

Lime Down Solar Park

**Planning Inspectorate Reference:
EN010168**

**Wiltshire Council Post Hearing Summaries and
Responses to Action Points Arising**

Deadline 4 (10 July 2026)

Contents:

1.	Compulsory Acquisition Hearing (CAH1) (30 June 2026) Summary	4
2.	Issue Specific Hearing (ISH2): Landscape and Visual Impact (1 July 2026) Summary	7
3.	Issue Specific Hearing (ISH2) Action Point Responses	20
4.	Issue Specific Hearing (ISH3): Transport and Transport; and Ecology and Biodiversity (2 July 2026) Summary	23
5.	Issue Specific Hearing (ISH3) Action Point Responses	52
6.	Issue Specific Hearing (ISH4): Draft Development Consent Order (3 July 2026) Summary	62
7.	Issue Specific Hearing (ISH4) Action Point Responses	71

Appendices

A.	CAH1: Corrections to Book of Reference (including Separate Excel Document)	75
B.	CAH1: Wiltshire Council's Preferred Protective Provisions for the Benefit of the Local Highway Authority	76
C.	ISH2: Action Point 16 – Plans Illustrating Potential Panel Reduction to Reduce Impact of Norton Village Setting	91
D.	ISH2: Action Point 19 – Plan Illustrating Intra-Project Cumulative Sequential Road Routes for Visual Assessment	94
E.	ISH3: Action Point 10 – Plans Illustrating Required Highway Improvement Areas	96

Acronyms and Abbreviations:

Acronym / Abbreviation	Meaning / Description
AIL	Abnormal Indivisible Load
BNG	Biodiversity Net Gain
BoR	Book of Reference
CA	Compulsory Acquisition
CAH	Compulsory Acquisition Hearing
CNL	Cotswolds National Landscape
CRC	Cable Route Corridor
CRoW	Countryside and Rights of Way Act 2000
CTMP	Construction Traffic Management Plan
dDCO / DCO	(Draft) Development Consent Order
DLL	District Level Licensing
DMRB	Design Manual for Roads and Bridges
EPMS	Ecological Protection and Mitigation Strategy
EPS	European Protected Species
ES	Environmental Statement
ExA	Examining Authority
ExQ1	Examining Authority's First Written Questions
GCN	Great Crested Newt
GLVIA3	Guidelines for Landscape and Visual Impact Assessment (third edition)
HDD	Horizontal Directional Drilling
HGV	Heavy Goods Vehicle
HIA	Highways Improvement Area
HPI	Habitats of Principal Importance
HRA	Habitats Regulations Assessment
IROPI	Imperative reasons of overriding public interest
ISH	Issue Specific Hearing
LIR	Local Impact Report
LPA	Local Planning Authority
MMU	Minimum Mappable Units
NE	Natural England
PRA	Preliminary Root Assessment
PRoW	Public Right of Way
SAC	Special Area of Conservation
SLD	Stop Lime Down
SNCB	Statutory Nature Conservation Body
SoR	Statement of Reasons
TP	Temporary Possession
TPO	Tree Preservation Order

1. Compulsory Acquisition Hearing (CAH1) (30 June 2026) Summary

Executive Summary

- 1.1. The Book of Reference (BoR) and Land Plans require correction where Wiltshire is incorrectly identified as reputed owner or occupier.
- 1.2. Unfettered Compulsory Acquisition (CA) / Temporary Possession (TP) powers over Wiltshire highways / interests have not been justified as the dDCO and Wiltshire Council's preferred protective provisions provide all necessary mechanisms by which the Applicant can deliver and maintain the project.
- 1.3. Any powers to acquire any interest of Wiltshire, or to carry out works to or occupy / use the local highway network must be subject to Wiltshire Council's highway protective provisions as provided.

Book of Reference Issues

- 1.4. The BoR identifies Wiltshire Council in different capacities. In some instances, the council is identified as highway authority. In others, it is identified as reputed owner or occupier. In others, its interest appears to be only in respect of a public footpath or byway.
- 1.5. Many of these entries are inaccurate and, in many cases, conflate Wiltshire Council's capacity as highway or Public Rights of Way (PRoW) authority with that of a landowner.
- 1.6. The table in the council's response to ExQ1 CA1.17 [\[REP3-142\]](#) should be used as the council's current correction schedule and Appendix A to this submission contains a separate Excel file detailing the resulting amendments sought to the BoR. In summary, the inaccuracies in the BoR relate to:
 - No ownership record / not maintainable highway – plots where the BoR identifies Wiltshire Council as reputed owner or occupier, but the council has no ownership record and the land is not shown as maintainable highway;
 - PRoW only interests – should not be presented as council ownership interests;
 - Partial or uncertain highway status – plots where the highway position is unclear or only part may be maintainable highway;
 - Further information required – specific points should be clarified such as the pond or drainage feature at plot 08-001 and the potential Network Rail issue at plot 03-049.
- 1.7. Of the 23 entries in the CA1.17 table, Wiltshire Council's current position is that only 7 appear likely to reflect a legitimate council interest that should remain in

the BoR: 5 as PRow / highway authority interests only, and 2 as partial or uncertain maintainable highway interests. Plot 08-001 may also need to remain if further asset checks confirm a Wiltshire Council drainage or highway asset interest. The remaining entries should be removed or corrected unless the Applicant provides evidence of Wiltshire ownership, occupation, maintainable highway, apparatus or another relevant interest.

- 1.8. The council asks that these be corrected before CA or temporary possession powers are confirmed.

Unfettered CA Powers Not Justified

- 1.9. The Applicant's project need, in relation to Wiltshire Council's interests, is limited to matters such as construction traffic, street works, cable works, access works, temporary traffic management, highway alteration, apparatus, reinstatement and maintenance.
- 1.10. The Applicant's own Statement of Reasons [[APP-018](#)] (SoR) identifies powers for these purposes: street works powers, alteration of streets, temporary closure and restriction of streets and public rights of way, access powers, traffic regulation powers, temporary possession, and maintenance-related powers.
- 1.11. In any event, in the majority of plots Wiltshire Council is only the highway authority – the highway is usually not owned by the highway authority, and the adjacent landowner will usually retain the subsoil under the ad medium filum presumption.
- 1.12. Therefore, if the Applicant acquires the underlying estate or subsoil of land currently subject to highway rights, it may obtain a proprietary interest wider than needed for construction traffic, cable installation or apparatus protection. If the highway were later stopped up, the Applicant could hold a residual proprietary interest unrelated to any demonstrated scheme need.
- 1.13. The SoR does not address that risk. It does not explain why acquiring subsoil or freehold in highway-related land is required where the stated need is use of the surface, temporary traffic management or apparatus.
- 1.14. If the Applicant needs flexibility before detailed design, the proportionate mechanism is temporary possession, survey powers, and Wiltshire Council's consent where highway / local road network land is affected. It is not premature acquisition of freehold, subsoil or permanent rights over incorrectly attributed Wiltshire Council land.
- 1.15. However, the council acknowledges that there may be limited and unforeseen circumstances in which the Applicant can properly demonstrate a need to acquire an interest held by Wiltshire Council, or an interest in the subsoil of land affected by highway rights, in order to construct, operate, maintain or decommission the authorised development.

- 1.16. If, in a particular case, the Applicant considers that acquisition of a Wiltshire Council interest, or acquisition of land or highway subsoil owned by Wiltshire Council, is necessary, the exercise of that power should be subject to the council's prior written consent, not to be unreasonably withheld or delayed. This mechanism has been included by the council in article 17 of its preferred protective provisions.
- 1.17. This consent mechanism is proportionate and allows the Applicant to respond to unforeseen engineering or delivery constraints, while ensuring that Wiltshire Council retains proper control over the acquisition or interference with council land, highway land, subsoil, apparatus, public rights of way and local road network assets.

Wiltshire Council's Preferred Protective Provisions

- 1.18. Where the land is local road network land, or land owned by Wiltshire Council, or land in which the council holds highway apparatus or rights, the appropriate mechanism for dealing with CA / TP of Wiltshire Council's highway / interests should be via its protective provisions.
- 1.19. Wiltshire Council's preferred protective provisions (contained in Appendix B) contain necessary technical, safety and asset-protection controls. They require prior approval, detailed design information, traffic management, road safety audits, condition surveys, damage redress, cost recovery, security, maintenance until final certificate, indemnity, reinstatement, and a land acquisition consent mechanism.
- 1.20. Accordingly, the draft Development Consent Order (dDCO), with the inclusion of the council's preferred protective provisions, already contains a suite of operational powers which are capable of authorising the development without the need for unfettered CA / TP powers over Wiltshire Council's interests or highway land.
- 1.21. The approach in the preferred protective provisions are not exceptional. They are an orthodox and widely accepted mechanism for making otherwise broad DCO powers acceptable where local highway functions are affected.
- 1.22. Until the corrections and amendments to the BoR and dDCO suggested herein are made, the council maintains its objection to the CA and TP powers insofar as they affect Wiltshire Council, the local road network, public rights of way, highway apparatus, or land incorrectly attributed to the Council.

2. Issue Specific Hearing (ISH2): Landscape and Visual Impact (1 July 2026) Summary

Item 2: Landscape Fabric

- 2.1. Wiltshire Council considers that the built element and land use component of landscape fabric are critical to understand how human influence and the overall coherence of landscape differs.
- 2.2. A landscape fabric assessment would consider the individual components and elements of the landscape individually. This would include the green elements, the manmade elements and also consider the change in terms of the introduction of new elements, including a change of land use. It would also consider the perceptual and aesthetic experience and understanding of that. For example, noise, relative tranquillity and perceptual experience.
- 2.3. The difference from a landscape character assessment is that when you're assessing character, they all come together and the assessment would consider how that is grouped together into an overall understanding of character.
- 2.4. This can be summarised as follows: **Landscape component** (individual) > **Landscape fabric** (grouped components) > **Landscape character** (combined effects of these component changes on overall character).
- 2.5. The introduction of solar PV panels and frames into a field, would change the colour of the land from a green field and also its texture would change. The fabric component of the field parcel and the vegetation will have been perceptually lost, which influences the wider perceptions of character. The council considers that it's important to understand the fabric components and how they contribute to the characteristics of the site in the wider context and also how the prevalence of those changes influence wider character.
- 2.6. The council confirmed that its concerns were similar to that expressed by Stop Lime Down (SLD), in that irrespective of the definition of landscape fabric, the Applicant has not included manmade features within the assessment. The assessment has also not considered the perceptual aspect. Therefore, only a partial assessment has been undertaken.
- 2.7. Within Wiltshire Council's response to ExQ1 LV1.2 [\[REP3-142\]](#), the council highlighted the pertinent GLVIA3 extracts within its response, namely sections 5.35, 5.36, 5.48 and 5.49. The council considers that as stated in 5.35, the change in, partial or complete loss of elements, features or aesthetic or perceptual aspects that individually contribute to the character would be considered first, including the addition of new features that will influence character, and that these must be considered on an individual basis before the overall character is considered.

- 2.8. Section 5.49 of GLVIA3 sets out how the consideration of landscape features should be addressed. Initially the proportion that will be lost and gained should be considered, and then the degree to which the aesthetic or perceptual aspects would be altered.
- 2.9. The council also raised concern that the assessment of landscape fabric appeared to be limited to the solar PV sites, as opposed to the wider study area. Therefore, it is unclear whether there are additional effects that have not been included and considered.
- 2.10. The council welcomed the Applicant's clarification that visibility splays had been included within the calculations with respect to the loss of hedgerows.
- 2.11. Wiltshire Council also confirmed that it did not consider that simply managing an existing hedgerow to grow taller to 4.5m is an addition to the landscape fabric. Allowing hedgerows to grow to 4.5m may have beneficial effects from an ecological perspective, however without understanding of what the hedgerow is intended to screen or how that might influence the perceptual aspects of the specific location, it may not represent a positive addition.
- 2.12. With respect to legacy benefit, the council indicated that as this was not controlled at all within the scheme documentation, it was considered that it could not be counted as a benefit of the scheme as it was completely unknown as to what would happen post decommissioning.
- 2.13. In summary, the council considers that:
- The Applicant's assessment conflates assessment of landscape fabric with wider landscape character.
 - The council maintains its view that the Applicant's assessment of landscape components (Landscape fabric) represents a partial and incomplete assessment.
 - The assessment of fabric doesn't include 'land use' as a key component fabric receptor, or include within its scope any built fabric components, effects from changes to vegetation management, or include aesthetic or perceptual aspects.
 - The council has identified what it considers the shortcoming are with the assessment of landscape fabric within its Relevant Representation [\[RR-4934\]](#) in paragraphs 8.27 to 8.31.
 - The council has identified what it considers should be included within the assessment of landscape fabric within its written response to ExQ1 LV1.2 [\[REP3-142\]](#), including references to relevant sections of 'Guidelines for Landscape and Visual Impact Assessment (third edition)' (GLVIA3) to substantiate its position.

Item 3: The Cotswolds National Landscape

The Setting of the CNL

- 2.14. In terms of the setting of the Cotswolds National Landscape (CNL), Wiltshire Council considers that it should be informed by its Special Qualities. Natural Beauty and Historic and Cultural Value are special qualities which extend beyond the boundaries of the CNL. There are areas outside the designated boundaries which contribute to the experience, special qualities, significance and functional connectivity of the National Landscape. Setting is not just about what is seen, it also includes consideration of character, aesthetic and perceptual aspects and how it is experienced.
- 2.15. The CNL setting should consider recreation as well as character, but also the intactness of its context. This is a deeply rural, unified, coherent setting of countryside, and the development will encroach and fragment that integrity.
- 2.16. Wiltshire Council considers that the setting of the CNL extends beyond its designated boundary into Lime Down Area A, B and C, particularly in relation to the Fosse Way corridor and the land to its north-west.
- 2.17. The National Landscape boundary follows the northern edge of the DCO Order Limits at Foxley, passes south of Sherston, and continues along the western edge of the boundary at Alderton. The Fosse Way runs north-east to south-west through the National Landscape, with a gap of around 5km where it leaves the designation near Foxley before re-entering it between Alderton and Grittleton. This corridor is well used for recreation and functions as a recognised route (including the Wiltshire Cycleway) through the wider National Landscape.
- 2.18. Wiltshire Council considers:
- The land adjacent to and north-west of the Fosse Way shares the rural character, special qualities and wider landscape associations of the National Landscape and is very much complimentary to it. This is because the route provides an important recreational connection both within the designated area and into the surrounding countryside.
 - The Fosse Way and the land to its north-west form an integral part of the setting of the CNL and which, under the current proposals, will be significantly adversely affected by swathes of solar arrays and infrastructure, that will disrupt its unifying character, which is tantamount to the industrialisation of this highly rural landscape.

Proposed Layout of Solar Panels

- 2.19. The council considers that although a number of fields containing solar panels, which had a direct visual impact on the CNL have been removed from the proposals, there are substantial areas of solar array and infrastructure development in Lime Down Areas A, B and C, which fall within the setting of

the CNL. This is despite agreement that it is a landscape of high sensitivity, thereby fulfilling the criteria to form a legitimate part of the setting of the National Landscape.

- 2.20. It must therefore be accepted that the wholesale change of use and industrialisation of swathes of the CNL setting will result in significant harmful effects, which is at odds with the purpose of the setting.
- 2.21. Wiltshire Council is particularly concerned with the Fosse Way route, which is approximately a 5km route that runs through the DCO site and connects sections of the CNL. The receptors using the route are generally using it as a rural route for recreational purposes and as it's a tranquil, rural route, the users of that area are a key visual receptor as well. The route is incredibly popular and there are connection through and off the Fosse Way into the CNL, and it shares a number of the special qualities with the CNL as well.
- 2.22. The council considers that the visual impacts to users of the Fosse Way are so significant that the areas of solar PV should be removed from the scheme. This is because the CNL boundary in this area is unusual, it almost a right angle where A, B and C are located and the Fosse Way transects those two boundaries. This triangular area is highly intact and the edges of the CNL are slightly elevated along each of those boundaries, as is the Fosse Way.
- 2.23. The Fosse Way is a rolling ridgeline, which is almost akin to a sloping basin, which is overlooked by two boundaries of the Lime Down Sites A and B. The area specifically being referred to was stated as Alderton Road going towards Whidley's Farm.
- 2.24. The council confirmed that its position was not that no development could take place in this area; it was that the proposed development was of such scale and the magnitude of land use change so great, that it is as a result of how this development manifests on the overall character and quality of the setting. The development would effectively try to screen all views of the countryside in order to make the proposal acceptable.

Effects on the Special Qualities of the CNL

- 2.25. With respect to Tranquillity, the council notes that within the CNL Board's Comments on Submissions received at Deadline 2 [\[REP3-154\]](#), relating to Wiltshire Council's review of the Applicant's submitted Tranquillity Technical Note [\[REP3-142\]](#) as contained within the council's Written Representation [\[REP1-138\]](#), it states:

*'The Board **shares the view** expressed by Wiltshire Council in their written representations at Deadline 1 (REP1-138) that the **Tranquillity Technical Note** mainly repeats information from the ES, particularly that relating to transport and access (i.e. ES Chapter 13) and noise and vibration (i.e. ES Chapter 14). Our understanding is that the content of these ES chapters was scoped and agreed with no input from a tranquillity / landscape viewpoint and these chapters do not consider the Board's Management Plan policy CE5*

(Tranquillity) or the Board's Tranquillity Position Statement. An example of this is observed by Wiltshire Council in REP1-138 that "although tranquillity is considered to be a considerable asset of landscape (Guidelines for Landscape and Visual Impact Assessment (LVIA) (3rd edition) glossary page 158) the survey work has been predicated on **standard noise modelling methodology and acoustic modelling software (ISO 9613:2024) utilising the Lowest Observable Adverse Effect Level (LOAEL) and Significant Observable Adverse Effect Level (SOAEL) for construction and operational noise"**

- 2.26. The council will review the Applicant's additional Technical Note on Tranquillity once it is submitted at Deadline 5.

Duty to Further the Purposes of the CNL

- 2.27. Wiltshire Council considers that the duty is on the decision maker to undertake a much more overarching assessment than simply considering if the Applicant has sought to mitigate the impact of the development on the National Landscape.
- 2.28. There are two key cases which the council would wish to highlight. The first is the Wadhurst Parish Council v Secretary of State for Housing Communities and Local Government [2025] EWHC 1735 (Admin), which related to the grant of planning permission (on appeal) for camping-related development in the High Weald National Landscape. It is clear from this judgement that conserving the natural beauty means doing no harm.
- 2.29. With respect to the Lime Down Solar Park proposed development, Wiltshire Council's position is that there is going to be harm to the CNL, and therefore Section 85 of the CROW Act will be a material consideration. The issue is considered to be whether the Secretary of State in granting consent could still comply with the duty to seek to further the purpose of conserving and enhancing of natural beauty in the National Landscape.
- 2.30. The other case which the council wishes to highlight is the New Forest National Park Authority v Secretary of State for Housing, Communities and Local Government [2025] EWHC 726 (Admin), which provided the first major legal interpretation of the strengthened statutory duty on public bodies to "seek to further" the purposes of protected landscapes. The key paragraphs from the Judgment are paragraphs 61 to 63 which state:

61. As a matter of ordinary English, to “*further*” a stated purpose is to promote or to facilitate that purpose. Therefore, the duty imposed by section 11A(1A) of the 1949 Act upon a planning authority determining a planning application requires more than merely weighing the effect of the proposed development on the section 5(1) purposes in the overall balance. In order to discharge the strengthened duty, the planning authority must determine whether the proposed development is consistent with the promotion of the statutory purposes. If the planning authority determines that the proposed development is in conflict with the statutory purposes or would undermine the fulfilment of the section 5(1) purposes, they must consider whether the grant of planning permission would be in accordance with their duty to seek to further those purposes.
 62. The strengthened duty is expressed in qualified terms. The planning authority is required “*to seek to further*” the section 5(1) purposes. It is not under a duty necessarily to fulfil those purposes. Nevertheless, in my view, in any case in which the planning authority determines that a planning application proposes development which is in conflict with the section 5(1) purposes or will undermine their fulfilment, the authority ought both to consider whether and to explain why they have decided that planning permission may justifiably be granted. The planning authority’s consideration of those matters will necessarily be informed by the circumstances of the given case, including the size and scale of the development under consideration and the extent and severity of its conflict with the section 5(1) purposes. These are matters of judgment, but a duty “*to seek to further*” the section 5(1) purposes necessarily invests the planning decision maker with the responsibility to judge, firstly, whether the planning application before them for decision proposes development which interferes with the fulfilment of those purposes; and if it does, whether and if so why the grant of planning permission is justified.
 63. The planning authority may need to consider whether and if so, how the proposed development may be mitigated in order to address the identified conflict with the statutory purposes. They may need to consider whether any compensatory measures are available which might offset the identified conflict with the statutory purposes. They will need to consider the imposition of conditions or the need to obtain planning obligations to secure such measures.
- 2.31. This essentially invites the Secretary of State, in a situation where we are here, where the development would in itself conflict with the national landscape purposes, to consider whether and explain why permission could be granted. Permission can justifiably still be granted, but a much broader assessment would be required than simply looking at the nature of the harm. The extent of the interference with the purposes would need to be considered, and after having assessed this, consider whether the grant of development consent could still be justified.
 - 2.32. Whilst the council has not undertaken its own assessment under section 85 of the CROW Act, its position is that consent should not be granted.

Item 4: Landscape Character

4.1 Landscape character receptors

- 2.33. Wiltshire Council welcomed the Applicant undertaking an assessment of the Limestone Lowland landscape type and its sub-divided Landscape Character Areas.
- 2.34. With respect to the setting of Norton Village, the council’s Written Representation [[REP1-138](#)] considered the settlement of Norton. It stated:

5.8. *Norton is a small village and civil parish located just outside the CNL and approximately 1km to the south-east of the Fosse Way. It is located almost centrally within the DCO application area on gently undulating farmland with hedges and trees / woodland forming an important component of, for the most part, an intimate landscape.*

The village is served by minor roads and is also accessed by several rural footpaths. Rural countryside views are in evidence in all directions from the village, often filtered by trees.

No industrial or major development is visible or perceived from the village or its environs.

5.9. *The proposed development would involve the construction of two major areas of solar panels and infrastructure to both the north and south of the village, Lime Down Solar Park Sites B and D respectively as well as a particularly large swathe of the cable route corridor located to the southwest of the village which includes a major construction compound.*

The distance of the development areas from Norton means that solar development will effectively dominate the village to the north, south and west, with a substantial area to the south, in Site D, on slightly rising ground being devoted to the energy storage Battery Energy Storage System (BESS) and possibly a substation site area.

These are very large industrial developments in their own right, which the council considers have not been adequately assessed against the receiving landscape character and the visual amenity of the area, in particular the landscape setting of Norton and potential intervisibility.

5.10. *Key issues which have not been adequately addressed:*

- *The construction of large areas of solar panel development immediately to the north and south of the village (Lime Down Solar Park Sites B and D) leading to their dominance in the rural setting.*
- *The dominance of solar panels associated with Site B across the fields to the east of the access road leading to the village from the north, Eastern Grey approach.*
- *The proposed construction route across fields to the northwest of the village running parallel to the Fosse Way (Byway section) in combination with the wide swathe of cable route corridor to the west of the village impact approaches and setting of the village from the north and west.*
- *Several hectares of land in Lime Down Solar Park Site D have been earmarked for energy storage and potentially substation facilities, which are major industrial features of the scheme and potentially have the greatest landscape and visual impacts being located on gently rising, slightly higher ground.*
- *Requirement to grow the existing relatively low field boundary hedges to at least 4.5m to screen the solar panels removing open views.*

- *Every Public Right of Way (PRoW) and every public road approaching and exiting the village of Norton will be impacted to varying degrees by the development at all stages of the project.*
- *There are no indicative details of where the vast quantities of topsoil and subsoil arising from the construction of the project and being relied upon for restoration will be stored or distributed. This could be on areas reserved for landscape / ecological mitigation and embedded mitigation or close to high value sensitive features or receptors.*

5.11. As a result, Wiltshire Council recommends:

- *The sites proposed for the solar development immediately to the north and south of the village should be reconsidered in light of the potential dominance of solar panels in the village's landscape setting. Areas close to both the north and south of the village should be pulled back from the settlement edge to reduce their visual dominance and the landscaped boundaries increased to mitigate and reduce potential views.*
- *To the north of the village, the solar panels in Lime Down Solar Park Site B will dominate the village entrance, where currently there are some of the most open views in the receiving landscape. The proximity of the panels close to the road and their orientation will result in significant, inadequately mitigated views, to an extent which will be dependent on their construction. Moving the panels away from the road and considerably increasing the landscape buffer will help to reduce the impact, although it will have to be accepted that currently available long views across the landscape will substantially change.*
- *The effects of the BESS and substation on the landscape setting and visual amenity of Norton, and the lanes linking through to Hullavington (south) and Eastern Grey (north), need to be assessed and suitable landscape mitigation and enhancement measures introduced to protect rural identity and setting to the village.*
- *At any site access points retained for future maintenance access of solar panel, BESS or substation areas, the planting of a secondary hedge inside the access, although not ideal from a character point of view, would restrict receptor views of the development when passing by the access points.*

- 2.35. The above actions would enable the rural setting and character of the village to be maintained and would mitigate the character and visual effects associated with this development proposal. It would also remove the need for high, out of character, hedgerows, as the development would be pulled back from the edge of the fields, so that open views across the landscape could be maintained.
- 2.36. The council expressed its view that it was less concerned with the route to the north-east as the field is slightly raised, therefore the hedgerows are slightly higher and doesn't offer the same aspect of openness in views.
- 2.37. To better illustrate exactly what the council was seeking in terms of panel reduction, a plan has been produced in response to Action Point 16 and this is contained within Appendix C to this response.

4.2 The legacy landscape

- 2.38. Wiltshire Council suggested the planting of a second hedgerow at gate entrances to reduce the visibility of solar PV panels within its Written Representation [[REP1-138](#)].
- 2.39. The council does not consider that the full effects of the vehicle access points have been fully detailed yet, as the detailed design is yet to be undertaken. Due to the highway visibility splays and the potential requirement to keep hedgerows low, depending on the alignment, it is considered that the visual effects will be experienced by road users in both directions, particularly on some of the longer, straighter roads, which would result in views directly in the solar PV fields.
- 2.40. Whilst the council accepts that a secondary hedgerow would not be characteristic of the area, on balance the council's Landscape Officer considered that it would be worthwhile to screen the entrance / exits in order to retain the character of the road, and reduce the overall impact. It was noted that these measures had previously been employed successfully on a quarry access point.
- 2.41. It was stated that whilst the scheme was "temporary", given the scheme's 60-year life, the council would not class it as a temporary effect. At the end of the scheme's life, these short sections of hedgerows could be removed, or even if they were retained, whilst it would be a slight anomaly to character, the council's Landscape Officer did not consider that it would be particularly harmful when considered overall.

4.3 Cumulative landscape character effects

- 2.42. Wiltshire Council invited the Applicant to consider paragraph 7.28 of GLVIA3 when carrying out the cumulative landscape effect assessment. This is because there is a point when looking at changes to key characteristics, that a particular development may tip the balance so that the key characteristics are changed.
- 2.43. Therefore, an assessment of the baseline and upcoming new development must be taken into account. The council concurred with the SLD representation on which types of development should be included within this assessment.
- 2.44. In terms of Wiltshire Council's position on the existing list of cumulative development, the council will be responding to the ExA question on this as part of its response at Deadline 4.
- 2.45. However, the council has consistently highlighted its concerns regarding the approach to cumulative landscape assessment in the limestone lowland type. The council has deep concerns regarding the clustering of solar developments within this specific landscape type. It is imperative that we understand whether or not the limestone lowland type or its limestone lowland character areas being

incrementally turned into a solar landscape. This should include considerations of character and fabric as well as visual.

Item 5: Visual Impact

5.1 Visual impact in the construction phase

- 2.46. With respect to soil storage, the council expressed concern that there is no indication of where soil will be stored and it is not clear why this information is not currently available. The council considers that footprints and maximum heights should be provided, because these could be very substantial structures.
- 2.47. It was noted that the Outline Soil Resource Management Plan identified the height for soil storage at a maximum of 3m high. In the council's calculations, as contained within its Written Representation [\[REP1-138\]](#) and Deadline 3 [\[REP3-141\]](#) submissions, the council calculated the most efficient footprint area, which could accommodate the estimated soil storage volume for just the BESS access track located in Lime Down D. However, the council queries which element(s) of the proposed development are going to make way for these large footprints for topsoil storage – would it be the solar PV panel areas, the ecological mitigation or land which has been set aside etc.?
- 2.48. The council is seeking evidence from the Applicant in terms of feasibility of whether the soil can be stored and utilised for restoration or whether it will need to be disposed of and replaced. The relationship to SuDS drainage features was also noted.

5.2 Sequential visual effects

- 2.49. Wiltshire Council confirmed that it had suggested the routes as mentioned by the ExA for a sequential visual effects assessment.
- 2.50. It is the council's position that the Technical Note on Cumulative Sequential Visual Effects [\[REP1-123\]](#) and Table 8-23 of ES Chapter 8 [\[APP-060\]](#) places undue emphasis on Major Roads, while overlooking the well-used minor routes that define the character of the Lime Down project area and from the intra-project sequential effects are likely to be most noticeable.
- 2.51. Table 7.1 of GLVIA3 states that: "Sequential effects may be assessed for travel along regularly used routes...". Given the receiving landscape contains very few roads which would be classified as more than minor, the council considers that it is obvious that these routes are those which are going to be used for travel within the area and therefore the sequential effects of travelling along them must be assessed.
- 2.52. These minor routes form important links used by many people every day, whilst they will be passing through the various parts of the development in sequence. Users may include people in cars, people cycling, riding horses and walking etc. However, these routes are not necessarily footpaths or bridleways, they are minor roads which link the development areas.

- 2.53. The council considers that these key routes should be defined so that the potential sequential visual effects can be assessed, as users will see the same site or the same area from a different viewpoint as you move around the DCO area.
- 2.54. To better illustrate the routes which the council considered should be included within the assessment, a plan has been produced in response to Action Point 19 and this is contained within Appendix D to this response.

5.3 Residential visual amenity

- 2.55. The council confirmed that having reviewed the Applicant's Deadline 3 submission and following further discussions, the council concurred with Stop Lime Down that the threshold for a Residential Visual Amenity Assessment hasn't been met for the Grain Store. However, this did not diminish the significant effects that have been identified for those properties.

Item 6: Design and Parameters

- 2.56. The council has reviewed the included scheme 'Commitments' – Specific elements of the detailed design of the scheme components including considerations such as appearance, materials, colour and alignment included for the works number (1 to 10) in [REP3-084](#). The council considers the following (minor additions) to already advised 'commitments' for the following 'work numbers' and 'scheme components' should be further secured and incorporated to provide more certainty that detailed design solutions will be sympathetic to the rural character of the area.
- 2.57. The council considers minor additions to two existing detailed design commitments repeated within the tables should be further incorporated. These relate to the:
- 2.58. 'Perimeter fencing commitment' and the 'highway access point commitment' as incorporated within Section 2.2-2.11, pages 5 to 26, within the following tables.

Table 2-3 (Work No.3) Design Parameters and Commitments

- 2.59. Work no. 3 - works in connection with on-site substations.
- Deer type wire mesh and wooden post fencing outside of the palisade fencing (Page 13). Add 'Wooden posts shall be round in section and agricultural in appearance.' (or similar wording).

Table 2-5 (Work No.6) Design Parameters and Commitments

- 2.60. Work No.6 – works (a to k) various ancillary components including, fencing, landscaping etc.

- Perimeter Fencing Commitment (Page 20). Add 'Wooden posts shall be round in section and agricultural in appearance.' (or similar wording).
- Solar PV access tracks commitment (page 21). Add 'Any edge restraints required to form or retain surface materials at access points will be laid to finish flush with adjacent road levels to avoid creation of uncharacteristic upstands' (or similar wording).

Table 2-7 (Work No.8) Design Parameters and Commitments

2.61. Work No. 8a (temporary works) 8b (permanent works) – works to facilitate access to Work Nos. 1 to 7 and 9 to 10.

- BESS and Substation access commitment (page 24). Add 'Any edge restraints required to form or retain surface materials at access points will be laid to finish flush with adjacent road levels to avoid creation of uncharacteristic upstands' (or similar wording).
- In relation to work no's 8a (ii) and 8b (ii) 'Creation of visibility splays' and 8a (iv) 8b (iv) 'offsite works adjacent to highways land including those to structures, boundary features, drainage features on private land, in connection with the movement of abnormal indivisible loads', the council requests the consideration and inclusion of the following additional commitments: Add "where existing sections of roadside hedgerows or dry stone walls are necessary to remove to facilitate the temporary creation of highway visibility splays and widened access to accommodate AIL's, the removed sections of hedgerow or drystone wall shall be replanted or reconstructed on existing alignments following completion of any temporary works, and on new adjusted alignments along the back edge of the required visibility splays for any permanent works' (or similar wording to achieve same outcomes).

Table 2-8 Work No.9 Design Parameters and Commitments

2.62. Work No. 9 – works (a to f) to create and maintain habitat management areas.

- Fencing Commitment (page24). Add 'Wooden posts shall be round in section and agricultural in appearance.' (or similar wording).

Table 2-9 Work No.10 Design Parameters and Commitments

2.63. Work No. 10 – creation of permissive paths

- Fencing Commitment (page26). Add 'Wooden posts shall be round in section and agricultural in appearance.' (or similar wording).

Soil Stockpiles

2.64. The council also considers that minimum / maximum design parameters for cross sectional soil stockpile / bund profiles should be added as a specific

design parameter. The council suggests incorporating this into **Table 2-5 (Work No.6)** which the council considers should include commitments for maximum height of bunds and minimum cross-sectional widths across the top and base of bund / stockpiles and minimum / maximum stockpile / bund slope angles / gradients.

The Councils Reasons and Justification

- 2.65. The council considers its requests reasonable in order to mitigate risk from introducing uncharacteristic development components such as square section timber fence posts for fenced boundary treatments over a large, protracted area of rural countryside, and from introducing overly urban fabric components such as raised kerbs at new private access points from the public highway, impacting the character of the local rural roads and lanes. Also to ensure that the AIL works at Grittleton crossroads appropriately mitigate for potential tree loss along the edge of the adjacent woodland and /or removal of the dry-stone wall and to demonstrate soil stockpiles are practically achievable without impacting embedded mitigation or enhancement measures.

Design Colour Approval

- 2.66. The council raised the concern that if the council is being asked to approve or not, the colour of a battery energy container or a storage container, many on the market are only available in bright white. Presumably the council would be required to accept that at the discharge stage, if the Applicant could demonstrate that it was the only choice available.
- 2.67. The council queried what control mechanisms would be in place to prevent a new piece of white fabric being introduced into an elevated field area, which will be highly visible until the mitigation is established.

Community Liaison Group

- 2.68. The council would welcome a discussion with the Applicant on the principal areas to be covered through the Community Liaison Group.

3. Issue Specific Hearing (ISH2): Action Point Responses

Action Point 2: Provide reference to any Nationally Significant Infrastructure Project assessments where the assessment of landscape fabric has included both man made and natural components in character assessment.

- 3.1. The council is still undertaking its research of Nationally Significant Infrastructure Project assessments regarding landscape fabric. The council will endeavour to provide this information by Deadline 5.

Action Point 6: Confirm whether any alterations are sought to the wording of the outline Decommissioning Strategy or draft Development Consent Order (dDCO) to secure long term landscape benefit.

- 3.2. Following review of the Outline Decommissioning Strategy (Rev 3) [\[REP3-097\]](#) and draft Development Consent Order (Rev 3) [\[REP3-006\]](#), the council considers that the following alterations are required.

Outline Decommissioning Strategy

- 3.3. The council notes the addition of text within Table 2: Landscape and Visual and Table 3: Ecology and Biodiversity which states:

“Following successful removal of panels and associated infrastructure, all hedgerows within the Order Limits will be assessed to consider best ecological and land management practices applicable at the time of decommissioning. Consideration should be given to hedgerow heights, widths, overall plant health, species diversity, landscape character, visual amenity, as well as use by protected wildlife species.”

- 3.4. The council considers that the word ‘successful’ serves no purpose and should be removed.
- 3.5. Furthermore, the council requests that ‘views and visual amenity’ be incorporated into this text, and that the ‘Cotswold National Landscape designation and its setting’ is also referenced as a relevant consideration at decommissioning.
- 3.6. In Section 6.3 Management Review, paragraph 6.3.1 states: “*The detailed Decommissioning Strategy will be signed off on completion of the decommissioning works by an appropriately qualified person(s).*”
- 3.7. The council seeks clarity in relation to ‘signing off’ the detailed decommissioning strategy after the completion of the decommissioning works. The council believes this to mean final sign off at the end of the project and the detailed decommissioning strategy is considered complete by the Undertaker at which point the Undertaker’s interest in the land presumably ceases.

- 3.8. The council does not consider that the Undertaker should be singularly responsible for determining compliance at this critical end point of the scheme and would request that Wiltshire Council as host local planning authority be involved in determining when the detailed decommissioning strategy has been satisfactorily completed.
- 3.9. Furthermore, the term 'an appropriately qualified person(s)' is not clearly defined. Clarity is required as to what an appropriate qualification would be in.

Draft Development Consent Order

- 3.10. As noted above, the council considers that Wiltshire Council, as host local planning authority, should be involved in determining when the detailed decommissioning strategy has been satisfactorily completed.
- 3.11. A new sub-paragraph should be included within Requirement 20, indicating that the decommissioning report and certificate of completion should be submitted to the LPA for approval.

Action Point 7: Confirm whether any alterations are sought to the wording of the outline Landscape and Ecological Management Plan to provide enough reassurance that existing hedgerows that may not provide sufficient screening (for example Elm hedgerows) will be appropriately reinforced.

- 3.12. The extent of single or dominant species hedgerows present within each site area is difficult to establish given the limited level of detail provided. It is the council's understanding that where such hedgerows exist and are relied upon to provide visual screening mitigation, the Applicant would plant a single secondary line of mixed native hedgerow to reinforce visual screening functions. The council would just note that many field hedgerows have associated field ditches running close and parallel with hedge lines. The presence of associated field ditches may preclude planting of this secondary or widened hedge line as maintenance access will be required to clear ditches and keep them functioning.

Action Point 11: Confirm whether any alterations are sought to the control documents in relation to proposed lighting as set out in the outline Construction Environmental Management Plan and outline Operation Environmental Management Plan.

- 3.13. From a landscape and visual perspective, the documents generally note good practice will be employed in the consideration of design of essentially required artificial lighting for construction and operational phases.
- 3.14. The outline CEMP (Rev 4) [[REP3-093](#)] in Section 2.6 Control of light, should additionally incorporate references to accepted industry best practice guidelines i.e. **ILP Guidance Note 01 – Guidance for the Reduction of Obtrusive Light**, together with **ILP GN08/23 Bats and Artificial Lighting**

which are the most up to date guidance superseding the 2011 **ILP Guidance Notes for the Reduction of Obtrusive Light (GN01/11)** all published by Institution of Lighting Professionals.

- 3.15. The outline OEMP (Rev 4) [[REP3-095](#)] in Section 2.7 Control of Light, should also reference this current industry best practice.

Action Point 13: Provide details of cases which support the position of each party on how the duty to further the purposes of the CNL under s85 of the CRow act should be applied.

- 3.16. The council considers that the Cotswolds National Landscape Board to be the party which is best placed to provide these details to best assist the ExA on this matter.

Action Point 16: To submit a marked-up plan to show the reduction of development they seek to reduce impact of Norton Village setting.

- 3.17. The council has prepared two plans, the first is a plan for Lime Down Site B, and the second for Lime Down Site D:

- Site B – Potential Solar Panel Reduction (WHL-WCC002-02 – July 2026).
- Site D – Potential Solar Panel Reduction (WHL-WCC002-03 – July).

- 3.18. These plans identify field areas which the council considers should be removed as panel areas in the interests of reducing the impacts on the setting of Norton Village and are attached at Appendix C to this response.

Action Point 19: Mark up on a plan the minor routes where an intra-project sequential visual assessment should take place.

- 3.19. The council has prepared a plan:

- Intra- Project Cumulative Sequential Road Routes (WHL-WCC002-04 – July 2026)

- 3.20. This plan identifies the minor road routes which the council considers should be included for intra-project sequential visual assessment and is attached at Appendix D to this submission.

4. Issue Specific Hearing (ISH3): Traffic and Transport; and Ecology and Biodiversity (2 July 2026) Summary

Item 2: Traffic and Transport

2.1 Construction HGV and AIL Routes

- 4.1. The council agreed with the general points made by Stop Lime Down that there will be significant impacts to the Cotswolds National Landscape. These are inevitable given the siting of a proposal of such significant scale in this location. As the ExA is undoubtedly aware, the council's overall case is that, at least in part of the impacts on the CNL, it cannot support the grant of consent for this scheme.
- 4.2. However, from a high-level perspective, the council is satisfied that the routes selected are suitable in the context, and that they are the "best" of the alternatives available.
- 4.3. The council's primary concern on traffic and transport matters is how traffic will be able to managed appropriately on the rural routes, given the scheme's location. The construction routes from Sherston northward to Lime Down A to C is very narrow and there is a very narrow route to the west of Dyson Roundabout, all the way up to Bradfield Cottages. The council is concerned about the width of the roads and passing opportunities for two HGVs.
- 4.4. With regard to the ExA's query regarding the weight restriction in Acton Turville, the council indicated that the road was within the administrative area of South Gloucestershire council. However, where a weight restriction was in place "except for access", this refers to access to the location, not through the location.

2.2 Construction Traffic – HGV Forecasting

- 4.5. Whilst the council have not done their own detailed calculations, however the HGV generation predictions remain a Wiltshire Council concern and an unresolved matter in the SoCG. Latest Wiltshire Council comments on this matter were provided in the deadline 1 response to the ES Volume 3, Appendix 13-1 Transport Assessment (Rev 2) within the council's Local Impact Report [\[REP1-137\]](#). In respect of key concerns:
 - P.34 The supporting calculations undertaken for Modules and Mounting Structures for each Lime Down site have not been fully provided or verified by evidence from existing solar farm sites. For example, whilst the total number of assumed PV Modules for each of the Lime Down sites (A-E) has been provided, it is unclear how these quantities have been derived. The area occupied by panels on each site will be known (Works Area 1), but the density/ha assumed and how this compares with the assumptions adopted for other consented solar farm sites or those in operation is unknown. The same query applies to module mounting

structures, as assumptions made regarding the type of mounting structures or foundations / supports are also absent.

- P.35 The 'waste' calculations account for only removal of packaging, so seemingly exclude any allowance for removal of excavated 'spoil' material associated with the construction of the access trackways, the construction compounds and the foundation bases for the BESS and 440kV and 132KV substations. This is of concern as the Outline Construction Traffic Management Plan (Rev 2) [\[REP1-112\]](#) refers in Table 3 to a volume of excavated soil that is likely to be deemed unsuitable for refill and compaction of circa 139,666 cubic metres.
- 4.6. Item 1 is a concern arising from past discussions with Stop Lime Down and notably review of Appendix D 'Transport Report'; to their Written Representation. Table 2 in the SLD report [\[REP1-172\]](#), which shows the typical HGV / ha ratios for PV Module / Mounting Structure deliveries at other solar array sites, is of concern, as what is assumed for Lime Down is clearly less than any of the other comparison sites by a considerable margin.
- 4.7. The council wishes to avoid a situation where the actual movement of vehicles significantly exceeds what's been estimated. The council also raised concern regarding the timescales for discharge of the detailed management plans, that given the other pressures on the council, it might be challenging to assess the vehicle numbers put forward by the Applicant in a sufficiently detailed and robust manner.
- 4.8. It was noted that within the examination, there was six-months to ensure that the vehicle estimates were right, and that the ExA had confidence that the figures were realistic and that they were precautionary. At present, the council still has serious concerns that the points raised by SLD haven't been fully resolved.
- 4.9. The council will review any further submissions from SLD and the Applicant once they are submitted, and provide comment at the appropriate deadline.

2.3 Construction Traffic – Light Vehicle and Shuttle Bus Forecasting

- 4.10. Whilst this item was not specifically covered at the Hearing, as stated in the council's response to ExA questions (ExQ1 TT1.18) [\[REP3-142\]](#), in the council's initial Highway Development Management comments on the 'Scoping Note for the CTMP and Transport Assessment that the assumption that 50% of workers would arrive by shuttle bus seemed high, despite the reasoning set out that this was based on acceptance in solar farm DCO applications elsewhere. The council advised that it preferred to see a lower shuttle bus assumed mode-share used. It thus remains a concern that a lower figure should have been used as advised at scoping to examine a 'worst case' traffic loading on local roads. Unless the 'home' or origin location of workers / operatives is somehow concentrated, it is also difficult to see how workers could be encouraged to use a 'shuttle' bus service to the Lime Down PV sites if this itself would require a longer car trip to the departure / 'pick up' point.

- 4.11. In response to the same Examining Authority question, the council also stated that the spread of expected construction workers across the Lime Down A-E sites based on area size alone was considered somewhat simplistic. It would be expected that the 400kV substation and the BESS, which are both in the Lime Down D area, would attract well above the 'average' for the solar sites.

2.4 Highway User Safety

- 4.12. Wiltshire Council's view expressed at outset in its Written Representation [REP1-138] was that the opportunities for accommodating 2-way passage for two HGVs on many of the narrow rural roads being proposed for construction trafficking are less than ideal and so likely to create operational and road safety risks. It is also clear from the swept path analyses undertaken that many lengths have insufficient carriageway width for passing even an HGV and a light vehicle. The Applicant alleges that the proposed booking system set up to manage HGV arrivals and departures will be able to hold back any HGV cross-over should there be any delays on the roads, so preventing HGVs generated by the Scheme passing each other in opposite directions on the local roads forming part of the construction routes. However, the council do not consider that the risk of two opposing HGVs meeting on a reasonably regular basis can be totally removed by the booking system.
- 4.13. The council also noted that in accordance with SLD's comments, these rural lanes were regularly used by walkers and cyclists, and there are parts of the roads which have no verges and steep banks on both sides. Therefore, if you were a pedestrian, there would be limited opportunity to step out of the way due to the bank.
- 4.14. Furthermore, it would have been helpful if base topographical survey drawings for 'all' the minor roads forming the HGV construction routes could be provided, with the actual carriageway width dimensions indicated at intervals. It was suggested by Wiltshire Council that each road should employ a chainage line, with widths indicated at, say, 10m intervals. As 5.5m is the minimum width necessary for 2-way HGV passage, and 4.8m for car / HGV passage (MfS), it would be helpful to colour-shade route sections with carriageway widths 5.5m or greater and 4.8-5.5m, with unshaded lengths then indicating lengths with a width of less than 4.8m. This would provide a better 'at a glance' suitability of the existing routes, which is difficult to pick up from the swept path plots where a lot of underlying base detail is masked.

2.5 Highway Improvement Areas (HIAs)

- 4.15. In response to the ExA's question on whether there was a standard visibility distance before a passing bay needs to be installed, the council indicated that it would depend on the nature of the road. If there were lots of bends in the road, a reduced spacing would be required if users couldn't see around a bend. Regardless, the user must be able to see clearly to the point of the next passing bay, to make a decision on whether they could move forward. This would be 100 to 150m. However, if the road was very sinuous, passing bays would be required more frequently. It would depend on the alignment of the road,

horizontal and vertical, and any vegetation. Two HGV drivers must have adequate opportunity to see each other in time, so that a position where one of them had to reverse along the highway was avoided. If it wasn't possible to see around a bend, a passing place should be in close proximity to the bend in order for an evasive manoeuvre to be made quickly.

- 4.16. The council considered that the road speed was less of an issue, as you would expect the user to drive according to the alignment of the road.
- 4.17. However, if insufficient passing places are put in place, vehicles will overrun the verge, which could result in substantial highway damage. This in turn would lead to a safety concern, because if the road breaks up, road users will try to avoid the damaged carriageway by taking more evasive manoeuvres, which has a safety implications in itself.
- 4.18. With respect to the existing HIA proposed along Alderton Road and shown in Annex I to ES, Appendix 13-1 Transport Assessment (Rev 2) [[REP1-060](#)], full council comments were provided in the deadline 2 response at 12.10-12.11 and 12.20 [[REP2-048](#)]. In short, whilst a welcome revision, the planned proposals remain very high-level and in outline. It is considered detailed drawings based on a topographical survey base would need to be submitted to Wiltshire Council for full technical approval as part of DCO provisions. It is also unclear whether these passing bay works are intended to be permanent, or just temporary and removed at the end of the construction period. The current detail does not even include the proposed length of each treatment area and resultant carriageway width dimensions.
- 4.19. The council considers that other HIA outside of the current defined 8A / 8B Works Areas are needed to accommodate passing place mitigation measures for two opposing HGVs on the narrow rural roads to be used for construction trafficking. This follows the review of Annex K to ES Volume 3, Appendix 13-1 Transport Assessment (Rev 2) [[REP1-060](#)] which showed the swept path analyses for two 16.5m articulated HGVs [See [REP2-048](#)]. Other roads requiring mitigation works to improve HGV passage opportunities are as follows:
- Fosse Way (South): [Drawing SP54, §12.21 of 2-048] Whilst there are some possible passing points indicated for two 16.5m articulated HGVs to the south of the railway bridge, it is also the case that the inter-visibility between some of these is very long. For example, there is length of over 200m just south of the junction by Frome Lodge, and a length of 424m where passage for two HGVs is not possible to the north of this junction. In short, it is considered that mitigation will be needed in the form of additional passing bay works which aren't currently proposed
 - Fosse Way (North) [Drawing SP55, §12.22 of 2-048]: HGV tracking checks to the north of the railway bridge are incomplete, notably a long length south of the junction with Farhill Lane. This needs to be completed to allow a complete council review of the HGV passing

opportunities within this length of Fosse Way.

- Dyson RBT to Bradfield Cottages [Drawing SP51]: The length of specific concern is to the NW of the junction with The Street at Hullavington. The first circa 150m length from the junction to the bend is a concern because of its usage by pedestrians / no verge, but it is accepted that passage mitigation here will be very difficult, whilst HGV inter-visibility would appear possible from potential passing points at the junction and the bend.
 - Between the bend and the access to Brookside, so where the route also passes under the railway, the analyses suggest the carriageway width to be quite variable, so providing a series of short sections potentially suitable for passing HGVs with similarly short narrow sections between them. Whilst this at face value suggests no mitigation may be needed to further improve passing provision for HGVs through this length, it would be helpful to see some carriageway width dimensions additionally provided at intervals on this drawing, or a supporting drawing, to confirm widths in the passing zones indicated are a minimum of 5.5m and ideally greater. In short, the opportunity for improvements to extend the length of the passage zone for two HGVs should not be dismissed.
 - To the north of Brookside, the swept analysis indicates that there is no passing opportunity for two HGVs between this junction and the access to the Flying Monk Café. Whilst a 132m inter-visibility line is indicated, examination of Google Earth footage suggests it may be quite difficult for two opposing HGV drivers to see one another clearly, as the road line bends slightly between the two points and the hedge line on the western line could screen this view.
 - The final part of the route from the Flying Monk Café access to the proposed Lime Down D access points (Refs 7, 8 and 20) has some limited passing positions for two HGVs but most of the road length is too narrow, which is a concern as some of the inter-visibility sightlines indicated are quite long, with a 167m spacing in one case. As this length is close to the Lime Down area D access points, it 'may' be easier to manage and prevent any HGV departure if an incoming HGV is observed within this section. However, the Council would prefer to see some mitigation works considered and included in improving passing opportunity provision.
- 4.20. In addition to the above, the council queried the need for bespoke holding areas for arriving HGVs. The Outline CTMP advises that a booking system would be employed for HGV deliveries to each Lime Down site to co-ordinate arrival slots, this then used to time departures to avoid opposing HGV conflicts within the narrow roads proposed for construction access as far as possible. However, some HGVs making deliveries will inevitably arrive earlier than their allocated 'slot' time, or possibly later due to travel delays. In either scenario, a 'holding' location will be needed for these HGVs to wait as may be required after contacting the site manager. It is still unclear where this is intended to be on the planned construction route to Lime Down areas A-C, although a location towards the southern end of Fosse Way would seemingly be logical. Similarly,

it is still unclear where this intended holding area would be on the route to Lime Down area D. The point made is that unless suitable existing lay-by 'holding' facilities exist for HGVs on the inbound construction routes, which can also be reserved for LDSF construction usage, then other works outside the HIA may be needed to deliver these.

- 4.21. The council stated that whilst 5.5m would be the absolute minimum width to allow HGVs to pass, in order to provide comfort, ideally this would be 6m.

2.6 Construction Traffic Management Plan

- 4.22. Whilst it is acknowledged that this agenda item was not covered in the Hearing, Wiltshire Council wishes to comment regarding Highway Condition surveys and damages mitigation, and whether this is better covered in a separate s59 (Highways Act) Agreement with the Applicant rather than obligations being subsumed with the OCTMP. Full comments on this point were covered in the Deadline 2 response [[REP2-048](#) at §22] to Outline Construction Traffic Management Plan (Rev 2) [[REP1-112](#)].

- 4.23. The council do not consider that the Outline CTMP or a final CTMP to be the appropriate mechanism for the technical approval of permanent highway works. This is not considered a substitute for 'requiring' bespoke highway agreements where necessary under Article 15 of the DCO for all works undertaken within the public highway, where such agreements would normally subsume the technical approval requirement of all drawings and allied documentation. However, the preferred approach to this, which is a matter currently under discussion with the Applicant, is to include all these technical approval requirements within bespoke Wiltshire Council Protective Provisions in Schedule 15 to the DCO. Once these Protective Provisions are agreed and written in, then it would simply be necessary to additionally reference these in the Outline CTMP.

- 4.24. This item is also covered in ISH4.

Item 3: Ecology and Biodiversity

3.1 Survey Work

- 4.25. *To save duplication of text, please read the comments below relating to 3.1. Survey Work alongside Wiltshire Council's response to Action Point 14 from the ExA which is presented in the next section of this document.*
- 4.26. Wiltshire Council notes that this agenda heading and summary text does not stipulate that the topic pertains solely to habitat survey work and on that basis, offers the following observations.
- 4.27. Wiltshire Council has consistently raised concern regarding the lack of Phase 2 / species-specific survey within the Cable Route Corridor (CRC), including but not limited to, bat survey within the section of the CRC that falls within the 4km

greater horseshoe consultation zone around the Box Mine component of the Bath and Bradford-on-Avon Bats Special Area of Conservation (SAC).

- 4.28. The council has also raised some queries regarding the scope and level of Phase 2 / species-specific survey within the Solar PV Sites.
- 4.29. As set out in British Standard (BS) 42020:2013 *Biodiversity — Code of practice for planning and development*, supporting ecological information should be appropriate for the purpose intended and sufficient in terms of species likely to be affected; it should cover a suitably wide area of study commensurate with the requirements of the species or feature of interest, including connected systems (e.g. downstream); and should be undertaken over a sufficient period of time and at an appropriate time of year to yield sufficient details of populations or habitat characteristics.
- 4.30. The provision of incomplete ecological baseline information as a result of inadequate ecological survey has implications for the robustness and accuracy of Chapter 9 of the Environmental Statement (ES) and the Habitats Regulations Assessment (HRA). Furthermore, it undermines confidence in the assessments therein as well as the avoidance, mitigation, minimisation and compensation measures proposed in respect of whether the measures are adequate and whether the principles of the mitigation hierarchy have been wholly applied. It also draws into question whether further measures over and above those proposed may have been found necessary as a result of targeted survey as well as whether any species-specific mitigation licences may be required, where presently there has been no discussion of such need within the ES. This is notwithstanding that at Deadline 2 the Applicant provided evidence in the form of an Impact Assessment and Conservation Payment Certificate (IACPC) counter-signed by Natural England (NE) [\[REP2-041\]](#) that an application to Natural England (NE) has been approved for use of the District Level Licensing (DLL) Great crested newt (GCN) Scheme.
- 4.31. Full details pertaining to the matters and concerns raised by Wiltshire Council relating to the scope of survey work can be found in:
- Wiltshire Council's Relevant Representation [\[RR-4934\]](#);
 - Wiltshire Council's Local Impact Report (LIR) [\[REP1-137\]](#);
 - Wiltshire Council's Written Representation [\[REP1-138\]](#);
 - Wiltshire Council Comments on Submissions Received at Deadlines 1 and 1A [\[REP2-048\]](#);
 - Wiltshire Council Comments on Submissions Received at Deadline 2 [\[REP3-141\]](#);
 - Wiltshire Council Response to ExA's First Written Questions (ExQ1) [\[REP3-142\]](#); and
 - 8.2 Statement of Common Ground with Wiltshire Council [\[REP2-025\]](#).

3.2 Approach to Habitats

Hedgerows

- 4.32. *To save duplication of text, please read the comments below relating to 3.2. Habitats, sub-category Hedgerows, in conjunction with Wiltshire Council's response to Action Point 18 from the ExA which is presented in the next section of this document.*
- 4.33. Wiltshire Council has consistently raised concern regarding the Applicant's approach to hedgerows, particularly the scope of Schedule 12 of the Draft DCO affording overly wide powers; and the lack of identification and appropriate consideration of impacts on hedgerows that qualify as 'important' under the Hedgerow Regulations 1997 within the ES Chapter 9 and ES Volume 3, Appendix 9-1: Ecological Baseline Report [[APP-198](#)].
- 4.34. Most recently, Wiltshire Council Comments on Submissions Received at Deadline 2 [[REP3-141](#)] encompassed commentary on The Applicant's Response to Written Representations [[REP2-039](#)], including counter responses to the Applicant's responses against References WC-050 to WC-054 inclusive pertaining to the Draft Development Consent Order (DCO) and hedgerows. Although the Applicant has attempted to justify the approach applied, a number of important issues remain unaddressed, unsubstantiated and a cause for concern.

Ancient Woodland

- 4.35. Wiltshire Council has consistently raised queries about the Applicant's approach to ancient woodland and has concerns that some areas of ancient woodland could be subject to direct adverse impacts and that inadequate buffers will be implemented in contravention of Natural England and the Forestry Commission's 'standing advice', which requires 15m buffers from ancient woodland. (Standing advice can be found here: [Ancient woodland, ancient trees and veteran trees: advice for making planning decisions - GOV.UK](#)). For example, the council has repeatedly raised concern regarding the potential for impacts to the edge of North Bincombe Wood bordering Line Down E, including in Wiltshire Council's Relevant Representation [[RR-4934](#)] and Wiltshire Council's Local Impact Report (LIR) [[REP1-137](#)].
- 4.36. Natural England's Response to the Examining Authority's first written questions [[AS-018](#)], published on 29th June 2026, has been reviewed ahead of ISH3. In respect of NE's response to question HRA1.2 Bath and Bradford-on-Avon SAC, WC notes that NE's response includes the following statement:

"Regarding avoidance of impacts, previous discussion between the applicant and Natural England included discussion of the inclusion of a minimum of 15m buffer zones to all hedgerows, trees, and woodland edges to avoid impacts specifically to avoid and retain the functionality these habitats provide to bats."

- 4.37. Whilst the council recognises and welcomes the Applicant's intention to implement 15m buffer zones to all hedgerows, trees and woodland edges, the council wishes to highlight that this approach doesn't appear to be consistently proposed across the entire Order Limits. As aforementioned, the council has raised concern on a number of occasions regarding the potential for adverse impacts to ancient woodland, notably North Bincombe Wood bordering Lime Down E, where there is potential for adverse impacts upon, and damage to the edge of the woodland which has been subsumed within the Order Limits boundary, and that as such, the required 15m buffer zone would not be applied at this location. As previously stated, full details of our comments on this matter are provided in [RR-4934](#) and [REP1-137](#).
- 4.38. The Deadline 3 submissions from Lime Down Solar Park Ltd do not appear to include any plans that illustrate that the proposed internal access track has been realigned to avoid incursion into either North Bincombe Wood itself or the requisite 15m buffer to the ancient woodland. The council considers it should be wholly feasible for this information to be provided at this juncture in order to provide sufficient information regarding the change in proposals for this access track. As it stands, the council's concerns on this matter have not been allayed.

Field Margins

- 4.39. At paragraphs 9.12 to 9.13 of Wiltshire Council's Relevant Representation [\[RR-4934\]](#), it is specified that Section 9.9 of ES Vol 1, 6.1 Chapter 9: Ecology and Biodiversity [\[APP-061\]](#) details 'embedded' design measures and that under the heading of 'Construction Phase Embedded Mitigation' it is specified that buffers from field boundary habitats and other ecological features will be implemented and that buffers will not contain any array structures, hard standing or electrical hardware. It is assumed that these ecological buffers will be implemented within the CRC. However, it is stated in ES Vol 1, 6.1 Chapter 2: The Order Limits [\[APP-054\]](#) that within the CRC, where practicable, cable routing would be to the edge of fields to minimise impacts. This approach would fail to accord with the embedded mitigation measures put forward in APP-061, given that to undertake the works in this way would not permit the implementation of buffers from important ecological features along field boundaries. As such, it is unclear why APP-054 specified that routing cables to the edge of fields would minimise impacts; and it was queried whether this referred to impacts on agricultural land uses / arable production. Routing cables along field boundaries will likely increase the potential for ecological and arboricultural impacts due to adverse effects on sensitive field boundary habitat including hedgerows, hedgerow trees and arable field margin flora as well as the fauna that use these habitats.
- 4.40. In addition, paragraph 3.3.58 of ES Vol 1, 6.1 Chapter 3: The Scheme [\[APP 055\]](#) states: "*Fibre communication chambers will be installed typically every 500 to 750m but can be up to 2,000 m apart along the cable route. These are generally located at field boundaries. The final locations would be determined at detailed design. The excavation for this type of chamber would be approximately 1.5 m length, 1 m wide and 1.5 m deep.*" This further suggests that there will be works within proximity to sensitive field boundary habitats including hedgerows and trees, and that the implementation of a buffer zone at

these locations will not be possible contrary to the indication in ES Vol 1, 6.1 Chapter 9: Ecology and Biodiversity.

- 4.41. The council considers this matter will need to be suitably rectified by means of subsequent submissions from the Applicant.

Existing buildings

- 4.42. In respect of existing buildings, Wiltshire Council has raised query regarding the approach to survey of buildings as only preliminary roost assessment (PRA) of the four buildings identified within the Solar PV Sites have been conducted and the four buildings identified within the CRC have not been subject to any survey to establish presence/ likely absence of bat roosts. On the topic of roosting bats in relation to the Solar PV Sites and the CRC, the council's Relevant Representation [\[RR-4934\]](#) stipulated the following:

"It is evident that buildings within the Solar PV Sites were subject to inspection for roosting bats and potential roosting features (PRFs) but were not subject to further detailed surveys to establish the presence or likely absence of roosts within the buildings has been undertaken. The rationale provided is that all buildings are expected to be retained and unaffected by the Proposed Development. In the Council's statutory consultation response, it was specified that although buildings are likely to be retained within the Scheme layout, there could be indirect disturbance to any bats using the buildings as roost sites during the construction phase and that as such, further survey of buildings with identified PRFs would have served to inform the layout of the Scheme in terms of ascertaining where infrastructure, BESS sites, compounds and so forth should be sited to minimise the potential for impacts on bats.

Wiltshire Council's statutory consultation response also specified that given that there are a large number of trees and a small number of buildings that afford potential to support roosting bats within the Order Limits, and that specific survey to ascertain the presence or likely absence of bat roosts has not taken place, it is unclear how a sound conclusion had been reached regarding the ecological value of the roosting bat assemblage which had been assessed as being of Local Importance in the PEIR. The Council indicated that the assessment had potentially undervalued roosting bats in terms of the Solar PV Sites and as further survey of the trees with PRFs and buildings with bat roosting suitability was not undertaken, the precautionary principle should be applied. It is acknowledged that the roosting bat assemblage likely present within the Order Limits has been reviewed and reassessed as District Importance within the ES.

The Council notes that further targeted survey of the buildings within both the Solar PV Sites and the CRC has not been undertaken in 2025. The Council would like to highlight the value this additional survey could have provided for the ES and HRA given the large scale of the Solar PV Sites and potential for adverse effects on bats."

- 4.43. In relation to the Habitats Regulations Assessment (HRA) and the approach to the survey of buildings to inform the HRA, the council's Relevant Representation also specified: *"The Council remains concerned regarding the total lack of bat survey within the CRC, and that the buildings identified as having potential to support roosting bats within the Solar PV Sites have not been subject to further bat survey."*
- 4.44. The current position is that the buildings identified as having potential to support roosting bats within the Solar PV Sites have still not been subject to further survey, and that buildings within the CRC have not been subject to preliminary roost assessment (PRA).
- 4.45. The council has raised concern in previous representations regarding the scope of bat survey undertaken to inform the ES and the HRA and to ensure the mitigation strategy put forward is adequate. As detailed in Wiltshire Council's Comments on Submissions Received at Deadline 2 [\[REP3-141\]](#), a review of the Statement of Common Ground with Natural England [\[REP2-026\]](#) and Table 2-1: Summary of engagement therein, revealed that there has been substantial engagement and communication between the Applicant and Natural England (NE). It is also apparent that NE agreed the survey scope and is satisfied with the HRA.
- 4.46. Furthermore, Natural England's Response to the Examining Authority's first written questions [\[AS-018\]](#), published on 29th June 2026, has been reviewed ahead of ISH3. In respect of the ExA's question, EB1.5 Bat Surveys, NE's response specifies that *"Survey scope was agreed between the applicant and Natural England at an early stage..."* and that *"Within the Solar PV area, trees and buildings with roost potential and associated access points and commuting habitat will be retained by development..."*
- 4.47. It then states that *"While currently no impacts are proposed on these features, if additional impacts are identified surveys should be conducted in line with best practice guidelines, i.e. Bat Surveys for Professional Ecologists: Good Practice Guidelines (4th edition)."*
- 4.48. In relation to the CRC, NE states: *"Bats have been assumed present within the CRC with mitigation and avoidance measures are (sic) proposed accordingly, including those referenced within the Habitats Regulations Assessment."*
- 4.49. As expressed by Wiltshire Council during ISH3, the Council therefore presumes that the precautionary principle has been applied and that the assumption of presence within the CRC extends to the assumption that Annex II bat species that are primary and qualifying features of the Bath and Bradford-on-Avon Bats SAC, namely greater and lesser horseshoe bats, roost within the buildings present, especially given that buildings within the CRC have not been subject to preliminary roost assessment (PRA). This specific example was articulated by Wiltshire Council during ISH3 when discussing the concerns, queries and potential limitations regarding the Applicant having adopted the approach of assuming presence of species within suitable habitat in the absence of

dedicated Phase 2 / species-specific survey having been conducted to confirm presence /likely absence.

- 4.50. In response to ExA question HRA1.1 Survey Work, NE specifies that it is content that a positive assessment of the HRA can be made. Similarly, in relation to question HRA1.2 Bath and Bradford-on-Avon SAC, NE has responded as follows: *“The applicant has shared a revised HRA with Natural England which reflects the above, Natural England have reviewed and agree with the conclusions set out in this report. Regarding avoidance of impacts, previous discussion between the applicant and Natural England included discussion of the inclusion of a minimum of 15m buffer zones to all hedgerows, trees, and woodland edges to avoid impacts specifically to avoid and retain the functionality these habitats provide to bats. Further, retention of potential roosting habitats and associated commuting habitats was discussed and agreed.”*
- 4.51. Wiltshire Council notes that an updated HRA was submitted at Deadline 3 [\[REP3-091\]](#). In terms of the discussion therein regarding loss of, or damage to greater horseshoe bat roosts, paragraph 6.5.9 states that *“Four agricultural buildings have been identified within the Solar PV Sites as well as four agricultural buildings within the Cable Route Corridor,...No detailed surveys of these building for the presence/likely absence of roosting bats have been undertaken as they are all expected to be retained as part of the Scheme with no direct impacts (such as demolition or other modification) occurring. No Likely Significant Effects are anticipated through this pathway.”* Paragraph 6.5.22 reaches the same conclusion in respect of lesser horseshoe bats.
- 4.52. In light of NE’s supportive position in respect of the extent to which buildings have been surveyed to ascertain presence /likely absence of bat roosts, and their satisfaction with the proposed avoidance and mitigation measures and conclusions of the HRA, the council will defer to NE on this matter. This is because NE constitute the relevant statutory nature conservation body (SNCB) and statutory consultees at the appropriate assessment stage of the HRA process.

Watercourses

- 4.53. During ISH3, Wiltshire Council offered a view on why the Applicant had likely proposed 8m wide buffers alongside watercourses rather than any other width. The council expressed that the EA used to require acquisition of a Flood Defence Consent (FDC) for works within 8m of a main watercourse. This was superseded by Environmental Permitting in 2016, and the associated requirements and thresholds for need can be found here: [Exempt flood risk activities: environmental permits - GOV.UK](#)
- 4.54. Wiltshire Council advised that as a result of the requirements for FDCs to be obtained for works within 8m, some ecologists would adopt the approach of using this same parameter as the recommended width of ecological buffer zones / exclusion zones alongside watercourses as it allows for the protection of some riparian species and their habitat, such as water vole and their burrows.

- 4.55. Wiltshire Council articulated during ISH3 that it was satisfied with the 10m buffer zones requested by EA.

3.3 Approach to Species

- 4.56. *This agenda item was not covered during ISH3 due to time constraints.*
- 4.57. *To save duplication of text, please read the comments below relating to 3.3. Approach to Species alongside Wiltshire Council's response to Action Point 14 from the ExA which is presented in a separate document.*
- 4.58. Wiltshire Council has consistently raised concern regarding the lack of Phase 2 / species-specific survey within the Cable Route Corridor (CRC), including but not limited to, bat survey within the section of the CRC that falls within the 4km greater horseshoe bat consultation zone around the Box Mine component of the Bath and Bradford-on-Avon Bats Special Area of Conservation (SAC). As set out in Wiltshire Council's Relevant Representation [[RR-4934](#)], the acquisition of more comprehensive data would be expected to augment the ecological baseline.
- 4.59. The council has also raised some queries regarding the scope and level of Phase 2 / species-specific survey within the Solar PV Sites.
- 4.60. Full details of the issues raised by the council to date are provided in Wiltshire Council's Relevant Representation [[RR-4934](#)], Wiltshire Council's Local Impact Report (LIR) [[REP1-137](#)], Wiltshire Council's Written Representation [[REP1-138](#)], Wiltshire Council Comments on Submissions Received at Deadlines 1 and 1A [[REP2-048](#)], Wiltshire Council Comments on Submissions Received at Deadline 2 [[REP3-141](#)] and in Wiltshire Council's Response to the ExA's First Written Questions (ExQ1) [[REP3-142](#)]. It should also be noted that concerns regarding survey scope, particularly in relation to the CRC, were raised by the council in its statutory consultation response to the PEIR in March 2025 thereby allowing time prior to submission of the DCO application for matters to be addressed.
- 4.61. Wiltshire Council's latest submission, comprising Comments on Submissions Received at Deadline 2 provides details of outstanding matters, queries and concerns in respect of protected species and associated mitigation strategies, including in relation to great crested newts and breeding birds.
- 4.62. The council wishes to highlight that supporting ecological information should be appropriate for the purpose intended and sufficient in terms of species likely to be affected; it should cover a suitably wide area of study commensurate with the requirements of the species or feature of interest, including connected systems (e.g. downstream); and should be undertaken over a sufficient period of time and at an appropriate time of year to yield sufficient details of populations or habitat characteristics. This is set out in the British Standard (BS) 42020:2013 *Biodiversity — Code of practice for planning and development*, and also aligns with other best practice guidelines.

- 4.63. The provision of incomplete ecological baseline information as a result of inadequate ecological survey has implications for the robustness and accuracy of Chapter 9 of the Environmental Statement (ES) and the Habitats Regulations Assessment (HRA). Furthermore, it undermines confidence in the assessments therein as well as the avoidance, mitigation, minimisation and compensation measures proposed in respect of whether the measures are adequate and whether the principles of the mitigation hierarchy have been wholly applied. It is more difficult to adhere to the mitigation hierarchy if an ecological receptor / feature is identified at a late stage in the design process or when only minor adjustments to the proposals can be factored in and implemented on site.
- 4.64. The provision of incomplete ecological baseline information as a result of inadequate ecological also draws into question whether further measures over and above those proposed may have been found necessary if targeted survey were conducted, as well as whether any species-specific mitigation licences may be required, where presently there has been no discussion of such need within the ES. This is notwithstanding that at Deadline 2 the Applicant provided evidence in the form of an Impact Assessment and Conservation Payment Certificate (IACPC) counter-signed by NE [\[REP2-041\]](#) that an application to Natural England (NE) has been approved for use of the District Level Licensing (DLL) Great crested newt (GCN) Scheme.
- 4.65. The overarching rationale provided by the Applicant in the DCO application documents for the lack of targeted Phase 2 survey / species-specific survey within the CRC appears to be that impacts within the CRC will be restricted primarily to temporary construction related impacts. Nonetheless, the council remains concerned regarding the lack of ecological baseline data and information that has been collated for the CRC and surrounding areas and considers that the potential significance of effects upon ecological receptors and features within the CRC and the surrounding vicinity over the approximate 18-month construction period and beyond, has potentially been underestimated as a result.
- 4.66. In terms of the outstanding matters, queries and concerns in respect of protected species and associated mitigation strategies, the council offers the following examples.

Bats

- 4.67. Natural England's Response to the Examining Authority's first written questions [\[AS-018\]](#), published on 29th June 2026, has been reviewed ahead of ISH3. NE's responses to question EB1.5 Bat Surveys is noted and includes the statement that: *"Survey scope was agreed between the applicant and Natural England at an early stage."* The response also specifies that: *"Given the temporary nature of impacts of habitats within the Cable Route Corridor, and the full reinstatement of habitats following construction, full activity surveys of the CRC would not be considered proportionate to the level of impact. Bats have been assumed present within the CRC with mitigation and avoidance measures are proposed*

accordingly, including those referenced within the Habitats Regulations Assessment.”

- 4.68. NE's responses to questions to HRA1.2 Bath and Bradford-on-Avon SAC are also noted.
- 4.69. As specified in its representations to date in relation to bats, Wiltshire Council would like to reiterate that it would not have expected full activity survey within the CRC and has expressed that this would be disproportionate and so are in agreement with NE on this matter. Nonetheless, as already specified in Wiltshire Council's previous representations, the council expected survey of at least the likely important / key habitats within the CRC where it coincides with the 4km greater horseshoe consultation zone around the Box Mine component of the Bath and Bradford-on-Avon Bats SAC, as such habitat would comprise functionally linked land (FLL). This would have ensured the ES and HRA were informed by comprehensive survey information thereby increasing the soundness and accuracy of the assessments, and degree of certainty of their conclusions. This is particularly pertinent in respect of the HRA, whereby the appropriate assessment should reach conclusions that are beyond reasonable scientific doubt.
- 4.70. Furthermore, reference 3.3.7 of 8.4 Statement of Common Ground with Natural England (Rev 2) [\[REP3-113\]](#) submitted at Deadline 3 demonstrates that NE concurs with the council in respect of considering that the area of the CRC that coincides with the bat SAC consultation zone could comprise FLL as it states:
- “For the Bath and Bradford on Avon Bats SAC, Natural England agrees that the solar PV site itself is not functionally linked land for greater horseshoe bats. However, the cable route corridor lies within an impact zone and could be functionally linked, meaning likely significant effects cannot be ruled out due to potential loss or fragmentation of commuting habitat. Impacts relating to loss of roosts, killing, or injury of greater horseshoe bats can be screened out.”*
- 4.71. It is the Council's view that the undertaking of targeted survey would have also served to identify any potential habitats of importance for bats earlier in the design process so that any such habitats could be safeguarded in accordance with the mitigation hierarchy. Instead, it's deemed probable that some survey, such as ground level tree assessments (GLTAs) will be needed within both the CRC and the Solar PV Sites at the detailed design stage. This could lead to the identification of tree roosts and the need for acquisition of mitigation licences causing delays and additional costs.
- 4.72. The proposed avoidance and mitigation measures within the CRC where it overlaps with the Bat SAC consultation zone are recognised and acknowledged, and it is also recognised that the presence of all bat species is being assumed, including the Annex II species associated with the SAC comprising greater horseshoe bat (*Rhinolophus ferrumequinum*), Bechstein's bats (*Myotis bechsteinii*) and lesser horseshoe bat (*Rhinolophus hipposideros*). Nonetheless, the lack of bat survey within the CRC and the greater level of information and certainty that conducting survey provides, means that the

council has some remaining, albeit low level, concerns regarding the potential residual cumulative impacts as a result of loss and fragmentation of foraging and commuting habitat for greater horseshoe bats within the CRC. Also, although the CRC does not intersect any Bechstein's bat consultation zones, the potential for the species to roost in suitable trees on site including within the CRC, cannot be discounted especially given the proximity of Bechstein's bat consultation zones / core areas around three core roosts to the south of Chippenham. As such, the council considers there is a low risk that currently unidentified tree roosts for Bechstein's bats exist within the Order Limits and that if any such roost were to be identified at the detailed design stage during survey to inform micro-siting of works, this would likely constitute a considerable constraint and may necessitate additional mitigation and compensation beyond that already proposed, despite assumed presence, such as the re-routing or relocating of infrastructure or construction compounds to a location that is greater than the proposed 15m buffer. Moreover, it would likely prove more difficult at the detailed design / micro-siting stage to make any material changes in terms of reconfiguring the layout to avoid impacts on roosts. As such, it is possible that instead of avoiding impacts to roosts and retaining and protecting roosts, such roosts could be lost, subject to a licence being obtained from NE. This approach wouldn't adhere to the mitigation hierarchy.

- 4.73. Any Bechstein's bat roost identified within the Order Limits would also need to be considered in the HRA if deemed to be functionally linked to the SAC in the absence of evidence to the contrary in line with the precautionary principle.
- 4.74. Nevertheless, given NE's support for the approach to bats and confidence in the conclusions of the HRA, Wiltshire Council will defer to NE on this matter. This is because NE comprises the relevant statutory nature conservation body (SNCB) and statutory consultee at the appropriate assessment stage of the HRA process and Wiltshire Council is not the determining or competent authority for this DCO.

Great crested newts

- 4.75. As detailed in Wiltshire Council's Written Representation [[REP1-138](#)] and Wiltshire Council's Comments on Submissions Received at Deadline 2 [[REP3-141](#)]; although ES Chapter 9 [[APP-061](#)] identifies that environmental DNA (eDNA) surveys confirmed the presence of great crested newt (GCN) at two ponds within Sites Lime Down C and E, as well as within a further 14 ponds located within 250 m of the Solar PV Sites, the Applicant's GCN mitigation strategy for the Solar PV Sites and the decision to not obtain a mitigation licence remains unclear and unsubstantiated in the council's view.
- 4.76. The council considers that the Applicant should apply to NE to use their GCN DLL Scheme for the Solar PV Sites as well as the CRC to ensure the development would be lawful. This is because despite the avoidance and mitigation measures proposed, there is a risk that newts could be killed or injured during the works, and that their habitat will be damaged or destroyed. As such, to conduct the proposed works, such as hedgerow removal, without a mitigation licence that permits derogation from the legal protection afforded to

this EPS (namely the Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife and Countryside Act 1981 (as amended), may lead to an offence being committed.

- 4.77. Moreover, for the reasons specified in REP1-138, it is deemed that robust evidence to demonstrate that the risk of an offence being committed is low, has not been provided. The council advised that supporting evidence could have comprised Natural England's GCN rapid risk assessment tool in the GCN Mitigation Licence Method Statement template. Although this rapid risk assessment tool can be overly simplistic, it can still serve to provide a useful guide regarding the likelihood of an offence being committed and the need for acquisition of a mitigation licence to permit legal derogation from the Conservation of Habitats and Species Regulations 2017 (as amended).
- 4.78. Furthermore, Natural England's Response to the Examining Authority's first written questions [AS-018], published on 29th June 2026, has been reviewed ahead of ISH3 and NE's response to question EB1.7 Great Crested Newts is noted. NE's response appears to suggest that a great crested newt (GCN) district level licensing (DLL) application has been submitted to NE for the entire Scheme. However, as specified in the council's representations to date, most recently in [REP3-141], it is the council's understanding that the GCN DLL application relates to the Cable Route Corridor (CRC) only and not to the Solar PV Sites. This is also evident from a review of the Impact Assessment and Conservation Payment Certificate (IACPC) [REP2-041] submitted to the ExA at Deadline 2, as it sets out that the application pertains to the CRC element of the Scheme only.
- 4.79. As Wiltshire Council specified in paragraph 2.13. of REP1-138, for great crested newts, while presence has been confirmed within the Solar PV sites, the licensing and mitigation strategy remains unclear. The council advises that the Examining Authority should seek clarification on whether appropriate licensing will be secured and how legal compliance will be ensured in relation to the Solar PV sites. Moreover, the council suggests that it should not be overly onerous for the Applicant to apply to NE to use their GCN DLL in relation to the Solar PV Sites as well as the CRC. This would provide certainty that works would be conducted lawfully and that any necessary compensation will be delivered.

White-Clawed Crayfish (WCC)

- 4.80. Natural England's Response to the Examining Authority's first written questions [AS-018], published on 29th June 2026, has been reviewed ahead of ISH3. WC welcomes and concurs with the response NE has provided to question EB1.11 White-Clawed Crayfish.
- 4.81. Wiltshire Council therefore maintains the stance already set out in REP2-048 that the assumption of presence shouldn't preclude proper consideration of the requirements set out in Natural England's standing advice relating to White-Clawed Crayfish, and whether the proposed avoidance and mitigation is sufficient, as well as whether a mitigation licence could even be required to

permit some works, especially in light of the three new ca. 6m wide permanent accesses for culverts proposed across 'wet' ditches at Lime Down D.

- 4.82. Given the scope of proposed works, especially at Lime Down D where suitable habitat for White-Clawed Crayfish exists, it is considered that the rationale put forward to justify the lack of any dedicated survey having been undertaken is not sufficiently robust as there could still be adverse impacts on the species, if present, despite the mitigation put forward. Also, it is possible that undertaking targeted survey may have led to the conclusion that further mitigation and compensation over and above that proposed, and possibly even a mitigation licence may be necessary to permit some of the work depending on survey results, however this is not known as survey has not been conducted and has not been discussed in the DCO application documents.
- 4.83. In [\[AS-018\]](#), it is specified that NE agrees that more detail is required to understand how the applicant intends to approach White-clawed crayfish- both lawfully and within best practice. Wiltshire Council concur with this statement and also welcome the information provided about 'class' licences in NE's response to the ExA question relating to White-Clawed Crayfish.

Otter and Water Vole

- 4.84. In Wiltshire Council's Relevant Representation [\[RR-4934\]](#), it was highlighted that a suitably robust rationale for otter and water vole surveys not having been undertaken within the CRC, had not been provided.

Breeding Birds

- 4.85. Wiltshire Council's Relevant Representation [\[RR-4934\]](#); specified at paragraph 9.66 in regard to the Solar PV Sites, that given the evidence of barn owl possibly breeding and the presence of suitable buildings and / or mature trees with cavities present, the council would have expected species-specific survey for this Schedule 1 species to have at least been carried out at the buildings within the Solar PV Sites. This remains outstanding as far as the council is aware.
- 4.86. Paragraph 9.67 of the Relevant Representation highlighted that APP-198 specifies that the Solar PV Sites as a whole offer suitable habitat for a variety of breeding birds but that no breeding bird surveys have been undertaken within the CRC. The rationale put forward is that "*Habitats within the Cable Route Corridor are anticipated to be predominantly retained, with any temporary removal of habitat for access and cable installation works expected to be reinstated following a relatively short construction period. As such, undertaking specific breeding bird surveys was not considered proportionate or necessary.*"
- 4.87. At paragraph 9.68, of the Relevant Representation, the council stated that given the extent of the CRC, the construction duration and construction methods to be employed, together with the deployment of temporary construction compounds throughout the CRC and the fact that the construction footprint will be up to approximately 665m wide at some locations along the route, in order to be suitably precautionary and to ensure the collation of adequately

comprehensive and robust ecological baseline data, the council would have expected breeding bird survey to have at least been undertaken at likely key habitats within the CRC. The justification for the lack of survey within the CRC appears to be predicated on the temporary nature of construction phase related impacts. However, this does not fully recognise the potential for disturbance and displacement of birds during the breeding season.

- 4.88. As set out in Wiltshire Council's previously submitted representations, including the Relevant Representation, which has been transposed into 8.2 Statement of Common Ground with Wiltshire Council [REP2-025], the Council highlighted that the ES proposes creating diverse grassland under and between solar panels to mitigate displacement of ground-nesting birds (skylark and yellow wagtail). However, the Council has consistently advised (first in its statutory consultation response to the PEIR), that it should be assumed that only modified grassland of poor condition can be achieved underneath and between the solar panels. The need to assume only modified grassland can be achieved under and between the solar panels is correctly recognised in the Biodiversity Net Gain Assessment Report and so it is unclear why there hasn't been consistency of approach within ES Volume 1, Chapter 9: Ecology and Biodiversity. The Council raised concern that assumption of delivery of the additional mitigation for breeding birds proposed in Paragraphs 9.12.31 - 9.12.32 will have skewed the impact assessment, conferring greater assumed benefits than will likely be delivered on the ground. This undermines confidence in the purported additional mitigation for breeding birds. The requirements to be fulfilled when relying on the Rochdale Envelope approach to assessment should also be recognised in this context.
- 4.89. In addition, the Council raised concerns in its Written Representation [REP1-138], regarding the statement in the above extract of Chapter 9 of the ES that the impact of displacement of skylark and yellow wagtail, will be reduced by the provision of foraging habitat within the Solar PV Sites have been detailed in the Council's Written Representation. In summary, the Council considers that the substantive displacement of these ground nesting bird species, which will occur as a result of the Scheme, will not be wholly mitigated or offset by the provision of foraging habitat. Displaced birds will still require adequate suitable open areas for ground nesting, and the provision of foraging habitat does not comprise like-for-like compensation for the loss of significant areas of nesting habitat.
- 4.90. Furthermore, in Wiltshire Council's Response to the ExA's First Written Questions (ExQ1) [REP3-142], the potential for adverse impacts on ground nesting birds as a result of the Applicants intended approach of maintaining all hedgerows across the Order Limits at a height of 4.5m above ground level (AGL) was discussed. The Council specified:

"Management of hedgerows to a height of 4.5m, especially newly planted hedgerows, within ecology mitigation areas such as those for ground nesting birds, including skylark and yellow wagtail, could in effect obstruct and 'close' currently open views needed by such species, and may increase predation due to an increase in elevated vantage points and perch sites for raptors."

3.4 Monitoring

- 4.91. As specified in Wiltshire Council Response to ExA's First Written Questions (ExQ1) [[REP3-142](#)], the council confirms that with respect to discussions regarding habitat and species monitoring during both the construction and operation / replacement and decommissioning, the Applicant had been silent and not engaged with the council in any discussions on this matter. However, shortly before the ISH, the Council had been in communication with the Applicant with a view to arranging a meeting between respective legal teams to discuss this matter. An initial meeting took place on 8 July 2026.
- 4.92. The council's preference would be for an appropriate contribution to be agreed and secured by means of legal agreement, namely section 106 agreement. Given that the monitoring will need to be conducted over the lifetime of the Scheme, i.e. 60 years, the monitoring contribution needs to be index linked. Discussions are ongoing.

3.5 Biodiversity Net Gain (BNG)

- 4.93. *This agenda item was only briefly discussed during ISH3 due to time constraints. The discussion focused on Observation 1 taken from Wiltshire Council's Written Representation [[REP1-138](#)] and it was agreed that a suitable response to this observation had in effect, been provided by the Applicant.*
- 4.94. *The ExA requested that Wiltshire Council and the Applicant liaise in respect of the remaining observations made by the Council in the Written Representation by means of the SoCG between the parties. Both parties agreed to this course of action.*
- 4.95. *Nonetheless, the Council offers the following comments to assist the ExA.*
- 4.96. Wiltshire Council recognises that DEFRA will implement a mandatory BNG framework for NSIPs from November 2026. Nevertheless, the Applicant has committed to providing at least 10% BNG for the Lime Down Solar Park project and Core Policy 50 of the Wiltshire Core Strategy (adopted January 2015) requires major development to deliver biodiversity gains. Policy NE2 of the Chippenham Without Neighbourhood Plan 2022 - 2036 requires development (where appropriate) to deliver BNG and Policy GI1 of the Chippenham Neighbourhood Plan (2024) requires major development to demonstrate at least 10% BNG will be attainable. Similarly, Policy 13 of the Joint Melksham Neighbourhood Plan 2 (2025) requires all development to deliver at least 10% BNG and makes particular reference to this requirement extending to solar farms. It is, however, accepted that only part of the application site is covered by the respective community neighbourhood plans outlined above.
- 4.97. Furthermore, it is assumed that the Applicant has used the on-site post intervention projections presented in the metric to substantiate, quantify and evidence the habitat mitigation, enhancement and creation proposals discussed and relied upon in the DCO application. Therefore, the council has

provided comment on the Applicant's approach to BNG and the associated submissions within its previous representations.

- 4.98. Wiltshire Council's Written Representation [[REP1-138](#)] covered the Applicant's approach to BNG and the BNG submissions and provided detailed comment on eleven key issues. The most important issues raised in the Written Representation, and which remain inadequately addressed and / or justified to date are summarised below. Please note that the observations presented below do not encompass of the observations made in the aforementioned representation as it was considered unnecessary to duplicate them in full herein. Rather, those observations included below are intended to give an overview of the key issues. Please note that the observation numbers remain the same as those assigned in the Written Representation for purposes of continuity and ease of cross-referencing.

Observation 2

- 4.99. Habitat reference numbers have not been provided in the Irreplaceable Habitats, A-1 On-Site Habitat Baseline, A-2 On-Site Habitat Creation, A-3 On Site Habitat Enhancement, B-1 On-Site Hedge Baseline, B-2 On-Site Hedge Creation, B-3 On-Site Hedge Enhancement, C-1 On-Site Watercourse Baseline, C-2 On-Site Watercourse Creation and C-3 On-Site Watercourse Enhancement tabs of the submitted BNG Metric [[PDA-008](#)].
- 4.100. The use of habitat reference numbers allows for the labelling of a habitat in the metric, so that it can be matched up with associated mapping provided. Essentially, users should reference habitat parcels by unique codes on all applicable sheets in the metric. The inclusion of habitat reference numbers enables the reviewer to cross reference between the pre-intervention / baseline calculations in the metric and associated baseline / habitat plans, and between the post-intervention calculations in the metric and the post development plans so it can be verified that the metric and associated plans align and are correct.
- 4.101. Whilst the inclusion of Habitat Baseline Plans (Plates 3 – 7) and the Proposed Habitats Plans (Plates 8 – 12) are helpful and have been used by the council's Ecology Officer during the review process, because they do not include habitat reference numbers, it proved very difficult to ascertain exactly what is being proposed and where with sufficient degree of certainty.
- 4.102. In terms of the methodology applied, the BNG Assessment Report details a number of limitations but does not explicitly mention or discuss the omission of habitat reference numbers within the metric. A justification appears to be presented in paragraph 1.2.8 [[APP-273](#)] however, and states: "*The number of rows generated by the overlay of baseline and proposed habitats once mapped using QGIS approached 2,229 in the case of HU, 1,377 for HeU, and 138 for WU. As per the Statutory Metric QGIS template and GIS import tool User Guide (Ref 16), data have been consolidated into groups of identical values (i.e. multiple polygons with identical baseline values proposed to have identical outcomes) for simpler representation within the Metric. If requested, the raw data can be provided in full.*"

4.103. Whilst this limitation and the number of rows generated is acknowledged, it is considered that the size of the Scheme should not prohibit the preparation of comprehensive and appropriately marked-up plans, BNG Assessment and metric; nor should it hinder the undertaking of a sound and thorough review of the BNG proposals, particularly by the ExA and host authority. As such, the explanation in the report is not deemed to comprise a suitably robust rationale for the omission of the habitat reference numbers.

4.104. The ExA is therefore advised that in the absence of habitat reference numbers accurately linking to appropriately marked up baseline / pre-intervention and post development plans, the council's Ecology Officer cannot verify or corroborate the metric and BNG Assessment Report, despite the provision of the plates in the BNG Assessment Report. Instead, it was necessary to look at the plans at a higher level than is ideal and to make judgements. This is pertinent because even though mandatory BNG has not yet come into force for NSIPs, the metric effectively underpins the ecological impact assessment as it quantifies biodiversity losses and gains. Moreover, the BNG Assessment and metric have effectively been used to evidence and support the habitat mitigation, creation and enhancement proposals put forward in ES Chapter 9, the HRA and the other ecological documents and plans submitted as part of the DCO application.

Observation 4

4.105. Condition assessment sheets have not been provided for the habitats assigned a condition in the submitted BNG metric and condition assessment information has likewise been omitted from the BNG Assessment Report. Paragraph 1.2.9 of the BNG Assessment Report [APP-273] provides the following explanation: *"Condition assessment information for each individual habitat parcel recorded has not been presented in this document, given the number of parcels recorded, as detailed above. Instead, summaries of the overall condition scores for each habitat, hedgerow, and watercourse type are provided in Tables 2 and 3."*

4.106. The omission of condition assessment sheets alongside the metric and condition assessment information in the BNG Assessment Report constitutes a deviation from The Statutory Biodiversity Metric User Guide (Last updated: 3 July 2025) (hereafter referred to as 'the User Guide') which states:

"You should conduct a condition assessment for all habitat parcels which require you to assign a condition to them in the biodiversity metric tool. You should use the biodiversity metric condition sheets to do this and provide these as evidence to support your assessment. Biodiversity metric condition sheets can be used to evidence good, moderate or poor condition. Fairly good and fairly poor are intermediate condition categories. If you need to use these, you should:

- complete a biodiversity metric condition assessment sheet*
- make site specific judgements using ecological expertise*
- explain any deviations against specific condition criterion*
- provide ecological reasoning"*

4.107. Whilst paragraph 1.2.9 of the BNG Assessment Report attempts to justify the omission, the provided rationale is not augmented by the provision of a citation to demonstrate where in guidance this deviation has been advocated for certain circumstances. Furthermore, the ExA is advised that the absence of condition assessment information has meant that the council's Ecology Officer has not been able to verify the condition of the habitats.

Observation 6

4.108. In terms of the Minimum Mapping Units (MMU) used for the BNG Assessment, paragraph 1.2.11 of the BNG Assessment Report [APP-273] states: *"Given the extent of the Solar PV Sites, the following Minimum Mappable Units (MMU) for UKHab classification were generally set at:*

- *Area features (HU) – 400 m² (20 m x 20 m); and*
- *Linear features (HeU and WU) – 20 m."*

4.109. Paragraph 1.2.12 of the BNG Assessment presents a justification for this approach and the adoption of these MMU as follows: *"It should therefore be noted that some habitat parcels or features below the above MMU thresholds were not individually mapped and included within the BNG calculations. This approach is in line with UKHab guidance and is considered proportionate to the size of the Scheme. An exception to this general rule was made for ponds, as all ponds were individually mapped regardless of area."*

4.110. The council has concerns about the large MMU applied and the potential for inaccuracies and the increased risk of significant errors as a result of adopting this approach to mapping the habitats. This is because using a large MMU for area features and linear features can result in smaller areas of high-value habitat being overlooked or subsumed into a lower-value category, resulting in a lower baseline score. This makes achieving the 10% BNG target easier but can fail to reflect the actual ecological baseline and can reduce the accuracy of the metric calculation.

4.111. Therefore, the council cannot corroborate the supposition put forward in paragraph 1.2.10 of the BNG Assessment Report which states: *"It is anticipated that a non-significant margin of error may occur throughout the mapping process, from collecting data in the field to mapping using QGIS software."*

4.112. Furthermore, paragraph 1.2.12 of the BNG Assessment Report states that the approach adopted for the MMU is in line with UKHab guidance. However, an exact citation for the UKHab guidance which advocates the adopted approach has not been provided in paragraph 1.2.12, and the 'References' section of the report also appears to omit the UKHab Classification document or any other UKHab reference. This is pertinent as contrary to what is stipulated in the BNG Assessment Report, it is understood that the 400m² MMU approach that has been applied for Lime Down Solar Park is not actually cited or recommended in the UKHab definitions or any other UKHab guidance, and neither is it discussed in the User Guide. Rather, it is understood to be an approach that has been

adopted by practitioners on specific projects entailing landscape-scale surveys and for large-scale upland sites or extensive, uniform farmland sites.

- 4.113. Therefore, a robust and comprehensive rationale is required to justify the large MMUs used. Whilst paragraphs 1.2.11 and 1.2.12 [APP-273] refer to the extent and size of the Solar PV Sites, there is no discussion regarding the habitats across the Solar PV Sites and whether they are considered sufficiently homogeneous to warrant the approach to MMU adopted. The council therefore suggests that the ExA investigates this matter further and seeks further evidence of where this approach is supported in published guidance, and not just evidence of where this approach has been applied on other projects given that latter in itself does not render the approach to be in line with published standards and guidance.

Observation 7

- 4.114. Paragraph 1.2.11 of the BNG Assessment Report [APP-273] only refers to use of the discussed MMU in respect of the Solar PV Sites and no methodology is provided in relation to the CRC. It is assumed therefore that the stated MMU has also been applied to the CRC. It is considered that this information and supporting justification for the approach should have been provided within the 'Methodology'. This is considered especially necessary as the proposed CRC is much narrower along the majority of its route than the Solar PV Sites and so using large MMU is likely inappropriate for the CRC. There is a need for the adopted MMU to be applied consistently across the Order Limits given that the metric has been used for the CRC. Nonetheless, as discussed above, the council has concerns regarding the use of the stated MMU for the Solar PV Sites and so these concerns would likewise apply to the CRC in any case. It is recommended that the ExA seeks further information and supporting evidence and justification in respect of this matter.

Observation 8

- 4.115. The Irreplaceable Habitats tab of the BNG metric [PDA-008] has listed individual rural trees comprising veteran trees all in one row, effectively grouping them all together. This doesn't comply with the User Guide which requires one row per tree. In the User Guide under the heading 'Recording irreplaceable habitats', in respect of ancient and veteran trees it stipulates: "*You should record all ancient and veteran trees as individual trees separately on a single data entry row and mark these as an irreplaceable habitat. This includes ancient and veteran trees in woodlands that are not themselves ancient woodlands and those in hedgerows and lines of trees.*"
- 4.116. Paragraph 1.3.6 of the BNG Assessment Report [APP-273] specifies: "*42 ancient and veteran trees were recorded within the Solar PV Sites.*" Paragraph 1.3.7 states: "*A total of 10 ancient and veteran trees were recorded within the Cable Route Corridor and have therefore been categorised as Irreplaceable Habitat within the Metric.*"

- 4.117. Each of the 52 ancient and veteran trees recorded within the Solar PV Sites and CRC should have been listed in a separate row in the Irreplaceable Habitats tab of the metric in line with the User Guide. There is no explanation in the 'user comments' column in the metric to justify why the trees have been grouped together in one row and no explanation has been provided within paragraphs 1.3.6-1.3.7 or the Limitations section of the BNG Assessment Report. The number of ancient and veteran trees recorded isn't so large that it warrants deviation from the User Guide.
- 4.118. It is also not apparent how the veteran tree total area at baseline of 3.10 hectares has been derived given that all these trees have been grouped together and the Tree Helper tool on the Main Menu tab of the metric has not been completed, as would have been expected. The council recommends that the ExA request these matters be addressed and for clarity and information, the User Guide states: *"For individual trees, the biodiversity metric tool contains a 'tree helper' which generates an area value based on the tree's diameter at breast height (DBH)."*
- 4.119. Wiltshire Council Comments on Submissions Received at Deadlines 1 and 1A [\[REP2-048\]](#) entailed comment on updated BNG submissions comprising 7.8 Biodiversity Net Gain Assessment Report (Rev 2) [\[REP1-090\]](#) and Biodiversity Net Gain Assessment Appendix Statutory Biodiversity Metric [\[REP1-092\]](#) and [\[REP1-093\]](#), and specified that a number of the issues raised in Wiltshire Council's Written Representation [\[REP1-138\]](#) remained outstanding and had not been addressed as a result of the aforementioned submissions.
- 4.120. Most recently, Wiltshire Council Comments on Submissions Received at Deadline 2 [\[REP3-141\]](#) encompassed commentary on The Applicant's Response to Written Representations [\[REP2-039\]](#), including counter responses to the Applicant's responses against References WC-063 to WC-074 inclusive pertaining to BNG. Although the Applicant has attempted to justify the approach applied, a number of important issues remain unaddressed and deviations from *UK Habitat Classification Version 2.0* (UKHab Ltd., July 2023) and *The Statutory Biodiversity Metric User Guide* (Last updated: 3 July 2025) remain unsubstantiated and a cause for concern.
- 4.121. The sections of Wiltshire Council's comments from [REP3-141](#) on The Applicant's Response to Written Representations, which relate to the observations listed earlier are set out below and represent the council's latest position on these matters.

Reference WC-069 Ecology and Biodiversity, Biodiversity Net Gain (BNG)

- 4.122. The Applicant's response states: *"The Minimum Mappable Units (MMU) for baseline UK Habitat Classification surveys across the Scheme was determined based on guidance presented in Section 2.2 of the UK Habitat Classification User Manual Version 1.0 (May 2018), published by the UK Habitat Classification Working Group. No updates to the guidance relating to MMU are presented in UK Habitat Classification Version 2.0 (2023). As such, the guidance set out within the UK Habitat Classification User Manual Version 1.0*

is considered to represent the most recent published guidance relating to MMU and represents a robust source from which to justify determination of MMU at the Solar PV Sites and Cable Route Corridor.”

- 4.123. The Applicant is therefore specifying that the 2018 version of the UKHab Classification User Manual was used. For clarity, the BNG Assessment Report did not cite the 2018 version of the user manual or even include it in the References section, hence why the council queried where the approach adopted was actually advocated in the guidance, because as far as the council is aware, the approach adopted by the Applicant is not recommended in the current version of the UKHab document. This is because, importantly, the 2018 version of the document has been superseded by *UK Habitat Classification Version 2.0* (UKHab Ltd. 2023) which was published in July 2023 and therefore should have been used for Lime Down Solar Park as it was published in time. The methodology detailed in the current UKHab document should have been used, and it is not considered appropriate to default to, and rely upon approaches detailed in the out-of-date version because it is more convenient for the project. All parts of the methodology from the 2018 version that the authors deemed still sound and appropriate for use would have been transposed across into the 2023 version, and so any omissions regarding MMUs from the 2023 are clearly intentional.
- 4.124. Critically, the ExA should note that in relation to *UK Habitat Classification Version 2.0* (UKHab Ltd. 2023), UKHab Ltd states on its website: “*It supersedes all older versions, which should not be used in any circumstances.*” (See for details: [UKHAB Documentation – ukhab](#)).
- 4.125. The Applicant’s response to this matter then stipulates: “*In line with the Handbook for Phase 1 Habitat Survey (2010 Edition), target notes were collected where notable ecological features, including habitat parcels that were too small in size to be captured by the MMU, were present.*”
- 4.126. It then states: “*Habitats identified as target notes were not included within the BNG calculations presented within the BNG Assessment Report [REP1-089] and Statutory Biodiversity Metric [REP1-091], owing to the MMU and given that the habitat types were not notable in the context of the baseline habitats recorded. This limitation is recognised within the BNG Assessment Report [REP1-089] but is not considered significant for the reasons outlined above;...*”
- 4.127. Firstly, the use of target notes is not considered to comprise a suitable substitute for appropriate mapping. Secondly, whilst there is a broad discussion regarding the limitation in the ‘Limitations’ section of the BNG Assessment Report, contrary to the Applicant’s Response, there is not a full explanation about the use of target notes for smaller areas of habitat and nor is there an explanation anywhere else in the BNG Assessment Report. Furthermore, the adopted methodology and use of target notes for smaller areas of habitat is not described in the ES Volume 3, Appendix 9-1: Ecological Baseline Report either as it should have been if the Applicant is relying on this approach and the use of very large MMUs. This is a significant omission from the description of the methodology employed.

4.128. The council therefore maintains its position in respect of the issues raised under WC-069 as the concerns raised have not been suitably addressed and the explanations in the Applicant's Response have not been adequately substantiated.

Reference WC-070 Ecology and Biodiversity, Biodiversity Net Gain (BNG)

4.129. The Applicant's response confirms that the Minimum Mappable Unit of 400m² for area-based habitats and 20m for linear features which was applied across the Solar PV Sites was also applied within the Cable Route Corridor (CRC). Whilst the confirmation of method is acknowledged, this evidently should have been clearly explained in the methodology of the relevant submitted DCO documents and comprises a considerable omission.

4.130. As detailed in the council's comments above in respect of WC-069, the council remains concerned regarding the MMU adopted and does not consider it has been sufficiently justified given that contrary to the indication from the Applicant, the method used does comprise a deviation from the UKHab Classification User Manual seeing as Version 2.0 published in July 2023 should have been complied with for Lime Down Solar Park.

Reference WC-071 Ecology and Biodiversity, Biodiversity Net Gain (BNG)

4.131. It is noted that the Applicant's Response specifies: "*The Applicant acknowledges that all individual trees comprising Irreplaceable Habitat have been grouped within a single row within the Statutory Biodiversity Metric [REP1-091]. These features were consolidated within the Metric, as with other habitat elements within the Scheme.*"

4.132. This is not considered to provide a robust rationale for the deviation from The Statutory Biodiversity Metric User Guide (Last updated: 3 July 2025) (hereafter referred to as 'the User Guide'). It also fails to explain or address why no explanation was presented in the 'user comments' column in the metric to justify why the trees have been grouped together in one row and why no explanation has been provided within paragraphs 1.3.6 1.3.7 or the Limitations section of the BNG Assessment Report.

4.133. The information now provided is noted. The Applicant indicates in their response that the Tree Helper was used. If so, it is unclear why it was blank and not completed within the submitted metric. Evidently it should have been completed within the metric to allow review of the information.

4.134. The council's concerns have not been overcome or adequately addressed in respect of this matter.

Reference WC-073 and WC-074 Ecology and Biodiversity, Biodiversity Net Gain (BNG)

- 4.135. The Applicant's responses are noted. Nonetheless, the council remains concerned regarding the consolidation of habitat rows within the submitted Statutory BNG Metric and subsequent omission of individual habitat parcel references for the reasons already expressed and explained.

Monitoring Discussion

- 4.136. Wiltshire Council confirms that at the time of ISH3 there had been no meaningful discussion between the Applicant and the council regarding the monitoring of BNG. However, shortly before the ISH, the Council had been in communication with the Applicant with a view to arranging a meeting between respective legal teams to discuss this matter. An initial meeting took place on 8 July 2026.
- 4.137. The council's preference would be for an appropriate contribution to be agreed and secured by means of legal agreement, namely section 106 agreement which should be index linked.

3.6 Grazing

- 4.138. Wiltshire Council has consistently advised, including in its statutory consultation response to the Preliminary Environmental Impact Report (PEIR), that livestock-grazed pasture, particularly cattle-grazed pasture, can provide suitable foraging habitat for horseshoe bats, and can be especially important for juvenile greater horseshoe bats. The value of such existing habitat should be duly recognised, particularly where it exists within consultation zones around the component areas of the Bath and Bradford-on-Avon Bats Special Area of Conservation (SAC), including within the section of the greater horseshoe bat consultation zone around the Box Mine component of the SAC that coincides with the Cable Route Corridor (CRC).
- 4.139. Prior to the DCO application being submitted, the council posed a query regarding whether the Applicant intended the Solar PV Sites to be grazed because contradictory information had been provided on this topic.
- 4.140. In Table 9-1 in Chapter 9 of the ES [[REP1-016](#)], the Applicant states: "*For the PEIR assessment an assumption of worst case scenario for management of the solar array through mechanical cutting. Grazing was mentioned in reference to ecology to demonstrate that proposed benefits will be feasible and achievable via either cutting or grazing. The assessment presented in the ES chapter assumes operational management of grassland within the Solar PV Sites will be undertaken by cutting only.*"
- 4.141. Chapter 9 of the ES, paragraph 9.9.22 stipulates: "*For the purpose of this assessment, and as described in Chapter 3: The Scheme [EN010168/APP/6.3], it is assumed all habitats within the Solar PV Sites will be managed with machinery and there would be no grazing. However, should consent be*

granted, grazing by sheep will be explored, noting that there are no known landowner restrictive covenants or other reasons that would prevent such use. Management proposals are contained within the Outline LEMP [EN010168/APP/7.18].”

- 4.142. It then goes on to specify at paragraph 9.10.106: *“Operational management of grassland areas may also include conservation-grazed pasture, which would target similar outcomes for biodiversity as grasslands managed through low-intensity cutting regimes, although this assessment assumes grazing would not occur during operation and maintenance of the Scheme.”*
- 4.143. Therefore, it is Wiltshire Council’s understanding that the ES has been based on the assumption that grazing will not be undertaken.
- 4.144. During ISH3, Wiltshire Council stated that it had nothing to add on this matter. This is because the council considered that the points discussed aligned with and covered those which it had already detailed in writing in what comprised a draft ‘Post Hearing Submission’ prepared in advance of the hearing, and which now comprises this final iteration of that document.

5. Issue Specific Hearing (ISH3): Action Point Responses

Action Point 10 (Transport): Mark up areas on a plan where you consider highway improvement areas may be required.

- 5.1. The council has included two plans as contained within Appendix E to this submission in response to this Action Point.
- 5.2. The council requests that the ExA, the Applicant and other parties, refer also to Wiltshire Council's comments on the Transport Assessment (Rev 3) [[REP3-066](#)], as contained within its Comments on Deadline 3 Submissions document, which will also be submitted at Deadline 4.
- 5.3. Precise positioning of HGV passing place improvements outside the current HIA is dependent of topographical survey coverage of 'all' the narrow rural lane lengths proposed for construction access and knowledge of actual widths at intervals.
- 5.4. The comment on this point reads *"At the ISH3 Hearing it was noted that base topographical survey drawings for 'all' the minor roads forming the HGV construction routes should be provided, with the actual carriageway width dimensions indicated at intervals. It was suggested by Wiltshire Council that each road should employ a chainage line, with widths indicated at, say, 10m intervals. As 5.5m is the minimum width necessary for 2-way HGV passage, and 4.8m for car / HGV passage (MfS), it would be helpful to colour-shade route sections with carriageway widths 5.5m or greater and 4.8-5.5m, with unshaded lengths then indicating lengths with a width of less than 4.8m. This would provide a better 'at a glance' suitability of the existing routes, which is difficult to pick up from the swept path plots where a lot of underlying base detail is masked"*.

Action Point 13 (Ecology): Mitigation – Submit the referenced case law on European Protected Species (EPS) surveys.

- 5.5. The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') transpose Council Directive 92/43/EEC on the Conservation of Natural Habitats and Wild Flora and Fauna ('the Habitats Directive') into English law.
- 5.6. The Proposal has the potential to affect species, including bats, which are the subject of the highest level of species protection as a European protected species ('EPS') under regulation 42 and Schedule 2 to the Habitats Regulations.
- 5.7. The Secretary of State in considering the application is a 'competent authority' pursuant to regulation 7(1) of the Habitats Regulations. By regulation 9(3), a competent authority must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of their functions: R (Morge) v Hampshire County Council [2011] UKSC 2; 1 WLR 268.

- 5.8. Article 12 of the Habitats Directive provides that Member States must take the requisite measures to establish a system of strict protection for the animal species listed in Annex IV(a) in their natural range, prohibiting, amongst other matters, 'deliberate disturbance of these species'. Article 16 provides for derogations from Article 12.
- 5.9. To ensure compliance with the Habitats Directive, the Habitats Regulations make it a criminal offence deliberately to disturb or to damage or destroy the breeding site or resting place of an EPS (regulations 40 and 41). However, Natural England as the 'appropriate nature conservation body' (regulation 5(1)(a) and (b)) can, under regulation 53, grant a licence to permit derogations from the protection otherwise afforded by the Habitats Directive to EPS.
- 5.10. Natural England can grant a derogation licence under regulation 53(2)(e) if there are 'imperative reasons of overriding public interest including those of a social or economic nature...' ('IROPI'); but regulation 53(9) also proscribes the grant of a licence unless Natural England is satisfied 'that there is no satisfactory alternative' and 'that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range'. Therefore, a licence cannot be issued unless three conditions are satisfied: (i) there are IROPI, (ii) there is no suitable alternative; and (iii) a favourable conservation status will be maintained.
- 5.11. A competent authority considering the impacts on a species protected by the Habitats Regulations needs to have regard to Article 12, which includes consideration of whether there would be 'deliberate disturbance' requiring a derogation under Article 16.
- 5.12. Paragraph 99 of the Biodiversity and Geological Conservation: Circular 06/2005 ('the Circular') explains:

'99. It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted. However, bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development. Where this is the case, the survey should be completed and any necessary measures to protect the species should be in place, through conditions and/or planning obligations, before the permission is granted. In appropriate circumstances the permission may also impose a condition preventing the development from proceeding without the prior acquisition of a licence under the procedure set out in section C below.'

5.13. Paragraph 116 of the Circular explains:

'When dealing with cases where a European protected species may be affected, a planning authority is a competent authority within the meaning of regulation 6 of the Habitats Regulations, and therefore has a statutory duty under regulation 3(4) to have regard to the requirements of the Habitats Directive in the exercise of its functions. So the Directive's provisions are clearly relevant in reaching planning decisions, and these should be made in a manner which takes them fully into account. The Directive's requirements include a strict system of protection for European protected species, prohibiting deliberate killing, catching or disturbing of species, the taking of eggs etc. and damage to or destruction of their breeding sites or resting places. Derogations from this strict protection are allowed only in certain limited circumstances and subject to certain tests being met (see para 112 above). Planning authorities should give due weight to the presence of a European protected species on a development site to reflect these requirements, in reaching planning decisions, and this may potentially justify a refusal of planning permission.'

5.14. The competent authority is required to consider whether it is likely that the proposed development would cause a disturbance, and if so whether it is likely that Natural England would grant a derogation licence: *Morge* at §29, §44. 'Likely' connotes no more than "serious possibility": *R (Wilkinson) v South Hams* [2016] EWHC 1860 (Admin) at §39.

5.15. That requires an assessment of the nature and extent of the negative impact of the activity in question upon the species and, ultimately, a judgment as to whether that is sufficient to constitute a 'disturbance' of the species: *Morge* at §19, §22, §29.

5.16. As explained in *Bagshaw v Wyre Borough Council* [2014] EWHC 508:

'(i) The Defendant has a statutory duty under regulation 9(3) of the 2010 Regulations to have regard to the requirements of the Habitats Directive. Paragraph 99 of the Circular states:-

"It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted..."

*I accept that the Defendant established the presence or otherwise of protected species, namely the bats. However I do not accept that they established "the extent that they may be affected by the proposed development." As Lord Brown said in *R (Morge) v Hampshire County Council*¹⁵ at paragraph 19 "whilst it is true that the word "significant" is omitted from article 12(1)(b)....that cannot preclude an assessment of the nature and extent of the negative impact of the activity in question upon the species and, ultimately, a judgment as to whether that is sufficient to constitute a "disturbance" of the species." I bear in mind fully what Baroness Hale said at paragraph 36, namely that the court should not impose too demanding a standard upon officers' reports, but she also said that*

the reports “obviously have to be clear and full enough to enable them (i.e. the planning authority) to understand the issues and make up their minds within the limits that the law allows them.” The Defendant, in my judgment, did not do that here.’

5.17. In summary, before determining the application, the Secretary of State as competent authority is required to consider (and thus must be satisfied the survey work is adequate to conclude in respect of):

- Whether there are likely to be impacts on EPS
- The extent to which any relevant EPS may be affected by the proposal
- Whether a derogation licence is likely to be required
- If a derogation licence is likely to be required, whether Natural England are likely to grant it.

5.18. Completing the analysis is important so as to comply with the Secretary of State’s functions as a competent authority. It is also necessary so that impacts on protected species can properly be weighed in the planning balance. It is not possible to weigh impacts unless likely effects are first established.

Action Point 14 (Ecology): Mitigation – To cover in their post-hearing submissions information regarding the application of the mitigation hierarchy.

5.19. In all its previously submitted representations pertaining to the DCO application (as listed below), Wiltshire Council has raised concerns regarding deficiencies in the methodology employed to establish the ecological baseline; the associated implications for the assessment of impacts on ecological receptors presented in 6.1 ES Volume 1 Chapter 9 Ecology and 7.10 Habitats Regulations Assessment Report (HRA); and the implications for ensuring that the avoidance, mitigation and compensation measures put forward are appropriate and adequate and are in full accordance with the mitigation hierarchy. The concerns raised in [RR-4934](#) are also set out in 8.2 Statement of Common Ground with Wiltshire Council [\[REP2-025\]](#).

- Wiltshire Council’s Relevant Representation [\[RR-4934\]](#);
- Wiltshire Council’s Local Impact Report (LIR) [\[REP1-137\]](#);
- Wiltshire Council’s Written Representation [\[REP1-138\]](#);
- Wiltshire Council Comments on Submissions Received at Deadlines 1 and 1A [\[REP2-048\]](#);
- Wiltshire Council Comments on Submissions Received at Deadline 2 [\[REP3-141\]](#); and
- Wiltshire Council Response to ExA’s First Written Questions (ExQ1) [\[REP3-142\]](#).

- 5.20. Wiltshire Council maintains its stance that the methodology employed by the Applicant to determine the ecological baseline, both in terms of the desk study and field survey, particularly in respect of the Cable Route Corridor (CRC), is insufficient and not suitably comprehensive to ensure that the Scheme has been designed in a manner that has enabled full application of the mitigation hierarchy. This is especially important given the Applicant's decision to rely on the 'Rochdale Envelope' approach.
- 5.21. In respect of the desk study, non-statutory nature conservation sites within 2 km of the Solar PV Sites have been identified in 6.1 ES Volume 1 Chapter 9 Ecology. For the CRC, however, the desk study only considered the CRC itself with no search beyond the boundary of the Order Limits. Therefore, as detailed in [\[RR-4934\]](#) and [\[REP2-025\]](#), Wiltshire Council considers the desk study methodology used for the CRC to be inadequate as it has not entailed the identification of any international, national or local designated sites, habitats of principal importance (HPI) / priority habitats or ancient woodland beyond the CRC even though it extends the substantial distance of approximately 22km and some sections will be up to approximately 665m wide with temporary construction compounds sited throughout the CRC. Wiltshire Council deems this approach to be inadequate because construction activities could give rise to impacts, such as an increase in light spill / intrusive light, dust and particulate matter generation and noise and vibration, that could adversely affect nearby non-statutory sites and HPIs / priority habitats and the species they support, beyond the Order Limits. As it stands, the potential for indirect and short-term / temporary effects, rather than solely the potential for direct and longer-term / permanent effects, on all ecological receptors not just within the CRC but also beyond the CRC, has not been wholly evaluated in the council's view.
- 5.22. Furthermore, although the intention is to reinstate sections of hedgerows that will be subject to removal to facilitate works within the CRC, the impacts to the habitat will not be immediately reversed upon reinstatement and the adverse effect will not necessarily be short-term. This should be reflected accordingly in 6.1 ES Volume 1 Chapter 9 Ecology.
- 5.23. The approach to the desk study method for the CRC and the underpinning rationale presented by the Applicant in [APP-198](#) is considered to be representative of the way that the potential mechanism for adverse effects on ecological receptors as a result of impacts associated with the proposed activities within the CRC has been under-estimated. There appears to be an assumption that there will be no or limited pathways for impacts on ecological features and receptors beyond the construction footprint of the CRC. However, it is deemed that the desk study is sufficient to have enabled that conclusion to be robustly substantiated.
- 5.24. The methodology employed for establishing the ecological baseline, in particular for the CRC, is considered inadequate to suitably support reliance on adoption of the Rochdale Envelope approach. Collation of comprehensive information and data is required to establish the ecological baseline and to facilitate a sound and suitably accurate assessment of potential impacts on ecological receptors based on potential worst-case pathways for effects and

ensuring application of the precautionary principle. It is considered that this requirement has not been fully met.

- 5.25. It is important that adequate and appropriate data and information has been obtained by means of desk study and field survey in order to establish the ecological baseline of not just the Site but also any areas beyond the boundary of the Order Limits that could be subject to effects (most likely indirect effects in respect of the latter), such as on account of the presence of functional habitat connectivity between on-site and off-site habitats. The acquisition of adequate ecological baseline information is necessary to inform and refine the Scheme design, the routing of the cable, locations for site compounds, locations for implementation of HDD and so forth and to ensure that avoidance, mitigation and compensation measures proposed are sufficient and appropriate for the intended purpose.
- 5.26. Comprehensive ecological surveys, including an appropriate level of Phase 2 / species-specific survey should have been undertaken early in the design process and prior to submission of the DCO application. This is necessary to ensure that adequate ecological baseline data regarding the presence / likely absence of species / species groups and details of species assemblages and population sizes had been collated to suitably inform the assessment of impacts on ecological receptors detailed in 6.1 ES Volume 1 Chapter 9 Ecology and 7.10 HRA.
- 5.27. The council has consistently raised concern regarding the lack of any Phase 2 / species-specific surveys within the CRC; including but not limited to bat survey within the section of the CRC that coincides with a greater horseshoe bat consultation zone that extends 4km from the Box Mine component of the Bath and Bradford-on-Avon Bats Special Area of Conservation (SAC). The Council has repeatedly advised that collation of an appropriate level of baseline data through dedicated Phase 2 survey would have served to ensure that the assessments presented in 6.1 ES Volume 1 Chapter 9 Ecology and 7.10 HRA are suitably robust, accurate and reliable.
- 5.28. It is recognised that in the absence of ecological data obtained by means of targeted Phase 2 / species-specific survey, the Applicant has assumed presence of protected species within areas of suitable or potentially suitable habitat and specifies that they have designed mitigation on that basis. However, this approach is not in accordance with best practice as detailed in *Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater, Coastal and Marine* (CIEEM, 2018) and *BS 42020: 2013 Biodiversity: Code of practice for planning and development* (British Standards Institute, 2013) which sets out that appropriate survey should be conducted to inform the formulation of appropriate and adequate avoidance, mitigation and compensation measures; nor does it permit full application of the mitigation hierarchy.
- 5.29. Whilst the council recognises that it is prudent and acceptable to take a proportionate approach when determining the scope of ecological survey required for a project and that this should be informed by the potential pathways

for effect, nevertheless, it considers that adopting the approach of assuming presence of species within suitable habitat does not comprise a panacea or substitute for comprehensive ecological baseline data where this legitimately need to be informed by survey to ensure a sufficiently sound assessment. Furthermore, adopting this approach should not be overly relied upon to preclude undertaking the requisite level of ecological survey and this view is augmented by the aforementioned guidance.

- 5.30. As expressed by Wiltshire Council during ISH3, the approach adopted by the Applicant is too heavily reliant on further ecological survey being undertaken at the detailed design stage to establish presence / likely absence of protected species. The council also specified during ISH3 that it acknowledges that it is not a novel approach to conduct some pre-commencement ecological survey to inform micro-siting, such as to check for any newly created badger setts. The council expressed, however, that an appropriate level of Phase 2 survey should have been conducted earlier in the design stage and prior to submission of the DCO application to have enabled establishment of the ecological baseline and the presence / likely absence status of species together with the likely need for any protected species mitigation licences. In turn, this would have served to inform the design and layout of the Scheme, the formulation of avoidance, mitigation and compensation measures that are fit for purpose and in full accordance with the mitigation hierarchy. Importantly it would have also ensured that the impact assessment presented in the 6.1 ES Volume 1 Chapter 9 Ecology and 7.10 HRA had been based on adequate ecological information and data and that the ExA had been provided with adequate information to inform their decision.
- 5.31. As articulated by Wiltshire Council during ISH3, if it transpired as a result of ecological survey conducted at the detailed design and micro-siting stage, that a mitigation licence or licences, such as for bats, would be required to allow legal derogation from the legislative protections and to allow works to proceed lawfully, and to avoid killing of, or injury to protected species and / or damage to, or destruction of their resting places and habitat, this raises a number of issues. Firstly, this will mean that at that late juncture, it will be necessary to formulate and secure appropriate mitigation and compensation measures, which may include the identification or design of a suitable receptor site and / or compensatory habitat which should be in place and available to the species in question before further impacts occur and that a licence is acquired from Natural England to facilitate this process. It is also means that details of the confirmed presence of that species / species group and adequate consideration of the associated effect would not have been fully covered by means of the 6.1 ES Volume 1 Chapter 9 Ecology (and 7.10 HRA where applicable).
- 5.32. Although 6.1 ES Volume 1 Chapter 9 Ecology and 7.10 HRA are based on an assumption of presence, the council considers that this is not wholly reflected in the assessments and the proposed avoidance, mitigation and compensation measures. Instead, it assumes that the presence of any species for which the presence / likely absence status is not definitively known at this stage due to lack of dedicated survey, can be readily dealt with at the detailed design stage, post determination of the DCO application. The approach fails to accord with

the principles of the mitigation hierarchy as set out in national and county planning policy and best practice.

- 5.33. As highlighted by Wiltshire Council during ISH3, the 'harm' in the approach employed by the Applicant is not confined to the potential for harm to species and habitats but extends to the deficiencies in the application and the associated ecological methodologies and assessments mean that the ExA is not in possession of the requisite information to inform their recommendation. As aforementioned, it also undermines confidence that the Scheme design and layout has been refined and progressed on the basis of adequate ecological baseline information and that the proposed mitigation will be sufficient. The council wishes to reiterate the importance that the ExA has adequate certainty and confidence in respect of the ecological baseline presented in the DCO application and that the associated mitigation proposed and assessment of impacts is sound given the Applicant's decision to rely on the Rochdale Envelope approach.

Action Point 18 (Ecology): Hedgerow removal wording in the DCO – Review the changes proposed by the applicant in Schedule 12 and DCO article 40(1) and provide comments.

- 5.34. The 3.1 Draft Development Consent Order (Rev 3) [\[REP3-006\]](#) and 3.2 Explanatory Memorandum (Rev 3) [\[REP3-008\]](#) have been reviewed. It is noted that column (2) of the table in Part 1 of Schedule 12 has been updated to refer to the TPO and hedgerow plan rather than the hedgerows plan.
- 5.35. Wiltshire Council also notes that the hedgerow ID references have been updated column (1) of the table in Part 2 of Schedule 12, and that column (2) now cites the TPO and hedgerow plan rather than the hedgerows plan. The lengths of important hedgerow have also been amended in column (2). These changes do not, however, appear to be listed in the Schedule of Changes table at the front of 3.2 Explanatory Memorandum (Rev 3) [\[REP3-008\]](#) or explained in this document as should have been the case for completeness and transparency.
- 5.36. The council notes the inclusion of the following footnote to the tables in Part 1 and 2 of Schedule 12:

"The extent to which each hedgerow listed in this table may be removed is controlled by the ecological protection and mitigation strategy, pursuant to article 40(4) of the Order."

- 5.37. It is also recognised that Article 40(4) in Part 6 of the dDCO states:

"(4) The undertaker may, for the purposes of the authorised development or in connection with the authorised development and subject to paragraph (2), remove the hedgerows specified in the table in Part 1 and the table in Part 2 of Schedule 12 (hedgerows to be removed) to the extent set out in the ecological

protection and mitigation strategy approved pursuant to requirement 8 in Schedule 2 (requirements)."

- 5.38. Paragraph 4.6.11 of 3.2 Explanatory Memorandum (Rev 3) [\[REP3-008\]](#) explains the provisions of Article 40 and states: *"The Article also allows the undertaker to remove those hedgerows specified in Schedule 12 (Hedgerows to be removed) Schedule 12 is divided into Part 1 (Removal of hedgerows), Part 2 (Removal of important hedgerows) and Part 3 (Trees subject to tree preservation orders). Article 40(4) clarifies that the power is to remove hedgerows specified in Parts 1 and 2 of Schedule 12, to the extent set out in the Ecological Protection and Mitigation Strategy approved pursuant to Requirement 8 in Schedule 2."*
- 5.39. In Action Point 18, the ExA asks the council to review the changes in DCO Article 40(1) and to provide comments, however, the only amendments observed are the aforementioned. Whilst the council welcomes the inclusion of the footnote to Part 1 and 2 of Schedule 12, the council was already aware of the provisions of Article 40(4) and does not consider that the amendments overcome or adequately address the concerns and issues it has already raised and detailed in full in previous representations.
- 5.40. Moreover, no further information has been submitted to substantiate why it is necessary to list every hedgerow within the Order Limits if as the Applicant advises, all hedgerow removal will be controlled by the provisions of Article 40(4) and be undertaken in accordance with that prescribed within the Ecological Protection and Mitigation Strategy (EPMS) in any case. Again, the adopted approach to Schedule 12 brings into question why the overly wide powers afforded by Schedule 12 are in fact needed and why the extent of removal cannot be refined within the schedule. The council considers that it should, at the very least, be possible to specify in column (2) of Part 1 and Part 2 of Schedule 12, a range of hedgerow removal i.e. a minimum and maximum extent of hedgerow that may need to be removed from each of the hedgerows listed. This should be possible given the provisions of Article 40(4) and the footnotes in Schedule 12.
- 5.41. In Wiltshire Council's Relevant Representation [\[RR-4934\]](#), it was highlighted that the stipulation that hedgerow removal within the Bath and Bradford-on-Avon Bat SAC consultation zone will be restricted to 10m has not been transposed into the relevant rows of Schedule 12. Previously this had been ascertained by the council to constitute Sheet 40 to 45 inclusive of the Hedgerow Removal Plans but would now be the relevant sheets in the TPO and hedgerow plans. This request has still not been fulfilled, and no rationale has been provided by the Applicant as to why this is the case. The omission of the restrictions to hedgerow removal proposed in the HRA from the relevant rows of Schedule 12 undermines confidence that the measures set out in the HRA will actually be delivered, despite the footnotes added to Schedule 12, Part 1 and Part 2 and the provisions of Article 40(4). The council is unclear and unconvinced as to why continuity across the dDCO, the EPMS and the HRA has not been deemed permissible by the Applicant if the council and ExA is to

have certainty that Article 40(4) and the footnotes to Schedule 12 will be adhered to strictly.

Action Point 26 (Ecology): Monitoring – Applicant to discuss with Wiltshire Council the mechanism to ensure resources for monitoring, including Biodiversity Net Gain, and submit an update.

- 5.42. Whilst it is recognised that the ExA requested an update to be provided at Deadline 5, Wiltshire Council and the Applicant had a productive initial meeting on Wednesday 8 July to discuss mechanisms to compensate the council in order to ensure sufficient resources are available for undertaking post consent activities, including monitoring, during the construction, operational and decommissioning phases.
- 5.43. Wiltshire Council welcomed the agreement by the Applicant in principle for cost recovery and it may be that a variety of cost recovery mechanisms are put in place and utilised to cover the various activities and stages.
- 5.44. Both parties took away actions from this meeting in order to progress discussions. A further update will be provided at Deadline 5 as requested.

6. Issue Specific Hearing (ISH4): Draft Development Consent Order (3 July 2026) Summary

Item 2 Main Discussion Points

2.1 Article 2 - Interpretation

- 6.1. The council indicated that it continued to be concerned by the broadness of the definition of maintain in the way that the ExA has identified. Whilst it was noted that article 5 says, it is considered that that still leaves a very broad definition of maintain that could permit whole scheme replacement and re-powering by stages, which is not subject to any controls at all.
- 6.2. The council proposed some amended wording so that the definition was constrained by what's been assessed in the ES, but also what's been secured by the documents certified under Article 42.
- 6.3. The proposed drafting was as follows:
- “maintain” includes inspect, repair, adjust, alter, remove, refurbish, reconstruct, replace (including scheduled replacement [of components of the authorised development where such replacement remains within the parameters assessed in the environmental statement and secured by the documents certified under article 42 and the requirements](#)) and improve any part of the authorised development, [but does not include the removal, reconstruction or replacement of the whole of the authorised development other than such scheduled replacement where it remains within those assessed and secured parameters](#), and “maintenance” and “maintaining” are to be construed accordingly;
- 6.4. The council also welcomed the Applicant's suggestion to strengthening the management plans to include an enhanced definition of exactly what activities were covered under operation and maintenance.

2.2 Article 9 – Application of Highway Authority Permit Scheme

- 6.5. Wiltshire Council considered its permit scheme, which has been in place since 2020, to be very successful. It is the council's main tool for knowing what works are planned on its network so that it can fulfil its network management duty to coordinate all the works and activities on the highway. The operation of the permit scheme allows the council to make sure that the network flows and that there's minimal disruption, which is called expeditious movement of traffic on the highway.
- 6.6. The permit scheme requires developers to apply for permission to undertake works on the highway, and through granting permission, the council can apply conditions to any permits given. However, any conditions that were proposed to be applied would have to be justifiable.

- 6.7. Wiltshire Council is a pragmatic authority and is not unreasonable in the decisions reached. However, the application of the permit scheme is the council's main tool for network management and therefore any dilution of the council's normal powers would be a concern. It was also impede the council's ability to coordinate all the other activities on the highway that might interact with these works.
- 6.8. During the course of a normal permit application, the developer would apply for the works they wanted to undertake and indicate when they wanted to do the works. The council would then either agree the permit or ask for a postponement. Under section 56 of the New Roads and Street Works Act 1991, the council can ask for and give direction, so that it can negotiate an alternative route for that apparatus as well. The council would have the ability to request for a range of conditions, including looking at the methodology for the works so that they are less impactful on the network and also those which might reduce future maintenance needs as well.
- 6.9. Within the council's response to ExQ1 DCO1.13 [\[REP3-142\]](#), the council proposed alternative drafting for Article 9. This alternative drafting would disapply the appeal rights contained within Schedule 16 of the dDCO, in order for the dispute mechanism within the council's protective provisions for the benefit of the local highway authority to be utilised instead.
- 6.10. The council indicated that dispute resolution is part of the day-to-day management of the permitting process, and therefore escalation to the Secretary of State seemed disproportionate given that the council is always pragmatic and reasonable in the utilisation of its section 58 powers to prevent works in order to protect its asset.
- 6.11. The dispute mechanism currently within the council's preferred protective provisions would refer any dispute for expert determination by a single, independent and suitable person with appropriate qualifications. The expert must be instructed within 14 days of notification of the dispute.
- 6.12. Discussions between the council and the Application regarding the protective provisions for the benefit of the local highway authority are ongoing. Considerable progress is being made, and the council is confident that an acceptable form will be able to be agreed before the close of the examination.
- 6.13. The council clarified that the concern regarding the current drafting of Article 9 is the restriction to the council's ability to impose legitimate permit conditions affecting timing, phasing, traffic management and coordination. Furthermore, an appeals process escalating any dispute direct to the Secretary of State would be too formal and burdensome for day-to-day traffic network management and that the expert determination route proposed through the protective provisions would be much faster and more effective.
- 6.14. However, the council considers that an appropriate compromise would be to tighten 9(2) and disapply Schedule 16 for Wiltshire in 9(3) of the Applicant's original as follows:

- Replace Article 9(2)(a) with: “a permit may not be refused, or granted subject to conditions, solely on the basis that the permit authority has imposed restrictions under section 58 (restrictions on works following substantial road works) or section 58A (restrictions on works following substantial roads works) of the 1991 Act”
- Delete Article 9(4)
- Add an Article 9(3)(b): “where Wiltshire Council is the permit authority, or where the refusal, condition or dispute relates to works to which Part [X] of Schedule 15 applies, Schedule 16 does not apply to any refusal of a permit, the grant of a permit subject to conditions, or any dispute arising under this article, and any such matter must be determined in accordance with the dispute resolution procedure in Part [X] of Schedule 15.”

2.3 Articles 10 and 15 – Power to Alter Streets and Agreements with Street Authorities

- 6.15. The council indicated that whilst the change of “may” to “must” in relation to obtaining consent from the street authority would help, it wouldn’t alleviate the council’s concerns as the 6-week determination timescale under Article 47 is a real concern given that the council will have no idea as the scale or complexity of any highway works outside of the DCO Order Limits, which the Applicant may seek to propose in the future.
- 6.16. The council considers that the Applicant should follow the standard Wiltshire Council section 278 agreement process for works outside the Order Limits. Furthermore, as the council understands it, the protective provisions at present do not cover works outside the DCO and Works Plans, as they refer precisely to road works and cable works. Therefore, they would not provide an alternative mechanism to resolve the council’s concern in respect of this Article.
- 6.17. The council explained that there are two types of section 278 application. There is the full legal agreement and then a more tailored approach for small, very minor works, which is sometimes referred to as a 278 permit. The 278 permit is used for very minor works, which are not on major roads, and where the developers are willing to provide any bond requirement on a cash bond basis, as opposed to using a surety, in which case it would form part of a formal, sealed agreement.
- 6.18. The council acknowledged that there were no defined timescales inherent in the section 278 process that would provide the certainty that the Applicant was seeking. The council agreed to continue discussions with the Applicant in respect of this.
- 6.19. It may be that this can be suitably addressed through protective provisions which allow necessary highway works to come forward as and when required, including unforeseen works, but through a proper approval, inspection, security

and dispute-resolution frameworks. This would avoid fragmentation without removing the council's highway control.

- 6.20. However, it is the council's position that for highway works, particularly on minor rural roads, 6-week deemed consent is not appropriate. These are safety-critical and asset-protection decisions. They may require detailed design, road safety audit, structural approval, drainage review, traffic management, condition surveys, inspection, security, certification and maintenance controls. It is not simply a resourcing matter.
- 6.21. Furthermore, the council maintained its position that the CTMP is not an adequate substitute. A CTMP manages construction traffic. It does not typically approve detailed highway design or replace the technical approval regime that would ordinarily apply to works affecting the public highway. Technical approval would cover such things as how the council wants the works to be done, indemnity when on-site and bonds, which are not addressed through the CTMP. This was a major consideration when pressing for the protective provisions.
- 6.22. Additionally, the council queried why there was a need for the broad powers conferred by Articles 10 and 15 if it is as the Applicant states that approval is managed through the CTMP.

2.4 Article 11 – Construction and Maintenance of Altered Streets

- 6.23. The council indicated that as Article 11 only related to streets which the Applicant had altered under Works Numbers 8A or 8B, it would not cover the wider damage to the network.
- 6.24. Whilst the council noted the recent additions to the CTMP regarding pre- and post-works road condition surveys, including interim surveys during the construction phase, the council's preference would be for an overarching section 59 agreement. This agreement would define the roads to be covered, with plans, the form the surveys would take, when the surveys would be done and how often etc.
- 6.25. The council also recognised that there was some recognition by the Applicant that the development would introduce trafficking onto the rural lanes in the area. However, it is the council's position that the trafficking would be extraordinary under the definition of section 59 of the Highways Act 1980 and therefore the council foresees that there will be future disagreements as to whether the damage is as a result of the Applicant's scheme. Therefore, the council's position is that a formal section 59 agreement is required.
- 6.26. The council will continue discussions with the Applicant regarding the protective provisions for the benefit of the local highway authority as there was some confusion as to whether the situation outlined above, was sufficiently covered within the protective provisions.

2.5 Article 14 – Access to Works

- 6.27. From a highway's perspective in terms of visibility splays, the council would be seeking compliance with the DMRB or Manual for Streets, based on speed surveys that have confirmed 85th percentile speeds. The council considers this is a detailed design matter, but the council did not envisage a scenario where it would accept a design that was sub-standard.
- 6.28. Substantially more detailed design information would be required from the Applicant before approval for the works could be granted.
- 6.29. However, due to the inter-related management plans proposed for this scheme, the council acknowledges the need for different specialisms to work together during the discharge process.
- 6.30. The council has also been having discussions with the Applicant off-line with regard to the timing and sequencing of when the different management plans would be brought forward for discharge. The council has also raised concern regarding the council's ability to seek amendment to a previously discharged management plan, should it consider it necessary for the plan to be amended as a result of a subsequently submitted management plan.

2.6 Article 16 – Traffic Regulation Measures

- 6.31. In response to the ExA's query on why consultation and advertising was required to be undertaken twice, the council confirmed that the national standard practice is to advertise your intention to make an order and then a week prior to the commencement of works, a second advert in the newspaper would be required to publicise the order. This essentially allows people sufficient time to object to a proposed order and for any made order to be sufficiently publicised.
- 6.32. It is the council's position that the timeframes currently contained within Article 16 don't enable the national standard practice to be adhered to. This is also linked to the Permit Scheme, as the current Wiltshire timeframe for a permit with a road closure, which would be a major permit, requires 12 weeks. The time is also required to consider Passenger Transport provision, as the works may affect a diversion route for other works, for example.
- 6.33. The council is prepared to reduce the required timeframe from 12 weeks to 8 weeks, but the council would not be able to comply with 4 weeks and still fulfil its statutory duties. Furthermore, the council envisages that regular, perhaps fortnightly, meetings would be held with the Applicant to review progress against the plan, so a constant dialogue would be maintained during the construction phase.
- 6.34. The council will continue discussions with the Applicant regarding the timeframes, mechanisms and parameters which would apply in relation to this.

2.7 Article 41 – Felling or Lopping of Trees Covered by Tree Preservation Order

- 6.35. The council clarified that in relation to Statutory Undertakers, the council is notified of works that are going to be carried out to trees protected by a TPO or within Conservation Areas. The council is given opportunity to comment on the proposals and to request that works are carried out or not carried out. Furthermore, these works don't typically result in a tree being felled.
- 6.36. Therefore, the council would expect some form of notification that the works would be being carried out. This would also enable the council to keep its records up to date.
- 6.37. Furthermore, the powers conferred under the Electricity Act are not as wide ranging as the powers sought under this DCO. The DCO does not include any kind of statutory process for refusal and / or appeals, therefore there are much more restricted powers under the Electricity Act than that sought by the Applicant in this instance.
- 6.38. The council noted that replanting is typically conditioned through the application process and would determine the tree, the species, the location and its management.
- 6.39. Another concern of the council is that trees are dynamic and they're changing all the time. Therefore, a tree that is currently not considered to be worthy of protection, may well be so in the future as its current condition will be different in say 40 years' time. This is especially pertinent given the scheme's proposed 60-year operational life. The council must have confidence that legitimate protections will be applicable to all necessary trees. Whilst the council acknowledges that the DCO would not prevent new TPOs being made across the Order Limits, the Applicant's obligation to adhere to the protections afforded by it are constrained through the drafting of Article 41.
- 6.40. Whilst the council acknowledges that outline management plans continue to be developed and refined by the Applicant, the council considers that the Arboricultural Impact Assessment and Arboricultural Method Statements should be certified under Schedule 13. The council wants to ensure that the trees are well managed and well protected during construction, operation and decommissioning, and that the management methods keep pace with legislation and changing best practice.

2.8 Requirements – Approach to Permitted Preliminary Works

- 6.41. The council are content with the principle of having a Permitted Preliminary Works Management Plan and appreciates the Applicant's willingness to progress this through the provision of an initial draft Plan at Deadline 4.
- 6.42. However, without knowing the extent of the detail that's contained within the proposed Plan at this stage, the council reserves judgement on whether there would be sufficiently detailed information contained within it to enable the Plan to be certified by the Secretary of State, rather than covered through a separate

Requirement. The inclusion of a separate Requirement would enable the outline version to be certified by the Secretary of State, and for the detailed version to be submitted to the LPA for approval post-consent.

2.9 Schedule 2 - Requirements

Requirement 5:

- 6.43. The council indicated that its previously expressed position is that Requirement 5 should not be restricted to Work Nos. 1, 2 and 3, and that the council's preference would be that works within Work Nos 5, 6, 7, 8, 9 and 10 were also included. However, the council has listened to what the Applicant has said that these elements are covered through the management plans, and therefore it would be extremely helpful if the Applicant could provide a schedule which set out the exact paragraph and place in all relevant management plans which addresses the council's concerns. For the avoidance of doubt, the council's considers that the schedule should not only cover the council's concerns regarding Requirement 5 but all other concerns expressed by the council to date.
- 6.44. This would potentially provide comfort that the council's concerns are being suitably addressed, as when the Applicant has previously indicated that a requested Requirement, as contained within the council's LIR for example, was already captured within the management plans, the council had been unable to find the relevant provisions within the management plans which included all elements of the requested commitments / conditions.

Requirements 6 to 20:

- 6.45. The "substantially in accordance with" wording has appeared in made DCO's, including made solar Orders. However, there is also made-DCO precedent for requiring plans to be "in accordance with" the outline documents, and for using a more tailored approach.
- 6.46. The existence of precedent does not justify the blanket use of "substantially" across Requirements 6 to 20. The council considers that the Applicant should either delete the work or justify, requirement by requirement, why flexibility is necessary and how it will be prevented from eroding secured mitigation.
- 6.47. As requested by the ExA the council has identified those Requirements where justification is sought from the Applicant in its response to ISH4 Action Point 5 below.

Requirement 6:

- 6.48. With respect to the Applicant's intended approach for the periodic review of the Battery Safety Management Plan to reference technological advances as the batteries are replaced, to be included within the management plan itself rather than additional wording incorporated into the Requirement, the council raised

no objections to that approach and would consider the specific wording proposed once it had been submitted into examination.

Requirement 15:

- 6.49. The council confirmed that it was still seeking the amendments to Requirement 15 as contained within its response to ExQ1 DCO1.44 [\[REP3-142\]](#) because the protective provisions do not resolve all of the council's concerns. The requirements and protective provisions are complimentary but do not fulfil the same purpose.
- 6.50. The council noted that their proposed drafting was a composite from various DCOs, including Little Crow Solar Park Order 2022, Oaklands Farm Solar Park Order 2025, and Rampion 2 Offshore Wind Farm Order 2025.
- 6.51. Furthermore, given that the Construction Traffic Management Plan is currently required to be "substantially in accordance with" the outline Construction Traffic Management Plan, the inclusion of these items within the Requirement would prevent the parties invoking the dispute resolution provision in the event that the council didn't consider that all of the matters had been suitably addressed in the final plan. Hence, the belt and braces style approach that the council is advocating for here.
- 6.52. The council welcomes the Applicant's commitment to set out where they consider the requested elements are already covered within the management plan(s).

Requirement 20:

- 6.53. The council expressed a number of concerns regarding the Decommissioning and Restoration Requirement.
- 6.54. With regards to the lack of a secured bond within the DCO, whilst the council appreciates the Applicant's confirmation in their response to ExQ1 CA1.3 [\[REP3-128\]](#) that decommissioning securities are covered within the agreements with landowners to cover the cost of decommissioning in the event of breach by the Applicant or in the event of insolvency of the Applicant, without further information on the details of the bond or the size of it, it doesn't resolve the council's concern. This is because even if the landowner has the money, the obligation for decommissioning is on the Undertaker and the council couldn't prosecute the landowner when the obligation is on the Undertaker. Therefore, there would be no form of redress available to the council to guarantee decommissioning and restoration in the event that the Undertaker disappeared or became insolvent.
- 6.55. The council is also concerned that given the varying length of the land leases, and the fact that subsequent agreement with the landowners would be required for the scheme to remain in place for the proposed 60-year life of the scheme, the Applicant may be forced to decommission the scheme in a piecemeal fashion based on the length of secured land agreements. This staged

decommissioning activity could occur over a considerable period of time, with consequential knock-on impacts to the residents and public. Furthermore, it is not currently clear whether the potential environmental effects of this has been properly assessed, including the impact on the local population. The council considers that there is too much uncertainty at present as to how decommissioning would actually operate.

- 6.56. The lack of a back-stop date for decommissioning activity is also linked to another point that the council is concerned about, in that the commencement dates could vary for each of the individual component parts. The council considers that decommissioning should be constrained to 60-years from the first date of final commissioning for the authorised development as a whole, so that the scheme doesn't end up having an overall life of 75 years or more.
- 6.57. Furthermore, it is the council's position that the phasing timetable and plan should be submitted to and approved by the relevant planning authority, rather than just submitted to it.
- 6.58. The above points are as set out within the council's Written Representation [\[REP1-138\]](#).
- 6.59. The council welcomes the Applicant's commitment to review the commissioning wording and the confirmation that it was their intention that the 60-year life would take effect from the date of final commissioning of the first part, rather than for each individual part. The council would also welcome any further information which could be provided by the Applicant on how enforcement mechanisms contained within the Planning Act 2008 could be utilised by the council to use the money paid to the landowner for decommissioning activities.

2.10 Schedule 16 – Procedure for Discharge of Requirements

- 6.60. In the council's previously submitted representations, the council has been requesting a 12-week discharge period. There is precedent for this in other made solar DCOs, noting that the determination period in Cottom Solar Project DCO was 13 weeks. Furthermore, the council considers that that the period for requesting further information should be extended to 20 working days, which would be in line with the Mallard Pass Solar Farm DCO.
- 6.61. Additionally, the council considers that the Applicant should be required to undertake a least one round of pre-submission consultation prior to submission of its discharge application, in order to resolve any immediate issues and / or concerns with the proposed documents. The Applicant should be required to submit details of the consultation undertaken and the response to it as part of their discharge submission.
- 6.62. The council also notes that there is no stated obligation for the Applicant to maintain a Register of Requirements to alert the public, community and / or other stakeholders of the status of the documents and to allow visibility of the approved documents. This could either be incorporated into Schedule 16 or a separate requirement added into Schedule 2.

7. Issue Specific Hearing (ISH4): Action Point Responses

Action Point 2: Submit suggested wording as explained in oral hearing, with regards to ‘maintenance’ to be carried out within the parameters of the ES.

7.1. Wiltshire Council considers that Article 5(3) only acts to constrain “scheduled replacement” and “replacement” to the environmentally assessed parameters in the Environmental Statement (ES). This still leave a very broad definition of “maintain” that could permit whole-scheme replacement and re-powering by stages, that is not subject to appropriate development controls.

7.2. The council would suggest tightening the definition as follows (new wording in blue and underlined):

“maintain” includes inspect, repair, adjust, alter, remove, refurbish, reconstruct, replace (including scheduled replacement of components of the authorised development where such replacement remains within the parameters assessed in the environmental statement and secured by the documents certified under article 42 and the requirements) and improve any part of the authorised development, but does not include the removal, reconstruction or replacement of the whole of the authorised development other than such scheduled replacement where it remains within those assessed and secured parameters, and “maintenance” and “maintaining” are to be construed accordingly;

Action Point 4: Review alternative wording for Article 41, ensuring correct balance of when and when not to involve the council.

7.3. The council has set out the provisions that it considers necessary for this scheme below. However, it is accepted that these changes would likely result in changes to the management plans as well as Article 41 of the dDCO.

7.4. The council considers that all works affecting Category A and Category B trees, Ancient Trees, Veteran Trees, and trees protected by a Tree Preservation Order (TPO) should be appropriately monitored by the Arboricultural Clerk of Works (ACoW), recorded, and reported to the Local Planning Authority (LPA). This includes, but is not limited to:

- Tree removal;
- Canopy damage;
- Root damage;
- Hand-digging and root-pruning; and
- Installation of ground protection.

7.5. Temporary compounds should be located outside the Root Protection Area (RPA) of trees and woodlands. This requirement should be consistent with the

guidance relating to “Root loss / damage from excavation or soil compaction within RPAs” and shall take precedence over the requirements set out under “Tree Pruning” where there is any inconsistency.

- 7.6. Proposed works or removal of any Category A or Category B tree, Ancient Tree, Veteran Tree, or tree protected by a TPO shall be notified in writing to the LPA prior to the commencement of the works.

Replacement Planting

- 7.7. Wiltshire Council should retain control over the species, size, specification and location of all replacement planting required in lieu of the removal of any Category A, B and / or protected trees.
- 7.8. A detailed replacement planting scheme should be submitted for approval to the LPA prior to commencement of works, demonstrating no net loss of tree canopy, landscape function or biodiversity value.

Post-Construction / HDD Monitoring

- 7.9. Clarification is required regarding the monitoring regime for retained trees following construction, particularly where Horizontal Directional Drilling (HDD) is proposed within or adjacent to Root Protection Areas (RPAs).
- 7.10. Post-construction monitoring should be undertaken by a suitably qualified arboriculturist for an agreed period to assess any delayed impacts on retained trees and identify remedial measures where necessary.

Responsibilities for Planting and Maintenance

- 7.11. The Applicant should confirm:
- Who will be responsible for implementing replacement planting.
 - Who will be responsible for ongoing monitoring and maintenance.
 - The duration of the maintenance period.
 - The mechanism for replacing failed trees.
- 7.12. A condition should require that any tree which dies, is removed, becomes seriously diseased or fails to establish within the maintenance period is replaced with a tree of similar species, size and specification unless otherwise agreed by the Local Planning Authority.

Updating Council Records

- 7.13. The Applicant should set out how Wiltshire Council will be notified of:
- Tree removals undertaken.

- Replacement planting completed.
 - Failures and subsequent replacements.
- 7.14. Provision should be made for updating the council's tree asset and TPO records through the submission of as-built tree plans and monitoring reports.

Future Tree Preservation Orders (TPOs)

- 7.15. Clarification is required regarding the status of existing and future trees within the Order Limits during the operational life of the solar park.
- 7.16. The scheme should not prejudice the council's ability to make new Tree Preservation Orders where trees establish sufficient public amenity value during the lifetime of the development and the Applicant should be required to comply with the protections included therein.
- 7.17. The Applicant should confirm that access, management arrangements and operational requirements will not restrict the designation or protection of trees under future TPOs.
- 7.18. Furthermore, as previously indicated, the council considers that the Arboricultural Impact Assessment and Arboricultural Method Statement should be certified under Schedule 13.

Action Point 5: Confirm which requirements the Council considers the phrase “substantially in accordance with” needs further justification.

- 7.19. The council can see the benefit of having the phrase “substantially in accordance with” included within certain Requirements, as it would afford all parties latitude for change outside the provisions set out within the outline management plans. This would especially be the case with regards to the Construction Environmental Management Plan, Operational Environmental Management Plan, Decommissioning Strategy and Construction Traffic Management Plan(s).
- 7.20. However, as expressed during the Hearing, the council’s primary concern with the inclusion of the phrase “substantially in accordance with” is that it could erode the secured mitigation.
- 7.21. Therefore, the council requests justification from the Applicant on the inclusion of “substantially in accordance with” in relation to the following Requirements:
- Requirement 7 – Landscape and ecological management plan;
 - Requirement 8 – Ecological protection and mitigation strategy;
 - Requirement 9 – Biodiversity net gain;

- Requirement 11 – Surface and foul water drainage; and
- Requirement 12 – Archaeology (the council acknowledges the Applicant's position as expressed at the Hearing in relation to this requirement).

7.22. It would also be helpful if the Applicant could explain if they consider there was the potential for the secured mitigation to be eroded should the drafting remain as currently presented, and if not, why not.

Appendix A

CAH1: Corrections to Book of Reference (BoR)

(Separate Excel Document, with required changes marked in RED)

Appendix B

CAH1: Wiltshire Council's Preferred Protective Provisions for the Benefit of the Local Highway Authority

PART 1

FOR THE PROTECTION OF THE LOCAL HIGHWAY AUTHORITY

Application etc.,

1.—

(1) The provisions of this Part of this Schedule have effect in relation to:

- (a) the road works and cable works (as defined under paragraph 2);
- (b) the carrying out, maintenance and decommissioning of the authorised development insofar as those activities, including construction traffic associated with the authorised development, affect or may reasonably be expected to affect the local road network;

unless otherwise agreed in writing between the undertaker and Wiltshire Council in its capacity as the local highway authority.

Interpretation

2.—

(1) Where the terms defined in article 2 (interpretation) of this Order are inconsistent with sub-paragraph (2) the latter prevail.

(2) In this Part of this Schedule—

“as built information” means one electronic copy of the following information where the local highway authority deems it to be necessary and insofar as it is relevant to the works impacting the local road network or any land in which the local highway authority holds an interest, or which is intended to be transferred to the local highway authority, dedicated as highway, adopted, or otherwise form part of or be maintained by the local highway authority as part of the local road network—

- (a) drawings showing the as constructed local highways in an appropriate format (including digital storage media);
- (b) drawings showing the location for utilities installed in the local highway; and
- (c) specifications for materials used for the constructed local highway;
- (d) an as-built topographical survey of the completed road works and cable works, including relevant tie-ins and highway asset information; and,
- (e) all other as-built drawings and plans required under this definition must be prepared by reference to, and be consistent with, the as-built topographical survey referred to in paragraph (d), unless otherwise agreed with the local highway authority.

“bond” means a bond or guarantee in favour of and enforceable by the local highway authority, in a form approved by the local highway authority duly executed by the undertaker and a reputable UK surety company or other UK financial institution to be previously approved in writing by the local highway authority (such approval not to be unreasonably withheld or delayed);

“the bond sum” means the sum equal to 120% of the estimated cost of works for plus the commuted sum, or such other sum as may be agreed in writing between the undertaker and the local highway authority, to be provided to the local highway authority in the form of—

- (a) a bond; or
- (b) a cash surety; or
- (c) where agreed by the local highway authority a combination of a bond and cash surety;

“cash surety” means a cash deposit to be paid by the undertaker into an account specified by the local highway authority;

“commuted sum” means such sum calculated as provided for in paragraph 13 of this Part of this Schedule to be used to fund the future cost of maintaining any new the local highway authority assets, structures or apparatus as part of the road works provided under the Order, calculated in accordance with the local highway authority's published or otherwise approved commuted sum methodology applicable at the date the estimate is prepared, or such other methodology as may be agreed in writing with the local highway authority;

“cable works” means any works or phase thereof under this Order which consist of the installation and maintenance of cables, cable ducts, tunnels for cables and cable ducts and related or associated works to those operations under the local road network;

“cable works provisional certificate” means the certificate of provisional completion relating to those aspects of the cable works that have resulted in any alteration to the local road network to be issued by the local highway authority in accordance with paragraph 7 when it considers the cable works are substantially complete;

“condition survey” means a survey of the condition of local highway authority structures and assets that in the reasonable opinion of the local highway authority may be affected by the road works or cable works which the local highway authority may require including a CCTV survey of specified drains that the local highway authority reasonably considers may be materially and adversely affected by the road works or cable works;

“contractor” means any contractor or subcontractor appointed by the undertaker to carry out the road works or the cable works or both;

“defects period” means the period from the date of the provisional certificate to the date of the final certificate which shall be no less than 12 months from the date of the provisional certificate;

“detailed design information” means such drawings, specifications, calculations, reports, surveys and other technical information as are reasonably required by the local highway authority and relevant to the road works or cable works, as applicable, to enable the local highway authority to assess the detailed design of those works and their compliance with their specification for highways works, including but not limited to—

(a) the road works—

- (i) site clearance details;
- (ii) boundary, environmental and mitigation fencing;
- (iii) drainage and ducting, including any culverting of roadside ditches and alterations to highway drainage assets
- (iv) pavement, pavement foundations, kerbs, footways and paved areas;
- (v) traffic signs and road markings;
- (vi) traffic signal equipment and associated signal phasing and timing detail;
- (vii) road lighting (including columns and brackets);
- (viii) regime of California Bearing Ratio testing;
- (ix) electrical work for road lighting, traffic signs and signals;
- (x) highway structures and any required structural approval in principle;
- (xi) landscaping;
- (xii) stage 1 and stage 2 road safety audits and exceptions agreed;
- (xiii) utilities diversions;
- (xiv) topographical survey; and

- (xv) health and safety information.
- (b) the cable works—
 - (i) earthworks including supporting geotechnical assessments required by DMRB CD622 Managing geotechnical risk or any successor document and any required strengthened earthworks appraisal form certification;
 - (ii) health and safety information
 - (iii) regime of California Bearing Ratio testing;
 - (iv) apparatus diversions;
 - (v) topographical survey; and
 - (vi) technical approval of highway structures under CG300 of DMRB, where highway structures form part of the cable works.

“DMRB” means the Design Manual for Roads and Bridges or any replacement or modification of it;

“estimated cost of works” means the estimated cost of carrying out the road works and the cable works or if applicable each phase thereof, insofar as those works affect the local road network or any land in which the local highway authority holds an interest, including the cost of any temporary works, traffic management, reinstatement works, remedial works, testing, supervision, road safety audit remedial measures and all other works reasonably required to complete the road works and cable works to the satisfaction of the local highway authority, as evidenced by a full breakdown and, where reasonably required by the local highway authority, a priced bill of quantities or equivalent itemised cost plan, and approved by the local highway authority

“final certificate” means the certificate relating to those aspects of the road works that have resulted in any alteration to the local road network to be issued by the local highway authority pursuant to paragraph 11;

“the health and safety file” means the file or other permanent record containing the relevant health and safety information for the authorised development required by the Construction Design and Management Regulations 2015 (or such updated or revised regulations as may come into force from time to time);

“local highway authority” means Wiltshire Council;

“local road network” means any part of the road network for which the local highway authority is the highway authority including structures drainage infrastructure, street furniture, verges and vegetation and all other highways assets together with all land, apparatus and rights located in, on, over or under the highway;

“nominated persons” means the undertaker’s representatives or the contractor’s representatives on site during the carrying out of the cable works or road works as notified to the local highway authority from time to time;

“programme of works” means a document setting out the sequence and timetabling of the cable works or road works;

“road safety audit” means an audit carried out in accordance with the road safety audit standard;

“road safety audit standard” means DMRB Standard HD GG119 or any replacement or modification of it;

“road works” means so much of any work including highway works, street works, surveys and signalisation or any phase thereof authorised by this Order and including any maintenance of that work, but excluding the cable works, as is undertaken on the local road network or land in which the local highway authority has an interest;

“road works provisional certificate” means the certificate of provisional completion relating to those aspects of the road works that have resulted in any alteration to the local road network to be

issued by the local highway authority in accordance with paragraph 6 when it considers the road works are substantially complete and, if relevant, may be opened for traffic;

“specification for highways works” means in relation to the road works and cable works, the standards, specifications and technical requirements reasonably required by the local highway authority and relevant to the design, construction, improvement, reinstatement, maintenance or operation of the local road network, including, where applicable:

- (a) the Wiltshire Council Highway Specification for Developers dated April 2018 to the extent applicable, and any adopted standard details, updates, supplements or replacement guidance published or otherwise notified by the local highway authority;
- (b) the Manual of Contract Documents for Highway Works including the Specification for Highway Works;
- (c) the Specification for the Reinstatement of Openings in Highways (SROH);
- (d) the Adoptable Highway Drainage Guidance (WCAHDG);
- (e) the DMRB;
- (f) the Traffic Signs Manual, the Traffic Signs Regulations and General Directions 2016; and,
- (g) any relevant adopted Wiltshire Council highway design guidance, standard details and technical approval requirements published or otherwise notified, except to the extent that a departure or exception from those standards is approved by the local highway authority;

“utilities” means any pipes, wires, cables or equipment belonging to any person or body having power or consent to undertake street works under the 1991 Act;

“Wiltshire Permit Scheme” means the local highway authority’s permit scheme made by the Wiltshire Council (Traffic Management) Permit Scheme Order 2020, as varied from time to time, being a permit scheme made under Part 3 of the Traffic Management Act 200; and

“winter maintenance” means maintenance of the road surface to deal with snow and ice.

- (3) References to any standards, manuals, contracts, Regulations and Directives including to specific standards forming part of the DMRB are, for the purposes of this Part of this Schedule, to be construed as a reference to the same as amended, substituted or replaced, and with such modifications as are required in those circumstances.

Prior approvals

3.—

(1) The road works must not commence, save to the extent agreed otherwise by the local highway authority, until—

- (a) a stage 1 and stage 2 road safety audit has been carried out and all recommendations raised by them or any exceptions are approved by the local highway authority;
- (b) the programme of works has been approved by the local highway authority;
- (c) the detailed design of the road works comprising the following details, insofar as considered relevant by the local highway authority, has been submitted to and approved by the local highway authority—
 - (i) the detailed design information, incorporating all recommendations and any exceptions approved by the local highway authority under paragraph (a); and
 - (ii) the identity and qualifications of the contractor and nominated persons.

- (d) a scheme of traffic management has been submitted by the undertaker and approved by the local highway authority such scheme to be capable of amendment by agreement between the undertaker and the local highway authority from time to time;
- (e) the local highway authority has approved the audit brief and CVs for all road safety audits and exceptions to items raised in accordance with the road safety audit standard;
- (f) the undertaker has agreed the estimate of the commuted sum with the local highway authority;
- (g) the scope of all maintenance operations (routine inspections, incident management, reactive and third party damage) to be carried out by the undertaker during the construction of the road works (which must include winter maintenance) has been agreed in writing by the local highway authority;
- (h) the undertaker has procured to the local highway authority collateral warranties in a form approved by the local highway authority from the contractor and designer of the road works in favour of the local highway authority to include covenants requiring the contractor and designer to exercise all reasonable skill care and diligence in designing and constructing the road works, including in the selection of materials, goods, equipment and plant;
- (i) a condition survey and regime of monitoring has been agreed in writing by the local highway authority together with a highway damage redress protocol where reasonably required by the local highway authority, including provision for recovery of excess maintenance expenses arising from extraordinary traffic associated with the authorised development, including where applicable pursuant to section 59 of the 1980 Act;
- (j) details of how the undertaker will comply with the Wiltshire Permit Scheme, as applied and modified by [article 9 (application of the permit schemes)], in relation to the road works, including any proposed programme, road space bookings, permit applications, traffic management arrangements and phasing of those works; and
- (k) any further information that the local highway authority may reasonably request within 14 days of the submission to the local highway authority of the detailed design of any road works.

(2) The cable works must not commence until—

- (a) the programme of works has been approved by the local highway authority;
- (b) the detailed design of the cable works comprising the following details insofar as is considered relevant by the local highway authority has been submitted to and approved by the local highway authority—
 - (i) the detailed design information;
 - (ii) details of the proposed road space bookings and the undertaker is entitled to submit its application for road space bookings at the same time as the relevant details are submitted under sub-paragraph (i) to the local highway authority;
 - (iii) a method statement including details of the cable works, equipment and location;
- (c) a survey to determine the appropriate minimum depth for the cable works has been carried out and the minimum cable depth has been approved by the local highway authority;
- (d) the detailed design of the cable works including supporting geotechnical assessments required by DMRB CD622 Managing geotechnical risk and any required strengthened earthworks appraisal form certification, has been submitted to and approved by the local highway authority;
- (e) a condition survey and regime of monitoring has been agreed in writing by the local highway authority together with a highway damage redress protocol where reasonably required by the local highway authority, including provision for recovery of excess maintenance expenses arising from extraordinary traffic associated with the authorised development, including where applicable pursuant to section 59 of the 1980 Act;
- (f) the CASS01 has been approved by the local highway authority; and

- (g) the undertaker has paid to the local highway authority the estimate of the LHA costs notified to it pursuant to paragraph [5] of this Part of this Schedule;
- (h) details of how the undertaker will comply with the Wiltshire Permit Scheme, as applied and modified by [article 9 (application of the permit schemes)], in relation to the cable works, including any proposed programme, road space bookings, permit applications, traffic management arrangements and phasing of those works;
- (i) any further information that the local highway authority may reasonably request within 14 days of the submission to the local highway authority of the detailed design of any cable works.
 - (3) The local highway authority must, prior to the commencement of the cable works and road works or the exercise of any power referenced in sub-paragraph **Error! Reference source not found.**, inform the undertaker of the identity of the person who will act as a point of contact on behalf of the local highway authority for consideration of the information required under sub-paragraph **Error! Reference source not found.** and (2).
 - (4) Any approval of the local highway authority required under this paragraph—
 - (a) must not be unreasonably withheld;
 - (b) must be given in writing;
 - (c) in the case of a refusal, must be accompanied by written reasons identifying the respects in which the submitted information is deficient and, where reasonably practicable, the further information or amendments required to enable the local highway authority to determine the request;
 - (d) may be subject to any conditions as the local highway authority considers necessary; and,
 - (e) For the avoidance of doubt, article 47 (procedure in relation to certain approvals etc.) does not apply to any application for consent, agreement or approval required or contemplated by this Part of this Schedule.
 - (5) Any change to the identity of the contractor or designer of the road works or the cable works will be notified to the local highway authority immediately and details of their suitability to deliver the road works or cable works (as applicable) will be provided on request along with collateral warranties for the road works in a form agreed by the local highway authority.
- (6) Any change to the detailed design of the road works or cable works must be approved by the local highway authority in accordance with sub-paragraph **Error! Reference source not found.** and (2).

Construction of the cable works and road works

4.—

- (1) The undertaker must give the local highway authority 3 months' notice in writing of the date on which the cable works and/or road works will start unless otherwise agreed by the local highway authority.
- (2) The cable works and road works must be carried out by the undertaker to the satisfaction of the local highway authority in accordance with—
 - (a) the relevant detailed design information and programme of works approved pursuant to paragraph **Error! Reference source not found.** or 3(2) above or as subsequently varied by agreement between the undertaker and the local highway authority;
 - (b) the specification for highways works, together with all other relevant standards as required by the local highway authority to include, inter alia; all relevant interim advice notes, the Traffic Signs Manual and the Traffic Signs Regulations and General Directions 2016 save to the extent that exceptions from those standards apply which have been approved by the local highway authority; and
 - (c) all aspects of the Construction (Design and Management) Regulations 2015 (“the CDM Regulations”) or any statutory amendment or variation of the same, and the undertaker will be the client and must ensure that all client duties (as defined in the CDM Regulations) are undertaken to

the satisfaction of the local highway authority. No approval or consent issued by the local highway authority shall be taken to be a consent or approval pursuant to the CDM Regulations.

- (3) The undertaker must ensure that, where practicable and without entering the highway, the highway is kept free from mud, soil and litter as a result of carrying out a road work or cable work.
- (4) The undertaker must permit and must require the contractor to permit at all reasonable times persons authorised by the local highway authority (whose identity must have been previously notified to the undertaker by the local highway authority) to gain reasonable access to the cable works and road works for the purposes of inspection and supervision of those works, and to gain reasonable access to land in which the local highway authority has an interest where access is affected by the cable works or road works or the exercise of the powers in this Order.
- (5) If any part of the cable works or road works is constructed—
 - (a) other than in accordance with the requirements of this Part of this Schedule; or
 - (b) in a way that causes damage to the highway, highway structure or asset of the local highway authority,

The local highway authority may by notice in writing require the undertaker, at the undertaker's own expense, to comply promptly with the requirements of this Part of this Schedule or remedy any damage notified to the undertaker under this Part of this Schedule, to the satisfaction of the local highway authority.

- (6) If during the carrying out of the authorised development the undertaker or its appointed contractors or agents causes damage to the local road network then the local highway authority may by notice in writing require the undertaker, at its own expense, to remedy the damage.
- (7) If, within 28 days from the day on which a notice under sub-paragraph (5) or (6) is served on the undertaker (or, in the event of there being, in the opinion of the local highway authority, a danger to road users, within such lesser period as the local highway authority may stipulate in the notice), the undertaker has failed to take the steps required by that notice, the local highway authority may carry out the steps required of the undertaker by that notice and may recover from the undertaker any expenditure reasonably incurred by the local highway authority in so doing, such sum to be payable within 28 days of written demand.
- (8) Nothing in this Part of this Schedule prevents the local highway authority from carrying out any work or taking any such action as it reasonably believes to be necessary as a result of or in connection with the carrying out or maintenance of the authorised development without prior notice to the undertaker in the event of an emergency or to prevent the occurrence of danger to the public and the local highway authority may recover any expenditure it reasonably incurs in so doing
- (9) In constructing the cable works and road works, the undertaker must at its own expense divert or protect all utilities and all agreed alterations and reinstatement of highway over existing utilities must be constructed to the satisfaction of the local highway authority.
- (10) Until such time that the local highway authority issues the road works final certificate, the undertaker must carry out all maintenance (including winter maintenance) in accordance with the scope of maintenance operations agreed by the local highway authority pursuant to paragraph 3(1)(g) and the undertaker must carry out such maintenance at its own cost.
- (11) The undertaker must notify the local highway authority if it fails to complete the road works or cable works in accordance with the agreed programme pursuant to paragraph 3(1)(b) and 3(2)(a) of this Part or suspends the carrying out of any road work or cable work beyond a reasonable period of time.

Payments

5.-

- (1) The undertaker must pay to the local highway authority a sum equal to the costs and expenses which the local highway authority reasonably and properly incurs (including costs and expenses for using internal or external staff and costs relating to work which becomes abortive) in relation to the cable works and road

works and in relation to any approvals sought under this Order, or otherwise incurred under this Part, including—

- (a) the checking and approval of the information required under paragraphs **Error! Reference source not found.** and 3(2);
- (b) the supervision of the cable works and road works;
 - (a) the checking and approval of the information required to determine approvals under this Part;
 - (b) all administrative costs and disbursements incurred by local highway authority in connection with the exercise by the undertaker of the powers in the Order and paragraphs (a) to **Error! Reference source not found.** of this sub-paragraph; and
 - (c) any value added tax which is payable by the local highway authority in respect of such costs and expenses and for which it cannot obtain reinstatement from HM Revenue and Customs,

together comprising “the LHA costs”.

- (2) The undertaker must pay to the local highway authority upon demand and prior to such costs being incurred the total costs that the local highway authority believe will be properly and necessarily incurred by the local highway authority in undertaking any statutory procedure or preparing and bringing into force any traffic regulation order or orders necessary to carry out or for effectively implementing the authorised development.
- (3) The local highway authority must provide the undertaker with its estimate of the LHA costs prior to the commencement of the cable works and road works. The undertaker must pay to the local highway authority the estimate of the LHA costs prior to commencing the road works or cable works.
- (4) If at any time after the payment referred to in sub-paragraph (3) has become payable, the local highway authority reasonably believes that the LHA costs will exceed the estimated LHA costs it may give notice to the undertaker of the amount that it believes the LHA costs will exceed the estimate of the LHA costs (the excess) and the undertaker must pay to the local highway authority within 28 days of the date of receipt of a properly issued VAT invoice from the local highway authority addressed to the undertaker for the excess sum, a sum equal to the excess.
- (5) The local highway authority must give the undertaker a final amount of the LHA costs referred to in sub-paragraph **Error! Reference source not found.** above within 91 days of the issue of both the road works provisional certificate and the cable works provisional certificate issued pursuant to paragraph 6(4) and 7(4).
- (6) Within 30 days of the issue of the final account—
 - (a) if the final account shows a further sum as due to the local highway authority the undertaker must pay to the local highway authority the sum shown due to it;
 - (b) if the account shows that the payment or payments previously made by the undertaker have exceeded the costs incurred by the local highway authority, the local highway authority must refund the difference to the undertaker.
- (7) If any payment due under the provisions of this Part of this Schedule is not made on or before the date on which it falls due, the party from whom it was due must at the same time as making the payment pay to the other party interest at 3% above the Bank of England base lending rate from time to time being in force for the period starting on the date upon which the payment fell due and ending with the date of payment of the sum on which interest is payable together with that interest.
- (8) Prior to the commencement of road works or cable works at each relevant works location or construction access, the undertaker must pay to the local highway authority a refundable mud deposit of £1,000, or such other sum as may be agreed in writing with the local highway authority, to be held by the local highway authority as security for the reasonable costs of any cleaning, sweeping or removal of mud, soil, litter or other deleterious material from the local

road network which is attributable to the road works, cable works or construction traffic associated with the authorised development.

(9) The local highway authority may apply the mud deposit towards any such reasonable costs incurred by it where the undertaker has failed to carry out the necessary cleaning or sweeping within the period reasonably required by the local highway authority, or immediately where the local highway authority reasonably considers that urgent action is required in the interests of highway safety.

(10) Any unapplied balance of the mud deposit must be returned to the undertaker within 28 days of the issue of the relevant provisional certificate or, where no provisional certificate is required for the relevant works location or construction access, within 28 days of completion of the relevant road works or cable works at that location.

Provisional Certificate for road works

6.—

(1) Following the completion of any road works or prior to the reopening of any part of the local road network following any closure or partial closure, whichever is earlier, the undertaker must notify the local highway authority and the local highway authority will carry out a site inspection to satisfy itself that the local road network is, in its opinion, safe for traffic and the undertaker must comply with any requirements of the local highway authority following the site inspection.

(2) As soon as the undertaker considers that the road works provisional certificate may be properly issued it must apply to the local highway authority for the road works provisional certificate.

(3) Following an application for a road works provisional certificate, the local highway authority must as soon as reasonably practicable—

- (a) inspect the road works; and
- (b) provide the undertaker with a written list of works that are required for the road works provisional certificate to be issued or confirmation that no further works are required for this purpose.

(4) When—

- (a) a stage 3 road safety audit for the road works has been carried out and all recommendations raised including remedial works have (subject to any exceptions agreed) been approved by the local highway authority;
- (b) the road works incorporating the approved remedial works under paragraph (a) and any further works notified to the undertaker pursuant to sub-paragraph (3)(b) have been completed to the satisfaction of the local highway authority;
- (c) the as-built information has been provided to the local highway authority; and
- (d) the undertaker has paid the commuted sum to the local highway authority

the local highway authority must issue the road works provisional certificate.

(5) On the issue of the road works provisional certificate pursuant to this paragraph 6 and the cable works provisional certificate pursuant to paragraph 7 the bond sum shall be reduced to 20% provided that in the event any claim or claims have been made against the undertaker or liability on its part has arisen under the bond sum (which here shall also include any claim or claims to which the local highway authority are joined howsoever they arise) before that date the local highway authority will be at liberty to retain a sufficient sum in addition to the 20% to ensure it does not have to meet any costs for and/or arising from and/or in connection with the road works or cable works.

(6) The undertaker must submit a stage 4 road safety audits as required by and in line with the timescales stipulated in the road safety audit standard. The undertaker must comply with the findings of the stage 4 road safety audit and must pay all costs of and incidental to such and provide updated as-built information to the local highway authority.

Provisional Certificate for cable works

7.—

(1) As soon as the undertaker considers that the cable works provisional certificate for the cable works may be properly issued it must apply to the local highway authority for the cable works provisional certificate.

(2) Following an application for a cable works provisional certificate, the local highway authority must as soon as reasonably practicable—

- (a) inspect the cable works, the local road network, and any land in which the local highway authority has an interest that is affected by the cable works; and
- (b) provide the undertaker with a written list of works that are required for the cable works provisional certificate to be issued or confirmation that no further works are required for this purpose.

(3) Within 28 days of the completion of any cable works, the undertaker must submit to the local highway authority the as built information.

(4) When the cable works, incorporating any further works notified to the undertaker pursuant to sub-paragraph (2)(b), have been completed to the satisfaction of the local highway authority and the as built information has been provided to the local highway authority, the local highway authority must issue the cable works provisional certificate.

(5) The undertaker must make available to the local highway authority upon request copies of any survey or inspection reports produced pursuant to any inspection or survey of any cable works, following completion of the inspection or survey, that the undertaker may from time to time carry out.

Opening

8. Unless otherwise agreed in writing by the local highway authority the undertaker must notify the local highway authority not less than 56 days in advance of the intended date of opening to the public of the local road network and the undertaker must notify the local highway authority of the actual date the local road network will be opened to the public within 14 days of that date and must not open the local road network to the public prior to the expiration of the requisite notice period.

Final condition survey

9.—

(1) The undertaker must, as soon as reasonably practicable after making its application for the road works provisional certificate pursuant to paragraph 6(2) and the cable works provisional certificate pursuant to paragraph **Error! Reference source not found.**, arrange for any highways structures and assets that were the subject of the condition survey to be re-surveyed and must submit the re-survey to the local highway authority for its approval. The re-survey will include a renewed geotechnical assessment required by DMRB CD622 for the cable works, road works and any other works beneath the local road network.

(2) If the re-surveys carried out pursuant to sub-paragraph **Error! Reference source not found.** indicates that any damage has been caused to a structure or asset, the undertaker must submit a scheme for remedial works in writing to the local highway authority for its approval in writing and the undertaker must carry out the remedial works at its own cost and in accordance with the scheme submitted and such programme as the local highway authority may require.

(3) If the undertaker fails to carry out the remedial work in accordance with the approved scheme and programme or fails to submit a scheme for remedial works to the local highway authority, the local highway authority may carry out the steps required of the undertaker and may recover from the undertaker any expenditure it reasonably incurs in so doing.

(4) the local highway authority may, at its discretion, at the same time as giving its approval to the re-surveys pursuant to sub-paragraph **Error! Reference source not found.** give notice in writing that the local highway authority will remedy any damage identified in the re-surveys and the

local highway authority may recover from the undertaker any expenditure it reasonably incurs in so doing.

- (5) The undertaker must make available to the local highway authority upon request copies of any survey or inspection reports produced pursuant to any inspection or survey of any cable work or road work following its completion that the undertaker may from time to time carry out.

Defects Period

10.—

(1) The undertaker must at its own expense remedy any defects in the local road network resulting from the carrying out of the road works as are reasonably required by the local highway authority to be remedied during the defects period. All identified defects must be remedied in accordance with the following timescales—

- (a) in respect of matters of urgency, within 24 hours of receiving notification for the same (urgency to be determined at the absolute discretion of the local highway authority);
 - (b) in respect of matters which the local highway authority considers to be serious defects or faults, within 14 days of receiving notification of the same; and
 - (c) in respect of all other defects notified to the undertaker, within 4 weeks of receiving notification of the same.
- (2) Following the issuing of the road works final certificate, the local highway authority has responsibility for routine maintenance of the local road network save for any soft landscaping works which must be established and which must thereafter be maintained for a period of 3 years by and at the expense of the undertaker.

Final Certificate

11.—

(1) The undertaker must apply to the local highway authority for the final certificate no sooner than 12 months from the date of the issuing of both the road works provisional certificate and the cable works provisional certificate.

- (2) Following receipt of the application for the final certificate, the local highway authority must as soon as reasonably practicable—

- (a) inspect the local road network; and
- (b) provide the undertaker with a written list of any further works required to remedy or make good any defect or damage in the local road network as resulting from the cable works or road works or confirmation that no such works are required for this purpose.

(3) The undertaker must carry out such works notified to it pursuant to sub-paragraph (2).

(4) When the local highway authority is satisfied that—

- (a) any defects or damage arising from defects during the defects period and any defects notified to the undertaker pursuant to sub-paragraph (2) and any remedial works required as a result of any relevant stage 4 road safety audit have been made good to the satisfaction of the local highway authority; and
- (b) the LHA costs have been paid to the local highway authority in full;

the local highway authority must issue the final certificate.

- (5) The bond sum is released in full upon the issue of the final certificate, provided that in the event any claim or claims have been made against the undertaker or liability on its part has arisen under the bond sum (which here will also include any claim or claims to which the local highway authority are joined howsoever they arise) the local highway authority will be at liberty to retain a sufficient sum to ensure it does not have to meet any costs for or arising from or in connection with the road works or cable works.

- (6) The undertaker must pay to the local highway authority within 28 days of the date of receipt of a properly issued invoice from the local highway authority addressed to the undertaker, the reasonable costs incurred by the local highway authority in identifying the defects and supervising and inspecting the undertaker's work to remedy the defects that it is required to remedy pursuant to this paragraph.

Security

12.—

(1) The road works and cable works must not commence until the undertaker procures that the road works and cable works (or if applicable any phase thereof) are secured by the bond sum to indemnify the local highway authority against all losses, damages, costs or expenses arising from any breach of any one or more of the obligations of the undertaker in respect of the exercise of the powers under this Order and road works and cable works under the provisions of this Part of this Schedule.

(2) The undertaker must submit the estimated cost of works to the local highway authority for approval before commencing the relevant road works or cable works. Where the road works or cable works are to be carried out in phases, the estimated cost of works and the bond sum may be calculated and provided by reference to the relevant phase, provided that no road works or cable works in that phase may commence until the bond sum for that phase has been provided.

(3) If, before the issue of the relevant provisional certificate, the local highway authority reasonably considers that the approved estimated cost of works is no longer adequate because of a material change to the approved design, scope, programme, specification or cost of the road works or cable works, the undertaker must submit a revised estimated cost of works for approval and must provide any additional bond or cash surety reasonably required to maintain the bond sum at the level required by this Part of this Schedule.

(4) If at any time the undertaker is in breach of these provisions of this Part of this Schedule or becomes insolvent without prejudice to any other remedy the local highway authority is entitled upon giving notice to the undertaker to use such parts of the bond sum as the local highway authority considers necessary. For the avoidance of doubt should the local highway authority have to carry out works pursuant to this Part of this Schedule it may, at its sole discretion, use the bond sum to forward fund such works.

Commuted sums

13.—

(1) The local highway authority must provide to the undertaker an estimate of the commuted sum prior to the commencement of the road works.

- (2) The undertaker must pay to the local highway authority the commuted sum prior to the issue of the road works provisional certificate.

Insurance

14. Prior to the commencement of the cable works and road works the undertaker must effect public liability insurance with an insurer in the minimum sum of £50,000,000.00 (fifty million pounds) in respect of any one claim against any legal liability for damage loss or injury to any property or any person as a direct result of the execution of the cable works or road works or use of the local road network by the undertaker.]

Indemnity

15.—

(1) The undertaker fully indemnifies the local highway authority from and against all costs, claims, expenses, damages, losses and liabilities suffered by the local highway authority arising from, or in connection with—

- (a) the construction, maintenance or use of the road works before the issue of the final certificate for the relevant road works;

- (b) the construction, maintenance, use, removal, reinstatement or decommissioning of the cable works;
- (c) the exercise of, or failure to exercise, any power under this Order in respect of the local road network or any land in which the local highway authority holds an interest; and
- (d) any claim for compensation arising under any statutory compensation code in connection with the matters referred to in sub-paragraphs (a) to (c),

and any such costs must be paid to the local highway authority within 14 days of an itemised demand.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker in respect of—

- (a) any damage, loss, liability, cost, claim or expense to the extent that it is attributable to the negligence, neglect or default of the local highway authority, its officers, employees, contractors or agents; or
- (b) any road works or cable works carried out by the local highway authority as an assignee, transferee or lessee of the undertaker with the benefit of this Order.

(3) The local highway authority must give the undertaker reasonable notice of any third party claim or demand to which the indemnity under this paragraph may apply and no settlement, admission of liability or compromise may be made by the local highway authority, unless payment is required in connection with a statutory compensation scheme or by order of a court or tribunal of competent jurisdiction, without first consulting the undertaker and considering any representations made by the undertaker.

(4) The local highway authority must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, act reasonably and in the same manner as it would if settling third party claims on its own behalf from its own funds.

(5) The local highway authority must use its reasonable endeavours to mitigate and minimise any costs, claims, expenses, damages, losses and liabilities to which the indemnity under this paragraph applies where it is within the local highway authority's reasonable ability and control to do so, but this does not require the local highway authority to mitigate any liability arising from third parties outside the local highway authority's control.

Maintenance of the authorised development

16.—

(2) The undertaker must, prior to the commencement of any works of maintenance to the cable works or road works, give the local highway authority 28 days' notice in writing of the date on which those works will start unless otherwise agreed by the local highway authority, acting reasonably.

(3) During any maintenance works, the undertaker must comply with any requirements that the local highway authority may notify to the undertaker, such requirements to be notified to the undertaker not less than 7 days' in advance of the planned commencement date of the maintenance works.

(4) The provisions of paragraph 8 shall apply to the opening of any part of the local road network following occupation of any road space under this paragraph.

Land

17.—

(1) Following the issue of the final certificate pursuant to paragraph 11(4) the local highway authority may serve notice on the undertaker that it wishes to take a freehold transfer of land within the extent of the local road network boundary, or any land which is to form part of the local road network following completion of the road works or the cable works, which is not in the ownership of the local highway authority but has been acquired by the undertaker for the purposes of carrying out the road works.

(2) If the undertaker receives notice under sub-paragraph **Error! Reference source not found.** then the undertaker must effect a freehold transfer of the land which is the subject of the notice and complete such transfer as soon as reasonably practicable at no cost to the local highway authority.

(3) The undertaker must not exercise the powers of this Order over any land forming part of the local road network or land owned by the local highway authority, other than with the consent of the local highway authority (such consent not to be unreasonably withheld and delayed), so as to—

- (a) acquire or use the land;
- (b) acquire new or existing rights in the land;
- (c) impose or extinguish any restrictive covenant over the land;
- (d) extinguish any existing rights held by the local highway authority; or
- (e) interfere with the apparatus of the local highway authority.

(4) A consent under sub-paragraph (3) must be requested in writing by email to northernhighways@wiltshire.gov.uk

Expert Determination

18.—

(1) Article 44 (arbitration) of the Order does not apply to this Part of this Schedule, except in relation to a dispute concerning the legal interpretation of this Part of this Schedule.

(2) Any difference or dispute arising between the undertaker and the local highway authority under this Part of this Schedule may be referred to and settled by a single independent and suitably qualified person holding appropriate professional qualifications and being a member of a professional body relevant to the matter in dispute, acting as an expert and not as an arbitrator.

(3) The expert is to be agreed between the undertaker and the local highway authority or, in default of agreement within 14 days of either party notifying the other of the dispute, is to be appointed on the application of either party by the President of the Institution of Civil Engineers.

(4) The expert must invite the parties to make written submissions, permit each party a reasonable opportunity to comment on the other party's submissions, give reasons for the decision, and issue the decision as soon as reasonably practicable.

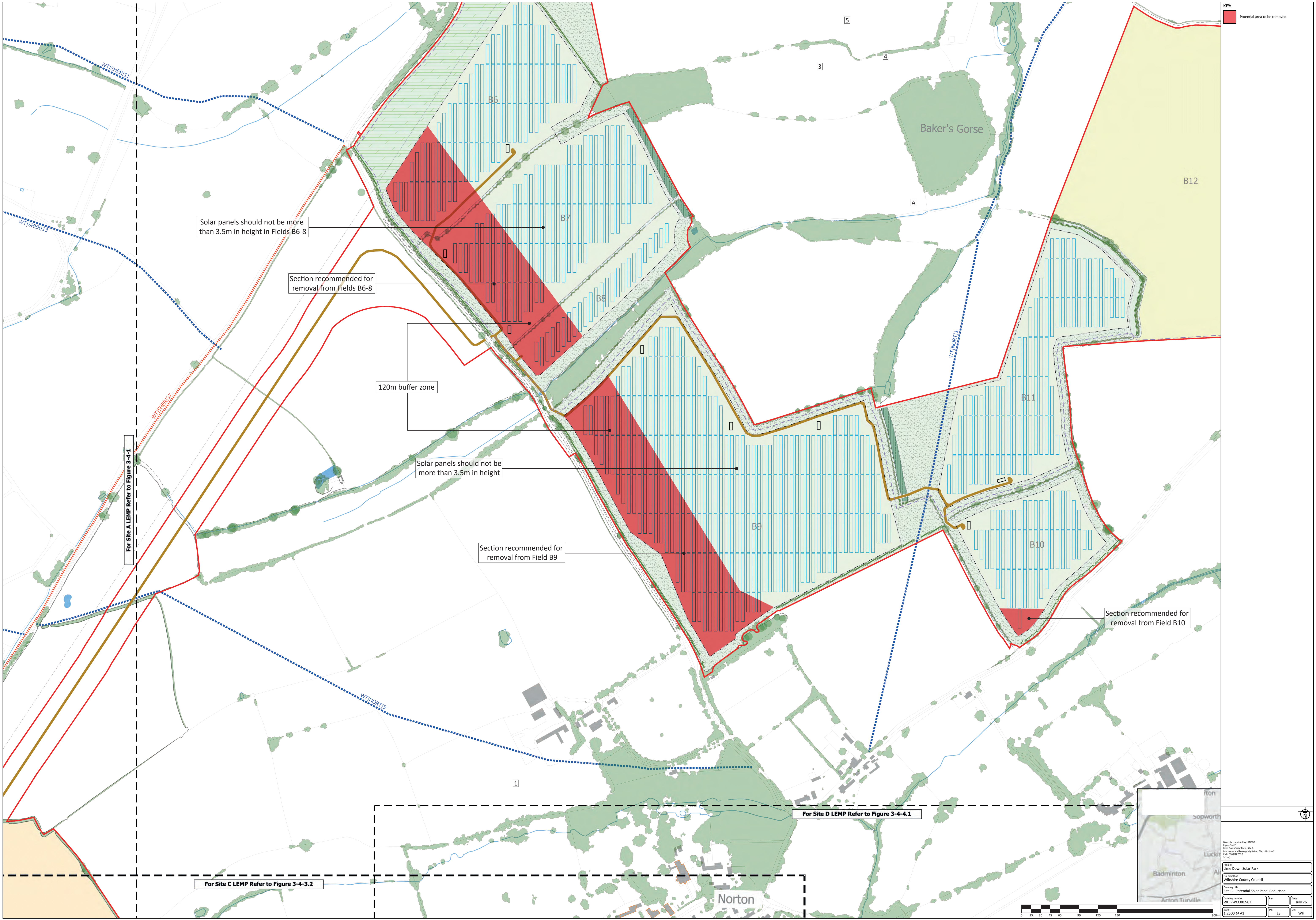
(5) The expert's determination is final and binding, except in the case of manifest error or a dispute concerning the legal interpretation of this Part of this Schedule, which may be referred to arbitration under article 44 (arbitration).

(6) The fees of the expert are payable by the parties in such proportions as the expert may determine or, in the absence of such determination, equally.

Appendix C

ISH2: Action Point 16

Plans Illustrating Potential Panel Reduction to Reduce Impact of Norton Village Setting



KEY:
- Potential area to be removed

For Site A LEMP Refer to Figure 3-4-1

For Site C LEMP Refer to Figure 3-4-3.2

For Site D LEMP Refer to Figure 3-4-4.1

Solar panels should not be more than 3.5m in height in Fields B6-8

Section recommended for removal from Fields B6-8

120m buffer zone

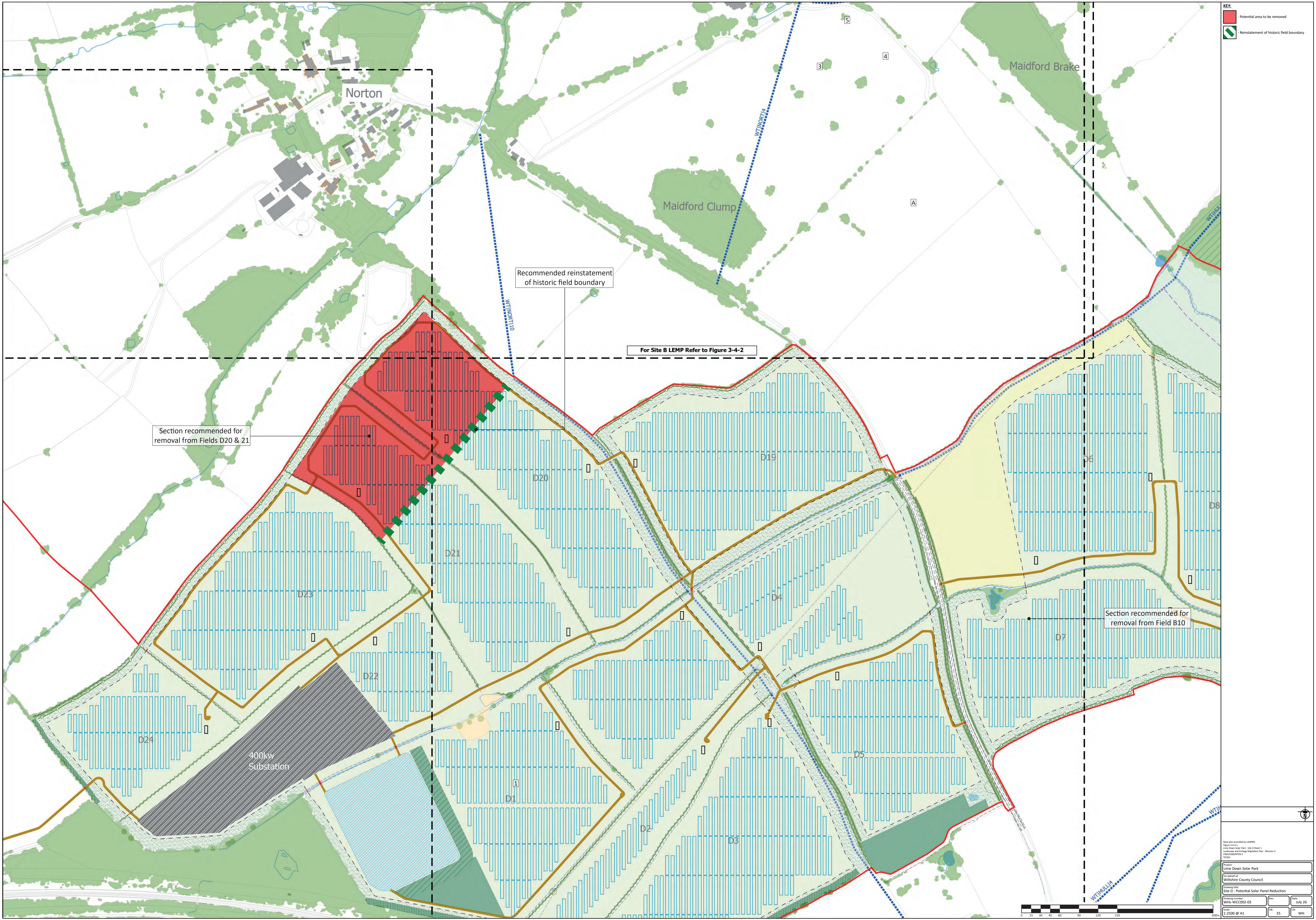
Solar panels should not be more than 3.5m in height

Section recommended for removal from Field B9

Section recommended for removal from Field B10



Badminton Down Solar Park - Site B Landscape and Ecology Migration Plan - Version 2 (02/05/2024) 15			
From:	Badminton Down Solar Park		
On behalf of:	Wiltshire County Council		
Drawing No:	Site B - Potential Solar Panel Reduction		
Drawing Number:	WHL-WCC002-02	Rev:	July 26
Scale:	1:2500 @ A1	Rev:	ES WH



KEY:

- Potential area to be removed
- Reinstatement of historic field boundary

From:
LIME Down Solar Park

Owned by:
Wiltshire County Council

Drawing No:
Site D - Potential Solar Panel Reduction

Drawing number:
WHL-WCC002-03

Scale:
1:2500 @ A1

Rev:	Rev:	Rev:
1	ES	WH

Date:
July 26

Revision history:
1: Initial design
2: Design development
3: Final design

Author:
WHL

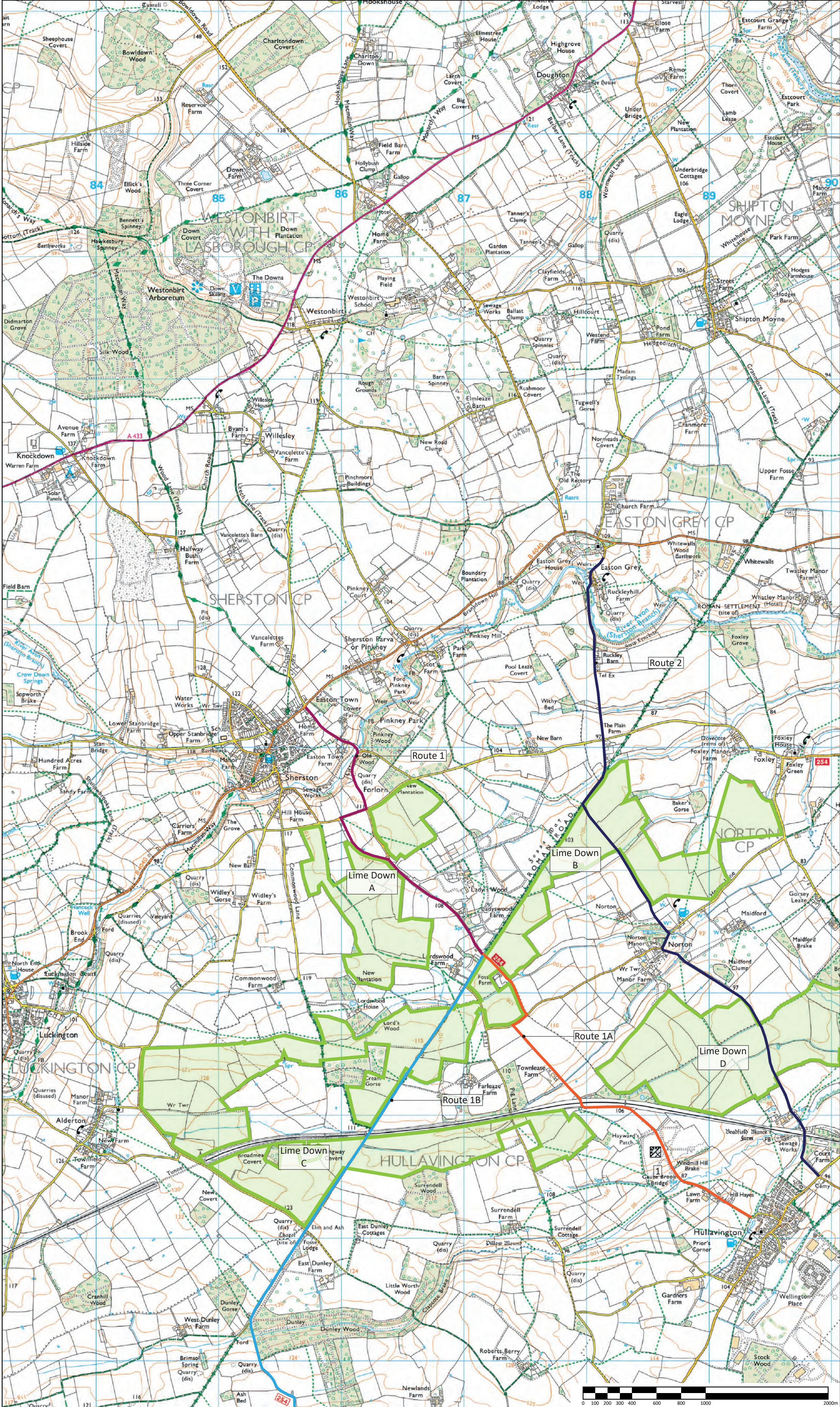
Checker:
ES

Approver:
WH

Appendix D

ISH2: Action Point 19

Plan Illustrating Intra-Project Cumulative Sequential Road Routes for Visual Assessment



KEY:

- Lime Down Site Areas
- Route 1
- Route 1A
- Route 1B
- Route 2

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Wiltshire Landscape Reference number: LAN1001622

Project:
Lime Down Solar Park

On behalf of:
Wiltshire County Council

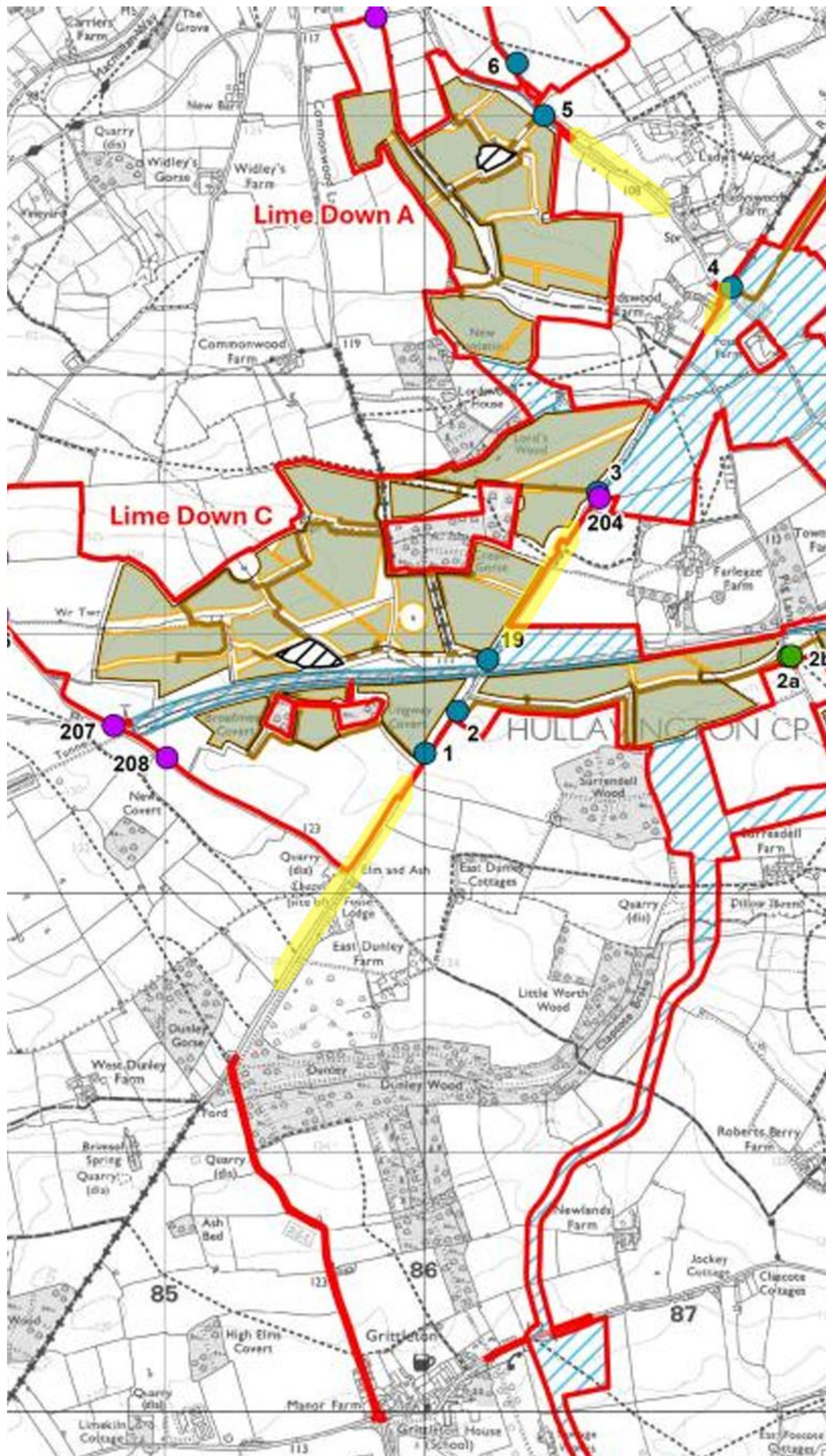
Drawing title:
Intra-Project Cumulative Sequential Road Routes

Drawing number: WHL-WCC02-04	Rev: ES	Date: July 26
Scale: 1:20000 @ A2	DB: ES	CB: WH

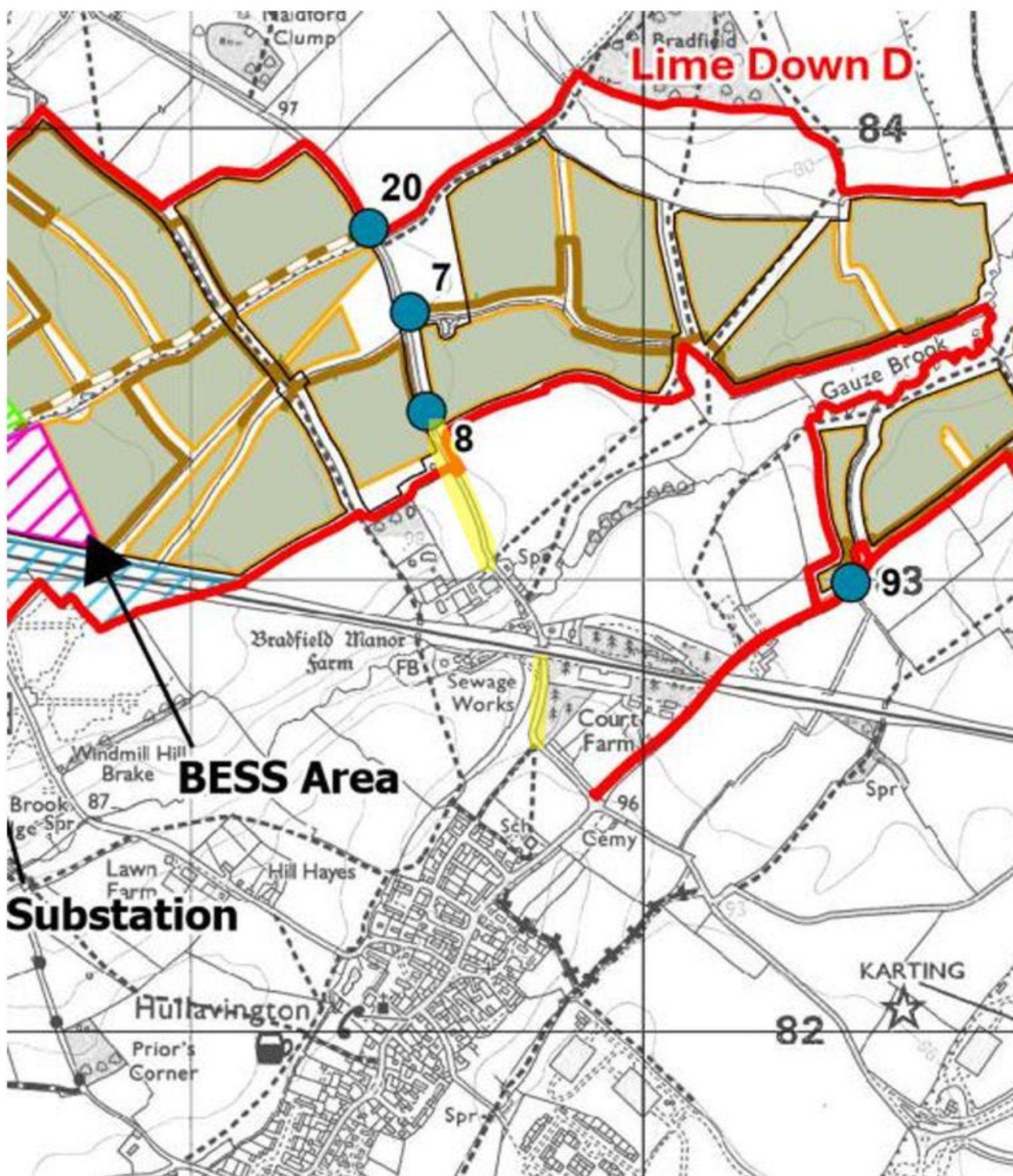
Appendix E

ISH3: Action Point 10

Plans Illustrating Required Highway Improvement Areas



Plan ISH3-10/1 Additional Passing Place Mitigation Locations - Lime Down A-C HGV Construction Route (Yellow Highlight)



Plan ISH3-10/2 Additional Passing Place Mitigation Locations - Lime Down D HGV Construction Route (Yellow Highlight)

NOTE: Refer also to Wiltshire Council Comments on Revision 3 to the Transport Assessment. Precise positioning of HGV passing place improvements outside the current HIA is dependent of topographical survey coverage of 'all' the narrow rural lane lengths proposed for construction access and knowledge of actual widths at intervals. The comment on this point reads "At the ISH3 Hearing it was noted that base topographical survey drawings for 'all' the minor roads forming the HGV construction routes should be provided, with the actual carriageway width dimensions indicated at intervals. It was suggested by Wiltshire Council that each road should employ a chainage line, with widths indicated at, say, 10m intervals. As 5.5m is the minimum width necessary for 2-way HGV passage, and 4.8m for car/HGV passage (MfS), it would be helpful to colour-shade route sections with carriageway widths 5.5m or greater and 4.8-5.5m, with unshaded lengths then indicating lengths with a width of less than 4.8m. This would provide a better 'at a glance' suitability of the existing routes, which is difficult to pick up from the swept path plots where a lot of underlying base detail is masked".