

Statement of Common Ground

The West Midlands Rail Freight Interchange Order 201X

FAL and the Canal & Rivers Trust: June 2019

Four Ashes Limited

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Statement of Common Ground – Canal and River Trust

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1. Glossary

1.1.1 The terms used in this document are as follows:

DCLG	Department for Communities and Local Government
DCO	Development Consent Order
ExA	Examining Authority
the Trust	Canal and River Trust
CES	Canal Enhancement Scheme
SoCG	Statement of Common Ground
SRFI	Strategic Rail Freight Interchange
WMI	West Midlands Interchange

2. Introduction

- 2.1.1 This Statement of Common Ground (SoCG) has been prepared by FPCR Environment and Design Ltd (FPCR) on behalf of Four Ashes Limited (FAL, the Applicant) and Canal and River Trust (the Trust). It sets out common ground between the two parties (FAL and the Trust) in respect of the West Midlands Interchange (WMI) application (the Application).
- 2.1.2 The Applicant and the Trust have worked positively to seek agreement on all relevant matters.
- 2.1.3 This statement sets out the matters of interest to the Trust on which there is agreement between the Applicant and the Trust. It also sets out the matters on which, at the time of writing, there is not agreement between the Trust and the Applicant.
- 2.1.4 The purpose of this statement is to assist the Examining Authority (ExA) in making its recommendation on the Application. It has been prepared in accordance with DCLG Guidance¹.
- 2.1.5 The Applicant and the Trust have met and corresponded through the consultation period of the Application. The Consultation Report (Document 5.1), as prepared by Copper, includes details of the responses received from the Trust and the FAL response to the comments leading up to the submission of the Application. This consultation has had some impact on the technical inputs to the Application as submitted.
- 2.1.6 Discussion around the design and construction methodologies for new and demolished structures has been held between Waldeck Consulting and the Trust. FAL have agreed that works will follow the Canal & River Trust's Code of Practice process.
- 2.1.7 This SoCG covers the following matters:
- The Site
 - Staffordshire and Worcestershire Canal

¹ Planning Act 2008: Guidance for the examination of applications for development consent, DCLG, March 2015

- Moorings
- Calf Heath Reservoir
- Proposed Development
- Canal Enhancement Scheme
- Existing Character and Conservation Area
- Heritage, Character and Amenity
- Landscape Design Approach and Mitigation
- Assessment
- Existing Canal Bridge Crossings
- Use of Bridge no. 78a to provide a public right of way
- Towpath and access
- Staffordshire and Worcestershire Canal Feeder Channels
- Ecology
- Noise
- Surface Water Drainage
- Pipe Boring beneath the Staffordshire and Worcestershire Canal
- Land Ownership and Commercial Matters
- Protective Provisions

2.2 Commercial agreements

2.2.1 The Applicant and the Trust have agreed headline commercial terms for rights for the new Gravelly Way Bridge, the new culvert and other necessary rights including the right to transfer a small parcel of land needed for the new bridge structure.

3. Background

- 3.1.1 The Application is for a Development Consent Order (DCO) under the Planning Act 2008, for a proposed strategic rail freight interchange (SRFI) in South Staffordshire District (the Site).

3.2 The Site

- 3.2.1 The Site comprises approximately 297 hectares (ha) of land.
- 3.2.2 The Site, located at Four Ashes, Staffordshire, is approximately 10km north of Wolverhampton and lies immediately west of Junction 12 of the M6.
- 3.2.3 The Site is broadly bounded by the A5 trunk road to the north (from Junction 12 to the Gailey Roundabout); Calf Heath reservoir, the M6, Stable Lane and Woodlands Lane to the east; Station Drive, Straight Mile and Woodlands Lane to the south; and the A449 trunk road (Stafford Road), from the Gailey Roundabout to Station Drive to the west. The south-eastern area of the Site is bisected by Vicarage Road.
- 3.2.4 The Site is characterised by a mix of uses including a large area of sand and gravel mineral extraction within the east known as Calf Heath Quarry and a patchwork of agricultural fields with hedgerows and trees to the west and south of this, with an area of mixed woodland known as Calf Heath Wood in the centre of the Site. The current use of the Site is mainly arable farming and the mineral extraction area covers approximately 40ha, with almost the entirety of this area currently open-cast. The site is allocated Green Belt.

3.3 Staffordshire and Worcestershire Canal

- 3.3.1 The Staffordshire and Worcestershire Canal travels through the Site along a broadly north-south alignment and there are existing marinas both to the north at Gailey and to the south-east of the site at Hatherton. Hatherton Canal, joins with the Staffordshire and Worcestershire Canal approximately 350m south-east of the Site boundary.
- 3.3.2 The Staffordshire & Worcestershire Canal is a designated Conservation Area. The Conservation Area designation covers the length of the Canal, which extends approximately 74km (46 miles) from Great Haywood in

Staffordshire, to Stourport in Worcestershire. The Canal was first designated as a Conservation Area in 1978.

- 3.3.3 Gailey Wharf forms a complete set of canal architecture. The Wharf as a whole is locally listed and includes the Grade II Listed Round House and Wharf Cottage. The Historic England listing entry (23 May 1985 (List Entry Number: 1188285)) states that “*The Round [House] contributes to a picturesque grouping of buildings around Gailey Wharf*”. The Historic England listing entry for Wharf Cottage (23 May 1985 (List Entry number: 1039205) states that “*Wharf Cottage makes an important contribution to the picturesque grouping of buildings around Gailey Wharf*”.
- 3.3.4 There are a number of original canal bridges along the Staffordshire & Worcestershire Canal Conservation Area which contribute to its character and appearance. These include Long Molls Bridge (no.76) and Calf Heath Bridge (no.77), both locally listed and outside of the Order Limits.
- 3.3.5 Gravelly Way Bridge (no.78) is within the Order Limits and is an original James Brindley bridge (c.1770), included on the Staffordshire Historic Environment Record and is considered as a non-designated heritage asset accordingly.
- 3.3.6 A towpath extends along the western side of the Canal for its length through the Site and this has links to Croft Lane, Gravelly Way, Station Road and a minor road to the south of Straight Mile.
- 3.3.7 The towpath provides an off-road pedestrian / cycle route for the wider area and, as acknowledged within Para 15.140, Chapter 15: Transport and Access of the Environmental Statement (Document 6.2), will provide one of five principal sustainable transport routes for the proposed development.

3.4 Moorings

- 3.4.1 There are no permanent residential mooring sites within WMI Order Limits.
- 3.4.2 All designated moorings within the Order Limits are visitor / leisure moorings.
- 3.4.3 Outside of designated moorings sites boats are permitted to moor anywhere on the canal network for a period of up to 14 days for leisure or residential purposes (unless notices prevent this).

3.4.4 Signage is in place along the Canal near to the SI Group Chemical Works which appears to prevent mooring along the Canal in this location. The Trust have been unable to determine the origin, implications or enforceability of the mooring restrictions stated on this signage.

3.4.5 Within the Order Limits, the following visitor / leisure moorings exist (see Appendix 6 (Moorings) of the Trust's Deadline 2 submission (REP2-031) for locations):

Mooring	Description
Gailey Wharf L1 Moorings	<p>Max of 10no. leisure moorings let on the basis of 12-month contracts. In order to obtain a mooring, proof of main residence is required, as moorings are not residential.</p> <p>There is an expectation that the boat will move from the mooring at times and the boat will not be occupied at all times. However, no time restrictions are imposed, and mooring can be used for leisure purposes, similar to that of a holiday home.</p>
Gailey Wharf Service Moorings	2no. short-stay moorings for service and shop.
Gailey Bridge (79-78)	<p>2no. moorings restricted to a maximum 5-day stay.</p> <p>4no. moorings restricted to a maximum 48-hour stay.</p>

3.4.6 Outside of the Order Limits, but close to the Site, the following visitor / leisure moorings exist (see Appendix 6 (Moorings) of the Trust's Deadline 2 submission (REP2-031) for locations):

Mooring	Description
Gailey Wharf Moorings	4no. mooring points restricted to a maximum 48-hour stay.

3.5 Calf Heath Reservoir

3.5.1 Calf Heath Reservoir is situated immediately adjacent to the north-eastern Site boundary. Gailey Upper Reservoir and Gailey Lower Reservoir are located approximately 400m to the north-east of the site on the opposite side of the M6 motorway. All of the reservoirs are connected and are linked by a series of feeder channels to the Staffordshire & Worcestershire Canal including a partially culverted watercourse situated partly within the Site, along the northern Site boundary (alongside the A5). In addition, there is a feeder channel to the Hatherton Canal via a partially culverted watercourse to the east of the Site.

3.6 Proposed Development

3.6.1 In summary, the development proposals include the following:

- An intermodal freight terminal with direct connections to the West Coast Main Line, capable of accommodating up to 10 trains per day and trains of up to 775m long, including container storage, Heavy Goods Vehicle ('HGV') parking, rail control building and staff facilities;
- Up to 743,200 square metres (gross internal area) of rail served warehousing and ancillary service buildings;
- New road infrastructure and works to the existing road infrastructure;
- Demolition and alterations to existing structures and earthworks to create development plots and landscape zones;
- Reconfiguring and burying of electricity pylons and cables; and

- Strategic landscaping and open space, including alterations to public rights of way and the creation of new ecological enhancement areas and publicly accessible open areas.

4. Detailed Matters Agreed and Matters Not Agreed

4.1 Canal Enhancement Scheme (CES)

Matters Agreed: CES

4.1.1 A Canal Enhancement Scheme (CES) will be agreed with the Trust and secured through a DCO Requirement. The improvements and mitigation measures included in the CES will relate to the section of the Canal which is located within the WMI Order Limits. The Trust have made representations to FAL that the CES should extend beyond the WMI Order Limits.

4.1.2 The indicative CES proposed is set out in detail at Section 7.9 of the Design and Access Statement (Document 7.5, APP-258) and provides the following improvement and mitigation measures:

- removal of redundant pipe and access bridges;
- considered design of the new canal bridge;
- improvements to the towpath within the Order Limits; and
- improved pedestrian connections and legibility.

4.1.3 The CES provided in the Design and Access Statement is indicative. FAL will engage with the Trust and other parties (including South Staffordshire District Council) to produce and agree the detailed CES as part of the development.

Matters not agreed: CES

4.1.4 The Trust have identified further measures they would consider appropriate to include in the CES, such as towpath drainage works, heritage trail, removal of Four Ashes Bridge and works to Gravelly Way Bridge, that could be included within the final CES.

- 4.1.5 The Trust consider the CES should extend beyond the WMI Order Limits to ensure that the full impacts of the development on the canal corridor can be mitigated. FAL do not agree the CES should extend beyond the WMI Order Limits.
- 4.1.6 The Trust have requested that FAL undertake a towpath survey, extending beyond the limits of the site from Penkrige to Wolverhampton to determine the works required to support the Proposed Development. FAL do not agree that these works are required to support the Proposed Development.
- 4.1.7 To-date this towpath survey has not been carried out and FAL do not consider there would be any increased impact to the canal corridor / towpath from additional pedestrian / cycle movements arising as a result of the proposed development outside of the WMI Order Limits.

4.2 Heritage, Character and Amenity

Matters Agreed: Existing Character and Conservation Area

- 4.2.1 The Staffordshire & Worcestershire Canal is a designated Conservation Area. The Conservation Area (CA) designation covers the length of the Canal, which extends approximately 74km (46 miles) from Great Haywood in Staffordshire, to Stourport in Worcestershire. The Canal was first designated as a Conservation Area in 1978.
- 4.2.2 The relevant published documents include the Staffordshire and Worcestershire Canal Conservation Area Appraisal (CCAA) (April 1978) which was jointly prepared by the original five local authorities which the CA travelled through when it was first designated. The CCAA covers the whole of the Staffordshire & Worcestershire Canal Conservation Area.
- 4.2.3 Since the time of the CAs designation, the administrative boundaries have changed. The CA now passes through three local authorities: Stafford Borough Council to the north, South Staffordshire District Council along the central part of the CA (in which the Site is located), and Wyre Forest District Council to the south. Stafford Borough Council and Wyre Forest District Council have prepared separate Appraisals for the CA, published in October 2015 and January 2015 respectively.
- 4.2.4 In relation to the section of the CA within the South Staffordshire District Council administrative area, the CCAA has not been reviewed or updated since its first publication, 41 years ago.

- 4.2.5 Other relevant documents are the list entry descriptions for the listed buildings within the section of the canal which travels through the Site. The list entries are included as ES Technical Appendix 9.7 (Doc 6.2).
- 4.2.6 The setting of the Staffordshire and Worcestershire Canal Conservation Area is characterised by a transition between different landscape types and land uses. There are both rural and urban characteristics and features on this part of the Canal corridor. This includes industrial influences, such as the Four Ashes Industrial Estate, the S.I. Group Chemical Plant and the more recent Bericote / Gestamp development. There is also open farmland and the land surrounding this section of the canal.

Matters Not Agreed: Existing Character and Conservation Area

- 4.2.7 The Trust and FAL disagree on the level of weight to be attached to the CCAA.
- 4.2.8 FAL and the Trust do not agree on the extent to which the current character of the canal corridor is affected by existing industrial/ commercial development. The Trust consider that the canal still retains a tranquil and a predominantly rural character. FAL consider the area to be more varied and characterised by different land uses and landscape features, including built-up areas, industrial areas, transport corridors and rural areas.

Matters Agreed: Landscape Design Approach and Mitigation

- 4.2.9 The proposed Green Infrastructure (GI) (including existing and new planting and habitats) extends to approximately 34.3% of the total site area. The extent of the proposed GI is detailed on the GI Parameters Plan (Doc 2.7). An Illustrative GI Plan is included at (Doc 6.2; ES Figure 12.11) and depicts how the GI proposals could come forward at the detailed design stage.
- 4.2.10 The Proposed Development is to be buffered from the canal by landscaped bunds. The Green Infrastructure Parameters Plans (Doc 2.7) state that the height of the bunds are to be '*relative to the adjoining development zones finished floor levels (FFLs) as shown on Document 2.6*'.
- 4.2.11 The use of landscape 'buffer' areas and bunds to mitigate the potential landscape and visual impacts of the proposed development is a sensible design strategy.

- 4.2.12 To the north of Gravelly Way, the closest Development Zones of the Proposed Development are set back from the Canal by at least 70 metres and up to approximately 250 metres.
- 4.2.13 To the south of Gravelly Way, Development Zones are in closer proximity to the Canal (Zones B & C); yet along this stretch of the canal, these Zones (B & C) are not as close to the canalside as the existing SI Chemical Works, Four Ashes Industrial Estate and ongoing Bericote development.
- 4.2.14 The heights of the bunding along the eastern side of the Canal will vary between 4.5m and 8m in height. To the west the nearest mounding will vary between 4.5m and 6m in height. See the Green Infrastructure Parameter Plans (AS-062).
- 4.2.15 The landscape buffer 'areas' and bunds to the Canal will assist in mitigating and visually screening parts of the Proposed Development, including the more active and lower level parts of the proposed Development Zones (e.g. service yards and car parks).
- 4.2.16 The design approach for the landscape 'buffer' areas and bunds relating to the Canal and Calf Heath Reservoir are illustrated on the Landscape Cross Sections (Document 6.2, Figure 12.12 – Illustrative Landscape Cross Sections (Sections C-CC; I-II; K-KK; and N-NN)).
- 4.2.17 Photomontages depict the views from the canal and Calf Heath Reservoir (Document 6.2, Figure 12.13):
- Viewpoint 2 – from Gailey Marina
 - Viewpoint 7 – from canal to south of Straight Mile
 - Viewpoint 13 –from Calf Heath Reservoir
 - Viewpoint 26 – from canal north of the A5
- 4.2.18 Photo viewpoints nos. 1, 2, 5, 6, 13, 17, 25, 26, 27 & 30 depict the views from, Calf Heath Reservoir, Gailey Marina and the Canal towpath at various locations (Document 6.2, Figure 12.8)

- 4.2.19 It will be appropriate for the Trust to be consulted on the subsequent detailed Green Infrastructure proposals during the detailed design period for each warehouse / relevant phase.

Matters not agreed: Landscape Design Approach and Mitigation

- 4.2.20 The Trust consider the heights for the strategic landscape bunds should be set as part of the DCO and implemented at the start of the development to ensure they become established at the earliest opportunity and the canal is protected from the impacts of the development both during construction and operation of the development from the outset.
- 4.2.21 FAL consider that the approach taken within the submission represents good sustainable design, environmental and engineering practice. The Requirements and Protective Provisions secure, and set out, how development zones and the spine road are linked to mitigation, which will be agreed at the detailed stage. The height of the bunds is intrinsically linked to the development zones and the spine road, and FAL consider that it is not practicable to construct the bunds ahead of the levels for the development zones and the spine road being known.

Matters agreed: Assessment

- 4.2.22 There will be a degree of harm to the heritage value (significance) of the Canal CA arising from the change to the rural setting of the canal between Gailey and Gravelly Way.
- 4.2.23 The Cultural Heritage assessment (ES Chapter 9, APP-029, paragraphs 9.368-9.374) makes a distinction between the impact on both the section of the canal which runs through the Site, and the effect on the Conservation Area as a whole. This is the appropriate approach to understand the impact of the proposals on the CA in respect of the relevant statute and policy.
- 4.2.24 The removal of existing bridges will enhance the character and appearance of the CA by removing later structures which currently detract from the character and appearance of the canal corridor.
- 4.2.25 The direct effects to the Canal CA will include the creation of landscaping bunds, SuDS, removal of redundant steel pipe bridge, towpath improvements and the introduction of a new road bridge at Gravelly Way. The Landscape and Visual Impact Assessment (Doc 6.2 ES Chapter 12;

paras 12.338 – 12.344) acknowledges that the Proposed Development will result in changes to the landscape character of parts of the Canal corridor.

- 4.2.26 There will be limited loss of existing Canalside planting and new planting and wetland habits will be created in close proximity to the Canal.
- 4.2.27 The nature and significance of the visual effects for Canal and towpath users will vary with the most notable visual change arising between Gailey Marina and Gravelly Way Bridge and for a stretch immediately to the east of Long Molls Bridge (located south of Straight Mile).
- 4.2.28 Between Gravelly Way Bridge (existing Gravelly Way road bridge) and Calf Heath Bridge (existing Station Road, road bridge), views towards the Proposed Development will be limited due to the existing landscaping and industrial uses and buildings to both sides of the Canal.

Matters not agreed: Assessment

- 4.2.29 CRT consider that there will be a degree of harm to the heritage value (significance) of the Canal CA arising from the change to the rural setting of the canal including east of Long Molls Bridge. FAL do not consider there will be any harm arising in this location.

4.3 Bridge Crossings

Matters agreed: Existing Canal Bridge Crossings

- 4.3.1 Existing Canal bridge crossings within or close to the Site comprise:
- Watling Street A5 road bridge (Bridge No. 79);
 - Four Ashes Bridge (Bridge No. 78a – owned by the Trust);
 - Gravelly Way Bridge (Bridge No. 78 – owned by the Trust);
 - Calf Heath Bridge (Bridge No. 77);
 - Long Molls Bridge (Bridge No. 76-owned by the Trust) (south of Straight Mile).

- 4.3.2 None of the above existing bridges are proposed to be removed as a result of the Proposed Development. The Trust however have made representations in relation to this point.
- 4.3.3 As part of the development, it has been agreed that 3no. structures which currently oversail the Staffordshire and Worcestershire canal, will be removed. These structures are identified in Document 6.2; Figure 4.4 and comprise:
- Concrete Bridge Over Canal: A road crossing, '*Schenectady Works Bridge*', that previously linked the Four Ashes industrial estate to land east of the Staffordshire and Worcestershire Canal.
 - Steel Pipe Bridges over Canal : 2no. steel pipe bridges '*Schenectady Works Pipe Bridge No.1*' and '*Schenectady Works Pipe Bridge No.2*', located on the eastern edge of the existing Four Ashes industrial estate, which cross the canal adjacent the SI Group chemical plant to the north of the concrete road bridge.
- 4.3.4 Investigation of the structures, design of the removal methodology and any mitigation works required will be agreed with the Trust and will adhere to the Canal & River Trust's "*Code of Practice for Works affecting the Canal & River Trust*".
- 4.3.5 A new road bridge crossing of the Canal is acknowledged to be necessary should the Proposed Development be approved. The location of the road bridge crossing is appropriate in relation to safe navigation of the Canal corridor.
- 4.3.6 The road is proposed to cross the Staffordshire and Worcestershire Canal approximately 40m north of the existing Four Ashes Bridge, no. 78a. The current illustrative design for the bridge proposed by FAL can be found on 2.18D '*Proposed Road Bridge B4 Section and Elevation*'.
- 4.3.7 The design approach to be adopted for the new road bridge has been discussed between FAL and CRT at a series of meetings, since August 2016. Agreement on the indicative bridge designs has not been reached at this stage (see the date of this SoCG) and further discussions will be undertaken.

- 4.3.8 The bridge design is only illustrative at this stage, with the design to be agreed as part of the discharge of a Requirement of the DCO. Illustrative design proposals for the new road bridge are included at Doc 2.18D '*Proposed Road Bridge B4 Section and Elevation*'.
- 4.3.9 The new road bridge crossing is to be adopted by the County Council, therefore, the materials chosen for the structure need to be consistent with the loading and design life requirements of the "*Design Manual for Roads and Bridges (DMRB)*" by Highways England. The materials also need to consider the visual impacts and be appropriate for this part of the Staffordshire & Worcestershire Canal Conservation Area.
- 4.3.10 The design and construction of the new road bridge crossing will be agreed with the Trust in advance of works commencing on the construction of the bridge (as per the Protective Provisions) and will follow the Canal & River Trust's "*Code of Practice for Works affecting the Canal & River Trust*". The Protective Provisions relating to the bridge crossing and the spine road also require agreement to be reached with Network Rail and Staffordshire County Council and must be in accordance with the General Arrangement drawings (APP-210), which are part of the application and referred to in the draft DCO (REP3-005).

Matters not agreed: Existing Canal Bridge Crossings

- 4.3.11 The direct effects to the Canal CA will include the introduction of a new road bridge at Gravelly Way. The extent of the visual impact this additional crossing will have on the canal corridor, particularly considering its proximity to existing crossings at Gravelly Way is not agreed between the Trust and FAL.
- 4.3.12 FAL consider the bridge will be located at a point where the Canal meanders which prevents longer ranging views along the waterway and provision of an additional bridge crossing will not adversely impact on the visual amenities of the canal corridor or result in a tunnelling effect.
- 4.3.13 FAL consider the location of the proposed new road bridge lies at a change in local landscape character, with a relatively more rural area to the north and an industrial area immediately to the south. FAL thus consider the proposed new road bridge will not sever an existing unified or cohesive stretch of the Canalside landscape.

- 4.3.14 The Trust consider there is already a modern bridge crossing at this location (Four Ashes Bridge (no. 78A) as well as a historic bridge (Gravelly Way Bridge, No. 78). The Trust are concerned with the impact the introduction of a third crossing will have on the character of the canal conservation area and users of the waterway.
- 4.3.15 The Trust consider that to mitigate this impact the existing Four Ashes Bridge (No.78A) should be removed to enhance the setting of the historic original James Brindley designed Gravelly Way Bridge (no.78) and reduce the impacts of a new bridge crossing on the CA and users of the waterway.

Matters not agreed: Use of Bridge no. 78a to provide a public right of way

- 4.3.16 The submission proposes the retention of both Bridge no.78a “Four Ashes Bridge” (the existing Gravelly Way Road Bridge) and Bridge no.78 “Gravelly Way Bridge” (the existing footbridge), with Bridge no.78a to be used as the principal pedestrian and cycle access across the canal in this location.
- 4.3.17 FAL additionally note the Trust granted third party users pedestrian / cycleway access rights across Bridge no. 78a under an agreement between the Trust and Bericote. This was signed on 3rd October 2016 on a 999 year lease. These users, and Bericote, have informed FAL that they wish to retain this access going forward as their principal pedestrian / cycleway access across the canal in this location.
- 4.3.18 The Trust consider that Bridge no.78a should be removed to enhance the setting of the historic bridge (no.78) and reduce the impact that 3no. bridge crossings in close proximity would have on this section of the CA.
- 4.3.19 FAL do not consider Bridge no.78 is suitable or safe to act as the main pedestrian / cycle bridge across the Canal for users of the Proposed Development (or other members of the public). FAL have undertaken an assessment to explain their position, which is set out in their response to the Trust’s WR (2.7) in their Deadline 3 submission (Document 11.1, REP3-007).
- 4.3.20 The Trust do not consider that the assessment undertaken by FAL is suitable and consider a more detailed formal assessment should be undertaken to determine the suitability of Bridge no.78 to accommodate increased pedestrian or cycle traffic and explore alternative options for the main pedestrian/cycle connections at this point.

- 4.3.21 The Trust consider the Proposed Development includes the provision of a new bridge crossing. The indicative plans show this to include pedestrian and cycle provision. The submission has not considered all the options available in respect of pedestrian/cycle access at this point.
- 4.3.22 Access across Bridge 78 and to the towpath will be retained. The Trust therefore consider Bridge 78 will be likely to experience increased footfall as a result of the Proposed Development. Whilst the Trust consider retaining access to the bridge is positive, the submission does not include any proposals for restoration works to mitigate this impact.
- 4.3.23 The Trust therefore consider that in failing to look at the alternative pedestrian / cycle connections available and lack of proposed mitigation for Bridge 78 the Proposed Development has not fully considered the opportunities to enhance or better reveal the significance of the conservation area / heritage asset contrary to Para 5.137 of the NPS for National Networks (December 2014).

4.4 Towpath and Access

Matters agreed: Towpath and access

- 4.4.1 The existing Canal towpath extends along the western side of the Canal.
- 4.4.2 The existing Canal towpath both within the Site and to the north and south is unsurfaced.
- 4.4.3 The development will provide new access points to the canal from the proposed Croft Lane Community Park. In addition, improvements and mitigation measures to the towpath will be agreed with the Trust as landowner (as per the Requirements and Protective Provisions) and detailed within the final CES.

4.5 Calf Heath Reservoir

Matters agreed: Calf Heath Reservoir

- 4.5.1 Suitable access to the Calf Heath reservoir west dam will be maintained as part of the Proposed Development; to ensure inspection of the dam for leaks, as well as planned silt removal and regular vegetation management.

On the basis that this access is maintained, Calf Heath Reservoir will continue to operate satisfactorily.

- 4.5.2 The ditch course at the foot of the Reservoir dam will be retained. This is partially shown on the drawing 'Works Associated with Canal and Rivers Trust Ditch Network' (1516-0425-WDK-SI-C-301-012) (Doc 6.2 – Appendix 16.3).
- 4.5.3 The section of ditch course within the site will be retained around the reservoir.
- 4.5.4 The ditch course and a minimum 5-metre-wide vehicular access maintenance strip with 2metre wide pedestrian access to the ditch course will be provided and maintained as part of the development.

4.6 Staffordshire and Worcestershire Canal Feeder Channels

Matters agreed: Staffordshire and Worcestershire Canal Feeder Channels

- 4.6.1 A feeder channel, Gailey & Calf Heath Feeder is located along the northern site boundary. The feeder channel currently runs between the Gailey Lower Reservoir, Calf Heath Reservoir and the Staffordshire & Worcestershire Canal.
- 4.6.2 The proposals for the new link road between the A449 and the A5 include a new roundabout and associated highway re-alignment on the A5 which will be constructed over a portion of the current route of the feeder channel.
- 4.6.3 To facilitate the A5 realignment, a section of the canal feeder course is to be diverted and culverted beneath the new road. An existing access bridge across the feeder channel, Clovelly Bridge, is also to be removed as part of the development.
- 4.6.4 The culvert size and alignments are to be confirmed and agreed with the Trust at detailed design stage, following receipt of a detailed survey of the existing channel. The design will ensure that the existing flow rate is not throttled by the proposed culvert and all works will follow the Canal & River Trust's "Code of Practice for Works affecting the Canal & River Trust".
- 4.6.5 A redundant access bridge 'Clovelly Bridge' which passes over the feeder channel is to be removed as part of the development. A minimum 2m wide

unrestricted maintenance strip is to be provided to the southern edge of the feeder channel and this and the feeder channel will be maintained thereafter as part of the development

4.7 Natural Environment

Matters agreed: Ecology

- 4.7.1 Matters relating to the species / habitats associated with the Canal and Calf Heath Reservoir have been considered and mitigation measures are set out in the ES (Doc 6.2 Chapter 10) and the Framework Ecological Mitigation and Management Plan (FEMMP) (Doc 6.2 ES Technical Appendix 10.4) These will be secured through a Requirement of the DCO in addition to any enhancements to be proposed /agreed within the CES or the subsequent Ecological Mitigation and Management Plans (EMMPs) to be prepared for each phase of development. The Trust will be consulted on these details and where appropriate they will be agreed with the Trust (as per the Protective Provisions).
- 4.7.2 Measures provided within the Outline Demolition and Construction Environmental Management Plan (ODCEMP) (Doc 6.2; Technical Appendix 2.3) will seek to control the risk of pollution events, should they ever occur. This will be secured via the DCO (Requirement 4).
- 4.7.3 As outlined in Section 5 of the ODCEMP, an Emergency Incident Plan will be agreed to deal with any potential spillages and / or pollution incidents. This and the DCCEMPs will be agreed with the Trust where appropriate² and works will follow with the Canal & River Trust's "*Code of Practice for Works affecting the Canal & River Trust*".
- 4.7.4 Table 10.10 of the ES states the sensitive lighting strategy will ensure "*The existing dark canal corridor will be maintained and no increase in lighting as a result of the Proposed Development*". Figure 10.003 of the ES shows this and likewise at Calf Heath Reservoir. Gailey Reservoirs which includes Calf Heath Reservoir are considered in a specific section of the ES as receptors. Both the canal and the reservoir have been considered in the assessment for the species they support. The canal was identified and assessed as a

² See Requirement 3 (17) of the dDCO which requires the undertaker to consult and have regard to reps made by the trust relating to so much of the authorised development as is situated upon, across, under, over or within 150 metres of, or may in any way affect, the waterway

key foraging and commuting area for bats as shown on Figure 10.1.634 of the Baseline Ecology Report – ES Technical Appendix 10.1.

Matters not agreed: Noise

- 4.7.5 FAL have had detailed discussions with the Environmental Health Officer at South Staffordshire District Council (SSDC) who have agreed in their SoCG that the scheme meets the aims of the NPS in relation to noise and vibration (see Section 14 of the SSDC SoCG).
- 4.7.6 The Trust remain concerned with the impact of the predicted noise levels for various locations along the canal. The principles of ensuring that noise disturbance from a proposed development must be prevented through its design and the provision of appropriate mitigation are followed here, as in the NPS, should be adhered to in respect of the Proposed Development.
- 4.7.7 The Proposed Development has considered users of the canal as '*transient*' or '*quasi-residential*'. The Trust have stated (Deadline 2 submission) that it needs to be recognised that there are long-term moorings on the canal and the canal and reservoir are not just areas that people simply pass through. FAL consider this has been recognised in their submission, and note that there are no users classed as residential along the Canal within the Order Limits.
- 4.7.8 The Trust are not satisfied that FAL or SSDC have fully understood the nature of the canal corridor or moorings in this location. And consider this may have affected the assessment of the proposed noise impacts and proposed mitigation.
- 4.7.9 FAL consider boaters and towpath users, as well as Calf Heath Reservoir, as receptors in the ES Noise chapter (see paragraph 13.163, Table 13.23, and paragraph 13.247 of ES Chapter 13, Document 6.2). The bespoke noise insulation scheme assists with meeting the first and third aims of national policy as set out at paragraph 5.195 of the NPS, however, it is considered difficult to practically implement the scheme for users of the canal moorings due to their transient nature (see paragraphs 13.294 to 13.298 of Ch13 of the ES (Doc 6.2)).

4.8 Surface Water Drainage

Matters agreed: Surface Water Drainage

- 4.8.1 National Policy Statement guidance on drainage design is followed.
- 4.8.2 The drainage strategy separates the proposed development in to four catchments and provides conveyance to existing land drainage outfalls wherever possible, aiming to mimic the local hydrological regime.
- 4.8.3 The surface water drainage strategy for the development proposes discharge to the Staffordshire & Worcestershire Canal.
- 4.8.4 Approval from the Trust will be required to discharge surface water from the Site to the Canal. The volume, rate and velocity of discharge proposed, and the detailed outfall arrangement, are to be agreed by the Trust and all works will follow the Canal & River Trust's "*Code of Practice for Works affecting the Canal & River Trust*".
- 4.8.5 An Application to the Trust for surface water discharge to the canal was submitted on 3 March 2019 and is currently under review by the Trust.

Matters agreed: Pipe Boring beneath the Staffordshire and Worcestershire Canal

- 4.8.6 It is proposed to create a new, large capacity culvert beneath the canal, in the form of 3no. thrust bored 750mm diameter pipes. An indicative section of the proposal is shown on the drawing 1516-0425-WDK-S-C-301-003 'Proposed Drainage Pipe Boring Under Existing Canal', (Doc 6.2 – Appendix 16.3).
- 4.8.7 The detailed design and construction of the new bored pipelines are to be agreed by the Trust and all works will follow the Canal & River Trust's "*Code of Practice for Works affecting the Canal & River Trust*".

5. Land Ownership and Commercial Matters

- 5.1.1 Terms for the commercial rights for the new bridge, new culvert and other rights have been agreed in principle with the Trust including the right to transfer a small parcel of land needed for the new bridge structure.
- 5.1.2 FAL have agreed not to use any Compulsory Acquisition Powers in relation to the Trust's interests in land.

Matters not agreed: Land Ownership and Commercial Matters

- 5.1.3 The parties are finalising the detailed wording of one item in the terms prior to signing off the detailed heads of terms.

6. Protective Provisions

Matters not agreed: Protective Provisions

- 6.1.1 The protective provisions contained within Part 7 of Schedule 13 of the dDCO have been discussed between FAL and the Trust. They are agreed with the sole exception that the Trust are seeking to include wording in the protective provisions which clarifies that Four Ashes' indemnity to the Trust shall include any loss sustained by the Trust in the event that the Trust's tenants/licensees terminate their agreements in respect of the use of the waterway (including the reservoir and marina) as a consequence of the effects of the DCO, during construction and operation of the WMI.
- 6.1.2 The Trust consider this to be reasonable because this loss is reasonably foreseeable particularly given that some of the Trust's tenants have already raised concerns regarding the proposals. If the Trust experience loss as a consequence of the DCO then it is equitable for the Trust to be compensated for this loss. The wording suggested in the protective provisions was intended to clarify a position that already exists; that FAL are required to fully compensate the Trust for any loss based upon the principle of equivalence.
- 6.1.3 FAL do not believe that such a provision is necessary or workable given that there could be a number of reasons why tenants might wish to terminate a tenancy which are unrelated to the development.

7. Conclusion

- 7.1.1 This statement sets out a record of the issues of interest to Canal and River Trust (the Trust) and the extent to which these are agreed with Four Ashes Limited (FAL).
- 7.1.2 It sets out the general circumstances surrounding each issue, the position reached at the time of writing and matters which are not agreed.

8. Signed Parties

8.1.1 The Statement of Common Ground (SoCG) is jointly agreed by:

Signed Date

Name

On behalf of Four Ashes Ltd

Signed Date

Name

On behalf of Canal and River Trust