NSIP). Consent is also sought in the draft Order for associated development required for the new passenger railway service.

- 2.14 The Order Land consists mainly of the disused and existing railway corridors, together with land in agricultural use outside the settlements of Portishead and Pill (for compounds and haul roads). In Portishead the Order Land consists principally of the disused railway track bed and existing landscaping areas. In Pill, permanent or temporary access and rights to insert ground strengthening measures in neighbouring land are sought under a number of gardens that back onto the railway on either side of the site of Pill Station.
- 2.15 Land is required for highway works at Portishead, consisting of the realignment of the existing Quays Avenue, west from its current location. Land is also included in the land plan and Book of Reference for works to the highway network in Portishead.
- 2.16 Between Portishead and Ashton Junction a number of locations have been selected for both temporary construction compounds and permanent maintenance compounds.
- 2.17 Within the Avon Gorge land and new rights are sought to allow for rock stabilisation works to protect the railway from the risk of rock fall, with such risk being considerably increased as a result of more frequent services and passenger rail services being re-introduced to the Avon Gorge.
- 2.18 At Clanage Road in Bristol a new compound is proposed to provide an appropriate maintenance access for the railway on the south side of the Avon Gorge.

The purposes in seeking Compulsory Acquisition Powers (Section 6)

- 2.19 Compulsory acquisition powers in relation to the Land are necessary to enable the construction and operation of the Development which is to be authorised by the Order. The Land will be required for a variety of specific purposes, which are detailed in section 6.

Justification for seeking powers of compulsory acquisition and the compelling need in the public interest (Section 7)

- 2.20 The works to be authorised by the Order cannot be located elsewhere. There is no alternative that would avoid the need for acquisition (see paragraphs 7.9 – 7.12).
- 2.21 There must be certainty that the publicly funded works can be constructed in full and therefore that the Land will be available within a clear timetable. It cannot be assumed that acquisition by agreement of all Order Land will be possible without powers of

compulsory acquisition. Compulsory powers ensure that the Land can be acquired for its fair market value and compensation is payable in accordance with the compensation code (paragraph 7.14).

- 2.22 The Applicant has already acquired some of the additional land required for the DCO Scheme and will continue to seek to agree purchases, conditional on the Order being made (paragraphs 4.8, 5.10, 6.24-6.28, 10.5, and the Compulsory Acquisition Schedule (Document Reference: 9.11 ExA.CA.D7.V5)).
- 2.23 There is a compelling case in the public interest for the Order to be made.
- 2.24 Acquisition for the DCO Scheme underlying the Order is a legitimate purpose. The extent of land-take is proportionate and full compensation will be payable. Judicial process will apply. Human rights and Equalities Act requirements are not therefore infringed (paragraphs 7.20 – 7.34).

Principal Policy Considerations (Section 8)

- 2.25 The proposal complies with the relevant national policy statement for railways. Wider Government policy for investment in rail infrastructure is also complied with. Local planning policy supports the DCO Scheme.
- 2.26 The DCO Scheme is supported by the local planning authority's development plan documentation.
- 2.27 Substantial parts of the DCO Scheme will be located within land designated as Green Belt. It is submitted that very special circumstances exist to justify the DCO Scheme within the Green Belt.

Scheme Viability and Funding Position (Section 9)

- 2.28 Scheme viability and funding has been the subject of reports to the Applicant's full Council and also to WECA. Availability of funding has been discussed with the Department for Transport (DfT). The Applicant's Funding Statement (Doc. 4.2) provides further detail regarding funding. As is set out in Section 9 of this Statement, in the overall consideration of the compelling need for compulsory acquisition powers, the Secretary of State can be confident that funding will be available both for land acquisition and also for the DCO Scheme to proceed. MetroWest Phase 1 has been assessed in accordance with

the DfT's requirements and its benefit to cost ratio is in the high value for money category defined by the DfT.

Special Types of Land (Section 10)

- 2.29 Special lands are affected by the Order, being Open Space, National Trust land and Crown land. Land and rights are required from statutory undertakers. Specialist consultants are instructed by the Applicant to engage with landowners and statutory undertakers.
- 2.30 Crown land is limited in its extent. Freehold land required for the DCO Scheme, formerly held by the Crown, has now been secured by agreement. Crown interests in those plots now consist of covenants in land, with the freehold now held by the Applicant. In addition, Crown interests exist in freehold land where temporary powers only are sought. Approaches to the relevant Crown body have been made in respect of all plots shown on the Crown Land Plan (Doc. 2.6).
- 2.31 Publicly available Open Spaces are included in the Order at Portishead, Portbury Wharf Ecological Park, Jenny's Meadow in Pill, Victoria Park, Pill and in the Avon Gorge. In addition, a private field used for a variety of purposes including car parking, car boot sales and events is included in the Order, located at Clanage Road in Bristol.
- 2.32 Exchange land is not proposed for the Open Space on which the new public right of way network will be constructed in the vicinity of Tansy Lane and Galingale Way, Portishead, as the total area of freehold acquisition is less than 200 square metres. For the remainder of the publicly accessible Open Space land, exchange land is not proposed as only new rights or temporary possession (or both in combination) are proposed in the DCO Scheme.
- 2.33 The land at Clanage Road is not an Open Space for the purposes of Section 19 of the Acquisition of Land Act or Section 131 and 132 of the Planning Act 2008 and therefore no exchange land is proposed. The application for certificates under S131 and S132 is set out in Appendix 5.

Highways and Traffic Regulation (Section 11)

- 2.34 To allow the DCO Scheme to be constructed interference with the highway network is required. This includes:
- 2.34.1 Diversion of Quays Avenue, Portishead;

- 2.34.2 Removal of a level crossing south of Tansy Lane, Portishead and the provision of new pedestrian and cycle routes;
 - 2.34.3 Temporary closure of public rights of way (and permissive paths) south of Tansy Lane, Sheepway and between Portbury and Pill;
 - 2.34.4 The underbridge between Avon Road and Lodway Close, Pill will be closed to pedestrians and cycles during the time that bridge is replaced;
 - 2.34.5 The River Avon tow path between Ham Green and Rownham in Bristol may be closed temporarily in places whilst works to the railway in the Avon Gorge are carried out; and
 - 2.34.6 Powers to close Barons Close (or Ashton Containers) level crossing in Bristol are also sought.
- 2.35 New accesses to the highway will be formed at various locations in Portishead, on the A369 Portbury Hundred and at Clanage Road in Bristol.

Other consents (Section 12)

- 2.36 Section 12 summarises the other consents that will, or may be, required in connection with the DCO Scheme. The Applicant does not consider that any of the other consents is likely to pose a significant risk to the delivery of the DCO Scheme.

Transfer of Powers and land to Network Rail (Section 13)

- 2.37 Network Rail is the licence holder for providing and managing the National Rail Network, regulated by the Office of Rail and Road. Once the project has been constructed, the part of the railway line that is currently on land owned by North Somerset Council will be transferred to Network Rail. In addition new permanent maintenance compounds that are required by Network Rail will be transferred to Network Rail.
- 2.38 Articles 10 and 11 of the draft Order also enable powers to be transferred by the Applicant to Network Rail or, with consent of the Secretary of State and Network Rail, to other parties.

3. POWERS ANALOGOUS TO POWERS OF COMPULSORY ACQUISITION

- 3.1 Regulation 5(2)(h) of the APFP Regulations requires a statement of reasons if a proposed order under the Planning Act 2008 would authorise the compulsory acquisition of land or an interest in or a right over land. The question whether such powers should be granted raises issues of need and justification, proportionality, interference with property rights and interests, compensation and access to judicial process.
- 3.2 The precise wording of Regulation 5(2)(h) does not on the face of it extend beyond the outright acquisition of land or interests in or rights over land. This, however, does not capture other powers sought in the Order that similarly relate to land and that will or may interfere with property rights and interests, or affect highways and streets. Those additional powers also raise some or all of the issues referred to in paragraph 3.1.
- 3.3 Further details of, and justifications for, the various highway and street powers are set out in Appendix 3 to this Statement. The justification for powers of temporary acquisition are covered in the section on compulsory acquisition powers contained in this Statement.
- 3.4 The additional powers are the following, by reference to articles in the draft Order:

Article 3 (Incorporation of the Railway Clauses Acts)

- 3.5 This article includes the incorporation of the railway version of the statutory minerals code, which is to be found in sections 78 to 83, 85 to 85E and Schedules 1 to 3 of the Railways Clauses Consolidation Act 1845. The Order Land includes plots in close proximity to former mines and collieries and within the historic North Somerset coalfield area. It is essential that the Applicant and Network Rail are able to protect the authorised development by controlling future mining activities that may interfere with the railway.

Article 13 (Street works and power to alter the layout etc of streets)

- 3.6 This article would allow the Applicant to carry out certain specified kinds of works in certain streets.
- 3.7 The exercise of the powers in Article 13 could potentially interfere with private rights. The right in question could be suspended or otherwise interfered with. A person suffering loss as a result of the exercise of these powers would be entitled to compensation. The

amount of compensation, if not agreed, would be determined in the same way as compensation for outright acquisition.

Article 14 (Permanent Stopping up of Streets)

- 3.8 This article would allow the Applicant to stop up certain streets, including some private streets, on a permanent basis. This includes the permanent diversion of Quays Avenue in Portishead.
- 3.9 The exercise of the powers in Article 14 could potentially interfere with private rights. The right in question could be suspended or otherwise interfered with. A person suffering loss as a result of the exercise of these powers would be entitled to compensation. The amount of compensation, if not agreed, would be determined in the same way as compensation for outright acquisition.

Article 15 (Temporary stopping up of streets and public rights of way)

- 3.10 This article would allow the Applicant to stop up certain streets, on a temporary basis. This includes the temporary closure of:
- 3.10.1 The bridleway and access road to the east of Marsh Lane, Easton in Gordano, leading to land beneath the M5 Avonmouth Bridge; and
- 3.10.2 An unnamed street at Pill, leading west from Avon Rd towards the M5 Avonmouth Bridge.
- 3.11 These powers are required for the DCO Scheme to be carried out. The exercise of the powers in Article 15 could potentially interfere with private rights. The right in question could be suspended or otherwise interfered with. A person suffering loss as a result of the exercise of these powers would be entitled to compensation. The amount of compensation, if not agreed, would be determined in the same way as compensation for outright acquisition.

Article 16 (Bridleways, cycle tracks and footpaths)

- 3.12 This article would allow the Applicant to permanently stop up a footpath affected by the DCO Scheme. Part 1 of Schedule 6 to the Order lists routes that would be closed permanently.

3.13 This article allows for the closure of Barons Close (or Ashton Containers) footpath level crossing, located west of Winterstoke Road in Bristol. A diversion of the footpath using a currently permissive route and existing footways is provided for. Provision is made in Article 16 for determination of compensation if any private right of way is extinguished as a result of the closure.

Article 20 (Closure of level crossings and crossings over disused railway)

3.14 Article 20 provides powers to close:

3.14.1 the route of Quays Avenue in Portishead, which currently severs the track bed;

3.14.2 the foot and cycle path over the track bed that is used to provide access between Tansy Lane and Galingale Way in Portishead; and

3.14.3 the permanent closure of two crossings, without replacement, the status of which is uncertain. These are at Moor Lane in Portishead and the Drove, Portbury.

The article provides for new permanent public routes, over the diverted Quays Avenue and the proposed new cycle track network.

3.15 Part 2 of Schedule 8 provides for the permanent closure of the other crossings, without replacement.

3.16 A person suffering loss as a result of the closure of the level crossings under this article would be entitled to compensation. The compensation, if not agreed, would be determined under the Part 1 of the Land Compensation Act 1961.

Article 21 (Accommodation and occupation crossings)

3.17 A number of accommodation and occupation crossings existed on the disused Portishead Branch line railway, particularly along the route of the railway between Portishead and Pill (where the land is relatively flat). For the operation of a safe modern passenger railway it is essential that each of these crossings is now extinguished to remove safety and timetable perturbation risks.

3.18 Crossings at Shipway Gate Farm and Elm Tree Farm will be replaced by works as specified in Schedule 9 to the Order. The remaining crossings appear to have either fallen

into disuse or have been abandoned or may no longer exist in law. The Applicant seeks the rights to close and extinguish any remaining rights that exist.

- 3.19 Any person suffering loss as a result of the extinguishment will be entitled to claim compensation to be determined under Part 1 of the 1961 Act.

Article 23 (Authority to survey and investigate land)

- 3.20 This article would enable the Applicant, for the purposes of the Order, to enter onto any land shown within the Order limits to survey and investigate the land. Such powers will be used for the surveys needed to discharge requirements before or during the commencement of the authorised development, or to allow for post-construction surveys where required. It is necessary for the Applicant to hold such powers to allow for the swift discharge of relevant requirements to the satisfaction of the relevant planning authority and nature consultation bodies.

- 3.21 A person suffering loss due to such interference would be entitled to compensation. The amount of compensation, if not agreed, would be determined in the same way as compensation for outright acquisition.

Article 28 (Private rights over land subject to compulsory acquisition or temporary possession)

- 3.22 This article enables the Applicant to carry out works and activities within the Order limits that are authorised by this Order if in accordance with the terms of the Order, notwithstanding that it leads to an interference or breach of rights or restrictions applying to that land.
- 3.23 The power is included to allow the overriding of any private rights of way or restrictive covenants that apply to the Order Land and to permit the construction operation and maintenance of the authorised development. The provisions reflect those contained in Sections 203-5 of the Housing and Planning Act 2016. They are essential for the ability of the Applicant and Network Rail respectively to construct and operate the authorised development.
- 3.24 Compensation will be payable under this provision in accordance with Section 10 of the Compulsory Purchase Act 1965 and procedure will be in accordance with Part 1 of the 1961 Act.

3.25 There is a compelling case for this power of statutory override, to ensure that the authorised development can proceed without threat of injunction arising from any breach of existing rights over land.

Article 29 (Power to override easements and other rights)

3.26 This article enables the Applicant to carry out works and activities on land within Order limits that either the Applicant or Network Rail already hold, if those works or activities are authorised by the Order.

3.27 The power is included to allow the overriding of any private rights of way or restrictive covenants that apply to the lands already held by the Applicant or Network Rail, which form the majority of the Order Land. As with Article 28, the provisions reflect those contained in Sections 203-5 of the Housing and Planning Act 2016 as they apply to land appropriated by a person with compulsory purchase powers.

3.28 Compensation will be payable under this provision in accordance with Section 10 of the Compulsory Purchase Act 1965 and procedure will be in accordance with Part 1 of the 1961 Act.

3.29 There is a compelling case for this power of statutory override to ensure that the authorised development can proceed without threat of injunction for breach of existing rights over land.

Article 32 (Rights under or over streets)

3.30 Article 32(1) would enable the Applicant, where required for the construction of the DCO Scheme, to use the subsoil of, or airspace over, any highway (being a way of any sort over which the public have a right to pass). The powers would not extend to a subway or underground building or to cellars or similar structures forming part of a building fronting the street (Article 32(3)), but would nonetheless interfere with property rights.

3.31 A person suffering loss due to such interference would be entitled to compensation. The amount of compensation, if not agreed, would be determined in the same way as compensation for outright acquisition (Article 32(4)).

Article 33 (Temporary use of land for carrying out the authorised development)

- 3.32 Article 33(1) would enable the Applicant, for the purpose of constructing the DCO Scheme, to take temporary possession of certain Land. “Possession” means that the Applicant could occupy and control the relevant Land to the exclusion of everyone else.
- 3.33 The land to which Article 33(1) applies is the land specified in columns (1) and (2) of Schedule 12 to the Order and any other land within the limits of the Land so long as the Applicant has not made a declaration to vest the land in itself or entered the land following a notice of entry in advance of acquisition.
- 3.34 Article 33(1) would enable the Applicant to:
- 3.34.1 remove buildings and vegetation;
 - 3.34.2 construct temporary works (including accesses) and buildings;
 - 3.34.3 construct any works referred to in the description of the authorised development in Schedule 1 to the Order;
 - 3.34.4 carry out mitigation, ground strengthening or stability works, and
 - 3.34.5 works for temporary car parking or storage
- in relation to the land specified in column (3) of Schedule 12 to the Order, construct the permanent works specified in column (4) of that Schedule or any other permanent mitigation works.
- 3.35 The period of temporary possession would be subject to time limits (Article 33(3)). Unless the landowner agreed, the Applicant could not remain in possession–
- 3.35.1 as regards any Land specified in columns (1) and (2) of Schedule 12 to the Order, for more than a year after completing the part of the DCO Scheme specified in relation to that land in column (4) of Schedule 12 to the Order; and
 - 3.35.2 as regards other Land to be acquired or used, for more than a year after completing the work for which temporary possession was taken (unless before the end of that period the Applicant has made a vesting declaration or served a notice of entry).
- 3.36 Before giving up possession of any Land the Applicant would be obliged to remove all temporary works and restore the land to its condition immediately before entry, or

otherwise to the owner's reasonable satisfaction. This would not require the replacement of a building which has been removed, the restoration of Land on which permanent works have been constructed or the removal of ground strengthening works (Article 33(4)).

- 3.37 The exercise of these powers would interfere with the property rights of owners and occupiers of the relevant Land. An owner or occupier suffering loss or damage would be entitled to compensation (Article 33(5)). The amount of compensation, if not agreed, would be determined in the same way as compensation for outright acquisition.
- 3.38 Article 4 of the draft Order seeks to disapply the provisions of the Neighbourhood Planning Act 2017 regarding temporary possession in respect of the Order. The provisions of the 2017 Act are not yet in force and it is unclear when they may come in to force. The Applicant is planning its strategy of the occupation of the Order Land and this strategy could be delayed or disrupted if the provisions of the 2017 Act come in to force between now and commencement of the DCO Scheme. It is fairer to both Applicant and affected parties that a single clear process for temporary possession is considered at examination and subsequently implemented.

Article 34 (Temporary use of land for maintaining the authorised development)

- 3.39 Article 34(1) would enable the Applicant to take temporary possession of certain Land at any time during the maintenance period, i.e. 5 years from the date on which that part is first opened for public use (Article 34(11)). For this purpose "possession" has the same meaning as in Article 33.
- 3.40 Article 34 applies to any Land in relation to which possession is reasonably required for the purpose of maintaining the DCO Scheme. However, Article 34 would not apply to a house, a garden belonging to a house, or any other occupied building (Article 34(2)).
- 3.41 Article 34(1)(b) would enable the Applicant to construct temporary works and buildings on the Land, so far as reasonably necessary for maintenance purposes.
- 3.42 The powers would be subject to a time limit. The Applicant could only remain on the land for so long as reasonably necessary to carry out the maintenance for which possession was taken (Article 34(4)).

- 3.43 Before giving up possession the Applicant would be required to remove all temporary works and restore the land to the owner's reasonable satisfaction (Article 34(5)). Certain permanent works such as rock bolts and ground strengthening can remain at the cessation of the temporary occupation period.
- 3.44 The exercise of the powers would interfere with the property rights of owners and occupiers of the Land. An owner or occupier suffering loss or damage would be entitled to claim compensation (Article 34(6)). The amount of compensation, if not agreed, would be subject to determination in the same way as compensation for outright acquisition.

Article 43 (Felling or lopping of trees)

- 3.45 This article would enable the Applicant to fell or lop any trees or shrubs within or overhanging Land so as to prevent the trees or shrubs from obstructing or interfering with the construction, maintenance or operation of the DCO Scheme, or which may constitute a danger.
- 3.46 A person suffering loss due to such interference would be entitled to compensation. The power is required to permit the Applicant to carry out the authorised development in a safe and methodical way without its activities been delayed or prevented as a result of overhanging trees. The amount of compensation, if not agreed, would be determined in the same way as compensation for outright acquisition (Article 43(3)).

Concluding remarks

- 3.47 For the purposes of this Statement all these additional powers described in this part of this Statement are treated as compulsory acquisition and included in the expression "compulsory acquisition powers".

4. DETAILED BACKGROUND TO THE DCO SCHEME – THE METROWEST PHASE 1 PROJECT

- 4.1 MetroWest Phase 1 is a major cross-authority-boundary rail scheme that proposes to upgrade the local passenger train service for the Severn Beach Line and the Bath Spa to Bristol Line to a half hourly service; as well as to re-open the Portishead Line with new stations at Portishead and Pill. The re-opening of the railway from Portishead to Parson Street is the DCO Scheme, to which this Application relates.
- 4.2 The DCO Scheme forms a key element of MetroWest Phase 1, being part of MetroWest Phase 1B.
- 4.3 Further detail on the compelling need for the DCO Scheme and MetroWest Phase 1 can be found in Appendix 1 to this Statement. An analysis of the relevant policies of the National Policy Statement for National Networks (December 2014) can be found at Appendix 2 to this Statement.
- 4.4 The aim of MetroWest is to promote modal shift and to provide a choice of transport methods - including those provided by the DCO Scheme between Portishead and Bristol. This is particularly relevant for persons of limited mobility or those who do not have regular access to a car. By constructing a new railway on the disused trackbed and utilising the Portbury Freight Line, the DCO Scheme is efficient in terms of cost and land requirements. The new passenger railway will promote resilience in the transport network by providing an alternative route other than the A369 classified road for those wishing to travel between Portishead, Pill and Bristol.
- 4.5 The Portishead Branch Line Railway was constructed in the 1860s and ran between Parson Street Junction in Bristol and the town of Portishead. It closed to passenger trains in 1964 and freight operations ceased in the 1980s. In this statement Portishead Branch Line Railway refers to the whole of the railway between Parson Street Junction and Portishead.
- 4.6 In 2001 part of the Portishead Branch Line Railway was restored to freight use between Parson Street Junction and Portbury Junction, to the west of the village of Pill, to connect to a new railway built by the Bristol Port Company to serve its Royal Portbury Dock. This railway is described as the Existing Freight Line in this statement.

- 4.7 Part of the railway between Portbury Junction and Portishead was transferred to the Applicant and has ceased to be operational railway. The remainder which was retained by Network Rail remains authorised by its original authorising Acts but has not been used for railway services for some years and some of the track has been removed. Both parts are together referred to in this statement and in other documents forming the Order submission as “the Disused Railway”.
- 4.8 Development consent is sought to construct a new railway, utilising the trackbed of the disused Railway. This part of the DCO Scheme is an NSIP. Consent is also sought in the draft Order for associated development required for the new passenger railway service.
- 4.9 The Applicant acquired the track bed between Portishead and Old Portbury Station from British Railways Board (Residuary) Limited in 2008.
- 4.10 The Applicant's proposal for Portishead Branch Line, for which the DCO seeks statutory authority, is to construct a railway between Portishead and Pill. The new railway will become part of the national rail network for passenger services with the relevant train operating company (TOC) providing an hourly passenger train service, with the possibility of additional trains in the morning and evening peak. That part of the land on which the new railway will be constructed between Old Portbury Station and Portishead will be transferred by the Applicant to Network Rail. The benefit of the DCO providing for the operation and maintenance of the railway would be transferred to Network Rail.
- 4.11 A total of up to 20 passenger trains in each direction per day are proposed for the branch line, along with the continued operation of freight trains to Royal Portbury Dock. A reduced number of trains is likely on Sundays.
- 4.12 The existing operational railway from Parson Street to Royal Portbury Dock will be utilised as part of MetroWest Phase 1 and some minor upgrading work is required to the existing railway.
- 4.13 The railway between Parson Street Junction and Royal Portbury Dock is described as a Core Trunk Route within the Strategic Freight Network map annexed to the NPSNN. Work to construct the DCO Scheme will be carried out with possessions and blockades of the existing railway timed so far as is possible to minimise disruption to freight traffic on

the existing railway. This will however necessitate construction work in the evening or at night on the existing railway, as well as at weekends.

- 4.14 In the longer term the line from Portishead to Parson Street could be upgraded to operate a half hourly service (with up to 36 passenger trains in each direction per day). However this would require significant additional railway and highway infrastructure. It would need to be progressed as a separate project, with separate business case, statutory processes and funding.

5. DESCRIPTION OF LAND SUBJECT TO COMPULSORY ACQUISITION

- 5.1 This section describes the Land which is to be subject to the compulsory acquisition powers. The Land is shown on the land plan (Doc. 2.2) and the works and land uses are represented on the works plans (Doc. 2.3). In addition to this Statement, short descriptions of each numbered plot and details of ownership and other interests are in the Book of Reference (Doc. 4.3).
- 5.2 The DCO Scheme overall consists of 9 miles of disused or existing railway between Portishead and Parson Street in Bristol, together with additional highway works, the latter principally in Portishead.
- 5.3 The core of the Land required for the DCO Scheme consists of the Portishead Branch Line Railway that was first constructed in the 1860s. From Portishead to the Old Portbury Station this land is owned by the Applicant. Network Rail owns the disused railway from Old Portbury Station to Portbury Junction, and then the railway from Portbury Junction, through Pill to Parson Street.
- 5.4 From Portbury Junction to Parson Street the railway is operated as a freight only line to serve Royal Portbury Dock.

Location and detailed description

- 5.5 From Portishead to Ashton, in summary the DCO Scheme comprises:

Portishead

- (i) The disused railway at Portishead commences to the west of the existing alignment of Quays Avenue (the 1954-built station site having been redeveloped for retail and commercial purposes). The disused railway land west of the diverted Quays Avenue will become one of two car parks associated with Portishead Station. The Order Land also includes Harbour Road and Phoenix Way as well as other parts of the local highway network where highway works may be carried out. A new pedestrian and cycle boulevard will lead west from the new Quays Avenue to the Portbury Ditch, where it will connect to an existing bridge over the watercourse. A small area of land has been included in the Order Lands to the west of the Portbury Ditch to allow for the improvement of the existing permissive footpath connection to the existing Majestic Wine car park.

- (ii) The Land includes the area for the new alignment of Quays Avenue and the existing Quays Avenue. Quays Avenue will be diverted to the west of its current alignment, to allow the site of the existing alignment to become part of the new Portishead Station, a car park and a small landscaped area. To the east of the new Quays Avenue there will be two foot and cycle path connections from Phoenix Way and the new Quays Avenue, parallel to the railway. Land to the north and south of the railway west of Trinity Primary School is required to allow for improvements to the rights of way network. This land is open space.

Portishead to Portbury

- (iii) The Order Lands principally comprise the disused railway (currently owned by North Somerset Council) together with land required temporarily for construction haul roads and ecological mitigation and species translocation, to the north and south of the railway. A small permanent compound for Network Rail's operational use as a road rail access point (**RRAP**) will be located on the north side of the railway at the Sheepway overbridge. The existing permissive cycle path will be diverted to the north to facilitate this. This land is currently an access to the Portbury Wharf Ecology Park and improved grassland used for grazing.
- (iv) South of the railway and north of the A369 Portbury Hundred, and west of Station Road, Portbury, will be one of the principal construction compounds over which temporary powers will be sought. Temporary construction haul roads will connect to the compound in either direction on the south side of the railway alignment. A new permanent access from this area to the A369 Portbury Hundred is also proposed to allow for the replacement of the historic occupation level crossing over the railway at this location. This land is currently used for agricultural purposes.
- (v) North of the railway and south of Sheepway a field is proposed to be permanently acquired for ecological mitigation and enhancement works.

Portbury to Pill

- (vi) At the old Portbury Station, North Somerset Council's ownership ceases and the remainder of the railway land is owned by Network Rail. To the north and south of the alignment there is provision for construction haul roads or working space together with works to the existing bridleway network which lies between the

Bristol Port Company's land at Royal Portbury Dock and the railway. A small new permanent access point will be provided at the Wessex Water pumping station on the A369 Portbury Hundred, where the historic crossing of the railway forming part of The Drove used to provide access to the land north of the railway. This crossing, which is inaccessible and unused, will be extinguished.

- (viii) To the east of Marsh Lane permanent new rights over the access road between Marsh Lane and the M5 Avonmouth Bridge are sought to be acquired from the Bristol Port Company. This forms the existing bridleway on the northern side of the railway. This is to allow Network Rail to access the proposed new starter signal for trains leaving the Royal Portbury Dock which will be located close to where the Port's railway passes under the M5. The Port's railway has an existing level crossing at the rail entrance to Royal Portbury Dock. Network Rail proposes to use the level crossing in this location as a RRAP for maintenance of the Portishead Branch Line. The level crossing is also proposed to be used as a RRAP for construction. The access route from Marsh Lane to underneath the M5 will also form a haul road during construction.
- (ix) A construction compound will be sited under the M5 Avonmouth Bridge. This will be to allow for the extension of the existing bridleway from Marsh Lane, which currently ends under the M5 Avonmouth Bridge. The bridleway would be extended beneath the M5 Avonmouth Bridge, where it currently terminates, through an area of existing ponds and ecological land managed by Bristol Port Company, to meet the street that runs between the M5 Avonmouth Bridge and Avon Road, Pill. Permanent powers to facilitate the bridleway's construction and use are sought on the north side of the railway, across the triangle of the Port's land, which lies between the Port's railway, the M5 and the Portishead branch line, to the east of the M5.
- (x) To the south of the railway and west of the M5, a construction compound is proposed at Lodway Farm. Land closer to Marsh Lane and the residential area of Easton in Gordano will be acquired permanently for species translocation. The land is required for more than a temporary period to enable the relocated species to establish and be monitored following relocation, and the new habitat needs to be protected from development for an appropriate length of time.

- (xi) At Pill, a small area of existing amenity and ecology land known as Jenny's Meadow is sought temporarily to allow for the diversion of the National Cycle Network close to the Avon Road/Lodway Close underbridge. The garages at Avon Road, south of the railway, are proposed for permanent acquisition to allow for their demolition and clearance, enabling the area to be used as a construction compound for constructing a replacement bridge wide enough to carry two railway tracks over the public footpath between Lodway Close and Avon Road in Pill. The land forming the access to the M5 from Avon Road and the site of the garages will be used for the crane compound to lift in the new bridge at Avon Road/Lodway Close. The existing overbridge at this location is single track only and needs to be replaced by a wider structure.
- (xii) This work also requires temporary vehicular access to a number of back gardens of residential properties in Lodway Close, on the south side of the railway, during the time the work to replace the bridge is being undertaken. Two tracks are required at this location to allow for parallel lines to run from this location to the proposed location of Pill Junction, between Pill Viaduct and Pill Tunnel. This length of parallel track provides a length of line for freight trains waiting to progress to Parson Street to be held outside of the Port's railway facility whilst passenger trains are occupying the section of railway between Ashton Junction and Pill.

Pill to Ham Green

- (xiii) In the vicinity of Pill Station, land has recently been purchased by the Applicant for part of a new car park, on the former goods yard site. Additional land closer to the station at Monmouth Road is still to be acquired for the car park, and until recently was used as a storage yard for damaged cars. As with the Portishead car parks, the car park will be retained by North Somerset Council, but an area of land at the Portishead end of the former yard will be transferred to Network Rail for a permanent maintenance compound and for a new Principal Supply Point building.
- (xiv) Along the southern boundary of the railway permanent new rights to install soil nails are proposed, under residential properties in Sambourne Lane and Hardwick Road. Powers of temporary possession are also sought over a number of back

gardens in Hardwick Road and Sambourne Lane to allow access for fencing installation.

- (xv) Pill Station will be reconstructed as a single platform at the former station location, using the site of the disused platform on the Sambourne Lane side of the station. No. 7 Station Road in Pill has been acquired by the Applicant. The existing building will be demolished and replaced by a vehicle drop off area and blue badge car park, cycle parking and the new entrance area for the station. A ramp will lead down to the station platform.
- (xvi) East of Pill Station is Pill Viaduct. The viaduct currently carries a single line but is built to double track width. A second track will be installed over the full length of the viaduct. The viaduct and its western abutment require remedial works and powers are included in the DCO to permit access to carry out repairs required for the addition of the second track. This includes permanent access to the gardens of residential properties at Star Lane and to the land owned by Alliance Homes next to and behind Pill Library, to enable the works to be carried out. A small temporary construction compound will be created next to Pill Library, next to the highway known as Underbanks. This area is currently used for vehicle parking.
- (xvii) Land forming the part of Victoria Park adjacent to and underneath the structure of Pill Viaduct will also be the subject of temporary powers to carry out repairs to Pill Viaduct.
- (xviii) Also in Pill, where Station Road meets Lodway and Heywood Road, work is proposed to the highway to provide a mobility impaired accessible bus stop for buses heading towards Easton in Gordano. This requires the permanent acquisition of a small area of land from Pill Memorial Club to remove and replace the existing retaining wall at this location. An additional part of the Club's car park will need to be occupied as working space and as a compound during the highway works at this location. The enhancement to the bus stop will both assist everyday users of the bus service at Pill but also when the bus stop is used for rail replacement bus services.
- (xix) Between Pill Viaduct and Pill Tunnel a new railway junction will be provided, where the parallel lines from Portishead and the Port will join. To provide for maintenance access to the junction following construction, the Applicant proposes

to grant Network Rail a permanent right of access along the permissive cycle path from Ham Green to the land next to the location of Pill Junction, at Watch House Hill. This will allow Network Rail access to the new points located at Pill Junction at all times to reduce the risk that trains are delayed as a result of point failures.

- (xx) On the opposite side of the railway at this location, the houses at Mount Pleasant and Eirene Terrace back on to a substantial embankment, on which the railway runs. Earth stabilisation works are proposed here, within railway land. Access to the rear gardens of the residential properties backing on to the railway is proposed on a temporary basis to ensure the soil stabilisation work can be carried out efficiently and safely.

Ham Green to Clanage Road

- (xxi) To the east of Pill Tunnel an area of permanent acquisition is proposed at Ham Green for a permanent maintenance compound. Additional land is included for a temporary construction compound. This area is currently grazing land, and provides access to the Ham Green Lake. The access to the lake will be re-provided.
- (xxii) The railway then runs parallel to the River Avon and enters the Avon Gorge. In the Avon Gorge, the railway is within the Avon Gorge Woodlands Special Area of Conservation (SAC), a European designated site. Works within the Gorge are limited, but do include the reconstruction of a bridge (known as Quarry Bridge 2) about 500 metres to the north of the Clifton Suspension Bridge, as well as works to the gorge side to reduce the risk of rock fall. A temporary compound is proposed for the work required at Quarry Bridge 2.
- (xxiii) Rock stability and strengthening works are required at specified locations in the Gorge to reduce the risk of rock fall impacting on passenger train services. This land consists of woodland areas and the cliff face on the Somerset side of the Avon Gorge.
- (xxiv) For the works throughout the Gorge the Applicant is liaising closely with Network Rail, Natural England and the relevant landowners to minimise impacts on the SAC and to provide a management plan for the SAC that will improve the conditions for the tree and plant species for which the area has been designated.

Clanage Road to Parson Street

- (xxv) On the south side of the Clifton Suspension Bridge and Avon Gorge, the railway is in the City of Bristol. A permanent compound is sought, to be used for Network Rail's maintenance purposes, on land currently forming a private field used for private outdoor events, car boot sales and parking for sports and other activities, between the railway and Clanage Road. Additional land is required at this location during construction, for a compound.
- (xxvi) The permanent compound will provide maintenance access for the railway in the Gorge, which is otherwise difficult to access and would also be used as an access for emergency services if required to access the railway as a result of an incident within the Avon Gorge.
- (xxvii) Permanent land and temporary possession powers are also sought in the City of Bristol at the Winterstoke Road/Ashton Vale Road area, to allow for alterations to the highway network including the provision of a new left turn splay from Winterstoke Road into Ashton Vale Road.
- (xxviii) South of Ashton Vale Road the existing permissive path constructed by Ashton Vale – Temple Meads MetroBus scheme will be acquired and created as a new public right of way to replace the Ashton Containers (or Barons Close) public footpath.
- (xxix) Finally, temporary powers are sought over Freightliner Limited's facility at South Liberty Lane to allow for a compound and access for works to alter the existing track layout close to that facility.

Existing Land uses

Portishead to Old Portbury Station

5.6 The areas of Order Land in the vicinity of Portishead comprise:

- 5.6.1 disused railway and scrub (in the vicinity of Portishead and on the trackbed from Portishead to Portbury Dock Junction);
- 5.6.2 a small area of open space south of Trinity Primary School for a temporary compound and for permanent new foot and cycle paths;

- 5.6.3 temporary powers over parts of the Portbury Wharf Ecology Park; and
- 5.6.4 agricultural land between Portishead and Old Portbury Station, parallel to the railway track bed, required for a construction haul road, compound and access purposes.

Portbury to Pill

- 5.7 Temporary powers are sought over agricultural land parallel to the disused railway, as well as a permanent right to use the existing bridleway and access road north of the railway between Marsh Lane and the M5. The land under the M5, proposed to be used as a compound, is surfaced with loose aggregate and is used occasionally for compounds by Network Rail and other undertakers. It is owned by the Bristol Port Company. To the west of the M5 and south of the disused railway, new rights over agricultural land is required permanently access to neighbouring structures under the railway.
- 5.8 The Lodway compound site, south of the railway and north of the Breaches, in Easton in Gordano is in agricultural use. In Lodway and Pill the back gardens of various residential properties will be temporarily affected by the acquisition of new rights or temporary possession. Permanent land acquisition for species translocation is sought for the agricultural land between the M5 and Beechwood Road, Easton in Gordano. The permanently required land in Pill consists of current or disused railway land, which will be used to build the new station and car park, as well as a compound area for operational railway purposes.
- 5.9 Back gardens for residential properties on either side of Pill Viaduct are proposed to be used temporarily, as is the open space beside and underneath Pill Viaduct.
- 5.10 In Pill, No 7 Station Road is a former residential property now in commercial use and has been acquired by the Applicant. It will be used as a station forecourt.

Ham Green to Ashton

- 5.11 The proposed Ham Green compound area is currently an area of pasture land.
- 5.12 The land though the Avon Gorge is wooded and forms in part land accessible by the public. It is held by the Forestry Commission or National Trust save for a small area of

privately owned land that is a disused quarry, known as Rifle Range Quarry, reflecting its most recent use (which has now ceased).

- 5.13 The land at Clanage Road is used as a private car park, market area and for private outdoor events.
- 5.14 The land in the vicinity of Winterstoke Road is principally existing industrial yard space or railway or road scrub land and verge. The land at Liberty Lane for which temporary powers are sought forms hardstanding as part of the existing rail freight facility in that location.

6. THE PURPOSES IN SEEKING COMPULSORY ACQUISITION POWERS

- 6.1 The Applicant seeks compulsory acquisition powers to construct and operate the DCO Scheme on the Land. The need for the DCO Scheme is explained in the Applicant's Preliminary Business Case 2014 (Doc. 8.3), Outline Business Case 2017 (Doc. 8.4) and Planning Statement (Doc. 8.11). The compelling case for the compulsory acquisition powers sought is contained throughout this Statement.
- 6.2 A range of acquisition powers is necessary. Compulsory acquisition of freehold land from parties other than the Applicant or Network Rail is required for a relatively small amount of land for the NSIP described in Part 1 of Schedule 1 to the draft Order (Doc. 3.1). Powers of compulsory acquisition are essential for the safe and efficient construction and operation of this part of the overall MetroWest project.
- 6.3 Rights over land, both temporary and permanent, are required to carry out the proposed works, whilst a power to use (or access) land temporarily is also sought.
- 6.4 Land, rights over land or temporary powers are also required for the associated development that is also described in Part 1 of Schedule 1 to the draft Order.
- 6.5 The purposes for which compulsory acquisition powers are sought are set out in Schedule 1 to this Statement. They are described by reference to the numbered works set out in Schedule 1 of the draft Order and the plot numbers shown on the land plan (Doc. 2.2) and in the Book of Reference (Doc. 4.3). The table in Schedule 1 to this Statement should be read in conjunction with and with reference to those documents.
- 6.6 Powers sought by the Applicant for interests in land include:
- 6.6.1 Permanent acquisition of freehold interests by the Applicant, for new maintenance compounds, stations, new highways and for car parks;
 - 6.6.2 Permanent new rights over land to be exercised for the benefit of the Applicant or by Network Rail, for instance the right to install and retain soil nails under gardens at Sambourne Lane in Pill;

- 6.6.3 Temporary exclusive possession of land for construction purposes, for instance the proposed temporary compounds at Portbury Hundred, Lodway and under the M5 Avonmouth Bridge; and
- 6.6.4 Temporary use of land on a non-exclusive basis, such as using the paths at the Portbury Wharf Ecology Park for access to ecological mitigation works, as well as access routes from the A369 Abbots Leigh Road to the Avon Gorge and within the South Liberty Lane freight facility, to access the proposed temporary compound at that location.
- 6.7 In addition, powers are sought to extinguish existing rights in land subject to compulsory acquisition or to extinguish or suspend existing rights in land which will be incompatible with the exercise of the rights sought in the Order. Where land is to be occupied temporarily during construction, existing rights in the land may be suspended by the Applicant.
- 6.8 A summary of the purposes for which land is required is set out below:

6.8.1 *Land Plan Sheet 1 – land at Portishead*

Land at Portishead is required to be purchased compulsorily for the construction of the new station, two new car parks, a new boulevard connecting the new station with the Portishead town centre and for the highway works required to divert Quays Avenue to the west. The Applicant has already acquired land comprising the railway track bed and land to the west of the existing Quays Avenue that is required for the diversion of Quays Avenue. The Order lands are required to enable the highway diversion, station construction and car park and right of way network proposals shown on the works plans at sheet 1 (Document 2.3). Open space land is required to be occupied temporarily at Tansy Lane for the construction of the new Portishead Station and a foot and cycle path. Permanent acquisition is required of some areas of open space land for the foot and cycle path connecting to the wider highway network.

6.8.2 *Land between Portishead and Old Portbury Station (land plan sheets 2-4)*

The majority of the Order Lands in this section are required temporarily for the construction of the railway on the track bed already owned by the Applicant.

Land is also sought temporarily for ecological mitigation and species relocation works, principally north of Galingale Way and south of the railway; and at the Portbury Wharf Ecology Park.

In addition, in the vicinity of Sheepway a new road-rail access point is proposed together with a small permanent compound that will be used by Network Rail for operation and maintenance of the railway. This compound is essential to allow for efficient maintenance of the railway for works in the vicinity of Portishead Station through to the Old Portbury Station.

6.8.3 *Old Portbury Station to Portbury Junction (land plan sheets 3-6)*

The majority of the Order Lands shown on the land plan in this part of the DCO Scheme are again required for temporary access for construction purposes. A new permanent access is proposed from the Portbury Hundred for agricultural purposes to replace the existing level crossing at Elm Tree Farm, which will be extinguished. North of the disused railway and south of Sheepway freehold acquisition of agricultural land is proposed ecological mitigation work and activities. The nature and longevity of those works mean that powers less than freehold acquisition would not be appropriate.

A new permanent access for railway maintenance purposes will be provided on the site of the former route known as "the Drove" next to the Wessex Water pumping station and north from the Portbury Hundred highway.

In the vicinity of Marsh Lane, Easton in Gordano, new rights for Network Rail to access the Port's level crossing located close to the Avonmouth Bridge of the M5 motorway are sought. This will also form an essential road rail access point for operation and maintenance purposes (as well as for construction purposes) enabling road rail vehicles to use the Port's existing level crossing to gain access to the National Rail Network via the Port's railway to the point where it becomes part of the national rail network at Portbury Junction.

A temporary compound is proposed under the M5 at Avonmouth Bridge for construction purposes. On the south side of the disused railway, west of the M5 Motorway, the acquisition of new rights over land is proposed for maintenance of structures under the railway.

For all of these lands there is a compelling need in the public interest for the acquisition of new rights and temporary occupation powers to enable the railway to be constructed efficiently and as swiftly as possible. The permanent rights of access and use of the road rail access point are essential for the swift operation and maintenance of the railway in an area where access to the railway is limited, whilst the access from Marsh Lane will provide a suitably designed and reasonably approximate access from the National Motorway Network to Network Rail's railway.

6.8.4 *Pill and Ham Green (land plan sheets 6-7)*

South of the railway temporary powers are sought to use the existing grazing land at Lodway Farm for a construction compound for construction of the DCO Scheme. The large areas of compound required at this location (as well as under the M5 and at Elm Tree Farm) are essential because of the large volumes of storage of rail, ballast, sleepers and other construction materials necessary for the construction of the new railway as part of the DCO Scheme.

Also in this location, the acquisition of temporary powers over rear gardens at Lodway Close is essential to enable access to the Avon Road/Lodway Close overbridge and also to effect the embankment widening works required for two parallel railway lines at this location. On the northern side of the railway, temporary powers over Jenny's Meadow and the temporary closure of the existing access route to the M5 from Avon Road is required for similar purpose. In addition the acquisition and demolition of garages to the south of Avon Road is required to provide suitable compound areas and crane access for the heavy lifting operations required to remove the existing bridge and replace it.

Land between the M5 and Beechwood Road in Easton in Gordano is required permanently for species relocation. The need to ensure the successful relocation and re-establishment of species is for a longer period of time and more limiting on an owner's ability to use their land than would be appropriate if either permanent new rights or temporary powers were used for this location.

In the vicinity of Pill Station, the powers sought over rear gardens on the south side of the railway are to enable access for fencing works and also to secure the stability of the embankment by way of insertion of soil nails under the rear

gardens of neighbouring properties. Permanent new rights are sought for the ground strengthening works to be carried out and retained, together with restrictive covenants to protect the works.

East of Pill Station permanent new rights are sought for Network Rail to access the abutments of the Pill Viaduct to carry out maintenance on an ongoing basis. The structure is now old and this will be the first time that it has carried two lines over the majority of its length. On that basis additional powers of access to the abutments are now required.

Temporary powers are sought to permit works on the land forming Victoria Park, Pill in proximity to the viaduct as maintenance works are necessary to bring the viaduct up to the specification for carrying passenger trains on parallel lines over the viaduct.

At Ham Green, a new road rail access point and maintenance compound, together with access for emergency vehicles to the eastern portal of Pill Tunnel, are viewed as essential for the evacuation plan for Pill Tunnel should an incident occur in the tunnel.

6.8.5 *From Ham Green to Clifton Suspension Bridge (land plan sheets 7 – 13)*

Permanent acquisition between Ham Green and Clifton Suspension Bridge is limited. Temporary powers are sought along the River Avon Towpath throughout the Avon Gorge to enable Network Rail access to carry out remedial works to the railway which is for a large part of its length raised on retaining walls.

Permanent rights to install rock bolts, together with rights of access for these works, are sought at various locations in the Avon Gorge where rock and cliff side strengthening works are necessary. These works are required to provide additional stability on the cliff face representing the greater risk that is presented by frequent passenger services as opposed to occasional freight services along this part of the Portishead Branch Line.

In addition, Quarry Bridge No.2 is to be reconstructed and temporary powers are sought to enable this reconstruction to a specification requested by the benefitting landowner. Network Rail has investigated other ways of constructing this bridge

but it is essential that a temporary compound and ramp are provided at the location of Quarry Bridge No.2 to enable the works to be carried out as required by the neighbouring landowner.

6.8.6 *Clanage Road and Winterstoke Road (land plan sheets 14 – 17)*

South of the Clifton Suspension Bridge, the lands required are located in the City of Bristol. At Clanage Road, a new permanent compound (together with a larger temporary compound), are sought on land south of the footpath that runs from Clanage Road over the railway to the open space on the River Avon side of the railway. This permanent access is required as a road rail access point to enable Network Rail to access the railway at the southern end of the Avon Gorge, with accesses throughout the Avon Gorge being impossible to secure as a result of the topography of the Gorge.

At the junction of Winterstoke Road and Ashton Vale Road, land is required for the widening of Winterstoke Road to provide a longer left turn lane into Ashton Vale Road. Land is also sought for temporary purposes during construction and also land is sought south of Ashton Vale Road along the existing track used for maintenance purposes by the Metro Bus Scheme (and a permissive cycleway) to enable the diversion of the public footpath using the Barons Close level crossing north to the Ashton Vale Road level crossing.

6.8.7 At the South Liberty Lane Freightliner Depot (land plan sheet 17), land is required to enable works to be carried out close to Freightliner's facility to provide appropriate track layouts for the proposed works at Parson Street.

Interests in the Order Land other than Freehold Interests

6.9 Some of the land required is already held by the Applicant or Network Rail. That land is scheduled in the Book of Reference to enable the Applicant to have the ability to extinguish or override all private rights over that land that is incompatible with the construction and operation of the DCO Scheme. Article 29 of the draft Order permits the Applicant to extinguish or override (or in the case of temporary possession, to suspend) any incompatible existing rights.

6.10 The provisions of Article 29 are essential to enable the Applicant and Network Rail respectively to build and operate the DCO -Scheme_ without the risk of injunctions being sought to prevent activity in breach of the existing rights.

Extinguishment of private rights over accommodation and occupation crossings

6.11 Rights (if any) over the private accommodation crossings shown on the Crossings to be Extinguished Plans (Doc. 2.32) are specifically identified as rights which it is intended will be extinguished by the Order if the DCO Scheme is implemented. Many of the crossings have not been used for many years. Further details on the individual crossings can be found in Appendix 4.

6.12 The Applicant believes the restoration of rail services, both by reason of the physical works of construction and then by the operation of passenger services over the crossings for the first time in many years, justifies the extinguishment of any relevant private right.

6.13 The website of the Office of Rail and Road (ORR) includes the following quote from Ian Prosser, ORR's Director of Safety, dated 20 April 2018:

"Great Britain's level crossings, although among the safest in Europe, still pose a significant safety risk to the public. ORR encourages the rail industry to close level crossings wherever possible."

6.14 ORR states that level crossings are the biggest source of railway catastrophic risk and that ORR believes that risk control should "where practicable" be achieved through the removal of level crossings.

6.15 In accordance with this policy statement the Applicant is seeking to close all accommodation and occupation crossings wherever possible.

6.16 For the accommodation crossings at Shipway Gate Farm (two crossings) and Elm Tree Farm (one crossing), these crossings are still used. At Shipway Gate Farm it is not practicable to provide an alternative accommodation bridge without significant impact on Shipway Gate Farm. The highway at Sheepway crosses over the railway on a bridge close to Shipway Gate Farm and it is proposed that the two accommodation crossings will be closed and replaced by an improved access to Sheepway on the southern side of Shipway Gate Farm.

6.17 At Elm Tree Farm, a new permanent access will be provided on the northern side of the A369 Portbury Hundred to provide access to the fields currently accessed via the accommodation crossing over the disused railway. These fields will be used as a temporary construction compound and the new access will be provided as an access for construction work. The access will however then be left in situ and available to the owner of the field as a replacement highway access.

Path south of Trinity Primary School, Portishead

6.18 This crossing has never functioned as a railway/pedestrian and cycle level crossing. The crossing was put in place after rail services ceased operating over the Portishead Branch Line railway at this location. The path is used by pedestrians and cyclists, including for children passing over the track bed to access Trinity Primary School.

6.19 The Applicant and Network Rail consider that having considerable numbers of users, including primary school children, crossing live railway represents an unacceptable risk to public safety. Alternative foot and cycle routes will be provided via the new Portishead Station to replace the crossing and reduce the risk.

Acquisition of new rights over land

6.20 Schedule 10 of the draft Order lists Land over which specific rights are to be acquired. The specific rights that are to be acquired or created are necessary for the purpose of constructing the DCO Scheme to carry out construction and maintenance thereafter. For some plots the right to impose restrictive covenants to protect the works is included – principally to protect the soil and rock strengthening works in the vicinity of Pill Station.

6.21 The nature of the DCO Scheme is such that it is not necessary to acquire outright the land described in this Schedule.

6.22 Schedule 12 of the Order lists Land over which the Applicant requires to take temporary possession. The purposes for which this Land will be used are stated in the Schedule. They are, variously, to provide work compounds, working space, ecological mitigation and access. The specified uses are required as essential adjuncts to the construction of the DCO Scheme.

Negotiations with landowners

- 6.23 The Applicant has sought to contact all of the owners of the Land and commence negotiations for the acquisition of the Land by agreement, usually by way of an option to purchase. These negotiations will continue during the examination period and the Applicant would wish to secure the Land by agreement wherever possible within a commercially reasonable timeframe and for consideration that is appropriate in the context of the compensation code.
- 6.24 The Applicant secured the title to the disused railway between Portishead and Old Portbury Station in 2008.
- 6.25 In addition, plots of land in Portishead (plots 01/60, 01/135, 01/205, 01/242, 01/245 and 01/305) have been secured from the previous owners by the Council.
- 6.26 In Pill Plots 06/240 and 06/525 have already been secured by agreement. In addition, a large number of agreements have been reached for leases (for access to Work no 20A) at Lodway Close, licences for working space at Lodway Close on the eastern side of the location of Work No 20A, and for ground strengthening work at Pill Station. The latest position with these landowners is set out in the Compulsory Acquisition Schedule (Document Reference:9.11 ExA.CA.D7.V5).
- 6.27 Network Rail owns the remainder of the track bed or track comprising the Portishead Branch Line.
- 6.28 A table showing the status of negotiations with principal owners is included in the Compulsory Acquisition Schedule (Document Reference:9.11 ExA.CA.D7.V5).

7. JUSTIFICATION FOR SEEKING POWERS OF COMPULSORY ACQUISITION AND THE COMPELLING NEED IN THE PUBLIC INTEREST

The matters to which the decision maker must have regard

- 7.1 Section 122 of the Planning Act 2008 (the Act) provides that an Order that includes compulsory acquisition powers may be granted only if the conditions in sections 122(2) and 122(3) of the Act are met. The conditions are:
- 7.1.1 that the land is required for the development to which the Order relates, or is required to facilitate or is incidental to the development (section 122(2)); and
 - 7.1.2 that there is a compelling case in the public interest for inclusion of powers of compulsory acquisition in the Order (section 122(3)). The decision maker must be persuaded that the public benefits derived from the compulsory acquisition will outweigh the private loss suffered by those whose land is to be acquired.
- 7.2 In respect of the section 122(2) condition, the Guidance makes clear (at paragraph 23 and following) that the decision maker must be in no doubt as to the purposes for which any land is to be compulsorily acquired. In particular:
- 7.2.1 in respect of land required for a project to which the development consent relates, the promoter must be able to demonstrate that the land is needed and the decision maker must be satisfied that the land to be acquired is no more than is reasonably required for the purposes of the development; and
 - 7.2.2 in respect of land required to facilitate or land incidental to the proposed development, the decision maker must be satisfied that the land to be taken is no more than is reasonably necessary for the facilitating or incidental to the purpose of the development and is proportionate.
- 7.3 In respect of the section 122(3) condition, the Guidance makes it clear at paragraph 27 that the decision maker must be satisfied that there is a compelling case in the public interest for the land to be acquired compulsorily. The public benefit must outweigh the private loss. In order for this condition to be met (see paragraph 28 of the Guidance), the decision maker needs to be persuaded that the public benefits derived from the compulsory acquisition outweigh the private loss that would be suffered by those whose land is acquired.

- 7.4 Paragraphs 20 and 22 of the Guidance set out a number of general considerations that the promoter must demonstrate to the satisfaction of the decision maker in respect of justifying an order authorising compulsory acquisition. These are as follows:
- 7.4.1 that all reasonable alternatives to compulsory acquisition (including modifications to the development) have been explored;
 - 7.4.2 that the proposed interference with the rights of those with an interest in the land is for a legitimate purpose and is necessary and proportionate;
 - 7.4.3 that the promoter has a clear idea of how the land will be used;
 - 7.4.4 that there is a reasonable prospect of the requisite funds for compensation becoming available; and
 - 7.4.5 that the purposes for which such powers are included are legitimate and sufficiently justify interfering with human rights of those with an interest in the land affected.

Requirement for the Land (s.122(2))

- 7.5 This section of this Statement sets out the factors that the Applicant considers demonstrate that the conditions in section 122 of the Act and the considerations set out in the Guidance are satisfied.
- 7.6 As described in detail in section 6 of this Statement the Land is required for (or incidental to) the purposes of the DCO Scheme. The need for the MetroWest Project and the DCO Scheme as part of MetroWest is explained in Appendix 1 to this Statement.
- 7.7 The need to ensure:
- 7.7.1 that the DCO Scheme can be delivered, and
 - 7.7.2 the timely provision of the DCO Scheme,
- accordingly requires the powers of acquisition of the Land sought in the draft Order.
- 7.8 The justifications in paragraph 7.7 apply equally to:
- 7.8.1 the acquisition of freehold interests,

7.8.2 overriding existing rights in or over the Land, and

7.8.3 acquiring new rights over the Land.

Alternatives to the proposed Compulsory Acquisition Powers

7.9 There is no practicable or viable alternative location for the DCO Scheme as it is reusing the disused railway, owned by the Applicant or Network Rail. It will also connect in to the remaining part of the Portishead Branch Line currently used only for freight purposes. This means that acquisition of third party rights and interests in the locations proposed has been kept to a minimum but cannot reasonably be avoided. The limits of the Land have been drawn so as to avoid unnecessary land acquisition or impacts on owners of the Land.

7.10 Without the powers of compulsory acquisition, the Land may not be assembled for the DCO Scheme within a reasonable timeframe or at all. The Applicant considers that its objectives and those of the relevant national policy statement and local planning policy would not be achieved. Without powers of compulsory acquisition, the completion of the DCO Scheme would be uncertain and the need for the DCO Scheme could not be met.

7.11 In summary, the additional land is now required for:

7.11.1 The new Portishead Station, and its car park, together with foot and cycle paths and amenity areas in the vicinity of the new station. This is the most suitable location for the new station, resolved on following extensive consultation and is the closest the new railway can get to the centre of Portishead without crossing Quays Avenue by way of a level crossing.;

7.11.2 The new foot and cycle paths to the west of Trinity Primary School. Permanent acquisition is proposed for the new connecting public rights of way but the majority of the new routes will be on land already in the Applicant's ownership. The new network of public rights of way will enhance connectivity in the area and provide walking and cycling access to the new Portishead Station;

7.11.3 Temporary haul roads between Portishead and Portbury are proposed for construction purposes. Having temporary access to and occupation of land by using haul roads will allow for the more efficient construction of the DCO Scheme;

- 7.11.4 Temporary powers and new rights over the Portbury Wharf Nature Reserve area are sought to allow for ecological mitigation and relocation works. Such powers are necessary to provide appropriate ecological mitigation for the DCO Scheme;
- 7.11.5 A new permanent compound is required by NR to the north of the railway at Sheepway overbridge. This requires a small permanent diversion, as well as a temporary diversion, of the permissive path that lies immediately north of the railway which forms part of the National Cycle Network. The Compound (as well as the other compounds at Pill, Ham Green and Clanage Road) are necessary to allow Network Rail access to the railway for maintenance purposes. Such facilities are needed to reduce service perturbation and allow for an efficient service once the DCO Scheme is open. The locations have been chosen to provide suitable access from the highway network at several locations along the DCO Scheme to provide a robust service;
- 7.11.6 A construction compound is proposed between the railway and Portbury Hundred, to the west of Station Road, Portbury. This location was chosen to provide the appropriate balance of space, level access to the railway and good access to the highway network (including the strategic highway network at Junction 19 of the M5);
- 7.11.7 Land is also sought permanently and temporarily, as well as new rights, in the vicinity of the Bristol Port Company's Royal Portbury Dock to allow for construction compounds to be created at Lodway Farm and under the M5 Avonmouth Bridge together with accesses to those compounds. Some land is required permanently for the diversions of the public bridleway and connections to the permissive cycle path that runs between the Port's boundary railway and new rights are sought over some of the Port's land to allow for a new railway signal to be installed at the railway dock gate. All these powers are necessary to provide the appropriate access and working space during construction, for maintenance of the railway once operational, or to provide the required alterations to the public right of way network.

- 7.11.8 Land for ecological activities on the east side of the M5 at Easton in Gordano is required for more than a temporary period. These activities have been identified as required by the Environmental Assessment process.
- 7.11.9 In Pill the garages at the end of Avon Road are to be acquired and demolished to allow for a crane to operate to install a replacement bridge to carry the railway over the public footpath that connects Avon Road with Lodway Close, Pill. Working space in this area is limited and it is essential to install the widened bridge (Work no. 20A) swiftly so as to reduce the time during which trains are not able to access Royal Portbury Dock.
- 7.11.10 In Pill new rights are sought to install soil strengthening works under numerous gardens at Sambourne Lane and Hardwick Road, Pill to ensure the existing cutting side is more stable than is currently the case. In addition temporary access is required to a number of back gardens at Lodway and Pill during construction to allow for the reconstruction of the Lodway Close/Avon Road overbridge as well as oversails, soil nails and to provide a safety cordon around the works on the railway. The ground strengthening works will be protected by restrictive covenants imposed on the relevant plots.
- 7.11.11 A new compound is proposed at Ham Green to provide access to Pill Tunnel. This is needed both for maintenance access and also as an access point for emergency services for any incident in Pill Tunnel;
- 7.11.12 In Bristol a new access compound is proposed at Clanage Road to provide guaranteed access for maintenance and emergency purposes to the railway through the Gorge.
- 7.11.13 Also in Bristol temporary and permanent acquisition is proposed to allow for works to Winterstoke Road at its junction with Ashton Vale Road to provide an additional length of left turn lane into the Ashton Vale Industrial Estate.

Proposed interference with existing rights is for a legitimate purpose and is necessary and proportionate

- 7.12 The summary above shows that the proposed interference with existing interests in land is for a legitimate purpose and a more detailed analysis of the justifications for the Order

Land is provided in Schedule 1 to this Statement. For each plot there is a clear and legitimate purpose of enhancing the local rail network between Bristol and Portishead and there is clear policy justification and local support for the DCO Scheme. The Applicant and Network Rail together already hold the majority of the Order Land and the route of the DCO Scheme reflects the historic (and existing) railway, with enhancements, such as the new maintenance compounds, to allow for the service standards expected of the modern railway. As a result, the proposed acquisition of land from other parties is necessary and proportionate in seeking to balance the demands of a modern and efficient railway service pattern with the interests of those having land taken from them.

The Applicant has a clear idea of how the land will be used.

- 7.13 The Applicant has a clear purpose for all of the Order Lands, and has sought to keep land acquisition to a proportionate and reasonable level, being the minimum reasonably required to allow the DCO Scheme to proceed and be implemented within a reasonable timeframe. The Applicant has also been successful in assembling land and rights over land by agreement in many instances. A more detailed analysis of the justifications for the acquisition of the Order Land is provided in Schedule 1 to this Statement.

Fair compensation and certainty of funding

- 7.14 Compulsory acquisition powers serve the important function of ensuring that the compensation paid to landowners and others affected represents a fair market price. This benefits both the Applicant as the acquiring authority and all those to whom compensation may be payable. The compensation code governing compulsory acquisition require that compensation for acquisition of land or an interest in land must represent market value unaffected by the proposed development.
- 7.15 The Applicant will be required to pay a fair price for the Land and rights it acquires. At the same time, landowners will not be able to demand “ransom” prices for their land arising from the DCO Scheme being proposed. In the event of compensation not being agreed, a judicial process applies. Compensation disputes will be decided by the Upper Tribunal (Lands Chamber) with a right of appeal to the Court of Appeal. The same applies to compensation for loss, or loss of land and damage, payable in respect of the additional compulsory acquisition powers described in section 3 of this Statement.

- 7.16 The compulsory acquisition procedure accordingly provides certainty of outcome (the land or rights will be acquired), certainty of liability to compensation or price to be received (fair market price), and fairness of outcome (recourse to judicial process).
- 7.17 The DCO Scheme will be funded by the Applicant, and the funding is public money. Public money must be spent on a prudent basis, paying for best value. This will only be possible if acquisition is backed by compulsory acquisition powers. Without such powers, funding will not be available.

Stakeholder Support for the DCO Scheme

- 7.18 The level of support for the DCO Scheme is exceptionally high, over 1,000 responses were received to the formal DCO Scheme consultation and 95% of consultees entirely or mainly support the reopening of the railway to Portishead. The DCO Scheme is also strongly supported by the rail industry.
- 7.19 The Consultation Report (Document 5.1) details the information provided to landowners generally -and summarises the individual discussions held with key individual landowners.

Human Rights

- 7.20 The European Convention on Human Rights (the **Convention**) is applied within UK domestic law by the Human Rights Act 1998.
- 7.21 The decision maker, as a public body, is under a duty to consider whether the exercise of its powers engages the rights protected by the Convention. The approach to be taken to give effect to rights under the Convention is set out in the Guidance.
- 7.22 The Order has the potential to infringe the human rights of persons who own property in the Land. Such infringement is authorised by law provided that:
- (a) the statutory procedures for making the Order are followed and there is a compelling case in the public interest for the inclusion of powers of compulsory acquisition in the Order; and
 - (b) any interference with any Convention right is proportionate to the legitimate aim(s) served.

7.23 The following Articles of the Convention are relevant to the determination as to whether the Order should be made so as to include powers of compulsory acquisition:

(a) Article 6 entitles those affected by powers sought in the Order to a fair and public hearing by an independent and impartial tribunal. The requirements may be met by the availability of judicial review if the decision-making is not independent within the meaning of Article 6.

(b) Article 8 protects the right of the individual to respect for his private and family life, his home and his correspondence. A public authority cannot interfere with these interests unless such interference is in accordance with the law and is necessary in the interests of, inter alia, national security, public safety or the economic well-being of the country. As with Article 1 of the First Protocol to the Convention below, any interference if justified must be proportionate.

(c) Article 1 of the First Protocol to the Convention (A1P1) protects the right of everyone to the peaceful enjoyment of possessions. No one can be deprived of possessions except in the public interest and subject to the conditions provided by relevant national and international laws. Any interference with possessions must be proportionate and in determining whether a particular measure is proportionate, a “fair balance” should be struck between the demands of the general interest and the protection of the individual’s rights.

Compliance with the Convention and Human Rights Act

7.24 Whilst there is potential for adverse effects and some environmental burdens, such as increased transport during construction, these are significantly outweighed by the important and relevant benefits that the DCO Scheme would deliver.

7.25 With regard to A1P1 and Article 8, the content of this Statement, and in particular Appendices 1 and 2 as applied in the body of this Statement, demonstrates that there would be very significant public benefit arising from the grant of development consent. For the reasons explained in this Statement, that benefit can only be realised if the development consent is accompanied by the grant of powers of compulsory acquisition. The significant public benefits therefore outweigh the effects of the Order upon persons with property rights in the Order Land such that there would not be a disproportionate

interference with their Article 8 and A1P1 rights. In addition, those affected by compulsory acquisition powers will be entitled to compensation and the Applicant has the resources to pay such compensation as is demonstrated by the Funding Statement (Doc. 4.2).

- 7.26 As for Article 6, members of the public have been able to make representations on the Application for the Order whilst it is being prepared. In accordance with Part 5 of the Planning Act 2008, the Applicant consulted persons set out in the categories contained in section 44 of the Planning Act 2008. This included the known owners and occupiers of the Land and those who might be able to make claims either under section 10 of the Compulsory Purchase Act 1965 in respect of injurious affection, or under Part 1 of the Land Compensation Act 1973. The beneficiaries of restrictive covenants and other rights that would be overridden by the exercise of powers in the Order would be capable of making claims under section 10 of the Compulsory Purchase Act 1965.
- 7.27 In addition, representations can be made by way of objections to the Application in response to any notice given under section 56 of the Planning Act 2008. The examining authority may decide to hold a written representations procedure in connection with the Application and must hold a compulsory acquisition hearing under section 92 of the Planning Act 2008 if so requested by an affected person.
- 7.28 Should the Order be made, a person aggrieved may challenge the Order by judicial review in the High Court if they consider that the grounds for doing so are made out pursuant to section 118 of the Planning Act 2008. In relation to disputes about compensation, affected persons have the right to apply to the Upper Tribunal (Lands Chamber), an independent tribunal.
- 7.29 For these reasons, the inclusion of powers of compulsory acquisition would not infringe the Convention rights of those whose interests are affected, there is a compelling case which outweighs private loss and it would therefore be appropriate and proportionate to grant the Order powers.

The public sector equalities duty

- 7.30 The Applicant is required to fully consider the impact of its operation with regard to section 149 of the Equality Act 2010 and other relevant legislation, as well as the Human Rights Act discussed above.
- 7.31 An Equalities Impact Report has been prepared as part of the environmental impact assessment and this is provided at Appendix 14.1 of the Environmental Statement (Document 6.25, Appendix 14.1).
- 7.32 Overall-, it is not considered that there are any equality implications that arise over and above those set out in the report. The project is providing a sustainable means of transport that will assist mobility impaired people to move between Portishead and Bristol, opening up a wider range of facilities to such persons.
- 7.33 In regard to the design of the stations at Pill and Portishead, diversity impact assessments will be undertaken.
- 7.34 It is also to be noted that as a result of the formal consultation processes, the Applicant has sought to add into the DCO Scheme the improvement of the bus stop located at Hayward Road/Lodway next to the Pill Memorial Club. This new facility will improve accessibility for connecting bus services, given the short distance between Heywood Road and the entrance to the railway station on Station Road in Pill. It will also provide better access for passengers using any rail replacement bus service when these are operating to replace rail services on the Portishead-Branch line.

Conclusions on the compelling case in the public interest (s. 122(3))

- 7.35 It can be seen from the previous paragraphs that there is a compelling case in the public interest for the Order to be made. It follows that there is a similarly compelling need to include powers of compulsory acquisition, the exercise of which has been shown to be necessary and proportionate to the extent that interference with private land and rights is required.

8. PRINCIPAL POLICY CONSIDERATIONS

- 8.1 The MetroWest Phase 1 project is identified in the Joint Local Transport Plan 3 (JLTP3) and North Somerset's Core Strategy as a priority for early delivery. Re-opening the Portishead line was also included in the 2007 Replacement Local Plan and successive Local Plans over a number of decades.

- 8.2 Following studies undertaken in 2012 and early 2013, the four West of England (WoE) Councils jointly launched the MetroWest Phase 1 Project.
- 8.3 The overall MetroWest programme involves delivering targeted enhancements to the existing local rail network, in parallel with re-opening strategically important disused rail lines. In recognition that not all the proposals can be delivered at once, the WoE Councils are taking a phased approach to delivery of the MetroWest programme, with Phase 1 identified by the WoE Joint Transport Board as its top priority, together with delivery of Phase 2.
- 8.4 In December 2014 the DfT published its ‘National Policy Statement for National Networks’ (NPSNN) which is underpinned by legislation (the 2008 Planning Act) and sets out the Government’s priorities and policy direction for the national road and rail networks.
- 8.5 The NPSNN sets out the need for substantial further investment in the rail network as a result of sustained increasing demand for both passenger and freight train services over the last two decades. The NPSNN states that delivering NSIPs will play a key part in the strategy for ensuring the national road and rail networks have sufficient capacity to meet the increasing demand.
- 8.6 The Secretary of State will use the NPSNN as the primary basis for making decisions on applications for Development Consent Orders for NSIPs. MetroWest Phase 1 is an NSIP and requires a Development Consent Order.
- 8.7 The NPSNN (at Page 9) summarises the need for additions to national networks as follows:

Government’s vision and strategic objectives for the national networks

The Government will deliver national networks that meet the country’s long term needs; supporting a prosperous and competitive economy and improving overall quality of life, as part of a wider transport system. This means:

Networks with the capacity and connectivity and resilience to support national and local economic activity and facilitate growth and create jobs.

Networks which support and improve journey quality, reliability and safety.

Networks which support the delivery of environmental goals and the move to a low carbon economy.

Networks which join up our communities and link effectively to each other.

8.8 Paragraph 2.38 of the NPSNN deals with additions to the national rail network. It states:

The Government will therefore consider new or re-opened alignments to improve capacity, speed, connectivity and reliability.

8.9 The economic and business case for the DCO Scheme is also a critical consideration for the Applicant and the Secretary of State, as is explained in the NPSNN at paragraph 4.5. This is dealt with in Appendix 1 to this Statement.

8.10 Appendix 2 to this Statement provides a detailed analysis of the DCO Scheme against the policies set out in the NPSNN. The considerations are relevant for members both in deciding whether the DCO Scheme should be applied for in the round, and also in considering the compelling case for seeking powers of compulsory acquisition which is explained in more detail in section 7 above.

8.11 The context of how the Secretary of State will address the decision making process is described in paragraphs 4.3 and 4.4 of the NPSNN:

4.3 In considering any proposed development, and in particular, when weighing its adverse impacts against its benefits, the Examining Authority and the Secretary of State should take into account:

- its potential benefits, including the facilitation of economic development, including job creation, housing and environmental improvement, and any long-term or wider benefits;*
- its potential adverse impacts, including any longer-term and cumulative adverse impacts, as well as any measures to avoid, reduce or compensate for any adverse impacts.*

4.4 In this context, environmental, safety, social and economic benefits and adverse impacts, should be considered at national, regional and local levels. These may be identified in this NPS, or elsewhere.

8.12 The most relevant NPS considerations are set out in Appendix 2 and also the application of local planning policy as set out in the Applicant's development plan, which is discussed in the following section.

Other Central Government Support for the Project

8.13 The DfT recently consulted on the proposed franchise extension for Great Western Railways, the franchisee for the western and Wales routes of the national rail network. It is intended that the appointed franchisee for this area would operate MetroWest services.

8.14 Following consultation on the proposed franchise extension the DfT published its report: "Great Western Rail Franchise: Stakeholder Briefing Document" in August 2018. Paragraph 3.19 states:

"we will continue to work closely with local partners and the current franchisee to deliver the "MetroWest" scheme".

The Local Planning Position

8.15 Appendix 2 of this Statement provides background to the NPSNN and explains its primacy in the decision making for the Secretary of State when considering the DCO Scheme, in accordance with section 104 of the Planning Act 2008. The provisions of the local development plan documents are material considerations both for the Applicant in deciding to submit the Application for development consent and also for the Secretary of state when determining whether or not to make the Order.

8.16 The Applicant's own development management policies, adopted in July 2016, safeguard the Portishead Branch Line Railway (Policy DM22). Land for the stations and associated car parking at Portishead and Pill is also included in the policy.

8.17 Policy DM25 relates to proposals that would impact on public access and rights of way. The policy requires that:

Any replacement or diversion of existing facilities will be no less convenient, safe or aesthetically attractive and will be of equal or broader legal status to those facilities being replaced.

- 8.18 The proposals to enhance the foot and cycle path network in the vicinity of Portishead Station accords with this policy, as does the provision of the new pedestrian and cycle boulevard on the trackbed of the disused railway, leading west from the new station towards the town centre.
- 8.19 Land at Court House Farm, Easton in Gordano is subject to policy DM49 safeguarding the land for Port uses, but with the proviso that such use does not prejudice the future development of a park and ride facility associated with the railway. The Bristol Port Company has developed the land at Court House Farm and has planning permission for a new bridge over the Order Land.

The National Planning Policy Framework (NPPF) July 2018

- 8.20 The NPPF is also material to the consideration of the proposed DCO Scheme. Part 9 deals with promoting sustainable transport. The NPPF calls for opportunities to pursue opportunities for public transport as well as walking and cycling (para 102(c)).
- 8.21 Paragraph 110 calls for pedestrian and cycle movements to be given first priority together with facilitating access to high quality public transport, with appropriate facilities that encourage public transport use. Development should also address the needs of those with disabilities and reduced mobility.
- 8.22 Further detail on the NPPF and its application to the DCO Scheme can be found in the Planning Statement (Document 8.1).

Conclusions on Policy

- 8.23 The DCO Scheme substantially accords with local and national planning policy, as well as with the NPSNN. The support to MetroWest Phase 1 given by the relevant policies further underlines the compelling case in the public interest that exists for both the DCO Scheme and for the compulsory acquisition powers sought in the draft Order.

9. SCHEME VIABILITY AND FUNDING POSITION

- 9.1 The estimated out-turn capital cost of MetroWest Phase 1 entailing re-opening the Portishead Branch Railway Line and providing an enhanced passenger train service for the Severn Beach line and the Bath line, identified in the Outline Business case of 2017, was £116.4M. Funding for the MetroWest Phase 1 project for that amount has now been

allocated, following the allocation of £15M by the Applicant on 12th February 2019 and the allocation of £31.9M by the Secretary of State on 5th April 2019. The assessment of funding and draw-down of funds is subject to final business case approvals, as would be expected for external funding allocations. The Outline Business Case is available at www.travelwest.info/projects/MetroWest.

- 9.2 The Final Approval Business Case will have to confirm that all the powers needed to deliver the DCO Scheme have been secured, that the detailed design (GRIP5) and construction procurement has been completed and the final construction cost is confirmed and is affordable.
- 9.3 Subject to the approval of the Final Approval Business Case by the co-funding partners (the Applicant and WECA on behalf of the other West of England Authorities), the Applicant will undertake the processes to approve the award of construction contracts to implement the DCO Scheme. It is anticipated that the Final Approval Business Case will be prepared and considered in 2021. The construction of the DCO Scheme, and land assembly using compulsory powers will not commence until a report on the Final Approval Business Case has been approved by the Applicant and its co-funding partners.
- 9.4 The DCO Scheme together with the associated permitted development works at Parson Street Junction and on the Down Relief Line (Phase 1A works) comprise of approx. £111M of the total project cost. The estimated capital cost of Phase 1B is £5.4M out-turn, for the Bathampton turnback. It is proposed that this can be implemented under Network Rail's permitted development rights.
- 9.5 The then Secretary of State for Transport visited Portishead on 4th April 2019. On the 5th April, the Secretary of State wrote confirming that he would provide £31.9M, on the basis that a further £15M is allocated locally. The letter included the following:

“As you know, improving rail services for the people of the Bristol area is important to this Government. I firmly support MetroWest and consider its successful delivery, including the Portishead element, a priority in Control Period 6.

I welcome your efforts to identify local funding options and the further £15M you think is possible through the Economic Development Fund mechanism, reducing the funding gap from £46.9M to £31.9M. I also note the consideration that has been given to light rail and

tram-train options and that the MetroWest scheme will be future proofed to facilitate these.

I am content to provide the further £31.9M required. However, this is on the basis that the £15M of local funding can be secured as you set out and that MetroWest passes successfully through the Department's Rail Network Enhancements Pipeline (RNEP) process."

- 9.6 The Applicant agreed to allocate a further £15M at its meeting of 12th February 2019. The spend of the £15M is scheduled for 2023/24, and this allows time for further optimisation of the Applicant's capital programme.
- 9.7 The DfT's Rail Network Enhancements Pipeline (RNEP) process is essentially a technical approval process for DfT funded projects, based on the Department's WebTAG (an internet-based Transport Appraisal Guidance), through a three-stage business case process. As the WoE LEP also require projects to be fully WebTAG compliant, the RNEP process is not expected to increase the quantum of technical work, however it entails five stages separated by formal investment decision gateways. Each stage will require deployment of resources to achieve DfT approval.
- 9.8 The overall MetroWest Phase 1 project is showing a benefit to cost ratio of 3.1:1. This represents high value for money under the DfT's technical guidance. A summary of the DCO Scheme quantified benefits is shown in Table 1 below, alongside the benefits for the whole project. In addition to these benefits are wide ranging unquantified social wellbeing benefits, across the local demographic. As shown in the table, the DCO Scheme will yield substantial added value for the local economy in terms of GVA and job creation. It will support growth of the Temple Quarter Enterprise Zone and the Enterprise Areas across the sub-region, increasing the size of the skilled workforce within a 30 minute commute of major employers.
- 9.9 Detailed information about the scheme viability is set out in the project Outline Business Case, which was completed in December 2017.
- 9.10 In summary the Outline Business Case found the following benefits supporting MetroWest Phase 1:

Table 1: Outline Business Case: benefits supporting MetroWest Phase 1

Description	Whole of MetroWest Phase 1 Severn Beach Line, Bath Spa Line & Portishead Line	Portishead Line (DCO Scheme)
Modal Shift	Reduction of 580 car trips per day in the opening year, increasing to 890 less car trips per day by 2036	Reduction of 294 car trips per day in the opening year, increasing to 415 less car trips per day by 2036
Job Creation	514 net new direct permanent jobs + temporary jobs during construction	207 net new direct permanent jobs + temporary jobs during construction
Gross Value Added (GVA) to the economy	£31.87M PA in the opening year, totalling £271M discounted GVA during the first 10 years. Plus a further £59.27M during construction	£12.95M PA in the opening year, totalling £139M discounted GVA during the first 10 years. Plus a further £54.78M during construction
Forecast Rail Passenger demand & number of train sets	2021: 958,980 passenger trips 2036: 1,295,103 passenger trips 6 train sets (including 2 existing train sets on the Severn Beach Line)	2021: 377,021 passenger trips 2036: 509,167 passenger trips 1 train set
Population Benefiting	Will upgrade the existing train service at 16 existing stations across three rail corridors, directly benefiting 180,000 people within a 1km catchment and bring an additional 50,000 people within the catchment of the 2 new stations. The total population benefiting from the project is 230,000.	Will bring an additional 50,000 people within the immediate catchment of the 2 new stations at Portishead and Pill.

9.11 Whilst the DCO Scheme accounts for most of the capital cost of the Project, it performs very positively in respect of the revenue position. This is due to a combination of relatively low operating costs (only one train set is required) and the relatively higher fare yield (due to the distance of the two new stations from Bristol Temple Meads).

9.12 The DfT will need to decide before the end of 2019 the specification for the proposed extension to the Great Western Railway franchise, known as Direct Award 3. The proposed extension is to 2022 with an option to extend to 2024. The DfT has indicated that it will include the proposed MetroWest Phase 1 train service in Direct Award 3, but may require the promoting authorities to enter into a revenue support agreement directly with the department. Alternatively, the promoting authorities could negotiate and enter into a bi-lateral agreement directly with the incumbent train operator, Great Western Railways.

10. CROWN AND SPECIAL TYPES OF LAND

Crown Interests

- 10.1 No acquisition of freehold land held by a Crown entity is proposed. The only Crown freehold land in the Order Land is land managed by the Forestry Commission and owned by the Department of the Environment and Rural Affairs within the Avon Gorge and Leigh Woods area. Temporary access to those plots is proposed for vegetation clearance, access, environmental mitigation and for some rock scaling.
- 10.2 Part 4 of the Book of Reference (Document 4.3) schedules land in which a Crown interest exists.
- 10.3 The land parcels referred to in Part 4 of the Book of Reference in Portishead and Pill 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

- 10.4 Plots 01/205, 01/242, 01/245 and 01/305 were previously owned by the Secretary of State for Defence.
- 10.5 This land was formerly used by the Secretary of State for railway sidings at the historic fuel depot located south of the Order Lands. The plots were recently acquired by the Applicant. Plot 01/205 will be used for the new cycle path connection south of the new Portishead Station from the diverted Quays Avenue to Trinity Primary School and Tansy Lane. Plot 01/245 will be used for a new foot and cycle path and working space and access for fencing installation and maintenance. Plots 01/242 and 01/305 will be used for fencing, landscaping and ecological works. The land is included in Part 4 of the Book of Reference because a restrictive covenant controlling future use has been imposed in the transfer from the Secretary of State to the Applicant. This covenant will not be breached by the intended use of the relevant plots pursuant to the Order.
- 10.6 In addition historic reservations of rights and covenants in favour of the Secretary of State subsist in plots 01/120, 01/125, 01/135, 01/230, 01/235, 01/290 and 01/296. They also apply to the titles to the Portbury Wharf Nature Reserve – 02/15, 02/20, 02/27, 02/30, 02/35, 02/36 and 02/37. It is not anticipated that the relevant grants and covenants will be

breached by the intended use of the relevant plots pursuant to the Order, but the Applicant will seek a release from the Secretary of State. The covenants are unaffected by the provisions of the Order.

Order Land in which the Crown holds an interest in Pill

- 10.7 Plot 06/240 forms part of the original Pill Station Goods Yard. The land had been acquired by the promoters of the Avon Metro project in the 1980's. A private company promoted this project and the land had been acquired by the company formed by those promoting the project. That project company was dissolved without the title being transferred to another entity and in consequence the land fell into the title of The Crown as escheats land.
- 10.8 The Applicant has acquired the freehold of this land from The Crown. As with the land referred to in Portishead, a restrictive covenant has been imposed, requiring the land to be used only for transport related purposes. The Applicant's intended use of the plot will not breach this covenant.

Order Land in which The Crown holds an interest in Watch House Hill, Ham Green

- 10.9 At Ham Green the Secretary of State for Health formerly owned part of the Order Land now forming part of Watch House Hill open space, which formed part of the Ham Green Hospital Estate. A number of rights and covenants have been retained by the Secretary of State, none of which will be breached by the DCO Scheme being constructed or operated. The Applicant will seek a release from the Secretary of State. The covenants are unaffected by the provisions of the Order. The relevant plots are 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. In addition, the covenants apply to a small part of Chapel Pill Lane, in Ham Green, but are similarly unaffected by the DCO Scheme. The relevant plot is 08/11.

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

- 10.10 The Applicant seeks temporary powers over land in the Avon Gorge Woodlands SAC. This land is managed by the Forestry Commission and the freehold is held by the Department for Environment Food and Rural Affairs (DEFRA). It is intended that works are carried out to clear vegetation and to remove loose rocks from the sides of the Avon

Gorge above the railway, to make conditions within the Avon Gorge safer for the operation of passenger trains. For ease of access to the land in which the works will be carried out, routes from the A369 Abbots Leigh Road to the Order Lands are also proposed to be included in the Order Land. The relevant plots include 10/10 which is Sandstone tunnel and from which the Crown-interest is excluded from acquisition in any event. Temporary use of plots 10/35, 11/06, 11/07 and 11a/05 is proposed for rock picking and ecological mitigation 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 in the Order Land for access to the top of the Avon Gorge for the rock picking and ecological works in the Avon Gorge.

- 10.11 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 ability is unaffected by the DCO Scheme.
- 10.12 As the land is held by a Government Department compulsory acquisition powers against the freehold owner cannot be secured. Negotiations continue with the Forestry Commission and DEFRA in relation to the necessary agreements and licences required for the proposed de-vegetation and rock picking works to be carried out.
- 10.13 The land has 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 land and is further described in Appendix 5 and Table 5.3 of this Statement of Reasons.

Open Space Land

- 10.14 A number of plots within the Order Land are or could be viewed to be Open Space as defined in the Acquisition of Land Act 1981. The tables in Appendix 5 provide details of the plots, together with the justifications for their inclusion in the land plan and Book of Reference. The Appendix also provides the Applicant's consideration of the application of sections 131 and 132 of the 2008 Act, specifically in regard to the required certification by the Secretary of State.
- 10.15 Open space land holds special status under the Planning Act 2008 with additional procedures required, under sections 131 and 132. An application for development consent proposing the acquisition of open space land is potentially subject to Special

Parliamentary Procedure (consideration of the Order by a Committee of both Houses of Parliament) if a certificate is not issued by the Secretary of State when deciding to make the Order, that Special Parliamentary Procedure is not required.

- 10.16 Where the compulsory acquisition of the freehold of open space is proposed, Special Parliamentary Procedure is not required if the Secretary of State certifies that the existing open space subject to compulsory powers is less than 200 square metres in extent.
- 10.17 The following paragraphs summarise the Applicant's intention for the Order Lands that are to be treated as open space under the Planning Act 2008 for the purposes of the draft Order.

Open space at Portishead– Plot nos: 01/ 111, 01/112, 01/211, 01/212, 01/213, 01/216, 01/220, 01/223, 01/231, 01/252

- 10.18 On the north and south side of the railway in the vicinity of Trinity Primary School, open space land has been provided by the developers of the Ashlands and Vale Estates. This land is required to be transferred to the Applicant pursuant to the relevant planning agreements for those developments, but the transfer has not yet taken place. The land is now required to provide the additional footpath and cycle path network proposed in the vicinity of Trinity Primary School and connecting to Portishead Station. The land will be accessible to the public, following completion of the DCO Scheme.
- 10.19 The land within the land laid out as open space, required for the new paths and for additional tree planting, is less than 200 square metres in extent. The Applicant will apply to the Secretary of State for a certificate that exchange land is not required. This is in accordance with section 131 (5) of the Planning Act 2008.
- 10.20 A temporary compound, lay down area and working space will occupy the open space on the Tansy Lane side of the railway, for the construction of the new Portishead station foot and cycle path and the railway at this location. Temporary possession of open space does not lead to the requirement for exchange land to be provided, as the land is simply occupied on a temporary basis and then reverts to its previous use. The route for the new cycle track to Phoenix Way lies within land already owned by the Applicant and being scrub land rather than laid out as open space.

10.21 For the land on the south side of the railway, north of Galingale Way, where land comprising open space is proposed to be acquired, again replacement land is not intended to be provided as the areas of land north and south of the railway in combination will fall below 200 square metres in area. As with the land to the north of the railway, additional lands will be used temporarily for the purposes of access to the works and also for ecological mitigation, chiefly species relocation.

10.22 Overall, in Portishead there will be no net reduction in publicly available land as a result of the DCO Scheme.

Portbury Wharf Ecology Park – Plot nos: 02/05, 02/06, 02/10, 02/19, 02/20 02/26, 02/27, 02/30 02/31 and 02/32

10.23 The Portbury Wharf Ecology Park has also been provided as open space by the developers of the Ashlands Estate. As with the land at Tansy Lane it is due to be transferred to the Applicant pursuant to a planning agreement but the relevant transfers have not yet taken place.

10.24 In this location land is required on a temporary basis for works to the railway including drain and culvert clearance and erection of fences. Translocation of species is also proposed in this area.

10.25 In addition a permanent new right is sought for culvert maintenance for the operational railway.

10.26 No exchange land is proposed on the basis that the area is not changing in character and will remain open space, in a condition no less advantageous than existing. On this basis exchange land may be avoided because the new right leaves the area as no less advantageous to the owner, the public and others interested in the land and the giving of land in exchange is unnecessary in the interests of those persons entitled to the relevant rights or in the interests of the public. This is in accordance with section 132 (3) of the Planning Act 2008.

Open Space in Pill

10.27 Three areas of open space in Pill are affected by the DCO Scheme.

Jenny's Meadow – Plot no: 06/61

10.28 Jenny's Meadow is an area of amenity and ecological habitat land at the western end of Avon Road, Pill, adjacent to the River Avon. No permanent works are proposed in Jenny's Meadow but the Applicant proposes to lay temporary matting on the existing path from the terminus of Avon Road west then south to the access road providing a cycle and maintenance vehicle route from Avon Road to the M5 Avonmouth Bridge. This temporary diversion of the cycle route will allow for working space and a compound area on the existing cycle and maintenance vehicle route whilst works are carried out to the embankment and for replacing the railway over bridge between Avon Road and Lodway Close. No permanent additional rights nor freehold acquisition are proposed and therefore the requirement to provide exchange land is not engaged.

Victoria Park, Pill – Plot nos: 06/661, 06/666, 06/670, 06/700, 06/725

10.29 Land at Victoria Park, Pill lies beneath and to the sides of the existing Pill Railway Viaduct. The areas underneath the arches and on either side of the arches are open space and form a town green being part of Victoria Park.

10.30 The land is in the Applicant's freehold ownership and is subject to rights of access in favour of Network Rail. A new drain will also be installed beneath the viaduct arches to take run off from the viaduct in to the Markham Brook. It is proposed that, for completeness, the Order includes powers of temporary use of land parallel to the viaduct and underneath the viaduct arches to allow access for remedial works to be carried out on a temporary basis to the structure of the viaduct. No permanent additional rights nor freehold acquisition are proposed and therefore the requirement to provide exchange land is not engaged.

Watch House Hill – Plot nos: 07/71, 07/72, 07/73

10.31 It is proposed that Network Rail will receive a new right of way over the existing permissive cycle path that extends from the car park on The Green at Ham Green parallel to the railway into the Watch House Hill open space. The route will be used for smaller operational maintenance purposes for the new Pill Junction that will be located above Pill Methodist Church. The new right is proposed to be granted to reduce operational perturbation due to the lack of access for maintenance to Pill junction. No additional physical works are proposed along the cycle path. As the access will be exercised on the existing permissive path and without closing the permissive path to the public, it is not

proposed that any exchange land is offered for the grant of this new right and it will be submitted to the Secretary of State that exchange land is unnecessary in this circumstance.

Land in Leigh Woods, Abbots Leigh – Plots: 10/35, 11/06, 11/07, 11/70, 11/75, 11a/05, 11a/10, 11a/15, 11b/05, 11b/10, 11b/15, 11b/20, 11b/25, 11b/30, 11b/35, 11c/05, 11c/10

- 10.32 Part of the Order Land is land managed by Forestry Commission and owned by the Department of the Environment and Rural Affairs within the Avon Gorge and Leigh Woods area. It is described as access land for the purposes of the Countryside and Rights of Way Act 2000 and accordingly is being treated as open space on the basis that it is used for public recreation. Temporary access to those plots is proposed for vegetation clearance, access, environmental mitigation and for some rock scaling.
- 10.33 In addition access is required from the A369 Abbots Leigh Road to the top of the Avon Gorge, using existing tracks through the woodland.
- 10.34 These plots are also to be regarded as Crown land for the purposes of the 2008 Act. A request for S135 consent will be submitted to the Department of the Environment and Rural Affairs and agreement negotiated with the Department and the Forestry Commission.

Statutory Undertakers and S127 of the Planning Act 2008

- 10.35 Powers are also sought to affect the rights and apparatus of statutory undertakers. There are over 100 crossings or proximity situations along the route of the Portishead Branch Line. Whilst the majority of undertakers' apparatus will remain in situ it is essential that the DCO Scheme includes powers to implement works to alter or divert statutory undertakers' apparatus where this is necessary.
- 10.36 All statutory undertakers have been contacted and the programme of full engagement with statutory undertakers has been embarked on. Where relevant, protective provisions will be included in the Order to protect the interests of the relevant statutory undertaker.
- 10.37 Section 127 of the 2008 Act provides that statutory undertakers who have operational land within the Land may object to the proposed acquisition on the basis that the land the undertaker holds may not be taken without there being significant detriment to the undertaking.

10.38 The Applicant is in consultation with each of the identified undertakers and is hopeful of reaching agreement with them prior to the close of the examination period. The Applicant will continue to review the need for section 127 procedures to be engaged.

10.39 Specialist consultants are instructed by the Applicant to engage with each undertaker. It is not intended that any equipment of statutory undertakers will be significantly affected by the DCO Scheme being constructed and no permanent removal or significant re-alignment is proposed of any equipment of statutory undertakers.

10.40 The table in Appendix 6 provides details of the relevant statutory undertakers in terms of location of their operational land, intervention required (if any) and status of negotiations.

National Trust Land: Plots: 11/61, 11/80, 12/07, 12/10, 12/20, 12/21, 12/30, 13/07, 13/31, 13/32, 13/55, 14/05

10.41 A number of plots within the Order Lands on the western side of the Avon Gorge (sheets 12-14 of the land plan) seek temporary powers over land held inalienably by the National Trust.

10.42 An Order granting development consent may be subject to Special Parliamentary Procedures to the extent that it authorises compulsory acquisition of land held inalienably by the National Trust if the National Trust makes a formal objection to compulsory acquisition and that objection is now withdrawn (see the compulsory acquisition guidance issued by the Secretary of State at pages 14-15, paragraphs 4 and 5).

10.43 Negotiations have progressed between National Trust, Network Rail and the Applicant for the proposed works within the Avon Gorge on National Trust land. These comprise vegetation clearance, rock scaling and the insertion of bolts to stabilise the rock faces in an area of known rock instability. Network Rail has communicated its concerns regarding the stability of certain rock faces to National Trust.

10.44 On the basis the land has been gifted to National Trust and is held inalienably, and given the limited nature of the works proposed, the Applicant does not believe that freehold acquisition or the acquisition of new rights is necessary or proportionate. In the circumstances it believes that temporary powers over National Trust's land is appropriate because it would allow the relevant works to be carried out without removing the special category land from the protections of National Trust's ownership. In the absence of clear

case law relating to temporary possession powers and inalienable land when sought under the Planning Act 2008, it is submitted by the Applicant that Special Parliamentary Procedure would not apply to the seeking of the temporary powers as proposed but in any event the Applicant will seek the agreement of National Trust to the temporary powers sought.

10.45 Protective Provisions have been included in the draft Order for the protection of National Trust.

10.46 An agreement with National Trust on the inclusion of powers in the dDCO over National Trust's land was concluded on 17 September 2021.

11. HIGHWAYS AND TRAFFIC REGULATION

11.1 A number of public rights of way are affected by the DCO Scheme:

Traffic Regulation Orders – Article 46

- 11.2 As well as modifications to the highway network, the draft Order proposes powers to impose traffic regulation on the existing highway network, both in North Somerset and in Bristol. The powers would be promoted in consultation with the local traffic authorities. The proposed traffic regulations are shown on the Permanent Traffic Regulation Order Plans (Document 2.31).
- 11.3 Prohibition of waiting is proposed on Harbour Road, Quays Avenue and Phoenix Way in Portishead.
- 11.4 On the A369 Portbury Hundred Classified Road a new access is proposed on the northern side of the carriageway to replace the current access over the disused railway for the field located between the A369 and the disused railway. This access will be used for construction traffic and thereafter will remain in situ for the use by the owner of the land once the construction compound has ceased to be required and has been vacated. It is proposed that both for construction traffic and following the field being handed back to its owner, a prohibition on right hand turns will be imposed at this junction because of the traffic speed on the A369 Portbury Hundred. Vehicles will only be able to turn left into and out of the new access. The relatively close proximity of the roundabout on the A369 at Wyndham Way allows for traffic to easily turn in relatively close proximity to the new access.
- 11.5 In Pill, prohibition of waiting is proposed in the vicinity of Pill Station given the narrow roads close to the station. Prohibition of waiting at any time would be applied to parts of Monmouth Road, Station Road, New Road, Chapel Row, Myrtle Hill and Sambourne Lane in Pill.
- 11.6 In addition, prohibition of waiting is proposed at the junctions of Macrae Road, The Sanctuary and Hart Close at Ham Green in Pill, as well as the junction of Ham Green with Macrae Road in Ham Green, Pill. These prohibitions are proposed to allow Network Rail unhindered access in case of emergencies or urgent need to access its railway via the new maintenance compound off Chapel Pill Lane, Ham Green.

11.7 In addition to the above, temporary traffic regulation may be required to facilitate the works. It has been agreed with the relevant highway authority that such powers will be dealt with outside of the Order.

12. OTHER CONSENTS

12.1 The following consents will or may be required in addition to the powers sought in the Order and any consents under the terms of the Order:

12.1.1 network change to be accepted by Train Operating Companies and Freight Operating Companies under Part G of the Network Code – this has now been obtained;

12.1.2 approval in accordance with station change procedure under National Station Access Conditions 1996, to be given by the Office of Rail Regulation;

12.1.3 protected species licences under the Conservation Habitats and Species Regulations 2010 in respect of protected species found on the Land;

12.1.4 a permit or permits under the Environmental Permitting (England and Wales) Regulations 2010;

12.1.5 a consent or consents under section 61 of the Control of Pollution Act 1974;

12.1.6 consents for works to culverts under the Land Drainage Act 1991; and

12.1.7 additional Temporary Road Traffic Orders if construction requires closure of any additional public highway.

12.2 A full list of the additional consents the Applicant has identified that may be required for the DCO Scheme is provided at Application Document 5.3.

12.3 The Applicant is in discussion with all relevant consenting bodies. The Applicant is not aware of anything that justifies refusal of development consent and does not regard the need for other consents as significant impediments to the DCO Scheme proceeding.

13. TRANSFER OF POWERS AND LAND TO NETWORK RAIL

- 13.1 Network Rail is the licence holder for providing and managing the National Rail Network, regulated by the Office of Rail and Road. The DCO Scheme falls within the NSIP regime because it is intended that the railway will-, once operational-, be managed as part of Network Rail's National Rail Network.
- 13.2 Once the project has been constructed, the part of the railway line that is currently on land owned by North Somerset Council will be transferred to Network Rail. In addition new compounds that are required by Network Rail will be transferred to Network Rail.
- 13.3 The areas of land that will be disposed of in due course are:
- 13.3.1 the railway owned by North Somerset Council;
 - 13.3.2 the proposed Sheepway Compound;
 - 13.3.3 part of the proposed Pill car park land;
 - 13.3.4 the proposed Compound at Ham Green; and
 - 13.3.5 the proposed Compound at Clanage Road.
- 13.4 Each area of land will be transferred to Network Rail to form part of the operational National Rail Network and will be restricted by a covenant imposed by the Applicant that the land will be used only as a railway and ancillary purposes.
- 13.5 On that basis it is anticipated that the restricted value of the land will be less than £2m. As a result the Applicant may rely on the General Disposal Consent provided in Circular 06/03 for the disposal of land at an undervalue if the land is being disposed of to further the Applicant's objectives for improving the economic, social and environmental well-being of its administrative area.
- 13.6 The provision of the new railway, in accordance with the Applicant's own local planning policy and supported by National Policy clearly demonstrates that the intended disposal accords with these objectives.
- 13.7 Powers in the Order relating to the operation and use of the railway will also be transferred to Network Rail. The Applicant will retain liabilities for payment of compensation and

will also retain the powers relating to highways and traffic regulations, the public right of way network and provision of open space.

- 13.8 Article 11 of the draft Order also allows powers to be transferred by the Applicant to Network Rail.

14. CONCLUSIONS

- 14.1 For the reasons set out above the Applicant believes there is a compelling case in the public interest for including compulsory acquisition powers in the Order.
- 14.2 The Applicant has met with all freehold landowners and is engaging in discussions with each. It is hopeful that private agreements can be reached with landowners but to enable the DCO Scheme to proceed in a reasonable and commercial timescale it is necessary for the Order to secure powers of compulsory acquisition.
- 14.3 Statutory intervention by way of compulsory acquisition of land and new rights, as well as temporary rights where appropriate, is however necessary to ensure that this NSIP can be provided in a reasonable timeframe and with minimum disruption to users of the railway network.
- 14.4 The Applicant has taken a proportionate and measured approach to the land and rights identified as being required and will seek to reduce to a minimum any interference with owners' land and rights.
- 14.5 For the reasons above the Applicant submits that a compelling case in the public interest exists for the compulsory powers sought over the Land to be granted.

Appendix 1

Background information regarding the Compelling Case for Compulsory Powers and the Need for the DCO Scheme as Part of MetroWest Phase 1

The Case for MetroWest Phase 1

1. MetroWest Phase 1 is a strategic intervention to the local rail network across three rail corridors to provide the foundations for developing a local network comparable with similar sized city regions. There is a need for the proposed development due to a range of regional and local factors, as well as to reflect both national and local policy aspirations, in particular the need to encourage modal shift and to provide modal choice. There is a particular benefit in providing accessible public transport options for journeys between Portishead and Bristol.

2. The DCO Scheme benefits are substantial, and in summary will deliver in four key areas:

Table 1.1: Benefits arising from MetroWest Phase 1

1. Economic growth	<ul style="list-style-type: none"> • Provide high value for money, with a benefit to cost ratio of 3.6; • Deliver substantial benefits for the local economy including 514 net new direct permanent jobs and £32M per annum Gross Value Added (GVA). In addition further temporary jobs and additional GVA will be created during the construction phase. The total estimated discounted GVA during the first 10 years is £264M; • Support the sub-regional growth agenda for the delivery of 105,000 new homes and creation of 82,500 new jobs up to 2036. MW Phase 1 and Phase 2 are assumed as committed delivered schemes in the WoE Joint Spatial Plan; • Deliver productivity and competitiveness benefits for business by increasing the catchment of the skilled workforce within a half hour commute to key employment sites; • Provide a net revenue surplus for the Great Western Railways franchise, should the DfT determine to include the MW Phase 1 train service within the proposed franchise extension and/or replacement franchise.
2. Accessibility	<ul style="list-style-type: none"> • Enhance the passenger service for 16 existing stations, directly benefiting 180,000 people; • 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; • Extend the UK passenger train network by 14 km.
3. Resilience	<ul style="list-style-type: none"> • Deliver substantial long-term journey time savings to both users and non-users, that won't be eroded over time and address some of our transport network resilience problems; • Provide the foundations for building a comprehensive local rail network over the medium term, as core element of our 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.
4. Quality of life	<ul style="list-style-type: none"> • Contribute to a reduction of NOx in Clean Air Zones in both Bristol and Bath; • Rail creates more reliable and punctual journeys during peak hours when compared to car and bus resulting in a better work life balance

More detail on these key benefits is provided below.

Economic growth

GVA and jobs

3. Improved infrastructure can lead to improved access to markets and customers, higher mobility and flexibility of the labour market and more reliable supply of goods and services. These wider economic impacts of the DCO Scheme have been calculated in terms of Gross Value Added (GVA) to the economy and job creation. Table 1.2 sets out a summary of the regeneration impacts of the DCO Scheme.

Table 1.2 - GVA and jobs*

GVA Element	Temporary / Permanent Impact	GVA Estimated Output
GVA Total	Temporary (during construction)	£57.12M
Additional Jobs	Temporary (during construction)	1,441 jobs
GVA Total per annum	Permanent (post scheme opening)	£31.86M
Additional jobs	Permanent (post scheme opening)	514 jobs - consists of 47 directly employed (day-to-day operation of the rail services, maintenance and stations), with the remainder indirectly employed through increased local service provision and supply chain
Aggregate Impact (first 10 years)	Permanent (post scheme opening)	£264.78M

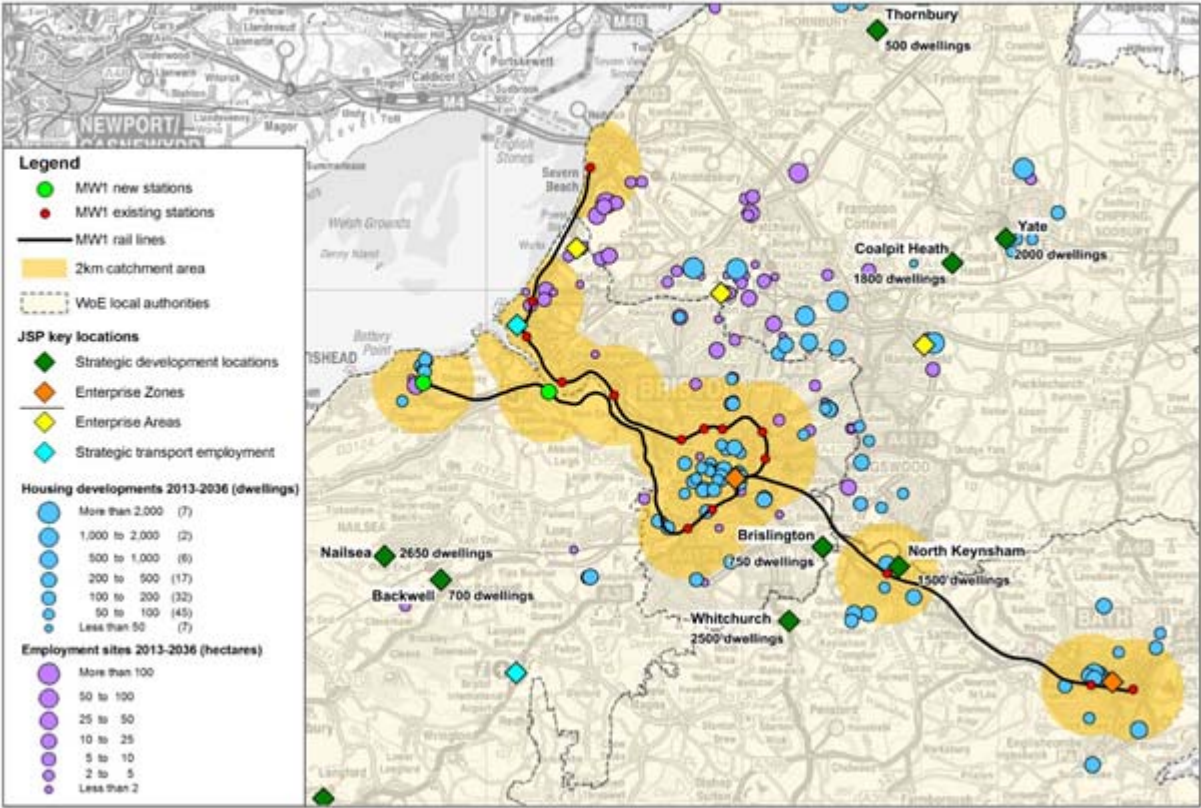
* figures from the Outline Business Case (December 2017)

4. Calculation of the construction GVA and job creation follows the approach outlined in the West of England LEP's 'Impact Guidance Note', with the increase attributed to operational impacts (directly related to enhanced services and new station provision) and wider impacts (resulting from enhanced connectivity across the West of England).

Housing

5. The requirement for 105,000 new homes as identified by the WoE Joint Spatial Plan is equivalent to an increase of more than 20% on current housing provision and represents major growth for the sub-region. The delivery of MetroWest Phase 1 and Phase 2 early in the planning horizon will provide the foundation for establishing a Metro local rail network, to meet both existing and future needs.

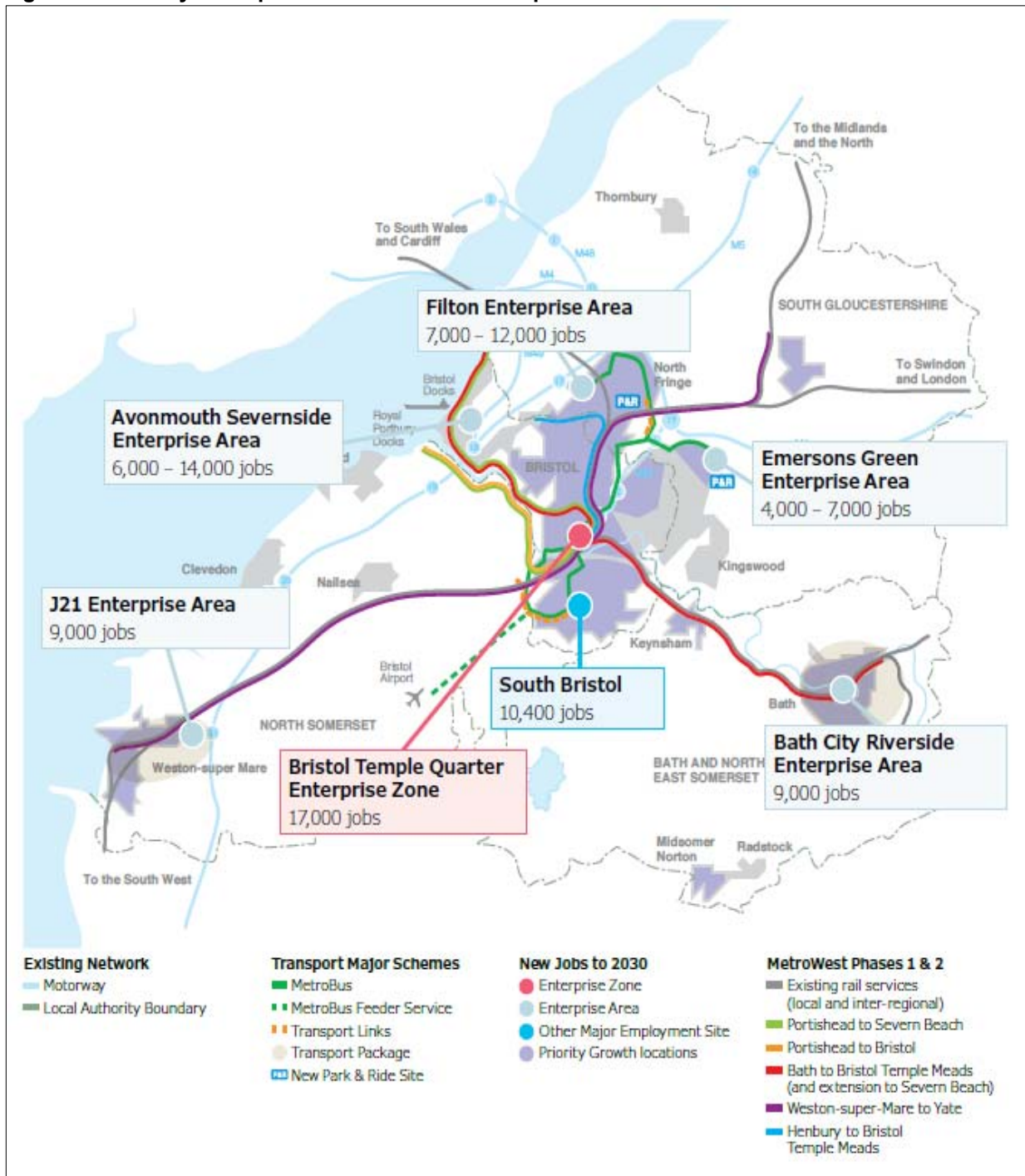
Figure 1 - Committed housing and employment allocations in the DCO Scheme catchment & JSP allocations



Priority Growth areas

6. The West of England Local Enterprise Partnership Strategic Economic Plan 2015 to 2030 (March 2014) draws on sectoral and locational strengths, with strong ambitions for growth. Temple Quarter (which includes Temple Meads Station) is one of the UK’s strongest performing Enterprise Zones, and new Enterprise Zones were designated in Bath Riverside and the Somer Valley in 2017. Enterprise Areas have also been allocated at Weston-super-Mare, Filton, Emersons Green and Avonmouth / Severnside. South Bristol is also a priority for urban regeneration. Figure 2 shows the Enterprise Zones and Enterprise Areas in relation to high priority transport proposals which include MetroWest.

Figure 2 – Priority Transport Investment and Enterprise Zones and Areas*



* extracted from the 2014 Strategic Economic Plan. Note the job creation numbers have since be revised

Congestion

7. Congestion is an ongoing issue for the region. Average city centre journey speeds are 7mph within 1 mile of city centre, and 13mph within 5 miles, according to In Car Cleverness Research (2017). This is estimated to cost van drivers £54m per year, costing the region £300m pa, and is forecast to rise to £500m in 2026 and £800m by 2036. If no interventions are made, time spent queuing in 2036 will increase by 75%, journey times will be 10% longer and delays up to 40% (West of England Joint Local Transport 4).

Accessibility

Socio-economic

8. The physical characteristics of each station and the socio-economic context of the stations varies widely reflecting the diversity of the West of England area. Pill, Parson Street, and Bedminster stations are in some of the highest levels of social deprivation in the sub-region. MetroWest Phase 1 will directly benefit these communities by providing or improving access to key services such as education, jobs and healthcare. 50,000 additional people will have direct access to the rail network, 180,000 will have enhanced services to existing stations, resulting in a forecast of greater passenger numbers rising from 377,021 to 581,959. Table 1.3 provides a summary profile of each station, including a scoring based on the index of multiple deprivation for the station locality. Figure 3 shows the stations in relation to the indices of deprivation. Figure 4 demonstrates how accessibility will be improved to Bristol Temple Meads, a key transport interchange hub.

Table 1.3 - MetroWest Phase 1 Stations Overview









<p>Bedminster</p> 	<p>Category F1 small unstaffed station The station is the first station south of Bristol on the Bristol to Exeter main line. It has two platforms with double track. The station is in a largely residential area within a couple of miles of the city centre. The station is close to a local shopping area. The majority of people work in lower managerial or routine/ semi routine occupations.</p>	<p>Index of multiple deprivation = 3</p> 
<p>Parson Street</p> 	<p>Category F2 small unstaffed station The station is the second station south of Bristol on the Bristol to Exeter main line. It has two platforms in use with multiple track. Parson Street is in a mixed residential and industrial estate area. The majority of people are employed in lower managerial occupations.</p>	<p>Index of multiple deprivation = 4</p> 
<p>Pill (Proposed)</p> 	<p>Category F2 small unstaffed station The villages of Pill/ Easton in Gordano/ Ham Green are located south of the M5 and had a population of 4851 according to the 2016 population estimate. There will be one platform at Pill station serving both directions and the station is within 5 min's walk of the village centre. The majority of people living in the station area work in routine occupations.</p>	<p>Index of multiple deprivation = 4</p> 
<p>Portishead (Proposed)</p> 	<p>Category D medium staffed station The town of Portishead is located north of the M5 and has a population of over 25,000. Portishead is the terminus of the branch line and there will be one platform. The majority of people living in the area of the station work in professional occupations or associate professional occupations.</p>	<p>Index of multiple deprivation = 7</p> 

Figure 3: Income LSOA: English Indices of Deprivation (2015) Income Domain – MWP1

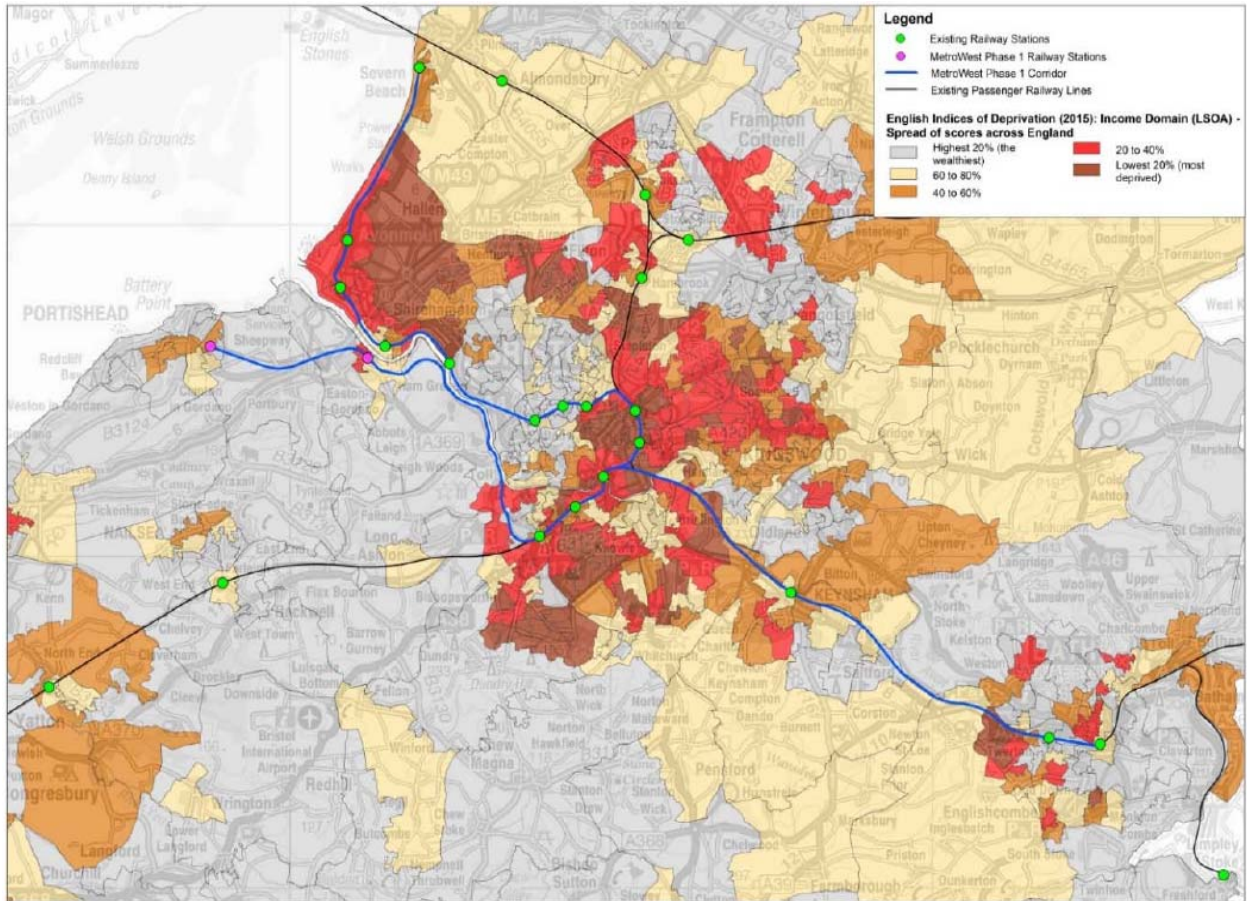
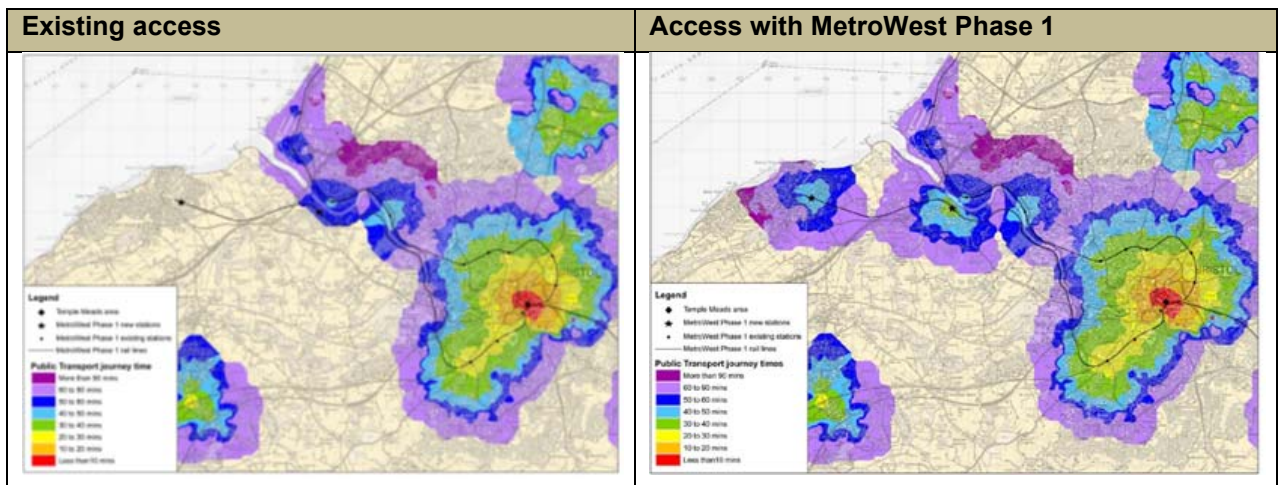


Figure 4 – Accessibility to Bristol Temple Meads existing vs with MetroWest Phase 1 (AM peak)



New stations accessibility

9. Both new stations at Portishead and Pill are designed to provide step free access to the platform, with upgraded local routes providing full accessibility to the nearest bus stops and car parks.

Interchange opportunities

10. The local rail network has multiple interchange opportunities, which service improvements through MetroWest will enhance or provide. These include:

- Bristol Temple Meads – multiple modal interchange options including MetroBus, buses, Airport Flyer, and the wider rail network including direct services to London;
- Portway Station Park and Ride (proposed) – located directly off the junction 18 of the M5, providing onward rail journeys to those travelling from outside of the region;
- Bath Spa - multiple modal interchange options including buses and onward rail network including direct services to London;
- Portishead and Pill – bus services located within a short step free distance to areas across the region;
- Parson Street and Bedminster – MetroBus stops within a short walking distance; and
- Bristol Parkway (indirectly) – multiple modal interchange options including MetroBus (proposed), buses and wider rail network including direct services to London (as part of Phase 2 but will be accessible by more people through the provision of MetroWest Phase 1).

Resilience

Highway benefits

11. Road journey times on the three corridors served by MetroWest Phase 1 are shown in Table 1.4 below. The table shows that peak hour journey times are generally more than twice the corresponding free flow journey times.

Table 1.4- Free flow vs AM Peak Journey Times on Key Highway Routes

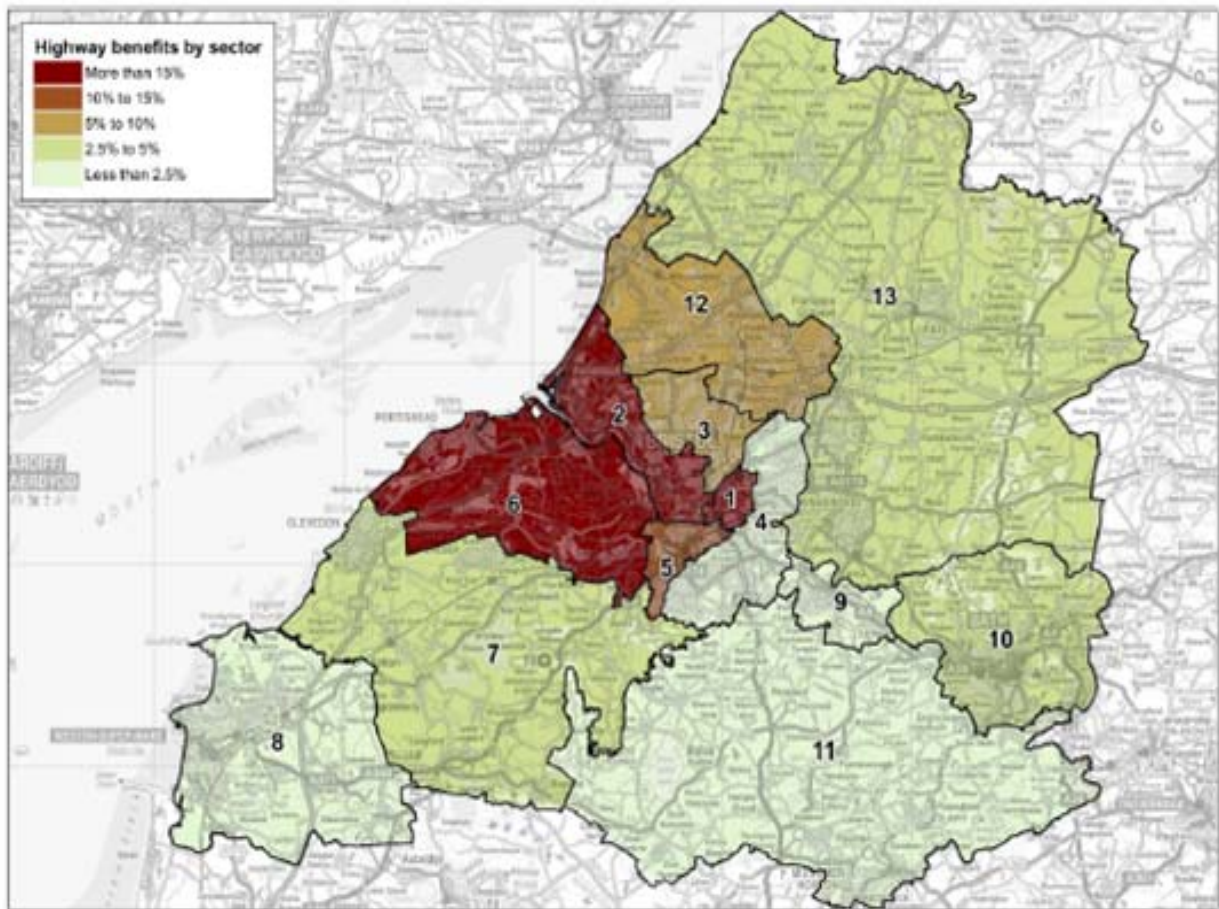
Route	Observed AM Peak (Oct 2013)		Observed AM Peak (May 2013)
	Free Flow JT (mins)*	Net Peak hour JT (mins)	Free Flow JT (mins)*
A4 (Keynsham to Bath Bridge)	11.4	29.5	10.2
A4 Portway (Avonmouth to Hotwells)	10.6	21.4	9.5
A369 (Portishead to Ashton Gate)	11.8	22.7	11.5

*Free Flow JT = minimum journey time recorded in the period 06:00-10:00. Observed data from Strategis – used in GBATS4 updates

12. Modelling indicates that the enhanced connectivity offered by the DCO Scheme should attract trips away from the local highway network, particularly the corridors listed above. However the impacts are network wide and as a result, although rail demand increases, with a proportion of these trips being former car trips, the changes are distributed across the wider modelled area according to origin and destination.

13. The overall position is that the enhanced connectivity across the three corridors results in reductions in local highway demand, commensurate with increases in rail demand. There are also some specific reductions in traffic because of the sensitivity of a congested network to changes in demand, both local to and slightly away from the DCO Scheme. Figure 5 presents the spatial distribution of highway benefits from the DCO Scheme based on trip origins, and is consistent with the areas expected to benefit from MetroWest Phase 1.

Figure 5 - Spatial Distribution of Highway Benefits – based on origin sector*



**extracted from the scheme Outline Business Case (December 2017)*

14. Highway network impacts show that total car-km on the network (modelled in GBATS4) could reduce by over 4,000 in the AM peak, and around 2,000 in the PM peak with smaller reductions in the inter-peak (values are similar in 2021 and 2036 as a result of the congested network).

15. The proportion of additional rail trips that are forecast to switch from highway have been identified from the GBATS4 multi-modal assessment results, which vary by time period. These have been applied to the AM peak, inter-peak and PM peak rail demand figures (the resulting changes in highway trips are also shown below in Table 1.5). It should also be noted that some notable reductions to assigned highway trips were observed at the M5 Avonmouth Bridge as a result of changes in trip patterns to and from Portishead.

16. This work has fed into the developing Joint Local Transport Plan 4, which has identified a number of congestion hotspots for both road and rail. These can be seen below in Figure 6.

Figure 6: Rail and Road Network Congestion

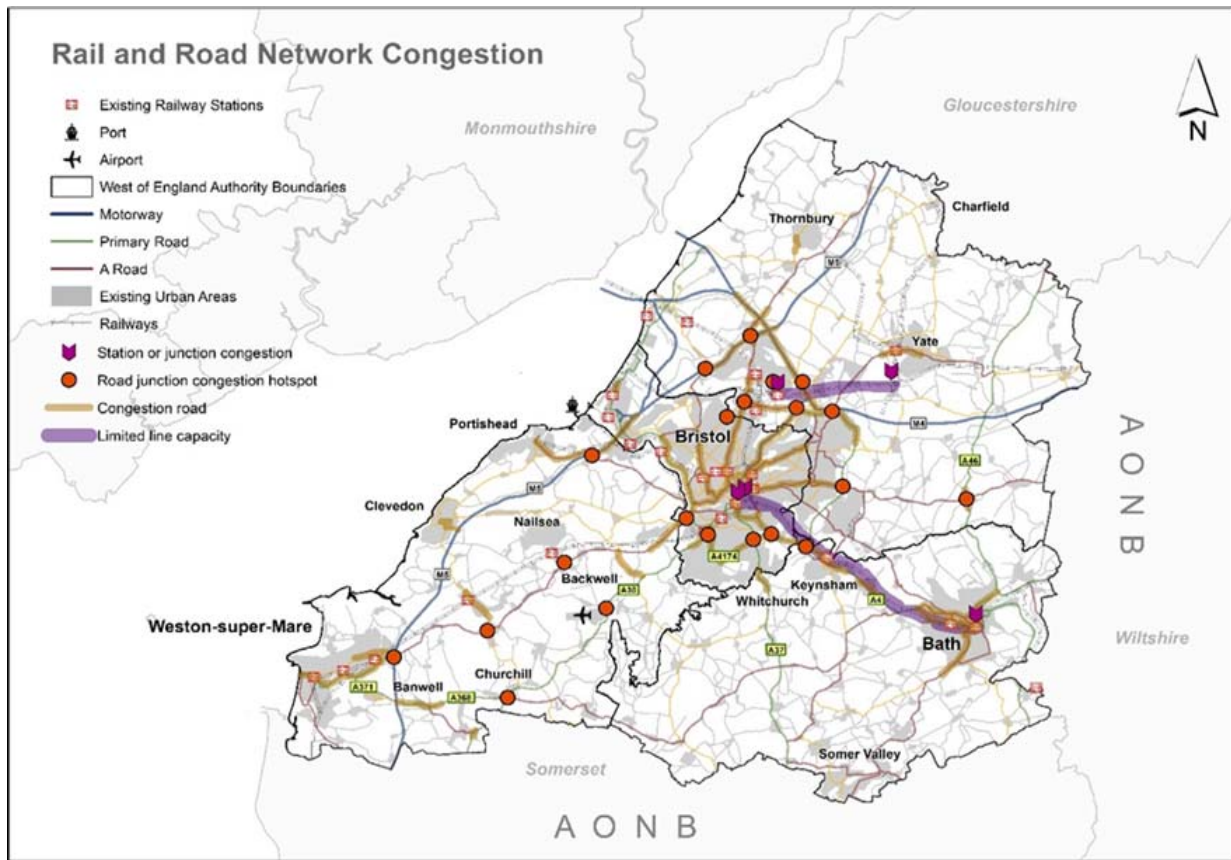


Table 1.5 – Change in rail and highway trips

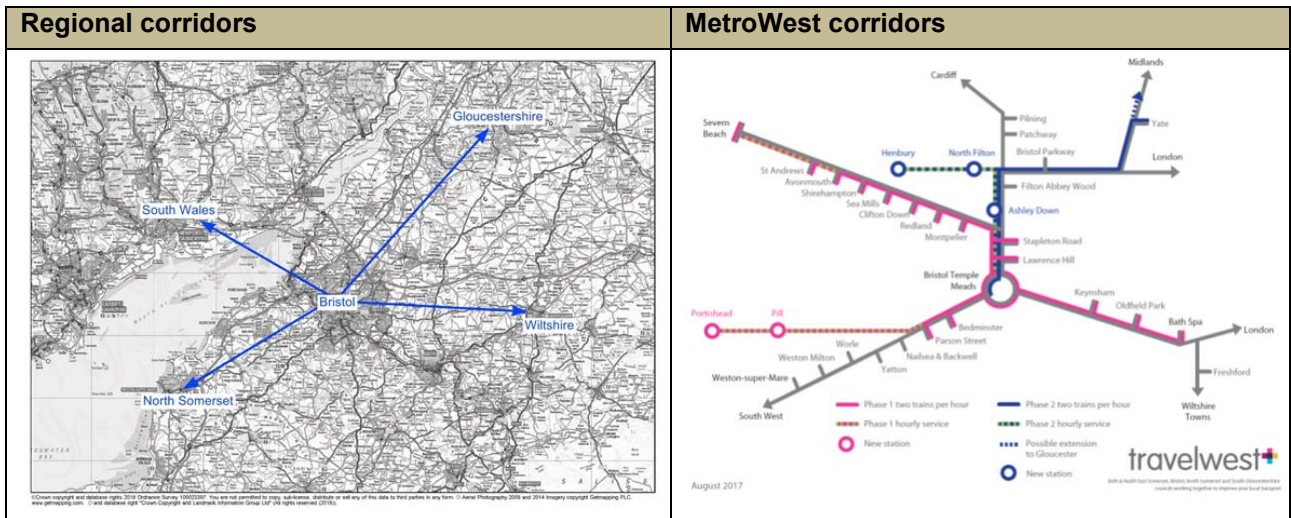
Change in rail/car demand (from do minimum)	2021			2036				
	Annual	Average day			Annual	Average day		
		AM	IP	PM		AM	IP	PM
Existing stations	492,700	370	60	370	816,100	610	100	610
Portishead	321,000	240	40	240	433,500	330	50	320
Pill	53,500	40	10	40	72,300	50	10	50
TOTAL	781,900	650	110	650	1,295,100	990	160	990
Approx. reduction in car trips		380	20	180		580	30	280

Wider regional benefits

17. The strategic Bristol travel to work corridors rely heavily on the M5 and M4 motorways which are near capacity. There are major congestion hot spots at junction 11A of the M5 (for Gloucester), junction 14 of the M5 (for Charfield), junctions 15 to 19 of the M5 (north to south of Bristol), junction 21 of the M5 (for Weston-super-Mare) and junction 20 to 19 of the M4 (for the M32 into Bristol). The very heavy traffic volumes are due to the combination of long distance and increased local movements. The resilience of the network is increasingly a problem and vulnerable to widespread disruption following traffic accidents and incidents. These can have effects to those travelling to and from the region from neighbouring areas. Additionally, the removal of the Second Severn Crossing tolls in December 2018 may increase traffic volumes on these corridors and contribute to increased congestion. As seen below in Figure 7, the MetroWest corridors mirror these strategic corridors, increasing connectivity to neighbouring areas. In

particular, the provision of the new Portway Park and Ride station which is located close the M5 and M49 junction will benefit those road users by removing vehicle journeys into the city centre.

Figure 7 – regional corridors in relation to MetroWest corridors



Bristol Airport and Bristol Port

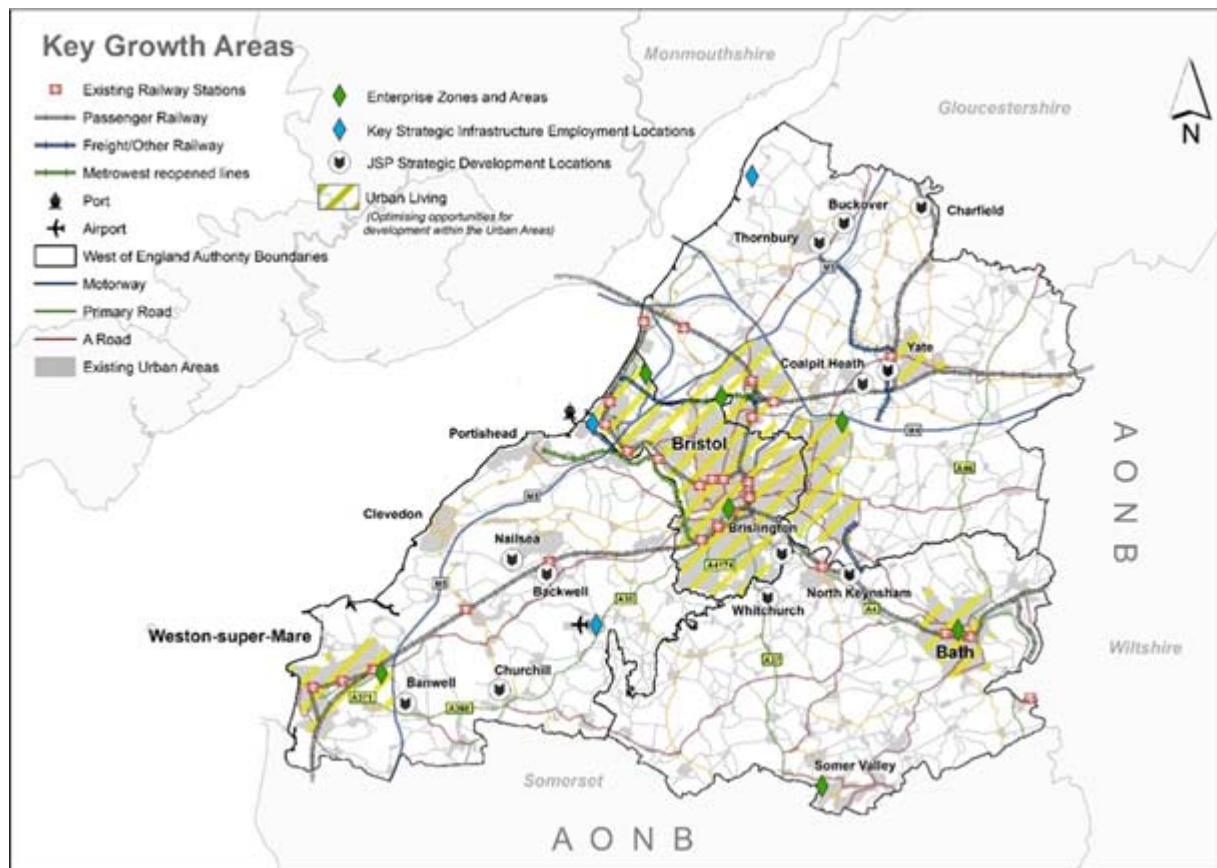
18. Bristol Airport currently has 8 million passengers per annum and this is expected to more than double to over 20 million passengers per annum by 2050. MetroWest Phase 1 will improve access to the Bristol Flyer interchange at Bristol Temple Meads and ultimately to any rail connections that are developed to the Airport.

19. Bristol Port is one of the most productive and technically advanced ports in Europe. Current movements at Bristol Port include the storage and onward movement of bulk cargo, employees accessing the site for work and cruise passengers.

20. The amount of freight is set to increase in the future, with recent or planned investments at Bristol Port including £20m towards car handling facilities and consented development for a potential £800m container terminal. Improved connectivity is vital for the port as it expands further, enabling it to remain such an economically important player in the region’s development and national and international links. By upgrading the freight line to passenger services as part of Phase 1, the rail corridor will be subject to more stringent safety checks and regular maintenance, which will increase the reliability of the line benefitting freight movements. Phase 1 will also improve the frequency of rail services to the rail stations that serve the Port at Shirehampton and Avonmouth, increasing the employment pool and helping to reduce congestion by providing an alternative mode for workers.

21. Both the Port and Airport have been considered in the Joint Local Transport Plan’s key growth areas for the West of England, as shown below in Figure 8.

Figure 8 - Key Growth Areas



Quality of life

Air Quality

22. The central estimate of deaths attributable to air pollution in the City of Bristol is an additional 297 (in adults over the age of 25) in 2013. This value can be compared to 12 people killed in traffic collisions in 2013 within the City of Bristol. The greatest excess of deaths attributable to air pollution occurs in central Bristol, rising to 10% of all deaths in some wards. Road traffic is the dominant local source of emissions contributing to the deaths (Health Impacts of Air Pollution in Bristol, Air Quality Consultants, Feb 2017).

23. Modal shift away from the car and therefore reducing car use is one way air quality issues are being tackled. The new railway services are expected to contribute to this policy; however, because of the significant levels of pollution in both Bristol and Bath city centres, the proposed Clean Air Zones will not see a reduction due to the introduction of the DCO Scheme, but will instead contribute to slowing the rate at which air quality worsens. Where the DCO Scheme could contribute to a reduction in these Clean Air Zones is through an integrated transport network which will provide a decrease in car use overall; MetroWest is planned as part of such a solution.

Work life balance

24. Rail creates more reliable and punctual journeys resulting in a better work life balance. Journey time savings to Bristol city centre will occur with the introduction of MetroWest Phase 1 compared to bus and car journeys, as demonstrated below in Table 1.6.

Table 1.6 Journey time comparisons (AM peak)

	Bus	Car	Train without Scheme	Train with Scheme
Portishead to Bristol AM	Over an hour*	50 mins*	N/A	23 minutes
Avonmouth to Bristol AM	55 - 65 mins**	30 - 65mins**	28-32 mins (40 min service)	28-32 mins (30 min service)

*Transport Assessment (Environmental Statement)

**Google Maps time calculations

DCO Scheme Benefits

25. Key Benefits are:

- The enhanced train service results in network wide benefits, arising from modal shift from highway to rail, resulting in journey time savings for both users (MW train service users) and non-users (remaining highway users) on the A369 corridor intersected by the M5 at J19.
- The DCO Scheme will result in a reduction of car trips per day. Note these numbers do not include the potential reduction in car trips arising from the enhanced service for Parson Street and Bedminster stations.
- The DCO Scheme will deliver substantial benefits for the local economy including 207 net new direct permanent jobs and £19M per annum Gross Value Added (GVA), totalling £139M discounted GVA during the first 10 years.

Forecast Revenue Performance

26. Revenue performance has been modelled drawing from the Rail Demand Model, the train costing costs provided by GWR and standard industry assumptions on fares (except for the Severn Beach Line which has localised zonal fares). The Rail Demand Model is fully web-TAG compliant and has undergone technical scrutiny by the DfT. As part of the model validation and assurance process the forecast demand for the new stations has been benchmarked alongside a range comparable existing stations, and this shows the forecast is very close to the overall median average of all the comparable stations.

Appendix 2
National Policy Statement for National Networks –
Summary assessment of the DCO Scheme

This Appendix summarises the key provisions of the National Policy Statement National Networks (**NPS NN**) issued by the DfT in December 2014.

The Table below summarises the most relevant policies applicable to the DCO Scheme and analyses the DCO Scheme against the relevant policy.

Under section 104 of the Planning Act 2008 the Secretary of State must decide an application for a national networks NSIP in accordance with this NPS unless he/she is satisfied that to do so would:

- lead to the UK being in breach of its international obligations;
- be unlawful;
- lead to the Secretary of State being in breach of any duty imposed by or under any legislation;
- result in adverse impacts of the development outweighing its benefits;
- be contrary to legislation about how the decisions are to be taken.

Subject to the detailed policies and protections in the NPS, and the legal constraints set out in the Planning Act 2008, there is a presumption in favour of granting development consent for national networks NSIPs that fall within the need for infrastructure established in the NPS.

Table A2.1: Assessment of NPS Policy

NPS NN Para	Summary of Policy	Application of Policy to DCO Scheme
2.2	Critical need to improve the national networks to address road congestion and crowding on the railways to provide safe, expeditious and resilient networks that better support social and economic activity; and to provide a transport network that is capable of stimulating and supporting economic growth.	The DCO scheme will create additional modal choice and provide an additional and resilient means of transport between Portishead and Bristol.
2.6	Improved and new transport links can facilitate economic growth by bringing businesses closer to their workers, their markets and each other.	The provision of the new rail service will allow for ease of movement for commuting, leisure and business journeys between Portishead, Pill and Bristol and the connecting National Rail Network.
2.9	Broader environmental, safety and accessibility goals will also generate requirements for development.	The DCO scheme will provide an accessible, carbon efficient method of travel between Portishead, Pill and Bristol. Consideration has been given to mobility impaired users in the design of Portishead and Pill Stations, as well as the provision for mobility impaired access to the associated connecting bus services (and facilities for rail replacement buses) at Portishead and Pill.
2.10	The Government has therefore concluded that at a strategic level there is a compelling need for development of the national networks – both as individual networks and as an integrated system.	The need, in policy assessment terms for the DCO Scheme is therefore established as the DCO Scheme is governed by the policies of the NPSNN
2.29	the railway must:	The DCO Scheme will provide a safe and

	<ul style="list-style-type: none"> offer a safe and reliable route to work; facilitate increases in both business and leisure travel; support regional and local public transport to connect communities with public services, with workplaces and with each other, 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. 	<p>reliable work route for commuters, business travellers and leisure travellers. The provision of new bus stops at Portishead Station, and the improvement to bus stops in Pill are designed to improve connectivity and inter-connection.</p> <p>The Applicant will liaise with Network Rail and the Port to minimise disruption to the Port's rail services.</p>
2.38	The Government will therefore consider new or re-opened alignments to improve capacity, speed, connectivity and reliability.	The DCO Scheme will re-open the Portishead Branch Line to passenger trains and will improve connectivity between Bristol, Pill and Portishead.
3.1	The need for development of the national networks, and the Government's policy for addressing that need, must be seen in the context of the Government's wider policies on economic performance, environment, safety, technology, sustainable transport and accessibility, as well as journey reliability and the experience of road/rail users.	The DCO Scheme will be assessed using the Government's tools for assessing benefits to cost ratios and reflect the policies of the Government set out in the NPS.
3.2	Government expects applicants to avoid and mitigate environmental and social impacts in line with the principles set out in the NPPF and the Government's planning guidance. Applicants should also provide evidence that they have considered reasonable opportunities to deliver environmental and social benefits as part of schemes.	The DCO Scheme is subject to a detailed environmental assessment process and is proposing significant environmental and ecological mitigation and enhancement. Whilst there will be short term significant environmental effects during construction, the long term impacts of the DCO Scheme are limited because it is re-using an existing railway alignment. The DCO Scheme also makes efficient use of the existing freight only line between Parson Street and Royal Portbury Dock, as well as the track bed of the disused railway between Portishead and Pill.
3.4	Therefore, whilst applicants should deliver developments in accordance with Government policy and in an environmentally sensitive way, including considering opportunities to deliver environmental benefits, some adverse local effects of development may remain.	The Applicant is seeking to reduce the environmental impact of both construction and operation of the DCO Scheme and will be delivering environmental benefits such as works to improve biodiversity and to promote the scheduled characteristics of the Avon Gorge Woodland SAC and to provide additional wildlife habitats at Marsh Lane (Easton in Gordano) and Sheepway.
3.19	The Government is committed to creating a more accessible and inclusive transport network that provides a range of opportunities and choices for people to connect with jobs, services and friends and family.	The DCO Scheme will provide modal choice and is proposed to include for connectivity at stations with local bus services. The stations and proposed bus facilities have been designed to provide for mobility impaired users.
3.20	The Government expects applicants to improve access, wherever possible, on and around the national networks by designing and delivering schemes that take account of the accessibility requirements of all those who use, or are affected by, national networks infrastructure, including disabled users.	The design of Portishead and Pill Stations reflects this policy. The proposal to provide for improvements to the existing bus stop at Heywood Road, Pill, also contributes to this policy aspiration.
3.22	Severance can be a problem in some locations. Where appropriate applicants	Whilst there will be some short term severance issues, principally relating to the reconstruction

	should seek to deliver improvements that reduce community severance and improve accessibility.	of the underbridge located between Lodway Close and Avon Road, Pill, there will not be any permanent severance issues caused by the DCO Scheme. Improvements to the footpath network at Portishead is also included in the DCO Scheme to address severance issues due to closure of the crossing at Trinity Primary School.
4.5	Applications for road and rail projects (...) will normally be supported by a business case prepared in accordance with Treasury Green Book principles. This business case provides the basis for investment decisions on road and rail projects. The business case will normally be developed based on the Department's Transport Business Case guidance and WebTAG guidance. The economic case prepared for a transport business case will assess the economic, environmental and social impacts of a development.	See Documents 8.3 and 8.4, the Applicant's Preliminary and Outline Business Cases
4.6	Applications for road and rail projects should usually be supported by a local transport model to provide sufficiently accurate detail of the impacts of a project.	The application is supported by a detailed Transport Assessment
4.27	All projects should be subject to an options appraisal. The appraisal should consider viable modal alternatives and may also consider other options	The DCO Scheme proposes to re-use an existing track bed. It also makes use of the existing freight only railway between Royal Portbury Dock and Parson Street. This combination of constraints means alternative modal options are limited. Consideration has been given to a tram-train operation but this is not currently seen as a viable alternative.
4.28, 4.29	4.28 Applicants should include design as an integral consideration from the outset of a proposal. 4.29 Visual appearance should be a key factor in considering the design of new infrastructure, as well as functionality, fitness for purpose, sustainability and cost. Applying "good design" to national network projects should therefore produce sustainable infrastructure sensitive to place, efficient in the use of natural resources and energy used in their construction, matched by an appearance that demonstrates good aesthetics as far as possible.	The DCO Scheme is largely using existing infrastructure, including track bed, bridges and (at Pill) an existing station site. At Portishead a new station is being designed to have a visible presence as a gateway to the town.
4.32, 4.33	Scheme design will be a material consideration in decision making. The Secretary of State needs to be satisfied that national networks infrastructure projects are sustainable and as aesthetically sensitive, durable, adaptable and resilient as they can reasonably be (having regard to regulatory and other constraints and including accounting for natural hazards such as flooding). 4.33 The Applicant should therefore take into	The design of Portishead and Pill Stations reflect this requirement and have been developed in consultation with the local planning authority. The Applicant is submitting a design and access statement with the Application and the DCO Scheme has been subject to Environmental Assessment.

	account, as far as possible, both functionality (including fitness for purpose and sustainability) and aesthetics (including the scheme's contribution to the quality of the area in which it would be located).	
4.38	[Climate Change] Adaptation is therefore necessary to deal with the potential impacts of these changes that are already happening. New development should be planned to avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures.	The DCO Scheme is in part located in Flood Zones 2 and 3. The Applicant has worked closely with the Environment Agency and has consulted with the North Somerset Levels Internal Drainage Board to ensure the DCO Scheme reflects potential sea level rises and to consider impact on flood prevention and attenuation. The DCO Scheme will also have a flood risk plan for its operational phase.
4.40	[A]pplicants must consider the impacts of climate change when planning location, design, build and operation. Any accompanying environmental statement should set out how the proposal will take account of the projected impacts of climate change.	The Environmental Statement and Flood Risk Assessment set out the extensive work undertaken to evaluate flood risk.
4.43	The applicant should 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.	It is likely that, as a branch line railway, the operator will suspend operations during times of high flood risk using Network Rail's Extreme Weather Plan to manage risk and safeguard passengers and railway assets
4.58	It is very important that during the examination of a nationally significant infrastructure project, possible sources of nuisance under section 79(1) of the 1990 Act, and how they may be mitigated or limited are considered by the Examining Authority so they can recommend appropriate requirements that the Secretary of State might include in any subsequent order granting development consent.	The environmental assessment process has identified potential issues requiring mitigation during construction and appropriate requirements are proposed to mitigate the effects where possible. For the operational phase noise level increases have been identified in a small number of locations and acoustic barriers are proposed at those locations.
4.72	The Secretary of State should not grant development consent unless satisfied that all reasonable steps have been taken, and will be taken to: <input type="checkbox"/> minimise the risk of deaths or injury arising from the scheme; and <input type="checkbox"/> contribute to an overall improvement in societal safety levels; <input type="checkbox"/> noting that railway developments can influence risk levels both on and off the railway networks.	Powers are sought to close a number of historic level crossings on the Portishead Branch Line. At Trinity Primary School new foot and cycle paths via new Portishead Station will be provided to replace an existing flat crossing established after railway services ceased The existing Barons Close footpath crossing in Bristol is proposed to be closed for safety reasons, with pedestrians being diverted to the nearby Ashton Vale Road Level Crossing. That all-purpose level crossing was considered for closure but the cost of providing a new road access to the neighbouring industrial estate was considered disproportionate. The existing level crossing already has CCTV and full barriers and therefore has the highest possible safety rating.
5.22	the applicant should ensure that the environmental statement clearly sets out any likely significant effects on internationally,	The DCO Scheme is subject to environmental assessment and appropriate assessment under the Habitats Regulations. Impacts on

	nationally and locally designated sites of ecological or geological conservation importance (including those outside England) on protected species and on habitats and other species identified as being of principal importance for the conservation of biodiversity and that the statement considers the full range of potential impacts on ecosystems	protected species and on the Avon Gorge Woodlands SAC have been fully taken in to account and the Applicant and Network Rail are working together on a Management Plan to reduce impacts of the DCO Scheme on the Avon Gorge and to provide opportunities to improve the management of the SAC.
5.29	Where a proposed development on land within or outside a SSSI is likely to have an adverse effect on an SSSI (either individually or in combination with other developments), development consent should not normally be granted. Where an adverse effect on the site's notified special interest features is likely, an exception should be made only where the benefits of the development at this site clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest, and any broader impacts on the national network of SSSIs. The Secretary of State should ensure that the applicant's proposals to mitigate the harmful aspects of the development and, where possible, to ensure the conservation and enhancement of the site's biodiversity or geological interest, are acceptable. Where necessary, requirements and/or planning obligations should be used to ensure these proposals are delivered.	The Applicant and Network Rail are working closely with Natural England to reduce the impact of the DCO Scheme on the Avon Gorge Woodlands SAC which is also a SSSI. The introduction of management measures within the SAC in accordance with the proposed plan being promoted by the Applicant and Network Rail is intended to provide a degree of benefit to those features that led to the designation of the Gorge as an SAC and SSSI.
5.32	The Secretary of State should not grant development consent for any development that would result in the loss or deterioration of irreplaceable habitats including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the national need for and benefits of the development, in that location, clearly outweigh the loss. Aged or veteran trees found outside ancient woodland are also particularly valuable for biodiversity and their loss should be avoided. Where such trees would be affected by development proposals, the applicant should set out proposals for their conservation or, where their loss is unavoidable, the reasons for this.	The Applicant believes there will be no overall deterioration of the Avon Gorge Woodlands SAC habitat and that the additional management measures and works for vegetation clearance should will benefit the habitats that led to the designation of the area as an SAC.
5.36	Biodiversity - Applicants should include appropriate mitigation measures as an integral part of their proposed development, including identifying where and how these will be secured. In particular, the applicant should demonstrate that: <ul style="list-style-type: none"> • during construction, they will seek to ensure that activities will be confined to the minimum areas required for the works; • during construction and operation, best 	Measures are proposed to provide vegetation screening for bat migration corridors along the route of the DCO Scheme where appropriate. Landscaping is also proposed in the vicinity of Portishead.

	<p>practice will be followed to ensure that risk of disturbance or damage to species or habitats is minimised (including as a consequence of transport access arrangements);</p> <ul style="list-style-type: none"> • habitats will, where practicable, be restored after construction • works have finished; • developments will be designed and landscaped to provide green • corridors and minimise habitat fragmentation where reasonable; <p>opportunities will be taken to enhance existing habitats and, where practicable, to create new habitats of value within the site landscaping proposals,</p>	
5.42	<p>The applicant should set out the arrangements that are proposed for managing any waste produced. The arrangements described should include information on the proposed waste recovery and disposal system for all waste generated by the development. The applicant should seek to minimise the volume of waste produced and the volume of waste sent for disposal unless it can be demonstrated that the alternative is the best overall environmental outcome.</p>	<p>The Applicant and Network Rail are working together to reduce waste resulting from the removal of the track and ballast of the disused railway.</p>
5.87	<p>The Secretary of State should be satisfied that all reasonable steps have been taken, and will be taken, to minimise any detrimental impact on amenity from emissions of odour, dust, steam, smoke and artificial light. This includes the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.</p>	<p>The Applicant has assessed the potential for detrimental effects during construction and operation in the environmental assessment process and proposes mitigation where appropriate.</p>
5.102	<p>The Secretary of State should expect that reasonable steps have been taken to avoid, limit and reduce the risk of flooding to the proposed infrastructure and others.</p>	<p>The Application will include a flood risk assessment which has been prepared in consultation with the Environment Agency.</p>
5.157	<p>the Secretary of State should 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 landscape or to minimise harm to the landscape, including by reasonable mitigation.</p>	<p>The Environmental Assessment includes a detailed landscape and visual assessment for the DCO Scheme.</p>
5.158	<p>The Secretary of State 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.</p>	<p>Some locations will experience a significant change in visual appearance. Screening by way of vegetation planting will be-used to mitigate the visual impact..</p>
5.166	<p>Existing open space, sports and recreational buildings and land should not be developed unless the land is surplus to requirements or the loss would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location.</p>	<p>Some open space is proposed to be taken from the construction of new foot and cycle paths in the vicinity of Trinity Primary School, Portishead. Replacement land will be provided to the owners and there will be no net loss of publicly accessible land. Temporary use of land forming open spaces is proposed at Portishead (Tansy Lane and Galingale Way),</p>

		<p>the Portbury Wharf Ecology Park and Victoria Park Pill.</p> <p>At Clanage Road in Bristol a privately owned field, used for car boot sales, parking and privately organised physical activity, is proposed for use as a temporary compound during construction. Part of the field is proposed to be acquired permanently for use as a maintenance compound by Network Rail. No replacement land is proposed as the land is not publically publicly accessible and is used for a variety of activities, not all compatible with sports uses.</p>
<p>5.170, 5.171</p>	<p>The general policies controlling development in the countryside apply with equal force in Green Belts but there is, in addition, a general presumption against inappropriate development within them. Such development should not be approved except in very special circumstances. Applicants should therefore determine whether their proposal, or any part of it, is within an established Green Belt and, if so, whether their proposal may be considered inappropriate development.....</p> <p>Linear infrastructure linking an area near a Green Belt with other locations will often have to pass through Green Belt land. The identification of a policy need for linear infrastructure will take account of the fact that there will be an impact on the Green Belt and as far as possible, of the need to contribute to the achievement of the objectives for the use of land in Green Belts.</p>	<p>The DCO Scheme runs through a significant proportion of green belt land between Portishead and Pill and between Pill and Ashton. The proposed permanent works are largely restricted to the previously developed (or still existing) railway corridor and works for which additional land is required permanently, such as the compounds at Sheepway, Portbury Hundred (The Drove), Ham Green Lake and (in Bristol) Clanage Road-, have been sited to be adjacent to the railway they will serve and located to provide the most expedient efficient and safe access between the railway and the highway network. As there is no reasonable alternative and because land to be acquired has been kept to a minimum it is submitted that very special circumstances apply. No buildings are proposed at the sites that would impact on the open character of the green belt.</p>

Appendix 3

The Case for Powers impacting on the Highway Network

1. Introduction

- 1.1 This Appendix sets out the case for powers to impact on the highway network within the Order limits.
- 1.2 Part 3 of the draft Order, together with the relevant schedules referred to in that Part, deal with the powers sought by the Applicant to effect works to highways. This includes all public rights of way where powers are sought in the draft Order, streets and level crossings.
- 1.3 It also deals with the creation of temporary and permanent means of access where such powers are sought in the draft Order for the purposes of the DCO Scheme.

2 Street Works and the power to alter the layout etc. of streets – Article 13

- 2.1 Article 13 to the draft Order ~~allows~~ provides the Applicant with powers to enter onto the streets scheduled as being streets subject to street works (Schedule 3 to the draft Order) to break open the street and any sewer, drain or tunnel under it, tunnel or bore under the street, place apparatus onto the street, maintain apparatus or change its position or execute incidental works.
- 2.2 Paragraph 2 of the Article allows the Applicant to change the layout of the street within Order limits. Such works must be carried out with the prior consent of the street authority if carried out under Article 13(2).
- 2.3 Schedule 3 to the draft Order lists the streets subject to street works. These are located in the following areas:
 - 2.3.1 *Portishead*

Harbour Road, Haven View, Phoenix Way, Quays Avenue, Tansy Lane, Galingale Way and Conference Avenue.
 - 2.3.2 *Portbury*

Sheepway, Station Road, Portbury Hundred, Royal Portbury Dock Road.
 - 2.3.3 *Easton in Gordano*

Marsh Lane, access road east of Marsh Lane leading to the M5 overbridge
 - 2.3.4 *Pill*

Severn Road, access road to the M5 west of Avon Road, Avon Road, Monmouth Court, Monmouth Road, Newport Road, Crusty Lane, Back Lane, Station Road, Chapel Row, Myrtle Hill, Sambourne Lane, Hayward Road, Lodway, Underbanks, Watch House Road, Macrae Road, Fitzharding Road, Ham Green, The Green, Hart Lane, Chapel Pill Lane.
- 2.4 In Bristol the following roads are affected:

Clanage Road, Bower Ashton, Ashton Road, Ashton Gate Underpass, Winterstoke Road, Marsh Road, Ashton Vale Road.

- 2.5 For the most part the nature of the proposed works will be to carry out works to provide accesses as part of the DCO Scheme, providing road markings or other works necessary for temporary or permanent Traffic Regulation Orders. The powers are necessary to allow the Applicant the necessary rights to intervene on the highway to carry out the DCO Scheme and to provide traffic management and temporary traffic control measures where appropriate. The details of the proposed works have been discussed with the two relevant highway authorities.

3 Permanent Stopping up of streets

- 3.1 Article 14 of the draft Order provides powers to stop up on a permanent basis the streets referred to in Schedule 4 to the draft Order. No stopping up may take place without a suitable alternative route having first been provided to the satisfaction of the relevant street authority. The stopping up will extinguish all rights of way in the street. Anyone who suffers loss as a result of the extinguishment of a private right of way or permanent means of access may claim compensation.
- 3.2 The street affected by this power is Quays Avenue in Portishead. The stopping up is shown in the Permanent and Temporary Stopping Up and Diversion Plan (document 2.30). Work No. 2 of the authorised development provides for the creation of a new route for Quays Avenue which will be diverted west to meet Harbour Road a short distance to the west of the current junction with Harbour Road and Phoenix Way.
- 3.3 The stopping up and diversion is required to enable the construction of Portishead Station following the consultation on the most appropriate location for the new Portishead Station in 2013. To allow the location of the new station as close as possible to the centre of Portishead, but without requiring a level crossing for Quays Avenue, it was decided to divert Quays Avenue to the west as is provided for in the works plans (Document 2.3). The power to close Quays Avenue is therefore necessary to enable the provision of Portishead Station in the location resolved upon after public consultation.

4 Article 15 –Temporary stopping up of streets and public rights of way

- 4.1 The Applicant seeks powers to temporarily stop up streets within the Order limits generally and in particular those streets referred to in Schedule 5 and to the extent shown in the Permanent and Temporary Stopping Up and Diversion Plan (document 2.30).
- 4.2 As with permanent stopping up, anyone who suffers a loss as a result of the suspension of their private right during the temporary stopping up is entitled to claim compensation.
- 4.3 Schedule 5, Part 1 contains only one entry – the street that extends west from Avon Road, Pill towards the M5 Avonmouth Bridge, and which is used for vehicles of less than 50cc, access vehicles for maintenance of the M5 Avonmouth Bridge and for cyclists, pedestrians and equestrians using the route. An alternative temporary route will be provided via Avon Road and the open space area known as Jenny's Meadow, with temporary matting being laid on the existing path that extends from Jenny's Meadow to the access road.
- 4.4 The power is required to suspend the public and private rights over this route during the period of reconstruction and replacement of the bridge carrying the railway over the public footpath that links Avon Road and Lodway Close in Pill.
- 4.5 Part 2 of Schedule 5 deals with public rights of way that will be temporarily suspended but for which no alternative route will be provided. Alternative routes on the existing highway network will be available. The provision of alternative routes is not possible in the circumstances of the geographic constraints for the relevant public right of way.

Public bridleway LA8/67/10 – Marsh Lane, Easton In Gordano to beneath the M5 Avonmouth Bridge

- 4.6 Public bridleway LA8/67/10 leads east from Marsh Lane, Easton in Gordano to a point under the Avonmouth Bridge of the M5. The whole of this route will be closed during the construction of the DCO Scheme to enable the route to be used as a construction access and haul road, as well as the establishment of a construction compound under the M5 Avonmouth Bridge. No alternative route will be provided for this bridleway, which terminates at the point of which it adjoins a public footpath under the M5 Special Road. An alternative on highway route will be signposted for equestrians and cyclists who frequently use this route. The route will pass through the village of Easton in Gordano towards Pill and will (for cyclists) re-join the National Cycle Network designated path at the Underbanks, Pill.

Public footpath LA8/68/10 beneath the M5 Avonmouth Bridge

- 4.7 This public footpath lies under the M5 Special Road Avonmouth Bridge and links Pill with the Marshes at the River Avon estuary. It is necessary to suspend public access along this route during the construction of the authorised development to provide for the establishment of the proposed compound under the M5 Special Road. As with bridleway LA8/67/10 no alternative route is proposed for this public right of way during construction of the authorised development.

Public footpath LA8/5/40 between Lodway Close and Avon Road, Pill

- 4.8 To enable the reconstruction and replacement of the bridge carrying the Portishead Branch Line and the railway to Royal Portbury Dock between Avon Road and Lodway Close at Pill, it will be necessary to close all public and private rights of access over this footpath whilst such works are carried out.
- 4.9 The Applicant will work with the appointed contractor to keep the actual suspension of public rights of way over this route to the minimum reasonably necessary to enable the safe reconstruction and replacement of the new bridge. It is essential for construction purposes and in particular for public safety to close the route whilst the bridge is replaced.

5 Article 16 – Bridleways, cycle tracks and footpaths

- 5.1 A number of public rights of way will need to be altered as a result of the proposals for the DCO Scheme. Schedule 6 contains details of the proposed impacts on the public rights of way network. Part 1 deals with permanent closures of public rights of way whilst Part 2 deals with the creation of new cycle tracks in Portishead and a new bridleway east of the M5 in Pill.
- 5.2 The powers are necessary to enable the authorised works to be carried out in accordance with the provisions of the Order.
- 5.3 The only permanent closure of a public footpath proposed in the draft Order is that at Barons Close, Bristol. Footpath BCC/422/10 crosses west from Barons Close, Ashton, on a level crossing before proceeding over the neighbouring MetroBus route to a dedicated bus way and then following the route of the pavement next to the guided bus way west. The Applicant and Network Rail are concerned that with more frequent trains passing over the Barons Close level crossing (which has been closed on a temporary basis during the construction of the adjacent MetroBus works) there is a much increased risk of train service perturbation arising from misuse of the level crossing. Pedestrians that previously used the level crossing will have been used to very low levels of train movements. The more frequent passenger service will create a significantly enhanced risk to pedestrians using the crossing and to people travelling on the trains passing over the footpath level crossing.
- 5.4 As a result of the adjacent MetroBus works, pedestrians can now be safely diverted north on the western side of the Portishead Branch Line, along the dedicated cycle and maintenance access route leading north to the Ashton Vale Road level crossing. It is

proposed to divert the existing public footpath known as BCC/422/10 north along this currently permissive route, across the railway at the Ashton Vale level crossing and then southwards using the newly laid footway along Winterstoke Road to regain the current route of footpath BCC/422/10 at the junction of Barons Close and Winterstoke Road.

- 5.5 New public rights of way are proposed in the draft Order in part 2 of Schedule 6. Five new cycle tracks are proposed in Portishead, to create a new network centred on the new station. This will provide for alternative modes from the private car for those wishing to reach Portishead station from the Vale and Ashlands Estates, as well as from the centre of Portishead. The new routes are shown on Sheet 1 of the new highways plan (Document 2.35) and the works plans (Document 2.3) and comprise:

New cycle tracks in Portishead

5.5.1 Work No. 3 - between points CT1 and CT2 on the new highways plan. This is part of the new pedestrian and cycle connection from the centre of Portishead to the new station;

5.5.2 Part of Work No. 4 - between points CT2 and CT3 on the new highways plan. This is part of the new pedestrian and cycle connection from the centre of Portishead to the new station. It also provides a route from the car park forming part of Work No. 4 with the new station (Work No. 5);

5.5.3 Work No. 7B - between points CT4 and CT5 on the new highways plan. This is a new pedestrian and cycle path south of the new railway, connecting the diverted Quay's Avenue with Galingale Way.

5.5.4 Work No. 7A – between points CT6 and CT8 on the new highways plan. This is a new pedestrian and cycle path south of the new railway, connecting Phoenix Way and the new station (Work No 5) and car park (Work No. 6) with Tansy Lane.

M5 Avonmouth Bridge - new bridleway

- 5.6 In addition to the cycle tracks in Portishead, a new bridleway is proposed from beneath the termination point of the existing Public bridleway LA8/67/10 under the Avonmouth Bridge of the M5 to reach the street connecting Avon Road in Pill to the cycle track that passes over the M5 Avonmouth Bridge. This is shown as Work No. 18 on the works plans (Document 2.3) and points B1 and B2 shown on Sheet 5 of the new highways plan.

Appendix 4 Crossings

1. This Appendix sets out the detail of each of the crossings described in Schedules 6, 8 and 9 of the draft Order. Each crossing is referred to in the Crossings to be extinguished plan (Document 2.32).

2. It is the ORR's policy that level crossings should be removed from the rail network where ever feasible to reduce risk to the public and to rail users. Its policy of 29 March 2018 (<https://orr.gov.uk/rail/health-and-safety/infrastructure-safety/level-crossings/level-crossings-policy>) reads:

“Great Britain's level crossing safety record is among the best in the world, but every incident has the potential for significant human and economic loss. Level crossings are the single biggest source of railway catastrophic risk, but overall the risks are well managed.”

3. It continues:

“Risk control should, where practicable, be achieved through the removal of level crossings and replacing them with bridges, underpasses or diversions. Where removal is not possible, we aim to ensure that duty holders reduce risk so far as is reasonably practicable and in accordance with the principles of protection.”

4. As a result the Applicant has sought powers to remove all existing crossings from the Order Lands where this is feasible.

5. The crossings to be closed are described below:

(i) *Quays Avenue Portishead – Between the points S1 and S2 on the Crossings to be Extinguished Plan (Sheet 1)*

The highway of Quays Avenue is required to be diverted west from its current alignment, to facilitate the construction of the new Portishead station (Work No. 5). All public and private rights of way are proposed to be extinguished over the existing crossing, which came in to existence after rail services on the Portishead Branch Line railway ceased.

(ii) *Historic Accommodation crossing east of Quay's Avenue Portishead – Between the points S3 and S4 on the Crossings to be Extinguished Plan (Sheet 1)*

Historic maps show a crossing existed by the Wessex Water pumping station in Portishead. No evidence remains on the ground but the opportunity will be taken to remove any residual rights that remain. No evidence of the crossing remains but without evidence that the rights have been extinguished it is considered prudent to ensure no rights to use the crossing remain.

(iii) *Crossing south of Trinity Primary School between Galingale Way and Tansy Lane – Between the points S5 and S6 on the Crossings to be Extinguished Plan (Sheet 1)*

This crossing is proposed to be replaced by new foot and cycle paths via new Portishead Station. All public and private rights of way are proposed to be extinguished over the existing crossing, which came in to existence after rail services on the Portishead Branch Line railway ceased.

(iv) *The former access known as Moor Lane, north of Sheepway and south of Marjoram Way, Portishead. – Between the points S7 and S8 on the Crossings to be Extinguished Plan (Sheet 1)*

Moor Lane appears on the land plan deposited for the Portishead Railway Acts and therefore pre-exists the Portishead Branch Line railway. Evidence of the crossing remains but the crossing is now not accessible. The former route left Sheepway and headed north towards the Severn Estuary. It is not clear whether it was a farm track or whether any highway rights existed. To avoid any doubt any public rights of way will also be extinguished by the provisions included in the draft Order.

- (v) *Two accommodation crossings at Shipway Gate Farm - Between the points S9 and S10, and S11 and S12 on the Crossings to be Extinguished Plan (Sheet 2)*

These crossings are accommodation crossings affording level access to fields owned by the farm on the south side of the railway. Given the changes in crossing policy since rail services on the Portishead Branch Line railway ceased and the intention to have a line speed limit of 75 MPH at this location, it is seen as important to the operation of the authorised development that these crossings are removed. No replacement will be provided but works to improve an existing access from Sheepway are proposed, and the highway of Sheepway crosses over the railway on a bridge close to the location of the crossings. Discussions with the landowner continue.

- (vi) *Elm Tree Farm, Portbury - Between the points S13 and S14 on the Crossings to be Extinguished Plan (Sheet 3)*

An historic occupation crossing exists west of Station Road Portbury, facilitating access from Sheepway to a field south of the railway and north of the Portbury Hundred Highway. It reflects the historic highway network before the construction of the M5 and the Portbury Hundred. It is proposed that the crossing be closed and a new access to the field that benefits from this level crossing be provided, located on the Portbury Hundred. This will be more convenient to the owner of the benefiting land than the current route.

- (vii) *Crossing east of Old Portbury Station and station Road Portbury - Between the points S15 and S16 on the Crossings to be Extinguished Plan (Sheet 3)*

There is mapping evidence that a crossing existed at this location. No evidence of its existence is to be found on the ground. The crossing is included for closure for the avoidance of doubt.

- (viii) *The former crossing of the Drove - Between the points S17 and S18 on the Crossings to be Extinguished Plan (Sheet 4)*

North of Portbury Hundred is evidence of a crossing immediately to the east of the Wessex Water pumping station. It formed an historic route known as the Drove, which extended from the village of Portbury to the Severn Estuary. To the south of the railway trackbed the route of the Drove has been severed by the M5 and the Portbury Hundred. North of the railway no evidence of the former route exists for some yards, before the route remains as part of the road network serving the area now occupied by the properties associated with Royal Portbury Dock. It is proposed that the former route of the Drove between Portbury Hundred and the railway will form a maintenance access for Network Rail and continue to function as a parking area for Wessex Water. As a secure compound is needed and because any rights to cross the railway at this location are proposed to be removed for safety reasons, powers to close the crossing have been sought in the draft Order. Any public rights of way will also be extinguished.

- (ix) *Portbury No 3 crossing - Between the points S19 and S20 on the Crossings to be Extinguished Plan (Sheet 4)*

There was a crossing at this location which may have been an accommodation or occupation crossing. It appears to have not been used for many years and is included for closure for avoidance of doubt.

- (x) *Court House Farm crossing - Between the points S21 and S22 on the Crossings to be Extinguished Plan (Sheets 4 and 5)*

There was a crossing at this location which may have been an accommodation or occupation crossing. It appears to have not been used for many years and is included for closure for avoidance of doubt.

- (xi) *Court House Farm crossing - Between the points S25 and S26 on the Crossings to be Extinguished Plan (Sheet 5)*

There was a crossing at this location which may have been an accommodation or occupation crossing. It appears to have not been used for many years albeit evidence of the crossing remains. It is included for closure for avoidance of doubt.

- (xii) *Manor Farm, Easton in Gordano Between the points S27 and S28 on the Crossings to be Extinguished Plan (Sheet 5)*

There was a crossing at this location which may have been an accommodation or occupation crossing. Evidence of the crossing remains but it appears to have not been used for many years and is included for closure for avoidance of doubt .

- (xiii) *Lodway Farm - Between the points S29 and S30 on the Crossings to be Extinguished Plan (Sheet 5)*

East of the M5 is evidence of a crossing formerly used for the benefit of Lodway Farm. This will be extinguished and no replacement right will be provided. No public rights are presumed to exist at this location.

- (xiv) *Barons Close or Ashton Containers crossing, Ashton, Bristol - Between the points S31 and S32 on the Crossings to be Extinguished Plan (Sheet 16)*

This crossing is currently a public footpath right of way but historic photos show a more substantial track over the railway. Given the recent construction for the Ashton Vale to Temple Meads bus way on the western side of the railway at this location it seems unlikely that any private rights to use the crossing could now be exercised but provision is included for the extinguishment of any such rights for the avoidance of doubt.

Appendix 5
Open Space land

MetroWest Phase 1 – Public Open Space
and request for Certificates pursuant to ss 131 and 132 of the Planning Act 2008

1. INTRODUCTION

- 1.1 There are a number of plots within the land plan and Book of Reference that form part of open spaces.
- 1.2 There are five areas of land where open space is required for the purposes of the MetroWest Phase 1 DCO Scheme (DCO Scheme). Each of the areas is described below, together with, where relevant, the intended provision of exchange land in the vicinity of the open space land that is to be acquired.
- 1.3 The following paragraphs provide the background to the Applicant's consideration of open space land. Parts 4 and 5 of this Appendix set out the Applicant's case for certificates under S131 and S132 of the Planning Act 2008. Table A5.1 at the end of this Appendix sets out the proposed acquisition or use of land that is to be regarded as open space for the purposes of Section 131 and 132 of the Planning Act 2008. The table also indicates the intended use of the land by the Applicant and why the Applicant believes no certificate should be included.
- 1.4 For completeness the tables below also include land over which temporary powers are sought. Order Land over which temporary powers are sought will not be subject to the provisions of S131 and S132 of the 2008 Act but are included to provide a full picture of the Applicant's proposals for open space land.

2. THE PROVISIONS OF THE PLANNING ACT 2008

- 2.1 The Secretary of State's consideration of powers proposed in the draft Order for compulsory acquisition of land, or rights over land, is subject to Sections 131 and 132 of the 2008 Act where commons, town and village greens or open spaces are proposed to be subject to the land assembly powers contained in the draft Order.
- 2.2 Section 131 applies where commons, open spaces or town and village greens are to be subject to the power of compulsory acquisition to authorise the Applicant to acquire the freehold of the relevant land compulsorily.
- 2.3 Section 132 applies to land where new rights are sought over the relevant land forming a common, open space or town and village green.
- 2.4 An order granting development consent is subject to Special Parliamentary Procedure if either of the relevant sections apply, unless the Secretary of State is satisfied that Special Parliamentary Procedure need not be engaged for one of the specified reasons in the relevant section. If the Secretary of State is so satisfied, that must be recorded in the Order.

Section 131

- 2.5 Section 131 (2) states that S131 does not apply to land to which S132 applies.
- 2.6 For freehold acquisitions, Section 131(4) allows the Secretary of State to be satisfied that Special Parliamentary Procedure is not engaged if replacement land has been or will be given in exchange for the Order Land. For the reasons explained below the Applicant does not propose to offer exchange land and has not included exchange land in the land plan or Book of Reference.
- 2.7 Sub-sections (3), (4A) and (4B) of S131 are not relevant for the purposes of this Application for development consent.

- 2.8 Section 131(5) applies if the Order Land subject to freehold acquisition does not exceed 200 square metres in extent or is required for certain highway works (only the former is relevant for this Application); and giving of exchange land is considered unnecessary, whether in the interests of persons entitled to the rights applicable to the land or in the interest of the public.
- 2.9 Section 131(11) allows for the development consent which authorises compulsory acquisition of open space land to also provide for the vesting of replacement land given in exchange and for discharging the Order Land from the relevant rights, trusts and incidents to which it is subject.

Section 132

- 2.10 Section 132 applies similarly to Section 131, but in relation to land over which new rights are sought to be acquired, albeit with the addition of a provision which states that an applicant ~~to~~ need not provide exchange land where the land subject to the new rights would not be adversely impacted.
- 2.11 For land over which new rights are sought, Special Parliamentary Procedure will apply unless one of a number of circumstances is certified by the Secretary of State. One of the circumstances is that the land when burdened with the order right will be no less advantageous than it was before to the persons in whom it was vested, other persons entitled to the rights in the land and the public (Section 132(3)). The Applicant is seeking to demonstrate that S132(3) applies to each of the plots forming open space over which new rights are sought.

3. THE RELEVANT ORDER LAND AND THE CERTIFICATES SOUGHT UNDER S131(5) AND S132(3) OF THE PLANNING ACT 2008

- 3.1 ~~Table~~ Tables A5.1, A5.2 and A5.3 below set out the detailed provisions regarding the areas of land that ~~is~~ are or may be regarded as open space and over which the Applicant seeks to secure compulsory powers or temporary possession. The three tables list the land for which:
 - 3.1.1 Freehold acquisition is proposed (Table A5.1);
 - 3.1.2 Permanent new rights are sought (Table A5.2); and
 - 3.1.3 Temporary powers only are sought (Table A5.3).
- 3.2 The locations of the Open Spaces subject to the Order are:
 - 3.2.1 Portishead – in the vicinity of the Trinity Primary School (with exchange land being provided to the west of this area, in the vicinity of Quays Avenue and Harbour Road);
 - 3.2.2 A small area of land forming part of the Portbury Wharf Ecology Park;
 - 3.2.3 A small area of land at Victoria Park, Pill, over which the Pill Railway Viaduct passes;
 - 3.2.4 An existing path connecting the Portishead Railway Line with the highway network at Watch House Hill, Ham Green, Pill: and
 - 3.2.5 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.
- 3.3 Only in Portishead is freehold acquisition of open space proposed.
- 3.4 Two requests for a Certificate are made:
 - 3.4.1 Under S131(5) for a certificate that for plots 01/213 and 01/223 freehold acquisition does not exceed 200 square metres in extent and giving of exchange land is considered unnecessary, whether in the interests of persons entitled to the rights applicable to the land or in the interest of the public. See Part 4 of this Appendix below; and

3.4.2 Under S132(3) for a certificate that the land when burdened with the proposed order rights, described in Part 5 of this Appendix below, will be no less advantageous than it was before to the persons in whom it was vested, other persons entitled to the rights in the land and the public (Section 132(3)).

3.5 The lands described in Part 6 of this Appendix, over which temporary powers only are sought, are listed for completeness and are not the subject of any application for a certificate.

4. THE REQUEST FOR A CERTIFICATE UNDER S131(5) OF THE PLANNING ACT 2008

4.1 Freehold acquisition of open space land within the entirety of the Order Land comprises only of plots 01/213 and 01/223.

4.2 The total area of these freehold plots is 163.65 square metres.

Table A5.1: Proposed Freehold Acquisition of Open Space - Galingale Way and Tansy Lane, Portishead (sheet 1 of land plan (Document 2.2) and sheet 1 of Special Category Land plan (Document 2.5))

Description of land	Book of Reference Plot numbers(s)	Current status/Owner	Required for	Proposal regarding replacement land	Proposed outcome
Land south of disused Portishead Branch Line and north of Galingale Way - 59.94 square metres	01/213	Open space and an ornamental lake Owner: Crest Nicholson (Chertsey) Limited and Ideal Developments Limited	The plot is required for creation of new public right of way (cycle track)	None proposed - The Applicant is applying for a certificate under Section 131(5) for this area of land.	This plot is required for a new path that will in part form part of the new cycle track to Quay's Avenue. It is also required to provide the physical connection to the retained permissive path south to Galingale Way.