



The Planning Inspectorate Yr Arolygiaeth Gynllunio

The Planning Act 2008

**The A556 (Knutsford to Bowdon Improvement) Development
Consent Order 201[...]**

Examining Authority's Report of Findings and Conclusions

and

**Recommendation to the
Secretary of State for Transport**

Peter Robottom MA(Oxon) DipTP MRTPI MCMi

Examining Authority

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ExA's findings and conclusions and recommendation in respect of The A556 (Knutsford to Bowdon Improvement) Development Consent Order 201[...]

File Ref: TR010002

The application by the Highways Agency (HA), dated 23 April 2013, was made under section 37 of the Planning Act 2008 and was received in full by The Planning Inspectorate on 24 April 2013. On 24 January 2014, the applicant formally submitted changes to the original application and on 17 February 2014, the Secretary of State accepted these changes as non-material alterations. This report addresses the application as amended.

The application was accepted for examination on 17 May 2013. The examination of the application began on 3 September 2013 and was completed on 3 March 2014.

The development proposed comprises a 7.5 kilometre/4.7 mile improvement to the A556 trunk road in Cheshire between M6 Junction 19 near Knutsford, Cheshire and M56 Junction 7 near Bowdon in Greater Manchester. The scheme would improve the route to a consistent standard of modern dual carriageway. Its main aspects, as shown diagrammatically on the scheme plan in the Environmental Statement Non-Technical Summary (APP-032), include:

- construction of a new, dual carriageway standard section of the A556 from M6 Junction 19 to a point north of Bucklow Hill to bypass Tabley, Mere and Bucklow Hill;
- improvement of the existing A556 north of the new bypass section, from the point north of Bucklow Hill up to the M56;
- improvement of the layout of M56 Junction 7 at Bowdon.
- improvement of the M6 Southbound carriageway between M6 Junction 19 and Knutsford Services;
- creation of junctions at Tabley, the A50 and at Millington allowing local road traffic access to and from the new A556;
- changes to existing adjacent local roads to allow connections with and over the new A556;
- changes and improvements to facilities for non-motorised traffic to enable crossings of the new A556;
- changes to the section of the current A556 to be bypassed, including the creation of additional facilities for non-motorised traffic along with measures to make the bypassed section more suitable as a road for rural, local traffic;
- the transfer of responsibility for the section of the current A556 to be bypassed to the local highway authority, Cheshire East Council, and
- measures to mitigate the environmental impacts.

Summary of Recommendation:

- 1.1 Subject to the receipt of signed Agreements with Cheshire East Council, I recommend that the Secretary of State should make the Order in the form attached at Annex I.

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The Planning Inspectorate

ERRATA SHEET – Knutsford to Bowdon - Ref. TR010002

Examining authority's Report of Findings and Conclusions and Recommendation to the Secretary of State for the Department for Transport, dated 2 June 2014

Corrections agreed by the Examining Authority prior to a decision being made

| Page No. | Paragraph | Line | Error | Correction |
|----------|-----------|------|---|--|
| 5 | 2.13 | 6 | Annex H | Annex G |
| 7 | 3.6 | 10 | with | within |
| 7 | 3.7 | 1 | | Delete Second 'would' |
| 7 | 3.7 | 8 | sites | Sites |
| 9 | 3.16 | 2 | include | including |
| 11 | 3.22 | 11 | Document references are wrong- the references lead to "Rev 1 " documents | ExA meant to refer to REP-159 and 160 and/or AS-079 |
| 22 | 4.39 | 8 | considers | consider, full stop missing at end of paragraph |
| 31 | 5.13 | 2 | | Should read '...of the documents' |
| 35 | 5.29 | 6 | association | Association |
| 41 | 5.47 | 14 | attending | attended |
| 50 | 5.82 | 8 | | Should read '..is a factor..' |
| 50 | 5.83 | 7 | show | Show |
| 53 | 5.93 | 1 | Missing closing bracket after reference | (RR-029) |
| 55 | 5.106 | 7 | Word(s) missing after '..specific..' | Insert 'request' |
| 57 | 5.114 | 2 | | Delete 'is' |

| Page No. | Paragraph | Line | Error | Correction |
|----------|------------|------|--|---|
| 62 | 5.133 | 16 | Missing space within document references | |
| 70 | 5.163 | 1 | Land | Lane |
| 77 | 6.14 | 5-6 | Duplicate 'of the' | |
| 80 | 7.7 | 2 | Delete 'General' | |
| 100 | 7.94 | 8 | Bolin | Bollin |
| 101 | 7.95 | 5 | Order | order |
| 105 | 7.112 | 3 | Superfluous 'be' | |
| 106 | 7.113 | 16 | affairs | Affairs |
| 108 | 7.123(ii) | 3 | Superfluous 'that Variant' | |
| 109 | 7.123(iii) | 4 | 7/r | 7/4r |
| 109 | 7.124 | 4 | | Should read '..may be appropriate..' |
| 110 | 7.127 | 2-3 | Duplicate 'is necessary' | |
| 111 | - | - | Heading to section 8 'DEVELEOPMENT' | DEVELOPMENT |
| 112 | 8.6 | 13 | relation of | relation to |
| 116 | 8.15 | 10 | Missing word | '..there are further..' |
| 117 | 8.19 | 12 | 7/r | 7/4r |
| 118 | 8.25 | 13 | Annex J | Annex I |
| 120 | 8.30 | 1 | recommends | recommend |
| 120 | 8.30 | 5 | 5.162 | 5.163 |
| 120 | 8.30 | 7 | equestrian | equestrians |
| 120 | 8.32 | 7 | Annex J | Annex I |
| 120 | 8.36 | 2 | Annex J | Annex I |

2 INTRODUCTION

- 2.1 The application seeks development consent to authorise the construction of a 7.5 kilometre/4.7 mile improvement to the A556 trunk road in Cheshire between M6 Junction 19 near Knutsford, Cheshire and M56 Junction 7 near Bowdon in Greater Manchester. The scheme would improve the route to a consistent standard of modern dual carriageway. It also includes improvement to Junction 19 of the M6 and a length of the southbound carriageway of the M6 at its southern end and to Junction 7 of the M56 at its northern end.
- 2.2 The objectives of the scheme are set out in the accompanying Environmental Statement (APP-030) as:
- to improve the local environment in Bucklow Hill and Mere;
 - to improve road safety and journey time reliability;
 - to reduce conflicts between local and long distance traffic; and
 - to minimise the environmental impacts of the proposed scheme both during construction and once the scheme is open.
- 2.3 It should be noted that all references are to links contained in the Examination Library that forms Annex A to this report.
- 2.4 Following acceptance of the application and the period of advertisement to enable relevant representations to be made, on 24 July 2013 the Secretary of State for Communities and Local Government appointed Peter Robottom MA(Oxon) DipTP MRTPI MCMi as Examining Authority. Notice of this appointment is set out as Annex G to the letter issued under Rule 6 of the Infrastructure Planning (Examination Procedure) Rules 2010 on 24 July 2013 (DEC-003). The Rule 6 letter also enclosed a draft timetable for the Examination that was considered at the Preliminary Meeting held on Tuesday 3 September 2013. A timetable was subsequently published in the Rule 8 letter dated 12 September 2013 (DEC-004). This timetable was subsequently updated and extended by procedural decisions dated 10 October, 18 October and 9 December 2013 and 31 January 2014. The final timetable of the Examination is set out as Annex B.
- 2.5 Requests for information and questions initially under s89(3) of PA 2008 and subsequently under Rule 8 or 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 as well as s89(3) were made on 24 July 2013, 12 September 2013, 18 October 2013, 16 December 2013, 21 January 2014, 31 January 2014 and 14 February 2014.
- 2.6 Accompanied site visits took place as indicated in Annex B on 9 and 10 December 2013 and 9 January 2014 with the itinerary for those in December 2013 indicated in (EV-006). In addition, an

unaccompanied site visit took place during the afternoon of 2 September 2013 to enable me to familiarise myself with the generality of the application site and its surroundings prior to the Preliminary Meeting. Places visited were generally similar to those listed in (EV-006). During the Examination, an unaccompanied site visit took place on the afternoon of 12 December 2013 to Tatton Park (in lieu of the Accompanied Visit referred to in (EV-006), the road via Ashley to Junction 6 of the M56 at Manchester Airport and to the minor roads that link to the A56 west of the Bowdon roundabout.

- 2.7 Further unaccompanied visits took place on the afternoons of 17 and 18 December 2013 and 7 January 2014 to view the 'G-turn' facility at Plumley and further minor roads and features referred to including the pond on the Chapel Lane frontage, Cherry Tree Farm and the environs of Rostherne Mere. Finally, on 20 February after the close of the hearings, an unaccompanied site visit was made to the site of Mere Club. Conditions at M6 Junction 19, at Junction 17 and the nature of local rail services were noted on various journeys to and from Knutsford.
- 2.8 In the application documentation, the applicant set out the other consents that would be required in addition to the DCO to implement the development (APP-029). Updates on progress in securing these consents were given during the course of the Examination. The position at the close of the Examination is set out in Annex H.
- 2.9 The ExA was also appointed on 28 October 2013 to report to the Secretary of State for the Environment, Food and Rural Affairs and the Secretary of State for Energy and Climate Change in relation to applications made by the Highways Agency for certificates under s127 of the Planning act 2008 in respect of objections made by Statutory Undertakers to the Compulsory Acquisition of land in which they hold interests. The objections by all the undertakers were satisfied by amendments to the scheme and/or the submitted DCO to include protective provisions and other safeguards for their undertakings. Consequently, the objections and the applications for certificates were withdrawn (PD-008 to PD-024 and PD-129).
- 2.10 In the case of Mainline Pipelines the withdrawals were conditional on the Secretary of State making the DCO containing the provisions introduced to satisfy the undertaker (PD-130). Should the Secretary of State be minded to make the Order in a materially different form in relation to the interests of that undertaker, consideration would need to be given as to whether a s127 certificate might then be required.
- 2.11 Agreements are proposed to be entered into between the Highways Agency and Cheshire East Council. A Planning Agreement is intended to cover the payment of a 'Local Road

Schemes Contribution' of £170,000 to be used for monitoring the traffic impact on local roads and undertaking small-scale improvement schemes to mitigate any adverse consequences. In addition a sum of £242,057 would be paid to the Council as a 'De-trunked Road Maintenance Sum' to pay for future maintenance, management, monitoring and energy costs on the de-trunked existing A556. Finally, a further sum of £19,000 would be paid as an 'Air Quality Mitigation Contribution' to pay for the relocation of an automatic analyser and a feasibility study into the effectiveness of linking live pollution monitoring into the MOVA system at M6 Junction 19.

- 2.12 An agreement under Section 4 of the Highways Act 1980 is also intended to secure an agreed package of improvements on local highways at a cost not exceeding £255,000.
- 2.13 At the close of the Examination, signed and sealed copies of these agreements had not been produced because of the need to complete Council procedures. As they would secure essential mitigation, I consider that the DCO should not be made unless and until agreements to give effect to the agreed Heads of Terms set out as Annex H, duly signed and sealed, have been received by the Secretary of State. The drafts of the agreements at the close of Examination are set out in an Appendix to the summary of oral case made by HA at the hearings on 20 February 2014 (EV-027).
- 2.14 Section 3 of the report more fully describes the application and its history and section 4, the legal and policy context. The main substance of the report in section 5 comprises my findings and conclusions in relation to factual and policy matters. These are structured primarily around the principal issues that were identified.
- 2.15 Section 6 briefly sets out specific Habitats issues while section 7 addresses the proposed Compulsory Acquisition that is included within the DCO. The justification for the acquisition or use of all the plots shown on the Land Plans and referred to in the Book of Reference is assessed in relation to the requisite statutory tests.
- 2.16 Finally, the detailed wording of the proposed DCO including that of its requirements and protective provision is considered in section 8, before my overall summary and conclusions which comprise section 9. Nine Annexes set out key supporting information.

3 MAIN FEATURES OF THE PROPOSAL AND SITE

The present application

- 3.1 The applicant is the Highways Agency, an Executive Agency of the Department for Transport, responsible for operating, maintaining and improving the strategic road network in England.
- 3.2 The application seeks development consent to authorise the construction of a 7.5 kilometre/4.7 mile improvement to the A556 trunk road in Cheshire between M6 Junction 19 near Knutsford, Cheshire and M56 Junction 7 near Bowdon in Greater Manchester. The existing section of the A556 to be bypassed or improved is a strategic inter-urban road but is currently the only non-motorway stretch between Birmingham and Manchester. It is also an important link to Manchester Airport. It forms the short side of a triangle with the M6 and M56, which meet at M6 Junction 20 and M56 Junction 9.
- 3.3 The relevant part of the existing A556 is mainly a single carriageway with two lanes of traffic in each direction. Even where there is a central reservation, apart from in the vicinity of Cherry Tree Lane, it is generally of insufficient width to accommodate any form of turning lanes at the at-grade junctions with other highways. As a consequence, there are a significant number of restrictions on right-turning movements, including at the main junction with the A50 at Mere as well as in relation to most of the 9 junctions with minor roads. However, such restrictions have not been able to be imposed on all public road junctions and cannot be imposed on the numerous direct accesses from residential and commercial properties that abut the road and at field entrances where these front undivided carriageway. A minor improvement has been undertaken at the Bucklow Hill junction with the A5034 and this junction is therefore the main current link between local traffic and the strategic route, but even there the layout of the signalised junction does not provide clearly defined lanes for all turning movements. The layout of the existing road is generally shown on the base maps for the proposed DCO (APP-010 to APP-013).
- 3.4 The road carries approximately 50,000¹ vehicles on an average weekday of which about 11% are HGVs. There is limited existing provision to help pedestrians, cyclists and horse riders to cross in safety. There are therefore inevitably safety and waiting time problems in the conflict between strategic traffic and local traffic joining, crossing or leaving the trunk road. There are also delay and journey time reliability issues for traffic on the strategic route. The scheme seeks to address the current problems of congestion, unreliable journey time and safety as well as to improve the

¹ A detailed sequence of recorded traffic flows on an Annual Average Daily Traffic Flow (AADT) basis over lengths of the existing A556 and adjacent sections of the M6 and M56 is set out in (REP-125).

environment of those properties fronting the existing road and to improve local connectivity, including for non-motorised users (NMUs).

- 3.5 The scheme would improve the route to a consistent standard of modern dual carriageway. It also includes improvement to the operation of Junction 19 of the M6 by works to create an additional running lane over a length of the southbound carriageway of the M6 at its southern end between that junction and the Knutsford service area. Junction 7 of the M56 at its northern end would also be improved by creation of a free-flow link.

The site

- 3.6 The site is linear in nature and runs through open countryside north-west of Knutsford and would bypass properties in Tabley Superior Parish at its southern end. It would also bypass development fronting the existing A556 at Mere in the parish of that name and at Bucklow Hill, which is partly also within that parish but partly in the parish of Millington. To the east of the scheme at its northern end lie Rostherne and Rostherne Mere in the parish of that name while to the west is the settlement of High Legh in the parish of that name and further afield, Lymm and Warrington. The northernmost works are with the parish of Bollington, north of the M56 as the scheme links into the existing round-about on the A56 at Bowdon. Across the River Bollin, Bowdon, Hale and Altrincham are in the Metropolitan Borough of Trafford.
- 3.7 The DCO would not authorise would the demolition of any buildings, but would involve the alteration of existing highways and construction of new structures. The development would be largely of agricultural land, though with some loss of existing woodland. The land use is a mixture of pasture and arable farming, the former predominant towards the southern end where there are also larger blocks of woodland. Some of the woodlands are locally designated sites of Biological Importance. Typically for this part of Cheshire, the countryside contains a significant number of ponds in addition to larger meres. The ponds often provide habitats for European Protected Species such as great crested newts.
- 3.8 The topography is fairly flat with only gentle undulations containing the shallow valleys of the small streams that drain the area. Tabley Brook, into which catchment the southern portions of both the existing and proposed roads drain, runs southwards ultimately into the river Weaver and thence to the Mersey. To the north of Mere crossroads the area drains towards the River Bollin which is in a much more distinct valley beyond the M56. This river also eventually joins the River Mersey. Much of the northern section of the existing road's drainage flows into streams that outfall via The Mere, Little Mere and Rostherne Mere to the east of

the road into Birkin Brook and thence to the River Bollin. The replacement section of the proposed road would drain more directly to the River Bollin and not via the meres.

The works

- 3.9 At Junction 19 access to the existing A556 Chester Road would be closed and a tie in made to the proposed off-line replacement. This new two-lane dual carriageway with the carriageways separated by a concrete safety barrier would have 1m wide hard strips on the nearside of both carriageways, while new structures would be constructed wide enough to accommodate a third lane in each direction should that ever be required.
- 3.10 Moving northwards, at Tabley, the new road would pass west of the frontage development on the existing A556. A retaining wall would be necessary in the vicinity of the parish hall as the new road would be at a higher level than Old Hall Lane which would be severed for vehicular traffic on its current alignment. A NMU underpass as a link for non-motorised users would be provided close to the existing alignment. The new road would pass to the east of Over Tabley Hall Farm, now partly converted to residential accommodation, but whose site also includes Listed (Grade II) remains of older buildings. The road would also run east of Over Tabley Hall, which is also a Grade II Listed Building.
- 3.11 Old Hall Lane itself would be diverted northwards past Over Tabley Hall to link into a new south-facing grade-separated junction that would carry a link on an over-bridge back to the existing A556 between St Paul's Church and Mere Hall, both Listed Buildings (Grade II). This junction and link would provide a southbound route for communities along the bypassed section of the A556.
- 3.12 From the vicinity of this junction the new dual carriageway would run northwards through the Mere Estate and its tenanted Knowlespit and Bentleyhurst Farms. There would be an over-bridge carrying Bentleyhurst Lane over the new road. The new road would then pass to the west of the Listed (Grade II) Mere Hall and the separately Listed (Grade II) walled garden. In this area, a 'green' accommodation bridge would be constructed over the new road to link separated parts of Knowlespit Farm and habitats. At the A50, which would fly-over the new road, there would be a northbound on-slip to join the new road from a roundabout junction on a re-aligned section of the A50. The slip road would loop beneath the A50 over-bridge to minimise land take.
- 3.13 Further north, in the Hulme Barns Farm and Mere Hall Farm area, Bucklow Hill Lane would be severed by the proposed road, while Chapel Lane would fly over the new road. North of Chapel Lane, the new road would pass through land which is part of the Millington Estate and other land holdings of the Brooks family.

Millington Hall Lane would be severed in the vicinity of 1 and 2 Denfield Cottages and Denfield Cottage, a Listed Building (Grade II). Between Millington Hall Lane and Bucklow Manor Nursing Home, which is close to the junction between Millington Lane and the existing A556, there would be a southbound off-slip from the new road that would give access to the bypassed residents and businesses from the north. It would be linked to the existing A556 by a round-about junction with the north-eastern leg becoming a link road that would turn into Cherry Tree Lane, which would no longer have direct access to the A556. Millington Lane would fly-over the new road to form a crossroads with Rostherne Lane. Just to the south of this point, there would be a retaining wall to a deep cutting west of Bucklow Manor Nursing Home in order to minimise land-take from the nursing home.

- 3.14 North of Millington Lane the new road would return to the existing alignment of the A556 just to the south of Mereside Farmhouse, a building now used for residential and business purposes. From this point the existing road would be modified to create the new swept path link into M56 Junction 7 to full motorway standard including 3.3 m hard shoulders. A northbound all-purpose trunk road route would remain to the Bowdon roundabout on the A56. However, the southbound carriageway of the existing A556 would be removed and replaced by a new link over the swept path motorway section to a roundabout junction south of that new road from which a slip road would link southwards to join the reconstructed A556. This new junction would therefore provide a southbound link from the A56 at Bowdon and a northbound link from the M56 to the A56. The roundabout would also provide access to Yarwood Heath Farm on whose land these junction works would be constructed.
- 3.15 The improvements to M56 Junction 7 include a re-configuration of the slip roads to allow for the swept path section of new road. There is a separate HA proposal for improving the M56 eastbound from Junction 7 towards Manchester Airport and the City centre to assist merging traffic, akin to that proposed for the M6 south of Junction 19. These works do not form part the DCO, but have been taken account of in the assessment of cumulative environmental impact.
- 3.16 Along the length of the scheme, there would be ancillary works include culverts, highway drainage attenuation ponds, new sections of rights of way, bunding and false-cuttings, provision of replacement ponds, planting and other mitigation measures. The HA regard all the foregoing works as integral parts of the NSIP. I agree. Together with works regarded as associated development, which are summarised in the following paragraphs, all the works are detailed in Schedule 1 to the DCO.

Associated development

- 3.17 HA treat as associated development a series of accommodation works to enable retention of access and drainage to affected land holdings, including proposed replacement parking for Tabley Parish Hall and St Paul's Church, Tabley (Associated development Work No 1). I accept that the works are not strictly integral parts of the road improvement but facilitate its implementation through addressing concerns raised by Affected Persons and Interested Parties.
- 3.18 Associated development Work No 2 comprises the relocation of the Vehicle & Operators Services Agency (VOSA) Goods Vehicle Test Station from the existing A556 to the centre of the Bowdon roundabout. I agree that it would facilitate the implementation of the road improvement scheme. Associated development Work No 3 is the improvement of the M6 southbound carriageway through conversion of the existing hard shoulder into an additional running lane to ease the merge for southbound traffic. There would be some encroachment on the existing highway verge to form the lead in to widened motorway and there would be an additional cantilever gantry positioned close to an existing bridge. As this work could have been undertaken separately, like the proposed M56 Junction 7 merges works, it is in my judgement rightly treated as associated development in so far as it facilitates the operation of the improvement scheme.
- 3.19 Associated development Work No 4 groups together all the works associated with the de-trunking of the existing A556, including reducing the cross-section to a rural type single carriageway and construction of a new route for non-motorised users alongside from M6 Junction 19 to the new at grade junction at Millington Lane. I accept that these works are rightly regarded as associated development as they can only be undertaken after the completion of the main improvement scheme, but are nevertheless to facilitate the achievement of its objectives.
- 3.20 Associated development Works Nos. 5, 6 and 7 comprise the diversions of gas, oil and water pipelines respectively at the locations where they cross the new road alignment at Tabley, near Chapel Lane and near Millington Lane respectively. These works facilitate the implementation of the improvement scheme

Maps and Plans

- 3.21 A location map was included in the application documents (APP-010), together with a series of Land Plans, Works Plans, Rights of Way and Access Plans and Engineering Drawings and Sections specifying key features of the scheme. Those initially submitted were Rev 0 (APP-011 to 014). They were supported by Special Road Plans, De-trunking Plans and Crown Land Plans (APP-015 to 017).

- 3.22 During the Examination additional plans were submitted illustrating structures and associated development and these are detailed in relation to the wording of the DCO in section 8. Amendments were also made during the Examination to the plans showing the key features of the scheme. Rev 1 variants were submitted to make minor corrections such as to rights of way linkages and to embody the formal change to the DCO referred to in the following sub-section. To bring the plans fully in conformity with the position reached at the close of the Examination, a Rev 2 series of plans were submitted shortly before the Examination closed (REP-150 to 153).
- 3.23 The Environmental Statement accompanying the application (APP-030 to 032) includes an Environmental Masterplan in Volume 1. There are also a series of appended plans and photographs entitled Volume 2 Figures A-T (APP-033 to 053) which illustrate many aspects of the context for the scheme and aspects of the works and related mitigation. Certain of these illustrations were augmented during the Examination and these are referred to in section 5.

Amendments to the application during the examination

- 3.24 During the course of the Examination a number of minor alterations to the wording of the DCO and related plans and drawings were made to correct matters that had been drawn to the applicant's attention in representations or in response to points that I raised. These are indicated in the various iterations of the DCO that are detailed in section 8 and in the Rev 1 drawings already referred to. During December 2013, the HA first drew attention to the possibility that to mitigate air quality consequences of the scheme, a 60 mph speed limit might be imposed on the greater part of the new road. A consultation was undertaken between 19 December 2013 and 20 January 2014 and a formal application to make changes to the submitted DCO was made on 24 January 2014 alongside a report on the outcome of the consultation exercise (AS-045).
- 3.25 The proposed changes included the proposed imposition of a 60 mph speed limit on opening, amendments to the gas pipeline diversion proposals at Tabley in response to representations from National Grid and various additions to the DCO boundary to facilitate temporary occupation in order to undertake accommodation and mitigation works sought by various landowners. Correspondence was necessary with the HA to clarify whether Regulation 4 of the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 applied. This regulation requires the procedure detailed in Regulations 5–19 to be followed where it is proposed to include in an order granting development consent a provision authorising the Compulsory Acquisition of additional land. Having established that the Regulation did not apply, as HA amended Articles 20 and 23 so that the Compulsory Acquisition

powers that would be conferred by Article 26(8) would be excluded in relation to the additional land, I accepted the proposed changes as not material and this decision was notified to the applicant and Interested Parties on 17 February 2014 (DEC-011).

- 3.26 The final version of the DCO submitted by the HA – Rev 6 (PD-131) incorporates the proposed changes, as do the Rev 2 series of drawings and the related updated Book of Reference (REP-150 to 153). This version of the DCO and related documents also incorporate further agreed changes with National Grid and certain landowners and the HA response to certain matters that were raised at the hearings on 20 February 2014.

Planning history

- 3.27 In the 1980s a 3-lane motorway proposal to replace the A556 between M6 Junction 19 and M56 Junction 7 with free-flowing junctions at either end was developed and consulted upon to address the perceived problems with the existing A556. It was considered at a public Inquiry in August 1993 and the Orders to give effect to this proposal were made by the then Secretary of State in June 1996. This information is given in Section 3 of the Consultation Report as part of the history of previous consultation (APP-018 to APP-023).
- 3.28 As part of my examination of alternative options, in response to representations that previous history was being misrepresented or ignored, full details of this scheme were obtained. The Inspector's Report and the Secretary of State's approval letter are set out in (REP-118). Apart from the swept path junctions at the ends, the scheme then approved was broadly similar to the DCO proposal, but the earlier scheme had a substantially larger footprint because of the motorway configuration and the nature of the southern junction which involved works starting south of Knutsford Services Area. The difference in footprint is shown in (REP-123). The A556(M) scheme took up some 160 ha of land while the current application involves around 83 ha.
- 3.29 After the change of government in 1997, the scheme was put on hold and movements within the strategic corridor considered again on a multi-modal basis in the MIDMAN Study. This resulted in consideration of an alternative scheme involving M6 Junction 20/M56 Junction 9 being made into an all-movements junction to allow free flow of south to east and east to south traffic between the M6 and the M56. This alternative is addressed at greater length in section 5 of this report, but the outcome was a statement by the then Secretary of State on 1 April 2003 that the previously approved motorway proposal was not acceptable and that the alternative was not value for money (REP-121). Instead the Highways Agency was asked to work with local stakeholders to identify smaller-scale measures for the A556, a process that led up to the present application.

- 3.30 In the interim, a scheme was identified in 2003 and Orders were promoted for a localised improvement to address safety concerns at the Bucklow Hill junction between the A556 and A5034, albeit that this scheme was only promoted as a short or medium-term solution. The scheme would have introduced a 'G-turn' facility, a junction where to make a right turn, traffic is led off to the left before crossing the opposite lane under signalised control. However, in working up the scheme, substantial additional costs were encountered. Consequently, the orders were withdrawn in July 2005 prior to public inquiry as the scheme was no longer considered to represent value for money (REP-143). Much more limited improvements to that junction were undertaken in 2007.
- 3.31 The Route Management Strategy study that followed from the then Secretary of State's decision was conducted between 2003 and 2005, with public consultation during 2004. The study initially considered measures to improve the existing A556 along its existing alignment to a consistent dual carriageway standard. The published conclusion endorsed this approach but with a bypass around Mere crossroads.
- 3.32 Further public consultation took place in 2007 on two options, the first to give effect to that conclusion, but with an alternative extending the off-line length to bypass both Mere and Bucklow Hill. The clear public preference was for the second option of an extended bypass. A route announcement was made in 2008 confirming this approach with a junction at the A50. In 2009, further consultation took place in respect of the southern end of the scheme. The outcome was a decision to extend the off-line improvement back to M6 Junction 19 in line with the approach preferred by the majority of respondents.
- 3.33 Some minor variations were subsequently incorporated as a result of the 2009 consultation and engagement with stakeholders prior to the start of the PA 2008 pre-application procedure on the current application in April 2010.
- 3.34 Details of both the earlier consultations and the PA 2008 consultation are contained in the Consultation Report (APP-018 to APP-023).

4 LEGAL AND POLICY CONTEXT

ENVIRONMENTAL STATEMENTS AND PLANNING STATEMENTS

- 4.1 As required by the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009, as a development likely to have significant environmental effects, the application was accompanied by an Environmental Statement (APP-030 to APP-060).
- 4.2 As a written representation from the applicant, an Addendum to the Environmental Statement (ES) was submitted in September 2103 at the start of the Examination. The Addendum states that it was submitted as a consequence of updating the traffic modelling data so that all modelling is on a consistent basis in order to evaluate the economic benefit of the scheme as required under WebTag. This is because work had started on the original ES in 2012. The consequence of the updated modelling is lower baseline flows on the existing A556, though higher on the A50 and A5034, higher anticipated growth on the new road and greater anticipated falls on the existing A556. Consequently, the sections on noise and air quality effects, which derive very much from projected changes in traffic flows, were wholly replaced together with comment on the implications for other assessed parameters (REP-037 to REP-041). This environmental information was not sought but was volunteered by the applicant. It is regarded as 'any other information' (as defined in in Regulation 2 of the EIA Regulations 2009, as amended). It is helpful in ensuring that all assessments are on a consistent basis.
- 4.3 In January 2014, a Second Addendum to the Environmental Statement was submitted to accompany the proposed formal changes to the application. Again this provides replacement noise and air quality assessments and comment on the additional land to be temporarily occupied (REP-110 to REP-113). The traffic flow projections for the anticipated opening year of 2017 show a modest reduction in the anticipated traffic using the proposed road as a consequence of the proposed initial 60 mph speed limit. Environmental consequences are accordingly reduced. Again this information is regarded as 'any other information' that helpfully illustrates the consequences of the intended temporary speed restriction. Further clarification of the consequences in relation to Air Quality is provided in Appendix B to the applicant's oral summary of cases put on 20 February 2014 (EV-027), but the clarification did not add new information but rather presented it more clearly.
- 4.4 There was criticism from some Interested Parties that there were inadequacies or inconsistencies in the modelling which is so central to the assessment both of benefits and environmental consequences of the scheme. These arguments are primarily addressed in section 5. The footnote to Table 2.2 in all the

iterations of the Environmental Statement flags up some of the limitations involved in selection of data. I am satisfied that the Addendum 1 and Addendum 2 statistics are presented on a basis that is consistent with other analysis that has been produced by the applicant during the Examination.

- 4.5 The application was accompanied by a Planning Statement (APP-007). This statement drew heavily on support from the then Regional Spatial Strategy and related documents, but shortly after the application was submitted the Regional Spatial Strategy was revoked. The bodies that were responsible for it and for supporting economic strategies have been abolished. As a consequence, I asked the applicant to submit an updated Planning Statement that did not rely upon documents that were no longer part of the development plan. This revised Planning Statement was submitted on 16 August 2013 (REP-223 to REP-225). A second revision (AS-061) was submitted on 17 January 2014 to take account of the HA's assessment of the scheme in relation to the Consultation Draft of the National Networks National Policy Statement (AS-023) and to provide further detail in relation to the Green Belt in the locality of the scheme. These matters are considered further in section 5 of this report.

PLANNING ACT 2008, AS AMENDED BY THE LOCALISM ACT 2011 - NATIONAL POLICY STATEMENTS

- 4.6 Under PA 2008, provision exists for a National Policy Statement to be made covering each of the areas listed in s14. However, at the start of the Examination no relevant National Policy Statement (NPS) had been published. A Consultation Draft of such a statement was published on 4 December 2013 during the Examination with a consultation period that ran until 26 February 2014. I asked the applicant and IPs for comment on the draft but at the close of Examination the Government's response to the consultation had not been produced and the Parliamentary process had not been completed. Consequently, the Examination and this report has been completed, in the absence of a relevant designated National Policy Statement, under s105.
- 4.7 Unless the National Networks NPS is adopted prior to decision, the Secretary of State will have to consider the application under s105 and have regard to:
- the Cheshire East Council Local Impact Report
 - any matters prescribed in relation to development of the description to which the application relates, and
 - any other matters which the Secretary of State thinks are both important and relevant to the decision.
- 4.8 The Consultation Draft of the National Networks NPS is a matter that is relevant to the decision albeit that the weight that can be afforded to it is limited by its consultative status, with no

government response to the consultation or Parliamentary scrutiny report published prior to the close of the Examination. The National Planning Policy Framework is also relevant but its weight is also limited as a consequence of the caveats within it explaining the limited extent to which it applies to national infrastructure projects.

- 4.9 Only a limited number of applications for National Infrastructure Projects have yet been determined under the PA 2008, but a number of these do relate to transport projects. I was the ExA for the Heysham to M6 Junction 34 Link Road DCO (Reference TR010008) and consider that the judgement on the challenge to the Secretary of State's decision to approve that scheme does contain a relevant precedent in relation to the appropriate treatment of alternatives as does that on the challenge to the approval of a substantially similar scheme considered under the Town & Country Planning Act (TCPA) 1990 in 2008. The Order itself provides precedents in relation to the wording of requirements. The decision in respect of the M1 Junction 10A Grade-separation (Reference TR010009) also provides a precedent in relation to the creation or modification of cycle-tracks. These matters are referred to in sections 5 and 8 of this report.

EUROPEAN REQUIREMENTS AND RELATED UK REGULATIONS

Habitats Directive (Council Directive 92/43/EEC)

- 4.10 The Habitats Directive (together with the Council Directive 79/409/EEC on the conservation of wild birds (Wild Birds Directive)) is at the core of Europe's nature conservation policy. It has two strands: the Natura 2000 network of protected sites and a strict system of species protection. The directive protects over 1000 animals and plant species and over 200 habitat types (for example: special types of forests; meadows; wetlands; etc), which are of European importance.

Birds Directive (Council Directive 2009/147/EC)

- 4.11 The Birds Directive is a comprehensive scheme of protection for all wild bird species naturally occurring in the European Union. The directive recognises that habitat loss and degradation are the most serious threats to the conservation of wild birds. It therefore places great emphasis on the protection of habitats for endangered as well as migratory species. It requires classification of areas as Special Protection Areas (SPAs) comprising all the most suitable territories for these species. Since 1994 SPAs form an integral part of the Natura 2000 ecological network.
- 4.12 The Birds Directive bans activities that directly threaten birds, such as the deliberate killing or capture of birds, the destruction of their nests and taking of their eggs, and associated activities such

as trading in live or dead birds. It requires Member States to take the requisite measures to maintain the population of species of wild birds at a level which corresponds, in particular, to ecological, scientific, and cultural requirements while taking account of economic and recreational requirements.

Conservation of Habitats and Species Regulations 2010 (as amended)

Conservation of Habitats and Species (Amendment) Regulations 2012

- 4.13 The Conservation of Habitats and Species Regulations 2010 replaced The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) in England and Wales. The Conservation of Habitats and Species Regulations 2010 (which are the principal means by which the Habitats Directive is transposed in England and Wales) update the legislation and consolidated all the many amendments which have been made to the regulations since they were first made in 1994.
- 4.14 The Conservation of Habitats and Species (Amendment) Regulations 2012 came into force on 16 August 2012. These Regulations amend the Habitats Regulations. They place new duties on public bodies to take measures to preserve, maintain and re-establish habitat for wild birds. They also make a number of further amendments to the Habitats Regulations to ensure certain provisions of Directive 92/43/EEC (the Habitats Directive) and Directive 2009/147/EC (the Wild Birds Directive) are transposed clearly.
- 4.15 Rostherne Mere and the meres that comprise The Midland Meres and Mosses Phase 1, which are all situated just to the east of the existing A556, are Ramsar sites that are treated in the same way as SPAs, as European Sites. In addition, the scheme passes through land which although free of designation, provides habitat for a number of European Protected Species such as great crested newts and certain bats. The prospective effect on the European Sites and Species has therefore to be very carefully considered. The effect on protected sites is specifically considered in section 6 of this report and in Annex G, which is a Report on the Implications on European Sites (RIES). Issues in relation to protected species are considered in section 5.

Water Framework Directive

- 4.16 On 23 October 2000, the 'Directive 2000/60/EC of the European Parliament and of the Council establishing a framework for the Community action in the field of water policy' or, in short, the EU Water Framework Directive (WFD) was adopted.
- 4.17 The WFD establishes a comprehensive framework in which to safeguard the quality of water resources including both surface

waters and ground water on a river basin approach. Consideration of the implications of the proposed highway drainage both with regard to water quality in the streams and rivers into which outfalls drain and in relation to flood risk have been assessed having regard to the requirements of the Directive.

Air Quality Directive

- 4.18 EU Directive on Ambient Air Quality and Clean Air for Europe (2008/50/EC) sets out a range of mandatory Limit Values (LV) for different pollutants including nitrogen dioxide (NO₂) and particulates of less than 10 microns (PM₁₀). The annual LVs for both are 40 µg m³. The Department for the Environment, Food and Rural affairs (Defra) reports conditions for 43 zones and agglomerations annually to the European Commission. As of February 2013 only 3 of 43 zones in England comply with the EU Directive for NO₂ but only the Greater London zone breaches the PM₁₀ LV. An air quality assessment of the A556 scheme (operating at either 70 mph or 60 mph) on the UK's ability to comply with the Directive has been undertaken using Defra's national compliance assessment in accordance with the advice in IAN 175/13 (REP-145). The Compliance Risk Assessment was determined to be a low risk for both 60 mph and 70 mph in 2017 and would not in either instance result in delaying compliance with the legally binding directive (EV-027). The Compliance Risk Assessment is summarised in Section 6.5 of the ES Addendum No 2 (REP-110 to REP-113) and detailed in Appendices 6.1 and 6.9 of the first ES Addendum (REP-037 to REP-041).

Government Transport Policy

- 4.19 In the period following the submission of this application and during the Examination there were changes to Government Transport Policy. The initial Planning Statement (APP-007) referred to the White Paper 'Delivering a Sustainable Transport System' (DaSTS) which was published by the Department for Transport (DfT) in November 2008 (REP-228). The statement noted that it re-classified the section of the A556 that is proposed to be replaced by the DCO scheme as a road of national/international importance rather than of only regional importance. While the significance of the proposed change was overtaken by the abolition of the Regional Development Agencies after the change in Government in May 2010, the re-classification demonstrates the importance attached to this section of road.
- 4.20 That White Paper set five goals for transport. These included supporting national economic competitiveness and growth by delivering reliable and efficient transport networks; to contribute to better safety, security and health; to promote greater equality of opportunity and improve quality of life. However, they also included an objective to reduce transport's emissions of carbon

dioxide and other greenhouse gases to address climate change and promotion of a healthy natural environment.

- 4.21 DaSTS also referred to the Climate Change Act 2008 (then only a Bill) with its mandatory overall target reduction of 80% in greenhouse gas emissions by 2050.
- 4.22 It should be noted that in response to one of the ExA's second round of questions, HA refers to this document as relating to a previous government (REP-098), but it is still referred to in the revised Planning Statement (REP-223 to REP-225) and in the further second revision to the Planning Statement submitted in January 2014 (AS-061). I have therefore still afforded it some weight.
- 4.23 The initial Planning Statement also refers to the May 2010 document 'The Coalition: our programme for government' stating that modern transport infrastructure is essential for a dynamic and entrepreneurial economy as well as to improve well-being and quality of life." The new Government then published 'Investment in Highways Transport Schemes' in October 2010². This scheme was listed as one of 14 schemes to have funding confirmed and as one of the "Three major bottlenecks [that] will be removed." The prioritisation had been made after an assessment of public value for money, strategic value, deliverability and non-monetised impacts. The process had considered schemes previously advanced through Regional Funding Allocations and the document stressed the importance of schemes prioritised in promoting much-needed economic growth. The scheme then was recognised in the 'National Infrastructure plan 2011', which states that "Infrastructure networks form the backbone of a modern economy and are a major determinant of growth and productivity." The scheme was listed in this document under the heading 'Addressing congestion and improving performance of the road network' and it remained as a priority project in the 2012 update of the National Infrastructure Plan.
- 4.24 A similar re-affirmation of the need to invest in the strategic road network to promote growth and address the congestion that affects people and businesses and to continue to improve road safety was set out in the DfT Business Plan 2012-2015.
- 4.25 The revised Planning Statement (REP-223 to REP-225) draws attention to policy documents published since the submission of the application. In particular, HM Treasury published 'Investment in Britain's future' in June 2013. This contains a commitment to the biggest programme of investment in roads since the 1970s and refers to the A556 scheme.

² This document is appended to the Funding Statement (APP-063)

- 4.26 'Action for Roads: A network for the 21st Century' was published by the DfT in July 2013. This highlights that 65% of lorry traffic is carried on the 2% of roads comprising the strategic network, that while overall traffic has reduced since 2007, that on the strategic network is broadly constant at 2007 levels and even on the lowest growth assumptions, traffic on strategic roads is likely to grow by 24% by 2040 and by 46% on central assumptions. It suggests that without action there will inevitably be increases in congestion, delays, journey time unreliability, constraints on the economy and increases in pollution. Section 2 re-affirms the priority for the A556 scheme. These two documents are at (REP-231 and REP-227 respectively).
- 4.27 In my judgement, taken together all these policy documents provide clear support for the application, notwithstanding the reference to the need to reduce carbon emissions, a matter that will be referred to further in section 5 of this report.

Other Legal and Policy Provisions

National Planning Policy Framework

- 4.28 The ExA recognises this to be a matter that is relevant and important in the absence of a designated National Networks NPS. However, the NPPF states that "This framework does not contain specific policies for nationally significant infrastructure projects for which particular considerations apply. These are determined in accordance with the decision-making framework set out in the PA 2008 and relevant policy statements for major infrastructure, as well as any other matters that are considered both important and relevant (which may include the National Planning Policy Framework)" (paragraph 3).
- 4.29 The NPPF introduced a 'presumption in favour of sustainable development' and cites core planning principles, but it also states that "This National Planning Policy Framework does not change the statutory status of the development plan as the starting point for decision-making. Proposed development that accords with an up-to-date Local Plan should be approved" and that "Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise" (paragraphs 12 and 11).
- 4.30 The 'presumption in favour of sustainable development' is stated to mean "approving development proposals that accord with the development plan without delay" with where a development plan is absent, silent or relevant policies are out-of date, granting planning permission unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF taken as a whole or specific policies indicate that development should be restricted.

Examples of the latter that are given refer to habitats or species' protection, Green Belt or flood risk (paragraph 14). The NPPF also states that sustainable development has three dimensions, namely economic, social and environmental.

- 4.31 It is necessary therefore to consider the development plan although this does not preclude consideration of the core planning principles and in particular whether adverse impacts outweigh benefits and whether specific policies would indicate that development must be restricted. Although a number of the core principles relate to environmental considerations, others refer to economic or social issues reinforcing the standpoint that for development to be truly sustainable all aspects need to have been taken into account – economic and social as well as environmental. For example, they include driving and supporting economic development to deliver infrastructure and the need to achieve high quality design as well as protecting the Green Belts and countryside and supporting change to a low-carbon economy. If reliance has to be placed on the core principles of the NPPF because the development plan is regarded as being out of date a balanced judgement still has to be made.

Other Guidance

- 4.32 Other policy statements such as the UK Low Carbon Transition Plan that follows from the Climate Change Act 2008 has relevance, but the approach to the prospective increase in carbon emissions was subject of specific policy guidance from the DfT (AS-041). The Annex to Circular 11/95 remains extant as part of National Planning Guidance on drafting planning conditions. This has relevance to the drafting of Requirements as these are analogous to planning conditions.

The National Parks and Access to the Countryside Act 1949

- 4.33 The Act establishes powers to declare National Nature Reserves, to notify Sites of Special Scientific Interest (SSSIs) and for local authorities to establish Local Nature Reserves. Rostherne Mere and the Midland Meres and Mosses Phase 1 are SSSIs and Rostherne Mere is set within a National Nature Reserve.

The Wildlife and Countryside Act 1981 (as amended)

- 4.34 The Wildlife and Countryside Act 1981 is the primary legislation which protects animals, plants, and certain habitats in the UK. The Act provides for the notification and confirmation of Sites of Special Scientific Interest (SSSIs). These sites are identified for their flora, fauna, geological or physiographical features by the countryside conservation bodies (in England Natural England). The Act also contains measures for the protection and management of SSSIs.

- 4.35 The Act is divided into four parts: Part I relating to the protection of wildlife, Part II relating to designation of SSSIs and other designations, Part III on public rights of way and Part IV on miscellaneous provisions. If a species protected under Part I is likely to be affected by development, a protected species licence will be required from Natural England.
- 4.36 This has relevance to consideration of impacts on SSSIs and on protected species and habitats. In considering the application, the impact on the SSSIs is addressed in relation to the European Protected Sites as the scheduled areas are also Ramsar Sites. Particular attention has been paid to the period for construction and precise nature and location of a proposed retaining wall on the boundary of the National Nature Reserve.
- 4.37 In addition to the species related to the SSSIs/Ramsar sites, particular attention has been given to the implications for Protected Species such as great crested newts, bats and badgers.

Natural Environment and Rural Communities Act 2006 and United Nations Environment Programme Convention on Biological Diversity 1992

- 4.38 The Natural Environment and Rural Communities Act made provision for bodies concerned with the natural environment and rural communities, in connection with wildlife sites, SSSIs, National Parks and the Broads. It includes a duty that every public body must, in exercising its functions, have regard so far as is consistent with the proper exercising of those functions, to the purpose of biodiversity. In complying with this, regard must be given to the United Nations Environment Programme Convention on Biological Diversity of 1992.
- 4.39 This is of relevance to biodiversity, biological environment and ecology and landscape matters in the proposed development. As required by Regulation 7 of the Infrastructure Planning (Decisions) Regulations 2010, I have had regard to this Convention in my consideration of the likely impacts of the proposed development and appropriate objectives and mechanisms for mitigation and compensation are contained in the DCO as recommended. I considers that full implementation of the proposed mitigation including on-going ecological management will ensure compliance with the Act and Convention

Transboundary Effects

- 4.40 Under Regulation 24 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (EIA Regulations), a negative screening decision has already been issued on behalf of the Secretary of State. The screening matrix produced on behalf of the Secretary of State is set out at (APP-061).

- 4.41 I have kept the duty under Regulation 24 in mind during the Examination, but in the light of all the evidence I endorse the judgement that the proposed development is not likely to have significant effects on the environment in another European Economic Area state.

Local Impact Report

- 4.42 There is a requirement under s60(2) of PA2008 to give notice in writing to each local authority falling under s56A inviting them to submit Local Impact Reports. A Local Impact Report has been submitted by Cheshire East Council (CEC) (PD-034), the local authority in whose area the DCO scheme is located, and regard must be had to this under s105.
- 4.43 The principal matters raised in the LIR are concerns over the submitted design of the proposed junction of the A50 and the new A556 and the routing of visitor traffic to and from Tatton Park, a major historic estate tourist attraction that is managed by the Council on behalf of the National Trust. Reference is also made to the need to agree detailed design of the main junctions that would remain on the de-trunked existing A556 following the proposed de-trunking works that had been drawn up after extensive consultation between HA and the Council.
- 4.44 In the LIR, the Council indicates that it is generally supportive of the scheme having engaged and challenged the HA on alternative options. They consider that it will improve strategic access to the motorway network for CEC residents and businesses and relieve significant congestion issues along the existing A556 and at the junctions at each end. They note the substantial reduction of traffic forecast for the settlements of Mere and Bucklow Hill, that traffic would also be substantially reduced on the A5034, though it would be increased on the A50 partially as a result of re-assignment from the A5034. They note, however, that the increased flows predicted on the A50 would be well within the link capacity of that road.
- 4.45 The Council's residual concerns are that the modelling used by HA may not assess consequences on minor roads very accurately, though they accept that the result is likely to be an over-estimate of traffic on those lanes so a worst case scenario is forecast. Nevertheless, they seek sums to be made available to address potential issues already foreseen, including in relation to forecast traffic increases on the A556 south of M6 Junction 19, and also to fund monitoring and measures to tackle any unforeseen consequences.
- 4.46 The Report also assesses the Air Quality implications of the scheme in relation to the designated Air Quality Management Area (AQMA) along the existing A556 and the wider area. It concludes that the scheme overall is in compliance with the Council's Air

Quality Action Plan (2011) and the broader aims of its Air Quality Strategy. Mitigation is sought to offset negative local impacts. It considers the impact on cultural history and archaeology, but accepts that mitigation and procedures followed address issues identified and comply with national and local guidance. It should be noted that further information in relation to the Listed Buildings and some indications of greater concern in respect of their setting or structural integrity were subsequently contained in (REP-141). The Listing particulars of those buildings are set out in (REP-127).

- 4.47 Some issues of concern in relation to ecology are raised so that at the time of writing the LIR, the development proposed was not considered to be fully sustainable in terms of ecology with legally binding mitigation needing to be secured. However, the drainage strategy proposed to divert highway drainage away from the meres is explicitly supported. As far as impact on the landscape is concerned it is agreed that over time the proposed landscaping measures will reduce the impact to a level below that which would be considered significant in environmental impact terms. Mitigation for loss of woodlands is considered adequate.
- 4.48 These matters are considered further in relation to the principal issues identified in section 5 of this Report.

The Development Plan

- 4.49 Following the revocation of the North West Regional Spatial Strategy, the development plan for the locality comprises saved policies of the Macclesfield Borough Local Plan 2004. Details are provided in the LIR and in (REP-043).
- 4.50 The policies include GC1 – Green Belt. Within the Green Belt approval should not be given for inappropriate development except in very special circumstances. The extent of the Green Belt in the former Macclesfield Borough area and in neighbouring areas is shown in (REP-140).
- 4.51 There are a number of Transport Policies including T1 that would judge transport proposals on criteria including reducing noise and congestion. T6 supports highway improvement schemes which reduce accidents and traffic hazards and T7 safeguards land for the DCO scheme (though that differs in places from the scheme shown indicatively in the adopted local plan). T8 supports traffic management measures and environmental improvements on and adjacent to roads that are relieved of heavy traffic and T11 more generally supports improvement of strategic highways between Macclesfield and the M6. There are also a number of saved environmental policies that have particular relevance, namely NE1, NE2, NE5, NE6 and NE9, DC9, BE2, BE16, H13 and DC3 that seek to protect aspects of landscape, ecology, historic building and their settings and to protect residential amenity. Policies DC17-20 relate to flood protection and safeguarding water resources.

- 4.52 A core strategy for the relatively recently constituted Cheshire East Council's area is under preparation. Although not yet part of the development plan, and having limited weight given the stage reached in the adoption, the pre-submission policy principles cover similar matters. Details of the prospective development sites considered in the traffic modelling are referred to in the Written summary of HA comments made at the Issue-specific hearings on 11 & 12 December (EV-018) and are more fully set out in the Traffic Forecasting Report (REP-270) that was supplied in November 2013.

The Secretary of State's powers to make a DCO

- 4.53 The ExA is aware of the need to consider whether changes to the application mean that the application has changed to the point where it is a different application and whether the Secretary of State would therefore have power under s114 of PA2008 to make a DCO in the form recommended having regard to the development consent applied for.
- 4.54 S114(1) places the responsibility for making a Development Consent Order on the decision-maker, and does not limit the terms in which it can be made. The most substantial changes to the submitted DCO arose through the proposed changes formally submitted on 24 January 2014 (AS-045), these changes involving the initial imposition of a 60 mph speed limit, amended proposals for the diversion of a National Grid gas pipeline and minor alterations to the DCO boundary to facilitate agreed accommodation and mitigation works. These proposals were accepted by the ExA on behalf of the Secretary of State on 17 February 2014 (DEC-011).
- 4.55 In exercising this power in relation to the recommended DCO, the Secretary of State may wish to take into account the views of the ExA that the other changes made by the applicant to the submitted DCO made during the Examination are of a minor nature and essentially serve to provide safeguards for affected Statutory Undertakers and safeguards by way of strengthened requirements in relation to the interests of the relevant planning authorities, statutory consultees and the wider community. Otherwise, those changes were simply to correct minor errors in the documentation including supporting plans and drawings.
- 4.56 As far as the further changes that the ExA recommends in the version of the Order that is set out as Annex I to this report, these merely seek additional clarification in relation to certain works that are proposed, to further strengthen requirements and give effect to the ExA's conclusions that in relation to a small number of plots, the tests for Compulsory Acquisition are not met. In no cases would the changes alter the substance of the submitted DCO.

4.57 In summary, therefore, the ExA recommends that the Secretary of State would not be in breach of s114 to make the Order in the form recommended

5 FINDINGS AND CONCLUSIONS IN RELATION TO POLICY AND FACTUAL ISSUES

- Main Issues in the Examination

5.1 The principal issues that the ExA identified in advance of the Preliminary Meeting were as follows:

Planning Policy Context

- The Planning/Policy context in the absence of a designated National Networks NPS and following the revocation of the North West RSS.

Need

- The justification for the DCO scheme in terms of need.

Consideration of realistic alternative options and alignments

- The availability of realistic alternative options for meeting the objectives of the scheme whether by promotion of alternative modes or alternative schemes such as those suggested involving M6 J20, online improvements, combinations thereof or modifications to the alignment of the DCO scheme.
- The value for money of such alternatives as compared to the DCO scheme.
- The appropriateness of the proposed junction strategy.

Traffic flows

- Whether the implications for the highway network have been assessed over an appropriate area.
- Whether the detailed implications for traffic flows on minor roads in the vicinity of the scheme have been adequately assessed and taken into account.

Visual, Noise, Air Quality and other Impacts including

- Impact of the proposed new road, embankments, bridges and other related works including the proposed de-trunking measures along the existing A556 on nearby properties.
- The general impact of the scheme and its design on the Green Belt, countryside and amenity.

The effect on rights of way and routes for Non-motorised users.

Natural Environment including

- Impacts on protected sites, protected species, local wildlife and ecology and proposed mitigation measures, in particular in relation to Rostherne Mere, great crested newts, barn owls and badgers.
- Effects on local drainage during construction and operation.
- The cumulative impact of the DCO Scheme and HS2 both in relation to general environmental considerations and also in combination effects of these two schemes in relation to protected sites and species.

Socio-economic Impact including

- Impact on the local and wider economy and the economic development of the area, inter-regional communications and access to international gateways.
- The impact of the DCO scheme on farm and estate holdings.

Compulsory Acquisition including

- Justification for the proposed Compulsory Acquisition of the land, rights and temporary access rights and powers sought in the draft DCO having regard to the requisite statutory tests.

Overall

- Whether consistency of the project with relevant policy, the economic impact and environmental benefits to some interests outweigh harm to other interests including harm arising through development within the Green Belt so as to justify recommending that the DCO be made with appropriate requirements and obligations.

- 5.2 At the Preliminary Meeting some additional points were raised, but these essentially involved examining certain aspects in more detail concerning traffic flows, junction strategy and minor road linkages, together with certain matters relating to aspects of proposed Compulsory Acquisition.

Issues arising from written submissions

- 5.3 The initial Relevant Representations from the some 70 persons or bodies listed in Annex D³ influenced greatly the initial discernment of the foregoing Principal Issues. These, together with subsequent Written Representations, highlighted the need to give closer attention to the effect on the settings of historic buildings and this, too, is considered in detail in this section of the report. In addition a key role provided by the Written Representations was to reveal the need for additional background information to be provided or disclosed. Most of the schedules of requests and questions raised by the ExA prior to the Preliminary Meeting under s89(3) and during the Examination under Rule 8 and Rule 17 were to ensure that all relevant information e.g. in relation to HS2 or the traffic modelling undertaken by the applicants, was before the Examination. All representations received were taken into account.

Issues arising in Local Impact Reports

- 5.4 As already indicated, Cheshire East Council in their Local Impact Report (PD-034) is broadly supportive of the DCO scheme. The points of detail over which they were not initially satisfied at the time that the LIR was drafted were pursued through updates of the Statement of Common Ground between HA and the Council. Council Officers also participated actively at oral hearings and in attendance at relevant accompanied site visits where they pointed out relevant features.
- 5.5 Only in respect of the junction strategy for the DCO scheme was the LIR challenged by other Interested Parties. Mere Parish Council questioned why Cheshire East Council are now in support of the HA proposal to take forward what is essentially junction strategy 1b rather than continuing to support junction strategy 0 as recorded in the Consultation Report (APP-018 to APP-023). This issue is explored in detail in this section of the report.

Structure of the Examination

- 5.6 In the light of the foregoing, the ExA structured oral hearings around a related group of issues concerning traffic flows, alternative options and variations in alignments including junction strategy and related matters such as air quality and this section of the report deals in detail with these issues. Substantial time was

³ Treating all the individual representations on behalf of Cheshire East Council as a single body

also allowed to address objections to Compulsory Acquisition and the detailed wording of the DCO in order to assess the adequacy of protective provisions to safeguard the interests of Statutory Undertakers and safeguards in the form of Requirements more generally. These latter matters are primarily addressed in sections 7 and 8.

Conformity with local plan policies

- 5.7 I consider that the saved Transport policies of the Macclesfield Local Plan 2004⁴ are supportive of the DCO proposal, particularly policies T6-T8, as these identify the need for the scheme and it is shown it on the Local Plan Proposals Map, notwithstanding any divergence of the scheme from the indicative alignment. The situation with regard to the environmental policies is less clear cut. In certain instances, some conflict potentially arises, such as in relation to the effect on the setting of Listed Buildings (BE16). The net consequences have to be assessed over matters such as residential amenity (H13 and DC3). However, in relation to other policies such as in respect of flood risk and safeguarding water resources (DC17-DC20) are clearly satisfied through the Flood risk assessment undertaken and the arrangements for surface water drainage.
- 5.8 Most fundamentally, as the DCO scheme runs through the Green Belt there is a potential conflict with Policy GC-1. Paragraph 87 of the NPPF advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except 'in very special circumstances'. Paragraph 90 advises that certain forms of development may not be inappropriate provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within Green Belt⁵. Engineering operations and local transport infrastructure which can demonstrate a requirement for Green Belt location are amongst those forms of development listed.
- 5.9 Although the latter caveat may be satisfied in so far as all highway alternatives to the DCO scheme that were canvassed would also be situated within the Green Belt, the scale of the land take and of the engineering operations is such that the ExA considers that the DCO works should be regarded as inappropriate development in the Green Belt for which very special circumstances would need to be demonstrated, as was the case with the Heysham to M6 Junction 34 Link Road DCO⁶, which is a road scheme of a broadly comparable scale. Although in their January 2014 revision 2 to the Planning Statement (AS-061), the applicant suggests that it might be possible to come to a contrary conclusion, HA

⁴ See paragraphs 4.47-4.49 of this report.

⁵ Paragraph 80 lists these as including "to assist in safeguarding the countryside from encroachment".

⁶ See paragraph 4.9

nevertheless go on to argue that 'very special circumstances' can be demonstrated.

- 5.10 Paragraph 88 of the NPPF advises that substantial weight should be given to any harm to the Green Belt in considering development proposals. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm is clearly outweighed by other considerations. Consequently, I conclude on conformity in respect of the development plan and whether very special circumstances exist at the conclusion of this section.
- 5.11 As there are relevant policies of the Development Plan, albeit in process of being replaced by the Core Strategy of the new authority, it is not strictly necessary separately to address the DCO scheme in relation to the core principles enshrined in the NPPF and consider in the light of those principles whether the scheme represents sustainable development. Nevertheless, should a contrary view be taken by the Secretary of State, the balancing exercise that I will undertake to establish whether or not very special circumstances exist to justify development in the Green Belt will address the matters that would be balanced within the NPPF. It will also address the question of whether there are any specific policies that would indicate that consent should be withheld.

Conformity with draft NPS and other key policy statements

- 5.12 The DCO scheme is a NSIP by virtue of being a highway wholly in England for which the Secretary of State will be the highway authority under s22 of PA2008. The application was submitted prior to the amendments to that section made by the Highway and Railway (Nationally Significant Infrastructure Project) Order 2013/1883 on 25 July 2013, but the area is in any event greater than the relevant limit set out in s22(4) as amended.
- 5.13 As the Draft National Networks NPS has not yet been designated, its provisions are only one of documents against which the development has to be assessed but these provisions are nevertheless relevant and important considerations which will be given some weight in the following assessment in relation to the principal issues identified and referenced where appropriate. The applicant's assessment of the DCO scheme against the draft NPS is set out as (Appendix 3 of AS-061). North West Transport Activists' Roundtable's (NWTAR's) comments in relation to the draft National Networks NPS are set out in (AS-030).
- 5.14 The issue of value for money will be considered following the assessment of alternatives and the validity of the traffic forecasts. The availability of finance to fund the scheme and in particular the Compulsory Acquisition provisions is addressed in section 7.

ENVIRONMENTAL STATEMENT AND ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

- 5.15 I have considered the adequacy of the ES in examining the application. The aspects that were contested primarily by the A556 Lobby Group and NWTAR/CfBT were whether sufficient consideration had been given to cumulative impacts and in particular that with the proposed HS2 Phase 2 line to Manchester, Manchester Airport and the North and in relation to the consideration of alternatives.
- 5.16 Section 16 of the ES (APP-030) expressly covers the issue of cumulative effects and paragraphs 16.3.9, 16.4.2-16.4.5 and 16.6.2-16.6.6 plus Table 16.4 specifically address the potential cumulative effects with HS2 Phase 2. I initially sought and obtained additional information from the applicant, namely copies of the relevant HS2 Consultation Documents (REP-179 to REP-212) together with a drawing superimposing the HS2 alignments that were subject of the Consultation that ran until 31 January 2014 on the DCO scheme (REP-217 and REP-218). I also sought and obtained a copy of the HS2 Report that detailed options for the relevant section of route (REP-117) and asked whether HS2 Ltd would provide a statement on the extent of flexibility inherent in the consultation. Perhaps understandably as the consultation was on-going, this was not forthcoming. However, HS2 Ltd directed attention to the report detailing refinements to the HS2 Phase One route following the consultation exercise on that section (REP-062).
- 5.17 I am satisfied therefore that sufficient information is available in order to judge the potential cumulative effects with Phase 2 of HS2. The ES correctly identifies potential cumulative major adverse effects on ecology from additional severance together with more minor adverse effects on land holdings and landscape. Nevertheless, it rightly points out that HS2 would need to address the DCO scheme, if consented, as part of the baseline for its final ES having considered possible variations in the alignment and mitigation following the outcome of the consultation.
- 5.18 The refinements to the Phase 1 route following consultation did involve some significant changes to avoid or mitigate identified harm, albeit that a caveat needs to be made that the overall result was a lower cost scheme and cost reduction for the scheme overall is in the forefront of issues over the HS2 project. Radical alternatives previously considered in (REP-117) to approach Manchester Airport from the south-east rather than the south-west would have substantially increased the cost. Nevertheless, I am conscious that responses to the consultation include suggestions for routing via Stoke-on-Trent and that suggestions have been made following the close of the consultation for early construction of part of the HS2 Phase 2 route to an interchange at Crewe. Overall, therefore, I am confident that the outcome of the

consultation on HS2 Phase 2 should be able to address the identified concerns over cumulative effects.

- 5.19 As for consideration of alternatives, the arguments advanced by NWTAR/CfBT and the A556 Lobby Group and its supporters are essentially that these should not simply have been consideration of variants of the DCO scheme but that the application process should have re-considered all possible alternative modes and solutions afresh rather than building upon the stage reached in the evolution of the project. In my view such an approach would run counter to the conclusions accepted in considering the Heysham to M6 Junction 34 Link Road and the outcome of the legal challenges to both the TCPA and PA2008 decisions in respect of that scheme.
- 5.20 As the issue of alternatives was central to the representations made against the DCO scheme, I explored all possible alternatives during the Examination.
- 5.21 The application was accompanied by an Assessment of Implications on European Sites: Habitat Regulation Assessment (HRA) Screening Report (APP-028). This is considered further in section 6, but for the avoidance of doubt the ES confirms at 16.3.10 that this assessment did consider the in-combination effects of other projects. That no in-combination effects are discerned in relation to European Sites is because the DCO scheme itself is not perceived as having an adverse impact on the integrity of such sites. In addition to the responses from statutory consultees, including Natural England and Cheshire East Council, nothing in my study of the application documentation and observations on site visits led me to a contrary conclusion. Other projects such as HS2 Phase 2 would have to address their own potential impact on such sites.

THE PRINCIPLE OF THE DEVELOPMENT

- 5.22 Paragraphs 4.19-4.26 above set out Government Transport and Infrastructure Policy that provides justification for the approach taken to improve a stretch of the strategic highway network. The draft National Networks NPS reinforces the case of need in terms both of policy justification and projected increases of traffic on the strategic network, which includes this section of the A556 (Paragraphs 2.1-2.24 refer accessible via DEC-009). In my judgement, the need for an improvement scheme is primarily established by a need to respond to the adverse safety, congestion and environmental conditions referred to in paragraphs 3.2-3.5 above.
- 5.23 All Interested Parties accept that there is a need to address the problems associated with the existing section of A556 and its junctions with the motorway network at either end. However, many argue that limited online improvements would suffice accompanied by consideration of enhancements to public transport

or, if greater relief were still to be required, that an alternative scheme to turn M6 Junction 20/M56 Junction 9 into a free-flowing all movements junction would be a lower cost option both in terms of public expenditure, land-take and environmental impact. These views are summarised in the final submissions from the A556 Lobby Group (EV-028) and NWTAR/CfBT (AS-073).

Traffic flows

- 5.24 The starting point for this line of argument is the apparent reduction in traffic flows on the existing A556 or at least its lack of growth in recent years. This is flagged-up for example by CfBT in their relevant representations (RR-059). In order to establish the facts of the situation, I sought a time-sequence of traffic flows along the existing A556, the M6 and M56 in the vicinity of the DCO scheme. This is set out in (REP-125).
- 5.25 The sequence does indeed show a reduction in traffic flows over the 10 year period on the A556 and on some but by no means all links in the adjoining motorway network. This reduction is still evident even if the figures for 2003 and 2004 are disregarded because of the note that the A556 figures were compiled over longer sections of road. Moreover, the downturn in flows, where this is evident, starts prior to the financial shocks that heralded the recent recession in 2008. Although there had been some recovery by 2012 and 2013, flows are still below those for 2005 on the A556. This would appear to give some support to the arguments of CfBT that the phenomenon of 'peak car' is now evident in the locality of the DCO scheme. CfBT introduced the background to the peak car debate in (AS-039) and their arguments draw on papers by Professor Phil Goodwin and Van Dender that are summarised in (REP-031). It is argued that the conclusions of the RAC Report 'On the Move' by Le Vine and Jones of December 2012 (REP-142) have been misrepresented or at least over-simplified in 'Action for Roads' (REP-227) and the related Road Transport Forecasts 2013 that were published by the DfT in July 2013.
- 5.26 The comments made by Le Vine, Jones and Polak in 2013 that are summarised by CfBT certainly indicate that there are complex processes at work. It is necessary to understand why driving has reduced among young men and certain other groups related to taxation, driving licence requirements, insurance etc. They also suggest that geographical differences may become apparent in other regions of Britain and not just between Greater London where public transport use is so high, and the remainder of the country. The area in and around Greater Manchester might be a city region where reductions in car use compared to the national average could become more apparent given the investment in the Metro-link network and the Northern Hub.

- 5.27 Nevertheless, while a more nuanced expectation in relation to future traffic growth may be justifiable, in my judgement nothing in the critique of the DfT's Transport Model affects the basic thesis that traffic growth is fundamentally related to growth in population, growth in GDP and the costs of motoring relative to other transport modes. HA drew attention to alternative academic viewpoints to those of Professor Goodwin, such as that of Professor Stephen Glaister as reported in Evidence to the Transport Select Committee in 2011 (EV-018). He is reported to have said he would expect that "when the economy recovers, the demand for the road network will recover as well". Thus, as the nation emerges from recession and greater fuel efficiency of vehicles continues to be pursued in the interests of reducing carbon emissions, it seems inevitable that traffic flows will increase whether to the extent applied by the applicant in the forecasts justifying the DCO scheme or to a lesser extent as argued by objectors led by NWTAR and CfBT.
- 5.28 In my judgement, therefore, the case of need for action to secure a substantial amelioration of existing problems in relation to safety, congestion, severance and other environmental detriment is proven as it seems inevitable that such problems will increase in future. The arguments over the extent of future traffic growth will, nevertheless, have a bearing on the value for money perceived in relation to the DCO scheme (or alternatives) because WebTag appraisals are heavily dependent on assessment of aggregate time savings which in turn are dependent on forecast traffic flows. This point will be returned to later in this section.
- 5.29 In their initial submission following their Relevant Representation (AS-001), the A556 Lobby Group did seek to suggest that the Freight Transport Association and Road Haulage Association did not perceive there to be a particular problem with the existing A556. However, I requested confirmation of their views. The Freight Transport association indicate that they do need to see improvements to the A556 as well as to the M6. The Road Haulage Association describes its members as "relaxed with the Highways Agency option", albeit neither supporting nor objecting to the DCO or the A556 Lobby Group alternative (REP-262).
- 5.30 Transport operators expressing specific support are National Express (RR-007) and Megabus (RR-010). More generally, the North West Business Leadership Team Report 'North West on the Move' that was forwarded to the Examination (AS-005) gives strong support for the proposal to remove a pinch-point in the connection between the M6 and M56 via the A556 into Manchester. The report has a letter of support appended from Transport for Greater Manchester that includes specific reference to the A556 improvement scheme. These representations from business and transport interests add support to the general need for an A556 improvement.

Traffic Modelling

- 5.31 A second line of argument over the applicant's forecasting in relation to the DCO scheme is that the HA modelling is deficient in certain respects. This argument was initially raised in the CBO Report for the A556 Lobby Group and various land interests which also detailed the M6 Junction 20/M56 Junction 9 alternative. Sections 3.7-3.25 of that report highlight concerns in respect of the modelling (AS-003). The concerns were subsequently pursued by Keith Buchan who was commissioned by the Lobby Group and its supporters during the Examination. Written submissions were made and discussions undertaken right up until the closing days of the Examination. In comments on the LIR (REP-078), Mr Wharfe appended a scoping note from Keith Buchan that, as well as seeking to access the 'Traffic Forecasting Report' (REP-270) and the 'Local Model Validation Report' (REP-271), expressed concerns over whether the modelling sufficiently addresses long-distance traffic from the South-West and Birmingham to the North-East & Yorkshire via the Manchester area.
- 5.32 HA responded in November with certain sensitivity tests (REP-269) but after receipt of these two reports which were provided at that time, further comments were made by Mr Buchan (AS-014). These elaborate on the concern over the modelling of SW-NE traffic, comment adversely on the lack of direct inter-modal modelling and note that one of the WebTag validation criteria was not met in relation to the evaluation of one of the Junction 20 alternatives. Mr Wharfe also elaborated concerns orally (AS-020), based on the earlier work by Mr Buchan. A third note from Mr Buchan was submitted by the A556 Lobby Group in January (AS-065). This stresses concern over the apparent extent of re-routed or induced long-distance traffic identifiable in the model, particularly between Birmingham and Manchester, suggesting that this could imply a diversion from rail. The HA response to the concerns is set out in the summary of their oral cases made at the December Issue Specific hearings (EV-018). HA point out that the scope and methodology employed in the A556 Traffic Model had been approved by the HA's Traffic Appraisal Modelling and Economics (TAME) Group and independently verified through Peer Review, and is based on observations of traffic using the existing A556.
- 5.33 HA made clear that inter-modal shifts are catered for in the model at a strategic level in relative pricing assumptions fed into the base rather than by attempting to forecast localised inter-modal shifts. They pointed out that a similar approach is taken in addressing the business case for rail schemes. As for the 5,500 vehicles discerned as travelling between Sector 6 (Greater Manchester) and what is described as Birmingham (Sector 2) rising to 9,000 in the 2032 Do Minimum scenario and over 10,000 in the Do Something scenario, it needs to be remembered that these two sectors cover very large areas. In the case of what is

described as 'Birmingham', the sector covers not only the whole of the West Midlands conurbation but also outlying towns such as Tamworth, Lichfield and Stafford. Only a limited number of locations, such as Wolverhampton or Stafford town centres, in that wide area outside the city centre of Birmingham have an option of direct frequent or relatively frequent rail services to Manchester. Where a rail option is otherwise available for the majority of the journey, it would involve changes, sometimes requiring interchange between different stations in Birmingham and potentially in some instances reverse travel. Thus, I do not consider that the relatively small individual time savings forecast by HA to be achieved by the DCO scheme would have a material bearing on choices between rail and road travel between the defined Sectors 2 and 6 of the HA Model. Given the small component of the total flows on the strategic network with origins or destinations in such locations, neither do I consider that the possibility of inter-modal transfer on journeys from locations such as Sandbach or Northwich to central Manchester would be a significant factor in the overall traffic forecasts.

- 5.34 It is acknowledged that as a strategic model, the forecasting of traffic on minor roads may be overstated because of the deterrents to heavy use flagged up by the A556 Lobby Group and Parish Councils are difficult to model directly, but this will be considered further in relation to alternative options. Cheshire East Council have taken this issue into account in their proposed Planning and Highways agreements with the applicant, recognising that traffic forecasts on minor roads are likely to be worst case scenarios, but ensuring that funding would be available for all necessary works of mitigation in such lanes. While a validation criteria may not have been met in respect of modelling the consequences of one of the Junction 20 options, low flows are involved and even a major deviation from modelled flows would not be likely to result in greatly different conclusions.
- 5.35 Overall, the ExA is satisfied that the applicant's modelling has been thorough and sufficiently robust to be a basis for examination of the application.

ALTERNATIVE OPTIONS

The historical evolution of the DCO scheme

- 5.36 A number of Interested Parties argued that HA had not correctly applied instructions given by successive Secretaries of State when rejecting previous schemes and authorising preparation of new schemes. At paragraphs 3.27 to 3.33 above the history of previous schemes is summarised, but at (REP-119 and REP-120) the full statements following the reconsideration of the Highways Programme and the conclusions after the MIDMAN study are set out. The latter statement did refer to the then Secretary of State being worried about the environmental consequences of the

A556(M) scheme and asked the Highways Agency to examine the alternative of widening the existing motorways and improving the junction between them. The MIDMAN study itself is set out in (REP-171 to REP-178). The statement by the then Secretary of State following the examination of the motorway widening and Junction 20 alternative is quoted verbatim in the earlier paragraphs referred to. Following the subsequent Route Management Study between 2003 and 2005, the Press Release by the Highways Agency referred to possible improvements to the A556 as including a proposal to upgrade the route to a dual carriageway. The Transport Minister is reported as instructing the Agency "to carry out a more detailed assessment so that the proposals can be given further consideration." (REP-122).

- 5.37 The subsequent history of consultation that led to the DCO scheme is fully set out in the Consultation Report (APP-018 to APP-023). Although some Interested Parties have criticised the evolutionary approach and limitations on those consulted at various stages, the overall process appears entirely logical to the ExA. There is no doubt that those with contrary views have had opportunity to express those views both before the application and during the course of the Examination and these views have been taken into account in my conclusions.

Non-road options

- 5.38 While no Interested Party suggested that non-road options could provide a solution to every aspect of the concerns over the existing A556, NWTAR and CfBT suggest that insufficient consideration has been given to the rail proposals that were canvassed in the MIDMAN study. They suggest that pursuit of such proposals would enable much more limited measures to suffice along the existing A556.
- 5.39 NWTAR/CfBT suggest that improvement through electrification of the North Cheshire railway line from Sandbach to Northwich and creation of a possible western approach link into Manchester Airport together with a Park and Ride proposal close to the M6 would provide a direct alternative for a proportion of the traffic forecast to justify the DCO scheme. I sought information via HA from Network Rail and Transport for Greater Manchester. The answer received is that no action is currently being taken on this possibility nor is any currently foreseen because there are many other higher priority rail-based schemes, both Metro-link and heavy rail, that are considered likely to produce higher benefit. The Park and Ride proposal is considered by the transport providers to be difficult to achieve. They consider that a new M6 Motorway Junction would be required in a locality where the Knutsford Services and Junction 19 are already undesirably closely spaced. The present position is generally summarised in a letter from Transport for Greater Manchester after consultation with Network Rail dated 23 September 2013 (REP-061).

- 5.40 Subsequently, NWTAR further highlighted reports that 'tram-train' possibilities were being explored for the rail line from Altrincham through Knutsford to Chester. HA secured an up to date statement from Transport for Greater Manchester on 2 January 2014. This attached a report on 'Tram-train strategy' to their Capital Projects and Policy Sub-Committee dated 8 November 2013 (AS-035). This makes clear that only conversion of the Manchester to Altrincham Metro-link line to tram-train operation to overcome a bottleneck caused by single-track operation of Metro-link and heavy rail alongside each other over the section of line between Navigation Road and Altrincham is currently under consideration. Having appraised costs and benefits, this appears potentially cost effective with a moderate cost-benefit return. However, an alternative of TMS signalling is to be evaluated to see whether such signalling could achieve a comparable increase in frequency. Although still within Greater Manchester, a further extension of the tram-train concept to Hale is not considered value for money and the costs that would be associated with an extension to Knutsford led to a recommendation to undertake no further development work on extending tram-train operation along the North Cheshire line.
- 5.41 The possibility of tram-train operation along the section of line between Stockport and Altrincham is seen primarily in the context of a concept of linking into the airport Metro-link system so that a more direct access could be provided from that locality into the airport. It is not being considered to provide a through route that would parallel the DCO scheme or provide the previously canvassed western access to the airport from the North Cheshire line (AS-035).
- 5.42 The statement by the Secretary of State for Transport on 13 December 2013 (accessible via DEC-017) concerning funding to remove local pinch-points and the establishment of a taskforce to consider further electrification in the North of England appears to reinforce the likelihood that rail expenditure will be directed elsewhere than to the North Cheshire line in the currently foreseeable future. Both Chester-Warrington and Chester-Crewe are indicated as possible candidates for electrification, with current timetables showing that those routes already provide quicker routes to Manchester city centre or Manchester Airport from Chester than use of the North Cheshire line.
- 5.43 My conclusion is that there are no public transport proposals currently in prospect that would be likely to offer a means of materially reducing existing or projected traffic flows along the existing A556 as an alternative to the DCO scheme (or any alternative highway construction option for providing a route up to standards that would be appropriate for part of the strategic highway network).

5.44 HS2 Phase 2, if carried forward in principle as consulted upon, may well provide a means to encourage modal shift in so far as there would be very significant time savings between London, Birmingham and Manchester including from a new East Birmingham station in the vicinity of Birmingham International. Moreover, with relief to current capacity constraints on the existing West Coast Main Line (WCML), higher frequency services should also become possible from intermediate stations. However, the currently proposed construction timetable for HS2 Phase 2 would not produce these potential benefits until the design year for the DCO scheme of 2032 or a year later in 2033 (REP-180). Even if completion of part or all of HS2 Phase 2 can be brought forward, availability of the benefits to the locality of the DCO scheme would not arise until between 10 and 15 years after the intended opening of the DCO scheme. Consequently, even having regard to the possibilities that would arise with HS2 Phase 2, I do not consider that these can be considered as providing an alternative such as to enable only further minor works to improve safety or reduce congestion along the existing route to be considered. The timescale for the potential relief as might be afforded by HS2 Phase 2 is too remote.

On-line improvement

5.45 A number of individuals (such as Mr Wright (RR-052 and REP-019)) and some of the objectors to Compulsory Acquisition and certain Parish Councils (whose cases are detailed below) suggested that on-line improvements would be appropriate, whether limited or comprehensive. Such suggestions were sometimes coupled with the suggested M6 Junction 20/M56 Junction 9 proposals. However, there was no overall scheme to eliminate direct accesses, provide for all safe turning movements at all junctions and otherwise create a two-lane dual-carriageway up to standards laid down in the Design Manual for Roads and Bridges (DMRB) before of the Examination. The Consultation Report (APP-018 to APP-023) explains the process by which the DCO scheme came to be worked up after initially starting with on-line improvement save for a bypass of Mere crossroads.

5.46 The A556 Lobby Group summarises their standpoint as online improvement being their first preference in their final submission (EV-028). They had previously submitted copies of the responses to the questionnaire that they circulated following a meeting with the local Member of Parliament, Rt. Hon George Osborne. The questionnaire asked recipients to indicate whether they supported a do nothing approach ("Keep the A556 as it is") or to "Go ahead with the HA scheme". At face value this clearly showed a very strong majority of the around 525 responses in favour of doing nothing (over 7:1)⁷, but over half the responses in favour of doing

⁷ A few responses in favour of the do nothing option were annotated "with improvements" or favouring the J20/J9 scheme.

nothing came from High Legh addresses or further afield, whereas almost three-quarters of those in favour of the Highways Agency scheme came from addresses in the immediate vicinity of the existing A556 (REP-133 to REP-139).

- 5.47 The petition forms were circulated accompanied by a statement by the A556 Lobby Group giving reasons to oppose the HA scheme. Copies of the statement are attached to some of the response forms. In addition, the Mere Residents' Association, which fully support the HA scheme (RR-022 and AS-011), submitted a copy of the statement appended to a letter to Mr Osborne dated 30 March 2013. In their letter, the Residents' Association urged that little weight should be afforded to the Lobby Group survey because of the way in which opinion was sought (PD-128). I consider that the weight given to this survey has to be tempered by these considerations. The Mere Residents Association appears to have a current paid-up membership of just over 60 households. This is just under 30% of potentially eligible households (REP-030). Those who attending the last annual meeting are said in (REP-131) to have voted overwhelmingly in support of the DCO scheme.
- 5.48 The A556 Lobby Group also supplied information requested by the ExA to understand the nature of the approaching 1600 supporters it is said to have (REP-132). The petition forms forwarded indicate that names were obtained on a variety of dates at exhibitions at various localities, again accompanied by presentations of the Lobby Group's views. Nearly 200 relate to aspects of earlier consultations or are simply providing email addresses for future communications. There may be some duplication in relation to the names in the main batch of forms that support the Junction 20/Junction 9 proposal. Many in the main batch are from locations far distant from the proposals or addresses in High Legh, so again it is less easy to judge the real strength of feeling for or against particular proposals in the immediate locality of the existing and proposed routes.
- 5.49 Clearly, a very significant number of people have recorded views at some stage against the HA proposals then current. However, this extent of feeling does not seem to have carried through into active engagement with the DCO application. There were some 78 Relevant Representations including the multiple responses from CEC and of these just under 30 appear to be from individuals giving their own views on the scheme as opposed to being representatives of organisations or Affected Persons (or their agents) in relation to Compulsory Acquisition issues. A great majority of the individuals are opposed to the scheme or aspects of it (over 8:1 against as compared to support). There were also a small number of additional individual representations after the closing date for Relevant Representations that were accepted by the ExA, both for and against the scheme. At the hearings there was only very limited attendance other than by those appearing on behalf of organisations such as the Lobby Group, NWTAR/CfBT,

CEC and Parish Councils, Statutory Undertakers or those representing Affected Persons (see Annex C).

- 5.50 As for the views of Parish Councils, the summary given in the final submission from the A556 Lobby group is over-simplified. The views of the Parish Councils that were expressed to the Examination are more nuanced than indicated. Tabley Parish Council are indeed opposed to the HA schemes for reasons including increased severance and perceived detriment to businesses and facilities along or related to the existing road, but it is only by inference that support for an on-line solution can be derived and not from their explicit written representation (RR-078)⁸. Mere Parish Council are opposed to the junction strategy involving a northbound on-slip at the A50, but they are also very clearly in support of a bypass for Mere so I do not think that can be characterized as support for keeping the A556 as it is, although some support is given for further consideration of the Lobby Group's Junction 20/Junction 9 proposal (AS-006 and AS-019).
- 5.51 Millington Parish Council is opposed to the Mere Parish Council alternative junction arrangement that would involve the relocation of the northbound on-slip into Millington Parish. They indicate opposition to the HA scheme and go on to suggest that further consideration could be given to on-line improvements or the A556 Lobby Group's proposal (AS-081). High Legh Parish Council does support upgrading the existing road, but opposes the Junction 20/Junction 9 proposal and the Mere Parish Council variant on the DCO scheme. The HA proposal is therefore supported if an off-line scheme is accepted (RR-044 and PD-043). Finally, the ExA has not received any direct representations identifiably from Rostherne Parish Council, the comments from that Council recorded in the Consultation Report being on matters of detail.
- 5.52 From site visits, I can appreciate the difficulty of devising an on-line scheme of improvements that would secure the safety improvements sought and operational characteristics that would be appropriate for a link in the strategic highway network without increasing severance and placing further restrictions on turning movements at junctions. As for environmental conditions it is very difficult to see how these could be improved or even that increased detriment could be avoided. It is therefore logical that a bypass for Mere crossroads was initially added and that successive consultations led to extending the length of proposed off-line construction to that contained in the DCO scheme in order to achieve a safe, functional and environmental solution.
- 5.53 Leaving aside the issue of devising safe workable junctions, seeking to fit a generally 2-lane service road and a 4-lane dual carriageway broadly along the existing alignment with minimum

⁸ The Vice-chair of the Parish Council did state that the Parish Council supported on-line improvement when appearing as Chair of the Village Hall Committee at CA hearings.

footways and barriers must inevitably involve property demolition, even with varying the position of the new trunk road from the south or north of the existing carriageway to the maximum extent possible. While the extent of farmland taken up by such a scheme would no doubt be less than with the DCO scheme, I am not convinced that an environmentally acceptable, safe and functional scheme could be devised keeping on or very close to the existing A556 alignment. The history of deliberations following the 2005 Route Management Study is set out in section 6.9 of the Consultation Report (APP-018 to APP-023)⁹.

- 5.54 In the light of the subsequent consideration of a 'G-turn' at Bucklow Hill¹⁰, I am also not convinced that there are further short or medium term measures that are likely to produce cost-effective mitigation of existing problems.

The M6 Junction 20/M56 Junction 9 alternative

- 5.55 The only comprehensive alternative solution canvassed is that put forward by the A556 Lobby Group involving turning M6 Junction 20/M56 Junction 9 into an all movements free-flow junction so that traffic could traverse from south to east and east to south without having to pass through roundabouts on the A50. This is essentially the solution rejected following the MIDMAN Study as not value for money.

- 5.56 The Lobby Group argue that this was because the HA devised an excessively costly scheme at that time and that the concept was thus wrongly summarily dismissed in the pre-application consultation on the DCO scheme. The Lobby Group submitted a report by CBO (AS-003) that illustrated how this junction improvement could be achieved at economical cost. In order that this alternative might be properly assessed, I asked the applicant to provide a full assessment of the scenarios referred to in section 6.8 of the Consultation Report. These had involved HA and their contractors devising workable schemes based on adjustments of the CBO proposals at a cost of £39.5m to £56.5m (Options A2 + D) or £75.2m to £106.2m (Option A2 + C2).

- 5.57 Whether such solutions would be cost effective would depend on the number of vehicles that would switch from the A556 and the effect of extra mileage that would be involved and not just the capital costs identified which are, for the suggested junction works alone, lower than those for the DCO scheme. HA evaluated 4 scenarios for the Examination:

- (i) (1) Junction works alone
- (ii) (2) M6 improvements and junction works

⁹ Note in at least some copies of the Consultation Report the numbering of the drawings illustrating the text is incorrect.

¹⁰ See paragraph 3.30 of this report.

- (iii) (3) M6 improvements, junction works and A556 restrictions
- (iv) (4) Junctions works and A556 restrictions.

- 5.58 The last scenario was regarded in the Consultation Report as closest to the Lobby Group approach. The Benefit Cost Ratio (BCR) of the DCO scheme at the time of pre-application consultation was assessed as 3.5 or 'high' value for money. After initially declining to provide further assessments, HA did provide a fully updated WebTag assessment for the DCO scheme in (REP-129). This produced a BCR of 2.9, still 'high' value for money. The assessment of the Junction 20/Junction 9 alternative on the same basis was produced in November 2013 (REP-269).
- 5.59 This assumed a capital cost of £44.8m being the midpoint of estimates for the cheaper scheme with a further £1.4m for traffic calming measures on the existing A556. However, the Saturn traffic re-assignments showed virtually no traffic re-assigning via Junction 20/Junction 9 in 2017 with junction works alone (scenario 1), as the free-flow movements facilitated can already be made via the roundabouts on the A50 and substantial additional mileage would be involved as compared to use of the A556. For 2032 the re-assignment would be discernible but still very small (under 1,000 AADT). For scenario 4 with speed restrictions introduced on the A556, more traffic is attracted through the new junction works, some 2,400 AADT in 2017 and 7,000 in 2032. However, a greater number of trips are forecast to divert off the strategic network altogether onto local roads such as Ashley Road. The model was re-run coding in lower speeds in the local roads, but even then over 10,000 AADT are forecast to re-assign to local roads.
- 5.60 I share the judgement of HA that such an outcome would be unacceptable in terms of safety and environmental conditions. However, BCR figures were nevertheless calculated, these being 0.11 for scenario 1 and minus 8.53 for scenario 4. This means that neither approach would be value for money and that the scheme with restrictions on the A556 would actually cost many times more than the benefits.
- 5.61 Nevertheless, as HA had not produced an assessment in relation to scenarios 2 and 3 nor in relation to what the A556 Lobby Group had proposed, namely that the access onto the A556 to the north should be blocked-off at M6 Junction 19, the ExA sought further appraisals to cover these scenarios together with a more detailed assessment of transference to local roads. This information is provided (in AS-031). The conclusion is that with the closure of the A556 north of M6 Junction 19 more traffic would divert through Junction 20/Junction 9 (10,200 in 2017 and 18,000 AADT in 2032), but that 73% of the diverted traffic would transfer to local roads in 2017, though reducing to 58% by 2032 because local roads would not be able to handle the volumes of traffic. Again, in my judgement this would be an unacceptable outcome in

safety and environmental terms and it should be noted that High Legh Parish Council specifically oppose this option because of the implications for local roads (AS-042). It would also seriously inconvenience traffic between the A56 and A556 south of M6 Junction 19 that would be forced onto the motorway network or other less suitable roads.

- 5.62 With motorway improvements added in scenario 2, assuming these to be managed motorway schemes as proposed elsewhere on the M6 and M56, without restrictions on the A556, the extent of diverted traffic is forecast to remain very low (100 AADT in 2017 and only 1400 AADT in 2032). With A556 restrictions added in scenario 3, the diverted traffic would rise to 2,700 AADT in 2017 and 9,900 AADT in 2032. The problem is again that between 37% (2017) and 43% (2032) of the traffic is forecast to divert to local roads.
- 5.63 In order to produce economic appraisals, the cost of hard shoulder running schemes on the M1 has been applied producing a mid-point figure of £86m for works to the M6 between Junctions 19 and 20 and works to the M56 between Junctions 8 and 9. The result is for motorway and junction improvements (scenario 2), a BCR of 1.52, but for motorway and junction improvements plus restrictions on the A556 (scenario 3), minus 0.4. While scenario 2 appears to offer value for money, HA pointed out that this is almost entirely as a result of the benefit of motorway improvements as is demonstrated by comparison to scenario 1.
- 5.64 A BCR has not been produced for the A556 closure option in view of the extreme diversions forecast to local roads and the clear indication that it would be more heavily negative, given the negative outcomes for scenarios 3 and 4 and the greater extent of diversions involved. It is therefore clear that none of the alternatives involving improvement of Junction 20/Junction 9 offer the kind of value for money of the DCO scheme.
- 5.65 There was considerable discussion at hearings, in writing and in conference calls between the consultants for the Lobby Group and HA on the validity of the modelling that produces these results, particularly given the forecast time savings for certain movements using Junction 20/Junction 9 rather than the A556 at particular times of day (especially in the morning peak). HA explained that the forecast for only limited diversion onto the motorways, notwithstanding any time savings, derives from the significantly longer distances travelled with consequent increase in overall costs.
- 5.66 This appears logical and I can see no reason to depart from the conclusion at paragraph 5.35 above that the modelling is fundamentally sound, even if it may overstate diversions to local roads. The extent of any such over-statement would need to be wholly disproportionate to affect the generality of the comparative

conclusions on value for money of alternative schemes or the judgement of the applicant that that reliance on Junction 20/Junction 9 improvements and restrictions on the A556 would not be operationally satisfactory. HA pointed out that were diversion of the whole of the strategic traffic from the A556 to the M6 actually to be secured, the motorway would in itself become over-loaded and be unable to cope with the projected volume of traffic. The HA assessment of diversion of trips to alternative routes is contained in (REP-147).

- 5.67 The foregoing assessment of alternatives is fulfils the approach set out in paragraphs 4.22-4.24 of the draft National Networks NPS.

Value for money of DCO scheme

- 5.68 In order that the value for money for the proposed scheme is not over-stated, I asked for the calculation to be re-run to take account of the new July 2013 Traffic Forecasts, the additional transport schemes added to the forward programme through the 2013 Spending Review (SR13), the revised values for travel and vehicle operating costs published in October 2013 and finally the proposal that the new road should at least initially be subject to a 60 mph speed-limit.
- 5.69 Applying the July 2013 Traffic Forecasts with their particular reduction in HGV movements reduces the BCR from 2.9 to 2.2. Conversely, adding in the SR13 schemes as well as taking account of the new road traffic forecasts increases the BCR to 3.7 because of the increased capacities on the M6 south of Junction 19 and on the M56 east of Junction 7 and also on certain other highways in the Greater Manchester area.
- 5.70 Additionally taking account of the October 2013 reduced values of time and operating costs, the BCR for the DCO scheme alone would be reduced to 2.0 (and with the other SR13 schemes to 3.3). Finally, also taking account of the proposed initial 60 mph speed limit leaves the BCR at 2.0, i.e. still 'high' value for money if undertaken in isolation from other SR13 schemes. These changes in the resultant BCR are summarised in AS-037. I also requested a further appraisal taking account of the possibility that monitoring of air quality might mean that the speed restriction would not be able to be removed after 5 years as anticipated, but have to continue indefinitely. In such circumstances the BCR would reduce to 1.9 (EV-018), which although taking the value for money below the threshold for 'high' would still represent value for money.
- 5.71 In their final submission, CfBT drew attention to a HA report evaluating projects that had been completed over recent years (AS-073). This report: 'Post Opening Project Evaluation of Major Schemes – Meta-analysis 2013' (POPE Report) highlights the fact that monitoring has shown that the forecast traffic using many completed schemes on opening and subsequently has been over-

estimated, particularly in respect of bypasses. CfBT presented an appendix from Professor Goodwin which argues that if a 5% over-estimate occurs in relation to the DCO scheme, which they would anticipate for reasons discussed in paragraphs 5.24-5.27 above, then a BCR of less than 1.0 could result, so that what is assessed as good value for money would actually be poor.

- 5.72 It must be noted, however, that the POPE Report does show improving accuracy of forecasting over time. Moreover, the most recent of the schemes studied in the POPE Report opened in 2010. Thus, in 37% of the schemes analysed, only one year post-opening analysis is available. The effects of the recession in reducing traffic must therefore be apparent for a number of the schemes analysed in addition to any 'peak-car' influence. The HA response is set out in (EV-027) and includes noting that the DCO scheme is not really a bypass, but rather a replacement link in the strategic network. HA also points out that the BCR calculations do not take account of evening and weekend benefits so BCR would actually be higher than calculated. Finally, HA note that the POPE Report did conclude that the modelling techniques used by HA were robust.
- 5.73 The projections and appraisals used to support the DCO scheme, as updated during the Examination, use the latest DfT Road Traffic Forecasts which represent current government understanding of trends if not actually policy. The CfBT argument would not just apply to this particular DCO scheme but to the appraisal of all transport projects. In these circumstances I accept, on the basis of current government guidance, that the DCO scheme should represent satisfactory and probably high value for money.

Localised variants of the DCO scheme – The junction strategy

- 5.74 Mere Parish Council strenuously argued that what is known as junction strategy 0 should be included within the scheme rather than junctions strategy 1b (RR-003, AS-006, AS-016 and AS-019). The difference is that under junction strategy 0, there would not be any junction between the A50 and the new A556, but instead a north-bound on-slip in the Millington area mirroring the southbound off-slip that is proposed in that locality back onto the existing A556 (which will be downgraded to a B-road). Strategy 0, however, also involved a new link between Millington Lane and Chapel Lane to maintain local connectivity.
- 5.75 The reason for departing from junction strategy 0 following consultation as given in the Consultation Report (APP-018 to APP-023) is because strategy 1b would minimise traffic increases on minor roads and because the additional local link was very unpopular. Although CEC originally favoured strategy 0, CEC support the inclusion of strategy 1b in the DCO. This does result in a higher increase in traffic on the A50 but also a sharp reduction

in traffic forecast to use the A5034 Mereside Road. This is because northbound traffic seeking to join the new A556 would join via the proposed new junction with the A50 north of Mere crossroads rather than at Bucklow Hill. CEC points out that the increased traffic on the A50 would remain well within the link capacity and consequently considers that the DCO approach would now be preferable on safety and environmental grounds as other junction strategies would see more traffic on less suitable roads.

- 5.76 Leaving aside the argument that more respondents appear to have favoured Junction strategy 0 at the pre-application stage (REP-014 and REP-015), the main substantive reason that Mere Parish Council seek a reversion to that strategy is that they consider that strategy 1b would not cope with traffic on occasions that there are accidents on the M6 and the A50 is used as a diversionary route. There was considerable discussion and exchange of datasets concerning the accident record at M6 Junction 19 and along relevant stretches of the motorway (AS-029, AS-043, AS-046 and AS-057). The Parish Council had obtained data from the HA and argued that this showed the high frequency of closures of the M6 and a number of Interested Persons claimed that Junction 19 has the worst safety record along the M6. This assertion appears based on a statement on an unofficial 'm6' website that has been reproduced as annexes to submissions from the A556 Lobby Group, though it does not appear substantiated from the HA data. It is probable that the source of the statement did originate in official statistics at some date, but its provenance is unknown. The HA view is that the accident record in relation to links around Junction 19 is comparable to that elsewhere on the network and that they had not been alerted to the need for any particular remedial action at the present time.
- 5.77 HA also pointed out that the schedule of accidents was not actually of accidents, but of recorded incidents including breakdowns. As a consequence, the number of times that one or both carriageways had been wholly closed was only a small proportion of the total, as is indicated in the table appended to (AS-029). On a journey to and from Knutsford, I did witness traffic at a standstill on the opposite carriageway south of Junction 19 and a heavy volume of northbound traffic diverting onto the A50 at Junction 17. Nevertheless, on none of the site visits around the DCO site did I note any exceptional traffic volumes using the A50 through Knutsford and Mere. HA, moreover, pointed out that it is not realistic to design alternatives to any scheme to cope with blockages as this would imply a need to duplicate provision which would involve prohibitive financial and environmental costs (AS-024). I accept this principle, though it must be appropriate to seek the maximum reasonably possible utility and flexibility in the design of highway schemes.
- 5.78 Shortly before the close of the Examination, Mr Hodgson on behalf of Mere Parish Council submitted a sketch showing a variant of

Junction 0 strategy that would provide for a northbound on-slip at Millington without requiring any link-road through utilising the proposed roundabout south of the new A556 that would receive the southbound off-slip and the proposed Chapel Lane and Millington Lane over-bridges (EV-014). HA confirmed that with adjustments, such a concept would be technically feasible, though in their view it would be less safe. HA points out that the suggested junction would be much closer to the diverge point for the junction with the M56 (EV-018). They also point out that there would be additional land-take from the Millington Estate and there could be environmental issues, as it would involve elevated bridge structures in the vicinity of residential properties on Millington Hall Lane. Such a variation would clearly require a new application as such a junction would fall at least partially outside the limits of the submitted DCO. Mr Hodgson argued that such a solution would assist in relation to access for business properties at Cherry Tree Farm raised by Mr Brooks (AS-059). Nevertheless, HA argued for the retention of the proposed A50 junction contained in the DCO scheme.

- 5.79 Both CEC and High Legh Parish Council originally suggested that the approaches to the proposed round-about on the A50 from which the north-bound on-slip would run would have insufficient capacity, but a revised design has been agreed between HA and CEC as local highway authority. The text of the DCO that I recommend at Annex I would include this design. This provides for a modest length of two-lane southbound approach, the approach least likely to contain significant volumes of traffic seeking to join the new A556 northbound, and extension of a two lane northbound approach as far south as possible, with the taper extending back to the new over-bridge that would carry the re-aligned A50 over the new A556.
- 5.80 While Mere Parish Council suggested that a six car length capacity northbound within each of the two approach lanes would be insufficient, the design of the junction is such that the left hand lane would in effect give a free-flow approach onto the slip road which would curve round under the over-bridge. As a consequence, the queuing length in conditions of traffic stress would be the full length of the slip road. HA confirmed that the slip road and configuration of the junction was fully up to DMRB standards and pointed out that if there had been a northbound blockage of the M6 south of Junction 19, the volume of northbound traffic on the new A556 would be reduced making merging easier from the A50.
- 5.81 The ExA finds the arguments of HA persuasive, particularly as supported by CEC as local highway authority, and can see no reason why the new A50 northbound on-slip junction should not function satisfactorily, whether in normal conditions or times of traffic stress. The ExA certainly does not consider that it would

represent a single point of potential failure for the whole scheme as argued by the Parish Council.

- 5.82 In addition, the revised design for Mere crossroads on the downgraded existing A556 that has also been agreed with CEC as local highway authority and would be incorporated in the version of the DCO recommended at Annex I. This would provide priority for north-south movements on the A50. As a consequence, in my judgement, the DCO scheme would enable the A50 to act a relief to the M6 when incidents occur more readily than at present. Indeed the freer flow of traffic on the A50 is factor in inducing additional traffic onto that road and not merely the result of transference of traffic from the A5034. In relation to that transference, A5034 Mereside Road has a much higher number of residential properties with frontage access than the A50 and a poorer alignment. The diversion of northbound traffic to the A50 would therefore represent a net improvement in safety and environmental conditions. The support of both High Legh and Millington Parish Councils for the proposed junction strategy in the DCO scheme (should the Order be made) has also to be noted.
- 5.83 Finally, concern over the junction strategy was raised by a number of Interested Parties in relation to traffic arrangements to handle visitor volumes to the annual Cheshire Show and the Royal Horticultural Show that takes place in Tatton Park each summer. As an update to the Statement of Common Ground (SoCG) with CEC, HA indicated that CEC are satisfied in relation to the Cheshire show (which takes place on a site south of M6 Junction 19) that with the proposed diversion of Old Hall Lane, the DCO scheme would not have a material effect on its access arrangements (REP-114).
- 5.84 With regard to the Royal Horticultural Show and other major events at Tatton Park, the concern related to the loss of one of two main junctions that could be used for exiting traffic as there would no longer be any exit for northbound traffic at Bucklow Hill. The issues have been assessed with the contractor that arranges the RHS event at Tatton Park. An agreed position has been reached between HA, CEC and the contractor, SEP Ltd, that handles the event for the organisers (REP-114). At present temporary traffic-control is provided at the junction between the A5034 and the A50 in order to facilitate the movement of exiting traffic to Mere crossroads. This is envisaged as still being applicable. In the agreed revised scheme for Mere crossroads (REP-107) it will be possible both to provide a filter onto the southbound carriageway of the down-graded existing A556 to enable south bound traffic ready access to the proposed Tabley junction, while at the same time increasing the already intended priority for northbound traffic. The traffic signals would be 'intelligent'. Exiting traffic would therefore benefit from the freer-flowing arrangement for northbound access via the A50 described in paragraph 5.82. Consequently, neither for normal traffic

conditions, nor for times of traffic stress as may result from incidents on the M6 or in relation to major visitor events in the locality, does the ExA recommend any change in the proposed junction strategy embodied in the DCO. The junctions should operate satisfactorily in both contexts.

Other variants for traffic-related or general environmental reasons

- 5.85 Millington Parish Council argues that the proposed over-bridge to carry Millington Lane over the proposed new A556 should not be a full highway bridge but only suitable for NMUs (AS-081). The reason given is that they fear that there could be encouragement to rat-running through the lanes of Millington, High Legh and Rostherne Parishes both generally and in relation to events at Tatton Park.
- 5.86 The modelling of traffic flows does not indicate any material change in traffic volumes resulting from the DCO scheme and the proposed Agreements between HA and CEC provide both for immediate provision of traffic calming measures by HA together with funding for additional measures by CEC should such prove to be necessary. From my own site visits to Millington Lane, Rostherne Lane and other nearby roads, I do not consider that there would be a likelihood of encouragement of substantial diversions from main routes. It also needs to be borne in mind that the forecast flows are likely to be over-estimates on the minor roads for the reasons given in paragraph 5.34.
- 5.87 Some regular attendees at events or relatively local visitors to Tatton Park who may be fully aware of the nature of local lanes may make use of the greater ease of local movement that will be facilitated by the DCO scheme. However, I do not consider that this possibility outweighs the potential benefit of increased local accessibility that would arise from provision of a full highway over-bridge at Millington Lane to agricultural or other businesses and residents in the lanes. It should be noted that there would not be any material benefit in environmental terms were the bridge to be solely for NMUs as the structure would be essentially similar. However, HA indicated that it would be possible to reduce the height of the bridge by around 1 m in working up the detailed design and that this is embodied in the Rev 2 series of plans.
- 5.88 Mr Brooks on behalf of the Tatton/Millington Estates group of land interests which include Monckton Properties (RR-071 to RR-074, REP-149, REP-165, AS-077 and AS-076) argued at the hearings that the DCO scheme would adversely affect the businesses operated from Cherry Tree Farm and Tabley Court, Tabley as a consequence of restriction on movements resulting from the DCO scheme. As far as the Tabley property is concerned, I am not convinced that there would be any material change in accessibility as the proposed Tabley junction with the new road would be only a

short-distance along the down-graded existing A556 and the safety of turning movements at the junction with Moss Lane would be greatly improved.

- 5.89 For the Cherry Tree Farm complex of business units, access from the north would only be marginally longer given the proposed southbound off slip in the vicinity of Millington Lane and Bucklow Manor Nursing Home. Northbound, given the ability to make right turns at present with a degree of safety because of the divided carriageway of the existing A556 at this point, I can see that theoretically significant detours would be involved in having to travel south to the A50 in order to travel north via the proposed on-slip. However, for journeys into central Manchester, to Trafford or Manchester Airport the route via Ashley to M56 junction 6 would remain available and for light traffic seeking to access the A56 or the M6 at Junction 20, the Millington Lane over-bridge would provide an alternative routing.
- 5.90 Overall, I am satisfied that for most occupiers of property in the locality, the DCO scheme with its related proposals for the down-graded existing road, and linking bridges and NMU proposals would provide a greater degree of local connectivity and ease of movement than currently exists. Current bus routes would not be affected. Consequently, I do not recommend any further changes to the DCO proposals from those extant at the close of the Examination in respect of such matters.
- 5.91 The only other matter to attract general comment that is not specifically related to CA issues is the height of the proposed Chapel Lane over-bridge. A number of Interested Persons in their relevant representations questioned whether the proposed road might be set more deeply into the landscape at this point in order to minimise the height of the over-bridge. The point was also raised in other written representations. Concern is expressed that at the consultation stage the road was indicated as to be in cutting in this locality, but in the submitted scheme, the cutting has been replaced by a false cutting with the road itself above existing ground level and consequently the over-bridge is correspondingly higher above existing ground level (see Engineering Drawing sheet 11).
- 5.92 Miss Woloschin (RR-032) pressed the desirability of setting the road more deeply at this point during hearings. The HA response was that the possibility of needing to safeguard an oil pipeline that crosses the proposed alignment of the DCO scheme close to Chapel Lane 'in situ' would prevent any material lowering of the new road. Even if the option of diverting the pipeline is ultimately pursued, drainage considerations would still prevent a material lowering of the carriageway surface. In answer to questions, HA pointed out that it is not simply a question of the desirability of avoiding a need for pumped drainage through maintaining levels that allow for gravity highway drainage, but also a need to avoid

re-distributing drainage between the catchments of different streams. This would entail complex flood risk assessment and potentially additional engineering works. I am satisfied that the HA approach is consistent with general approach of the Environment Agency (EA) and the WFD. As the over-bridge would not immediately abut residential properties nor be prominent in long-distance views, I do not consider that its environmental consequences warrant investigating more complex drainage arrangements.

ENVIRONMENTAL CONSIDERATIONS

Carbon emissions

- 5.93 Some Interested Parties (such as David Jones (RR-029) oppose the DCO scheme because it would result in an increase in carbon emissions contrary to the overall government legally binding commitment to reduce emissions of green-house gases in order to mitigate climate change, with CfBT/NWTAR drawing attention to a recent Report of the Committee for Climate Change (accessible via REP-148). HA did not dispute that there would be an increase in emissions as a consequence of the scheme, but relied on the overall DfT approach as set out in DaSTS. When I asked HA to provide a response to the Report of the Committee for Climate Change, DfT provided explicit guidance on how to approach this issue (AS-041).
- 5.94 This advice drew attention to the reference in the draft National Policy Statement for National Networks. At paragraph 3.4 this states "While, considered in isolation, individual schemes may result in an increase in CO2 emissions, the Government's overarching plan for reducing carbon emissions will ensure that any such increases do not compromise its overall CO2 reduction commitments. Increases in carbon emissions from a development should not therefore need to be considered by the Examining Authority and the Secretary of State."
- 5.95 The advice continued by indicating that not all sectors are able to decarbonise at the same rate so that this is why the Government does not have sector-specific carbon reduction targets. A new road scheme might increase overall carbon emissions (as might any new development), and this will be taken into account during DfT's appraisal process. However, this is not something that should be a consideration in the planning process because the legally binding nature of the carbon budgets means that the Government will find offsetting carbon savings from elsewhere in the economy for anything which increases CO2 emissions.
- 5.96 As this is the approach taken in the draft NPS, it is accepted by the ExA.

Health - Air quality and emissions

- 5.97 As the issue of air quality is so inter-related with forecast levels of traffic and because it was the environmental issue that generated greatest concern, it is logical to consider it as the first of the environmental matters that need to be addressed.
- 5.98 CEC raised concern in their LIR that air quality would deteriorate for some properties close to the on-line section of the scheme and adjacent to the A556 south of Junction 19 and adjacent to roads that the scheme would feed into to the north in Greater Manchester. Such concerns were reiterated in some of the responses to the December 2013 Consultation over amending the DCO to embody an initial 60 mph speed limit. The purpose of this proposed limit is to mitigate Air Quality concerns and avoid or minimise any new exceedences of NO₂ limit values (LVs) in the CEC Air Quality Management Area (AQMA) along the existing A556 or those that have been declared within Greater Manchester (e.g. PD-115 to PD-119). A total of 7 respondents referred to Air Quality including Public Health England's response which indicated a need for the position to be carefully monitored (summarised in REP-116; the initial Public Health England representation is (RR-035)).
- 5.99 CfBT pressed the point that to introduce new exceedences or even any increases where measurements at individual properties are already in excess of limit values could be unlawful in relation to the EU Air Quality Directive, notwithstanding the fact that air quality would be improved considerably at properties along the existing A556 that would be bypassed (AS-073). At the hearings HA explained the difference between the application of the Directive in relation to broad zones and the effect on individual properties in terms of significance in terms of environmental assessment (REP-145). At paragraph 4.18 above the low risk in relation to the DCO scheme in terms of compliance with the Directive is reported (EV-027) and the remainder of this subsection addresses the significance of air quality impacts in relation to environmental assessment.
- 5.100 As will be clear in section 6, no adverse air quality consequences are foreseen in relation to European Sites.
- 5.101 The impact on air quality is considered in detail in all three versions of the ES. In relation to constructional impacts, adverse impacts should be avoided or mitigated through the Construction Environmental Plan (CEMP) that is applied through requirements that would be secured in Schedule 2 to the DCO.
- 5.102 Generally, the ES assessments show that air quality would be significantly improved for the 80 or so properties in the CEC AQMA along the existing A556 and only worsened significantly at a small number of properties close to the new alignment on Millington Hall

Lane (Denfield Cottages) or on Millington Lane and adjoining the on-line improvement at the northern end of the A556, in particular at Mereside Farm. In a wider area there would be small adverse consequences to a number of properties adjoining motorways and other primary roads, particularly in Greater Manchester, but also adjacent to the A556 south of M6 Junction 19.

- 5.103 As the DCO as amended involves imposition of an initial 60 mph speed limit, it is figures for properties likely to experience significant change in the Second Addendum ES (REP-110 to REP-113) which are now referred to. In this assessment significant changes are defined as those with having changes of $> 0.4 \mu\text{g m}^3$ that would involve increases for properties already over the LV or creation of new exceedences or conversely reductions for those already over the LV or removal of an existing exceedence. No issues in relation to PM_{10} have been discerned, so reference is only made to NO_2 assessments.
- 5.104 With a 60 mph speed limit in 2017, there are calculated to be 14 properties experiencing large improvements in air quality ($> 4 \mu\text{g m}^3$ reduction in NO_2 mean annual concentration), but 75 properties experiencing a small worsening (> 0.4 to $2 \mu\text{g m}^3$ increase in NO_2 mean annual concentration). The increase at Mereside Farm would be $7.3 \mu\text{g m}^3$ but the annual concentration at $39.6 \mu\text{g m}^3$ would remain below the LV. At 1 Denfield Cottages the increase would be greater ($14.3 \mu\text{g m}^3$), but the absolute level would only be $23.2 \mu\text{g m}^3$, not much over half the LV.
- 5.105 With the assumption that a 70 mph speed limit would be possible in 2022, having had regard to the projected improvement in air quality as a consequence of improved vehicle technology, only 5 properties are forecast to experience a significant large improvement because there are less properties over the LV. Similarly, only 31 properties would experience a significant small worsening in air quality. I agree with the applicant that balancing large improvements for some properties against a larger number of small adverse consequences would result in there being no significant air quality effects at either 2017 or future dates.
- 5.106 CEC has indicated that the scheme overall is in compliance with its Air Quality Action Plan (2011) and the broader aims of the Cheshire East Air Quality Strategy (PD-034) and further mitigation for properties still experiencing poor air quality south of M6 Junction 19 is embodied in the proposed planning agreement with HA (REP-085 and see Annex H). Moreover, in response to my specific, Manchester City Council, in whose area are located most of the properties forecast to experience a small but significant worsening of air quality within AQMAs, has expressly commented that they are content with the air quality consequences of the DCO scheme and the approach taken to mitigation and monitoring (EV-027). This has appended tables that show the specific properties forecast to experience significant changes in air quality).

5.107 In the light of the foregoing, I am satisfied that the DCO scheme is consistent with the approach to air quality that is set out in paragraphs 5.2-5.12 of the draft National Networks NPS.

Health - Noise and vibration

- 5.108 The implications for noise and vibration for the most part are also related to projected traffic flows. The ES and its 2 Addenda consider this issue in detail. The final ES Addendum No 2 makes clear that the Defra Noise Action Plan – Major Roads (outside major agglomerations) of March 2010 identifies ‘Important Areas’ and also ‘First Priority Locations’ where noise levels from road noise exceed 76 dB $_{LA10, 18hr}$, the latter including a number of properties fronting the existing A556 and in adjacent areas.
- 5.109 The projected consequences of the DCO scheme are that there would be significant reductions in noise for a large number of properties adjoining the existing trunk road that would be relieved of most of its traffic, though some significant increases in noise for a smaller number of properties currently west of the existing road that would be close or relatively close to the new road alignment. The consequences are specifically identified in the tables in Section 7 of the ES Addendum No 2. In the short term comparing the ‘Do something’ with the ‘Do minimum’ for 2017 and regarding changes of over 1 dB as perceptible, 120 dwellings or other sensitive receptors would experience perceptible increases of which 4 would be major adverse (> 5 dB increase), namely Thornedge, Chapel Lane; 1 Denfield Cottages and Denfield Cottage, Millington Hall Lane and the west elevation of Bucklow Manor Nursing Home). Conversely, 215 dwellings or sensitive receptors would experience perceptible decreases including 110 that would be major beneficial (> 5 dB decrease). The properties experiencing this major benefit would include the east elevation of Bucklow Manor Nursing home. In the short term, the DCO proposals clearly produce a net benefit in relation to prospective operational noise.
- 5.110 Looking to the longer term, in a ‘Do Minimum’ context, road traffic noise would be expected to increase as a consequence of increased traffic notwithstanding improved technology, so that 29 more properties would experience perceptible noise increases (> 3 dB) by 2032 including 12 that would experience a perceptible increase in night-time noise (where > 55 dB). There would be no properties experiencing perceptible reductions.
- 5.111 Comparing the ‘Do Something’ for 2032 with the ‘Do Minimum’ for 2017, 34 dwellings or other sensitive receptors would experience perceptible increases, 6 being moderate adverse (5.0 – 9.9 dB), namely Kennel Wood Cottage, Mere Hall Estate; Thornedge, Chapel Lane; 1, Denfield Cottages and Denfield Cottage; 2 Burnhouses, Bucklowhill Lane and the west elevation of Bucklow Manor Nursing Home. Only 4 would experience a perceptible increase in night-time noise.

- 5.112 Conversely, 170 dwellings and sensitive receptors would experience perceptible noise reductions of which 65 would be major beneficial (> 10 dB decrease) including the east elevation of Bucklow Manor Nursing Home. 101 properties would experience a perceptible reduction in night-time noise, including 76 experiencing reductions of > 10 dB.
- 5.113 On balance therefore, it is clear that the DCO scheme would produce a net benefit in terms of operational noise, thereby meeting this aspect of the objective of the scheme to secure environmental improvement in Bucklow Hill and Mere. It should be noted that some Interested Persons raised concerns over the correlation between measured noise levels and those adduced through modelling, particularly in relation to the Over Tabley Farm Buildings and Over Tabley Hall. However, HA had some further noise measurements taken and provided further explanation of the evaluation process during the hearings (EV-025 and EV-027). The ExA accepts that what is of key importance to understand the effect of the DCO proposal is the accuracy of the modelling of predicted changes in order to discern consequences rather than the precise absolute noise levels concerned. Subsequent monitoring should establish eligibility for insulation and/or compensation under the Noise Insulation Regulations and/or s57(6) of PA 2008. The scheme provides for a very substantial extent of mitigation through provision of false cuttings or noise barriers where these would be of benefit. HA also confirmed that the new A556 would be given 'low-noise' surfacing.
- 5.114 The ES does also identify constructional noise impacts but points out that these will be short-lived. I am satisfied that any prospective issues that are highlighted should be capable of being addressed through the Construction Environmental Management Plan (CEMP) that will be applied via a requirement in Schedule 2 to the DCO. The consequences with regard to biodiversity are assessed in the following section.
- 5.115 With regard to vibration, this is not perceived to be a material issue in relation to the operation of the DCO scheme and only at one locality was there need to investigate concern over potential constructional issues in respect of vibration. Otherwise, the CEMP was regarded as capable of addressing concerns with, for example, use of bored rather than driven piling in sensitive locations.
- 5.116 The specific concern related to the effect of construction of a drainage outfall from the proposed new road to Tabley Brook past the Listed farm buildings at Tabley Old Hall Farm. West Register (Realisations) Ltd, the owner, drew attention to concern over the potential threat to the stability of these buildings (REP-034). Initially HA sought to indicate that the works would be sufficiently distant and undertaken in a manner that no harm should arise in respect of a building of 'sound condition'. However, at the

accompanied site visit the poor condition of the structure of what the owner's architect describes as the 'Manor House' was evident. Confirmation was also received from CEC that the building is contained in the 'Historic Buildings at-risk register' with a scheme for emergency repairs already under consideration. It was therefore agreed that a different approach would be necessary (REP-141 and AS-018). HA agreed to amend the DCO to enable protective works to be undertaken adjacent to as well as within the DCO boundary and to the inclusion of a requirement that should ensure that all necessary action could and would be taken to safeguard this building from the construction of the outfall. With these changes to the DCO, I am satisfied that sufficient mitigation would be provided.

- 5.117 Overall, therefore, I am satisfied that the DCO scheme is consistent with paragraphs 5.171- 5.183 of the draft National Networks NPS with regard to noise and vibration.

Biodiversity and geological conservation

- 5.118 The initial ES (APP-018 to APP-023) provides comprehensive survey and evaluation of the implications of the DCO scheme on wildlife and habitats in sections 10 and 13 and in the related figures and appendices. Relevant and written representations on ecological matters were received from Natural England (NE) (RR-037 and REP-018), the Environment Agency (EA) (RR-039), the Cheshire Wildlife Trust (CWT) (RR-036 and REP-265) and CEC in their Local Impact Report (PD-034). These were followed up in Statements of Common Ground (PD-030, PD-032 and PD-033). In essence, although a need for additional survey work and to secure intended mitigation is highlighted in these representations, no matters likely to prevent the construction of the DCO scheme are revealed. It should be noted, however, that CWT do regard certain issues and the persistence of concern beyond the short-term to be of greater significance than do the statutory conservation bodies. The extensive mitigation proposed is described in the ES where an Environmental Masterplan is presented as section 6.1.2.
- 5.119 One of the main areas of concern relates to great crested newts (GCN), a European Protected Species, over which further survey work is required to ensure that the proposed mitigation, which involves creation of a number of replacement and additional ponds and related habitats, is sufficient on both sides of the proposed road to avoid fragmentation of communities because it has been established that it is not feasible to create amphibian tunnels beneath the road. The proposals have been refined and amended both in the light of Natural England (NE) comments and negotiations with land-owners. There has been protracted correspondence between HA and NE during the Examination as HA sought to obtain a letter of no impediment over the future issue of a licence that will be required to disturb the newts. By the close of

the Examination NE had not been able to issue such a letter but had written indicating that the outstanding matters are such that resolution is anticipated (AS-085). Under the Conservation of Habitats and Species Regulations 2010 (as amended), although the ExA is not the consenting authority, I need to have regard to the habitats directive to be satisfied that its tests can be met, so that a licence will be forthcoming. The making of the Order would demonstrate that it has been concluded there is an overriding public interest and that there are no satisfactory alternatives (ie that the first 2 tests would be met). The outstanding matters that NE refers to are further evaluation of survey results and mitigation proposals to ensure that the populations of GCN that would be separated on either side of the proposed road would have sufficient habitats and linkages to maintain favourable conservation status in order to satisfy the third test.

- 5.120 As far as Badgers are concerned NE have been able to issue a letter in response to a draft licence application indicating that provided certain conditions are met NE anticipate being able to issue a licence to relocate a multi-entrance sett that would be affected by the road (PD-038).
- 5.121 The tree containing a roost for a protected bat species no longer exists so that there is no need for a licence to disturb bats, nor for greater action than the proposed mitigation in respect of barn owls although further pre-construction surveys are envisaged. Again while further pre-construction surveys are envisaged in relation to otters and water voles, no evidence has as yet been found that the DCO scheme would create disturbance although mammalian tunnels are intended in certain locations. The EA, which is responsible for ensuring the conservation of these last two species, does not anticipate any impediment to the scheme in this regard. The geology of the scheme area is unexceptional and does not raise any material issues.
- 5.122 The ecological mitigation strategy in the ES envisages replacement of woodland lost from Tabley Pipe Wood and Belt Wood that are locally designated as Sites of Biological Interest (SBI), Square Wood and Kennel Wood at least on a 1:1 basis and generally on a 2:1 basis. Additional planting is envisaged to reinforce hedgerows and provide for fly-overs in order to maintain continuity of wildlife corridors. A 'green bridge' is also proposed north of Mere Hall to provide a crossing point for wildlife as well as a link between severed parts of Knowlespit Farm.
- 5.123 Although CWT would prefer to see avoidance of any areas of woodland designated as SBI and suggest that even after 15 years replacement planting would not be as species rich as areas lost, my overall conclusion, in line with the conclusions of the ES in respect ecology and biodiversity, is that there will be a short-term adverse effect on these matters. However, once the mitigation is fully effective through a maturing of the landscape planting and its

proper management this should be offset with a possibility that there could ultimately be a net ecological benefit. Such an outcome will be dependent on securing that mitigation and on-going maintenance and this is a matter that will be addressed further in section 8 on the wording of the DCO and its requirements.

- 5.124 The consequences in relation to European Sites are specifically addressed in section 6, where the conclusion is that there would be no likely significant effects on the integrity of any sites that might be affected.

Flood risk, climate change mitigation and adaptation and water quality and resources

- 5.125 The application was accompanied by a Flood Risk Assessment which is set out as Appendix 11.2 to Chapter 11 of the ES (APP-030 and APP-054). This indicates that the great majority of the scheme is in Flood Risk Zone 1 where there is a very low risk of flooding. A small portion at the northern end is within Flood Risk Zone 2 where there is a medium risk of flooding but this is an area of existing embankments and structures that are clear of the flood plain and there would be no new encroachment or impedence to flow. The scheme would be classed as essential transport infrastructure so the development is regarded as appropriate in Table 3 of the Technical Guidance to NPPF on flood risk issues.
- 5.126 The Highways Agency Water Risk Assessment Tool (HAWRAT) has been applied in respect of proposed highway drainage outfalls. The outfall from a small section of the existing A556 close to M6 Junction 19 and from the length of the M6 to the south drains ultimately into Serpentine Mere, a SSSI. While the existing road would potentially have a reduced run-off following the proposed de-trunking works, the added running lane up to Knutsford Services to assist southbound merge would result in an increased impermeable area, but only to the extent of 1%, given that for the most part it involves conversion of the existing hard shoulder. While the EA would desire action to be taken to improve the water quality in relation to this outfall, the outfall also serves a section of Northwich Road. HA have recently installed a limestone filter to provide some amelioration. No further action is proposed in respect of this scheme, but a managed motorway scheme has been added to the Roads Programme that would enable this issue to be considered further.
- 5.127 All the highway drainage for the new A556 would be directed away from the existing A556 outfalls via four balancing ponds, two that would outfall into Tabley Brook and two that would outfall via Birkin Brook at its confluence with the River Bollin. With the mitigation of these balancing ponds, HAWRAT assessments are passed with the scheme designed to cope with a potential increase in rainfall of 20% in order to adapt to climate change. The

existing and proposed outfalls are shown in Figures 11.1A-C (APP-046) and Figures 2.8-2.9 (APP-033) in the ES. There would be a reduced flow of highway drainage as a consequence of the de-trunking works that would reduce the impermeable area of the existing A556. Less highway drainage would therefore flow indirectly into the meres, including Rostherne Mere, that are European Sites. The scheme should therefore benefit the conservation of the biodiversity of those sites.

- 5.128 Although both CEC and EA have yet to grant the required consents for discharge into the relevant watercourses for which they are responsible, neither have questioned the approach of the HA assessments and proposals in respect of flood risk and drainage (PD-030, PD-033, PD-034, REP-091 and EV-027). Consequently, the ExA does not consider that there should be any adverse effect on ground or surface water resources. As a consequence, I am satisfied that the DCO scheme is consistent with the approach of the draft National Networks NPS and the requirements of the WFD. The outstanding consent requirements will be referred to further in section 9 and detailed in Annex I.

Dust and other potential nuisance, waste management, pollution control and other environmental regulatory regimes

- 5.129 Operational impacts in relation to air quality have already been considered. Any issues in respect of dust or pollutants are potentially matters that could arise during construction. They will be addressed via the CEMP that will be secured through the requirements of the DCO. Topsoil will be stored during construction for re-use following temporary occupation and in landscape mitigation. In general excavated material is intended to be re-used in the scheme. In a limited number of instances environmental permits will be required such as in relation to discharges from temporary toilet facilities. These matters are referred to further in section 9 and detailed in Annex H.
- 5.130 Relevant Representations were made from occupiers close to the proposed new road and from the National Trust seeking information on the proposed lighting. As a consequence, I sought such details from HA and these are provided in (REP-055). The principles of the lighting scheme are that the new road would be unlit apart from the tie-in to M6 Junction 19 and M56 Junction 7 and that the existing lighting along the existing A556 would be removed and only replaced around the new junctions at Mere and Bucklow Hill.
- 5.131 For many properties such as Over Tabley Hall, this should mean less awareness of night-time lighting than exists at present. As for the National Trust in relation to Dunham Massey there would be a modest net reduction in lighting along the existing A556 as existing lighting would be removed south of the Bowdon

roundabout and replacement lighting only located on the northbound approach to the roundabout. However, the new roundabout to be constructed south of the free flow link between the new A556 and the M56 that would take southbound traffic from the A56 and certain movements between the M56 and A56 would be lit. It is therefore possible that some additional, albeit slightly more distant, lighting might be visible from within the Dunham Massey parkland. This will be considered in detail in relation to Compulsory Acquisition (CA) issues in section 7 as arguments seeking omission of some structural landscaping were raised in the context of requests to return existing highway land to former owners.

- 5.132 As a generality, I am satisfied that the proposed lighting will, in terms of environmental conditions, be an improvement over the existing situation and should not give rise to harm. The issue of whether the lighting drawings should be embodied in the DCO will be addressed in section 8.

Historic environment

- 5.133 Section 66 of the Planning (Listed Building) and (Conservation Areas) Act 1990 is not directly applicable to applications for DCOs submitted under PA 2008. Rather Regulation 3 of The Infrastructure Planning (Decisions) Regulations 2010 states that "When deciding an application which affects a listed building or its setting, the decision-maker must have regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses." The word "special" is not included in the regulations as a qualification of the nature of the regard to be had unlike in s66 so that the Judgements as to its meaning that have recently been given in relation to appeals under TCPA 1990 do not strictly apply. Nevertheless, I have considered the question of the effect on the settings of Listed Building very carefully, obtaining full details of the Listing particulars via the HA (REP-127) and further background information from CEC (REP-141 and AS-018).
- 5.134 Moving from south to north, although the Grade II Listed 17th century Moss Cottage, Tabley Hill Lane is noted as one of the Listed Buildings whose setting might be potentially affected, this property is situated within a group of buildings to the west of the M6 south of Junction 19. The additional running lane proposed to run south from Junction 19 to Knutsford Services would be on the far side of the M6 from the Listed Building. The proposed 15 m high lighting columns on the east side of the motorway and the night-time lighting would marginally increase the existing impact of the M6 so there must be a minor adverse effect from the scheme. Further west, as the Listed Grade II lodges at the east entrance to Tabley House are some 500 m from the M6, this aspect of the scheme, including the lighting, would have a very limited effect on their setting.

- 5.135 The owners of the Grade II Listed Building at Over Tabley Hall Farm (or as the Listing particulars describe it, west of Over Tabley Hall) argue that the significance of the impact of the scheme on the farm should be regarded as major adverse because the farm is not a business use but rather a residential one. This is because the more recent brick farm buildings that would be closer to the new road have been converted into dwellings. (REP-141) indicates the nature of the application that was before CEC at the time of the Examination for further residential conversion and development of the site. This would include conversion of the Listed building into 4 residential units.
- 5.136 While the architect's plan describes the listed Building as 'Manor House', the listing particulars simply describe it as 'farm building (probably stables)'. What is clear is that with its mid-17th century dating, the building is older than the remainder of the farm and older than Over Tabley Hall itself as that is dated as c1760, though it is possibly a modification of an older building that could have been contemporary with this structure. The ES describes the relationship between the hall and the structure as not being changed. Neither is that with the farm, but as this building did not originally relate to either of the present structures the present significance of its setting is very limited. The intervening land towards the hall, although possibly a former walled garden, now appears used as a football pitch or other recreational purposes and at the time of the accompanied site visit (ASV) contained a number of mobile homes. Although, there is a potential concern to the structure in relation to vibration during the construction of a proposed drainage outfall¹¹, I cannot see that in operational terms the provision of the proposed road some way to the east of the farm and the hall would affect the setting of this structure as a Listed Building.
- 5.137 The situation with regard to the Grade II Listed Over Tabley Hall was also considered. The report from Nicolas Grimshaw on behalf of the owner David Cohen confirms the assumed construction (or reconstruction) as c1760 by and to the probable design of the landscape painter, John Astley. The report further highlights the relationship to the large open fields which enable the hall to be seen both from the existing A556 Chester Road and Old Hall Lane. It suggests that this relationship must have been a feature in its setting since at least the mid-19th century. A visual relationship to the Listed (Grade II) parish church is also noted, this building fronting the west side of the existing A556. However, the Listing particulars for that church note a historical connection with Mere Old Hall to the north rather than with Over Tabley Hall.
- 5.138 The report goes on to explain how the gothic east elevation must have been expressly designed to maximise its impact in the views

¹¹ See paragraph 5.112 above

across the fields to the east and how the main central window that looks out from the 'piano nobile' would have been created to light Astley's studio and provide views over these open fields. As the proposed road would run through these fields, I agree that there must be an adverse effect on its setting. It should, however, be noted that English Heritage did not express concern over the impact on the setting in their representations nor in the SoCG with HA, these being focussed primarily on archaeological matters. Moreover, CEC only became more concerned over the implications on the setting of the hall following the ASV and the provision of additional photomontages from the upper floors that are not artificially restricted by the placing of representations of the glazing bars within them (REP-105 and REP-106). The need for greater landscaping to create a tree screening belt of woodland is contained in (AS-018), echoing a point made by Nicolas Grimshaw in his report.

- 5.139 The landscape mitigation was discussed at CA hearings, particularly the creation of a tree belt to be broken only to maintain a view of the church, a point accepted by HA. With this mitigation the adverse impact would be appreciably reduced. The nature of the screening would be picked up in working up the landscaping details that would be a requirement imposed under Schedule 2 of the DCO.
- 5.140 The relocation of the balancing pond from its proposed location east of the hall was also discussed at the CA hearings and the outcome of HA reconsideration of this aspect is set out in (REP-105 and REP-106). The creation of this balancing pond is asserted on behalf of the owner to affect both the setting of the hall as a Listed building and its amenity as a dwelling. I do not find this argument particularly compelling bearing in mind that a pond of comparable size with some bunding on its east side has been created within the curtilage of the hall in front of its east elevation. It is thus situated between the hall and the proposed balancing pond that would only periodically contain water but at most times would only be a reedy depression. Moreover, to the south there is an existing balancing pond area serving the hard-standing of the Tabley Services that at the site inspection was a reedy depression. I am not therefore convinced that the proposed balancing pond, even allowing for highway fencing (which would be similar in appearance to agricultural fencing), would materially add to the residual adverse effect on the setting of Over Tabley Hall after landscaping that would be caused by the new highways including both the new A556 and the diverted Old Hall Lane.
- 5.141 HA have put forward amendments to the works and land plans that re-shape the balancing pond, enable the diverted Old Hall Lane to be further from the hall and provide space for the belt of tree planting referred to in paragraph 5.138, together with provision for an appropriate gated feature at the entrance to a new separate private drive to serve the hall and the balancing

pond. HA maintain that the pond cannot be relocated further north as this would preclude gravity drainage to Tabley Brook. HA also maintain that other locations for the pond are not feasible and/or would involve increased land-take and that it is also not possible to vary the mainline A556 alignment to be further from the hall because of the need for tie-in to the Junction 19 roundabout and to avoid worsening the impact on other properties.

- 5.142 The existing shared access via the farm would remain unaffected by the DCO scheme and the amendments enable the land-take to be marginally reduced. These changes are not only shown in (REP-105 and REP-106) but are contained in the final set of Rev 2 drawings. I am satisfied that these changes seek to mitigate the effect on the setting of the hall as a Listed Building and as a dwelling to the greatest extent possible consistent with the implementation of the overall DCO scheme. However, the residual effect on the setting of the Listed Building must remain an adverse consequence to weigh in the balance in considering the acceptability of the scheme.
- 5.143 The effect on the physical setting of the mid-19th century Listed Grade II Parish Church of St Paul and the related Grade II Langford-Brooke monument is in my judgement, beneficial. The heavily trafficked main road would be removed from its south-eastern frontage to run to its rear some way to the north-west. The proposed NMU route along the northern side of the de-trunked road should greatly improve access for walkers, cyclists and horse-riders, perhaps returning the frontage setting closer to that at the time of the construction of the church. Concerns were expressed prior to the application over the parking situation for the church. (REP-057) shows the HA's proposal to utilise part of the existing carriageway of the A556 to replace the lay-by to the south of the church, which together with the greater ease of crossing what would become a lightly used cul-de-sac section of the existing road, should significantly improve the existing parking situation. This should help off-set any greater difficulty in road access caused by the junction arrangement at Tabley and the diversion of Old Hall Lane and assist in the continued use of the Listed Building.
- 5.144 At Mere Old Hall, there are two Listed Grade II Buildings namely the late 18th or early 19th Century Hall itself and the walled garden of c1800, though the written representations from CEC (AS-018 and REP-141) indicate that the Council regards other buildings, such as the stables, barns and cottages, within the curtilage (which they take to include the whole of the historic parkland) also to be thereby listed. As the Listing particulars do not make any mention of these other buildings, now largely all in residential or business use, I am not wholly convinced that this is so, but the effect on the setting of all of these buildings has been considered.

- 5.145 As for the main Hall building, now converted into a number of apartments, from ground level the proposed road would be at the limit of vision to the west or northwest across the parkland that would remain largely undisturbed. Any new works would be seen against the backdrop of woodland that would remain together with the intended landscape planting. Consequently, the effect would only be very modest. As for the walled garden, now converted into a dwelling, it would remain surrounded by woodland on its sides towards the nearest points of the new highway across further fields and so the effect would be negligible.
- 5.146 Some of the cottages within the parkland are closer to the proposed new road than the main hall and would perhaps thereby get a closer view of the construction near Kennel Wood. They would also be likely to experience increased noise levels. Nevertheless, they would still be at some distance from the road and taking the historic parkland area as a whole, the effect would be very modest.
- 5.147 The substantially reduced traffic on the existing A556 and the works envisaged at Mere crossroads (REP-107) should mean some benefit to the setting of the Listed Grade II arched gatehouse to Mere Golf Club and Spa. The de-trunking works would enable better utility for the gatehouse. The setting for the Listed Grade II AA Box should also be improved because of the reduced traffic on the existing road and the de-trunking works, as it should be for the locally listed Montebello Castle and Water Tower.
- 5.148 Denfield Cottage in Millington Hall Lane, which is a Grade II Listed dwelling dating from the late 17th century with later additions, some in the 20th century. The stables to the south-east have been converted into residential accommodation. From the existing lane, the setting would not be affected as the new road would run east of 1 & 2 Denfield Cottages, but at the rear, proposed bunding that would screen the road would lie beyond the pond which adjoins the eastern side of the rear garden. In addition to increased noise that would still be likely, notwithstanding intended screen planting on the bunding, there may also be distant views of the proposed over-bridge at Chapel Lane. Finally, the access arrangement would be materially changed as Millington Hall Lane would be severed by the proposed new road. The setting in a tranquil rural scene would be significantly altered. Taking all these considerations into account, there would be a residual adverse effect on the setting of this Listed building, notwithstanding the intended landscape mitigation both close by and near to Chapel Lane.
- 5.149 English Heritage (EH) (PD-029) and CEC did raise issues concerning monitoring of construction in relation to potential archaeological interest, particularly where investigations had not been able to be completed prior to the examination. However, EH

considered that such matters are capable of resolution through requirements. I address this in section 8 of my report.

- 5.150 Notwithstanding the conclusion concerning archaeological matters, taken as a whole and in line with the approach of the draft National Networks NPS, the effect on historic environment and cultural heritage must be regarded as a negative factor in weighing the acceptability of the scheme as a result of the adverse effect on aspects of the settings of Over Tabley Hall and Denfield Cottage.

Land use

- 5.151 Although no land expressly scheduled as open space or green infrastructure would be taken to construct the DCO scheme, many of the Interested Parties who oppose the DCO cite the loss of open countryside and farm land (e.g. RR-019, RR-023, RR-024 and RR-029).
- 5.152 Some 98% of the permanent land-take for the DCO scheme would be of agricultural land. This would amount to some 77.4 ha or about 7.5% of the area of 14 or 15¹² farm holdings that are affected in any way. The impact on the different farm holdings would vary considerably depending on the extent and nature of the land taken. While adverse impact is anticipated on all the holdings, the ES identifies 4 holdings where the impact is anticipated as being significant namely Tabley Hill Farm, Knowlespit & Bentleyhurst Farms, Mere Hall Farm and Millington Hall Farm. The cases for the first two (or three) farm holdings were pursued at the CA hearings and are addressed in detail in section 7, as are the cases of the landlords in respect of the estates from which most of these farms are tenanted.
- 5.153 The impact on agriculture is heightened by the fact that the great majority of land taken is regarded as 'best and most versatile' (BMV). 48.1 ha or 68% is either grade 2 or grade 3a. Paragraph 112 of the NPPF advises that loss of BMV should be avoided wherever possible. However, HA point out that the prevalence of BMV in the locality is such that its use could not be avoided.
- 5.154 Nevertheless, although the effect on non-farm businesses is regarded as generally beneficial (albeit with some adverse consequences to operators of roadside facilities along the existing A556 that would be bypassed and downgraded), overall the effect on land-use through loss of agricultural land and the particular impact on certain holdings is be an adverse effect to weigh in the balance.

¹² These figures include two holdings on which there is only licensed grazing. The ES treats Knowlespit Farm and Bentleyhurst farm as a single unit whereas the evidence to the Examination is that there are two separate and distinct farm business tenancies albeit to the same tenants.

Landscape and visual impacts

- 5.155 The proposed road runs mainly through the Arley Landscape character area with a small incursion into the Ashley character area while touching the edge of the Tatton character area. The last is mainly characterised by the parkland of Tatton Park and the scheme has no effect on that. No land with special landscape designation is affected by the DCO scheme.
- 5.156 As far as the Arley and Ashley character areas are concerned both are characterised as low rolling or gently undulating countryside of medium or large scale with the main Arley area having significant variation in tree cover. The area through which the proposed road would run has some quite extensive areas of woodland with the road threaded through so that there are only very minor losses of woodland. Consequently, there are few points at which extensive views of the works will be possible. Thus, in landscape terms after the proposed landscape planting has matured, whether along the highway margins or elsewhere to add to woodland cover and enhance hedgerow planting, my judgement is that the impact will be very modest.
- 5.157 This is not to say that in particular locations there will not be a more significant adverse effect on the view of or from specific properties, particularly during construction and in the opening year when inevitably there will be a linear scar along the route. The photographs and photomontages that are referred to in Chapter 9 of the ES (APP-040 to APP-044) and augmented in answer to ExA questions (REP-059 and REP-105 to REP-106) illustrate the existing character and the prospective effect on the landscape at various locations both at opening and at the design year. Despite localised impacts I consider that the overall adverse effect will be modest with the new road generally absorbed into the landscape by the design year provided that the mitigation, broadly as illustrated in the Environmental Masterplan, is secured by requirements within the DCO (APP-031).

Socio-economic impacts

- 5.158 There was criticism of the application by NWTAR/CfBT that it was not accompanied by a full economic appraisal bearing in mind WebTag guidance. The NPPF stresses that sustainable development involves social, economic and environmental considerations. The HA view is that under WebTag they are only obliged to provide a limited Regeneration Report and as the scheme is not within or adjacent to an area of multiple deprivation, the scheme is not likely to have a material effect on those areas which are already within 50 minutes commuting distance of significant employment opportunities (REP-130).
- 5.159 The economic justification has therefore to be derived in more general terms from the scheme being assessed as being good

value for money in terms of BCR¹³ and from the content of the Planning Statement (APP-007, REP-223 and AS-061). This draws attention to the importance of the link in the strategic network between Birmingham and Manchester and in facilitating access to an International Gateway at Manchester Airport and to the related Enterprise Zones. It states that congestion is a constraint to economic growth and that its relief is crucial to facilitate the aspirations of Cheshire and Greater Manchester authorities and partnerships. The scheme is regarded as having the potential to unlock development in line with government policy. Benefits are specifically identified in terms of distribution at and related to Manchester Airport and at Northwich, Winsford and Middlewich.

5.160 The North West Business Leadership Team (NWBLT) Transport Report reflects this emphasis (AS-005) and the government policy documents referred to in section 4 above¹⁴ stress the importance of transport infrastructure in facilitating economic development. This is a key point highlighted in paragraph 2.10 to 2.16 in the draft National Networks NPS.

5.161 Consequently, I am satisfied that in terms of the predicted contribution that the scheme will play in relieving congestion on the strategic road network and improving access to key economic locations, there should be an economic benefit and a wider socio-economic benefit that can be attributed to the DCO scheme.

Safety including for non-motorised users (NMUs) and good design

5.162 An objective of the DCO scheme is specifically to address safety concerns at the Bucklow Hill and Mere junctions and in relation to the numerous direct residential and farm accesses along the existing A556. Construction of a dual two lane carriageway fully up to DMRB standards throughout and with grade-separated junctions with local roads should achieve significant improvement in safety for all users of those highways. The junction strategy for the scheme is designed to minimise increases of traffic on minor roads and the proposed planning and highway agreements between HA and CEC cover traffic calming and other works to ensure that the nearby lanes function safely (see Annex G). Overall, the extent of safe local connectivity for motorised traffic should be increased.

5.163 Specifically, with regard to non-motorised users, after initial correction of minor errors in the plans and documentation, all existing rights of way will be maintained. With a NMU underpass provided broadly on the line of the existing Old Hall Lane to avoid the need to use the proposed vehicular diversion via the Tabley junction, NMUs would be provided for at that location, though the

¹³ See paragraphs 5.66-5.71 above.

¹⁴ Paragraphs 4.19-4.26

severance of Bucklow Hill Land and Millington Hall Lane would affect some movements for all users. Shortly before the close of the Examination the British Horse Society (BHS) lodged an objection to the restricted height for the proposed underpass at Old Hall Lane that would require riders to dismount (AS-069). HA pointed out that levels necessary to tie in to M6 Junction 19 and avoid need for pumped drainage provide very little margin to vary the main line elevation and increase the headroom. Nevertheless, they are confident that a 3 m headroom suggested as the minimum acceptable height in BHS guidance should be possible. In section 8, I recommend that this is made a Requirement so that the need for this headroom is not overlooked.

- 5.164 More generally, it is proposed to create a new NMU route with a landscaped bund separating it from the proposed narrowed 2-lane de-trunked local road along the northern two-lane part of the existing A556 carriageway. This is illustrated in the Environmental Masterplan (APP-031) and in Figures 2.13-2.17 in the ES (APP-033). It would run as far north as Millington Lane and then divert into Cherry Tree Lane. Not only would this link up existing rights of way and minor roads that give access into the countryside safely on bridges over the proposed new A556, but should also provide an attractive new route for NMUs. Although the need for this route was questioned by Mr Brooks for the Tatton/Millington Estates, suggesting instead that land no longer required for the trunk road itself should be returned to frontagers, I am satisfied that this proposal is fully consistent with the safety and environmental objectives of the DCO scheme and government policy to encourage low-carbon sustainable forms of travel, for example as set out in paragraphs 3.13 and 3.14 of the draft National Networks NPS.
- 5.165 From Cherry Tree Lane in the modified proposals introduced in the Rev 1 drawings, pedestrians (as now) and cyclists would be led through Yarwood Heath Farm. As proposed, instead of passing through the farmstead and over an accommodation bridge above the M56 Junction 7 slip roads to link with the footpaths along the Bollin valley, these users would be diverted round the proposed new roundabout south of the free-flow link between the new A556 and M56. North of the motorway link a re-aligned footpath (that would also provide an access track to new balancing pond D) would link to the accommodation bridge, while pedestrians and cyclists would alternatively be led to the crossing facilities that would be provided at the A56 Bowdon roundabout.
- 5.166 Mr Brooks, having successfully persuaded HA to withdraw their original proposal to upgrade this footpath, ROS FP13, to a bridleway still contested the need for it to be turned into a cycle-track. It was suggested that this could lead to more trespass and danger if cyclists encountered heavy farm vehicles on the private access road. I accept the HA argument that this route would provide a safe alternative for cyclists without their having to

negotiate the very heavily-trafficked A56 Bowdon roundabout. The upgrading in status to a cycle-track would not involve any physical works to the great majority of the route and no more works than necessary to create the new farm access tying into the proposed new roundabout. It is difficult to see why it should cause any more trespass, particularly as the route would no longer pass through the farmstead. Nor is it easy to see why there should be particular danger to cyclists. Farm vehicles might take up the whole of the available width on the M56 accommodation bridge but there would be sufficient visibility and space for NMUs to give way on its approaches. Consequently, I endorse the proposal to upgrade the re-aligned right of way to a cycle-track.

5.167 The BHS in their late submission (AS-069) opposed the dropping of full bridleway status for the route north from Cherry Tree Lane in order to secure an additional crossing point over the M56. However, I was not persuaded to reject the HA judgement that it would not be safe to lead equestrians to the A56 Bowdon roundabout even with the intended crossing facility at the M56 Junction 7 on-slip. The route would not then link into any bridleway network leaving horse-riders on the heavily trafficked A56 (EV-027). Evidence given at the final hearing session was that the locations that horse-riders would wish to reach to the east of the A556 are all south of the M56. To the west, horse-riders would have safe access across the new A556 on one of the proposed over-bridges and would be able to utilise existing crossings of the M56.

5.168 As for good design, in relation to landscape design, I am satisfied that this has been considered carefully as set out in the ES and illustrated in the Environmental Masterplan (APP-031). Initially, no details were provided of the design of structures, but at my request drawings of the proposed structures were submitted to the Examination (REP-232 to REP-242, augmented by REP-072 and AS-047 to AS-056). While the drawings show an expectation of modern functional design, this is not necessarily a criticism. Unless there is a local vernacular to relate to, functionality is a facet of good design. The only nearby bridges or structures of a comparable nature are those related to the M6 and M56. I do not therefore see any conflict with the section on the criteria for 'good design' in the draft National Networks NPS (paragraphs 4.26-4.28.). An issue remains as to whether these preliminary design drawings should be tied into the DCO. This is considered further in section 8 of this report.

Common law nuisance and statutory nuisance

5.169 Finally, before turning to the overall balance that has to be struck in relation to the DCO scheme as a whole, the issue of potential common law nuisance and statutory nuisance must be addressed. This is because s158 PA 2008 provides a general defence to action in respect of statutory nuisance. In relation to a nuisance within

s.79(1) Environmental Protection Act 1990, Article 32 of the HA's Rev 6 draft DCO would modify this defence in relation to notices or consents granted under s60, s61 or s65 of the Control of Pollution Act 1974, such consent is to be sought from CEC in relation to construction noise.

- 5.170 This issue is addressed as required by Regulation 5(2)(f) of Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 in a statement relating to statutory nuisance (APP-027). This concludes that nuisance is only potentially likely to arise as a result of dust, light or noise. The last would be limited as road traffic noise is excluded and so it would only arise from construction activities or vehicles. All these potential risks of nuisance can be controlled or mitigated under the proposed CEMP that would be imposed via a Requirement within the Order. HA have indicated that they would apply for certain consents from CEC under COPA 1974 as referred in in Annex H.
- 5.171 Although a number of IPs sought assurances that nuisance would not arise during construction, CEC did not contest the conclusion that sufficient mitigation is available both in the proposed scheme itself and in relation to the CEMP to avoid statutory nuisance arising. I can see no reason to disagree with this conclusion.

**OVERALL CONCLUSION ON THE MERITS OF THE ORDER
(INCLUDING IN RELATION TO THE GREEN BELT AND THE
DEVELOPMENT PLAN)**

- 5.172 At paragraphs 5.7-5.11 above, I indicated that a balancing exercise has to be undertaken to establish whether very special circumstances exist to justify development within the green belt and whether the proposals are in conformity with the development plan (and the NPPF).
- 5.173 The starting point is that substantial weight has to be afforded to the harm by reason of the inappropriateness that arises from development within the Green Belt as this is by definition harmful to its purposes which include safeguarding the countryside from encroachment. The wording of the NPPF might allow local transport infrastructure that can demonstrate a requirement for a Green Belt location to be considered as an exception (and all alternative proposals canvassed would involve Green Belt land) but this is a strategic proposal and the scale of development is such that it must be considered to have some effect on the openness of the Green Belt.
- 5.174 Following mitigation and maturing of the proposed planting, the road and related structures would generally be absorbed into the landscape. Nevertheless, the harm by reason of inappropriateness must be addressed in addition to any other harm. Even if the effect on issues like ecology, landscape and air quality can be regarded as neutral after mitigation, there is additional harm by

reason of the adverse effect on the settings of certain Listed Buildings as highlighted in paragraph 5.149. There would also be harm from the loss of agricultural land, including BMV land, and the significant impact on a number of farm holdings.

- 5.175 Conversely, the on balance improvement in the noise climate for residents in the locality, with far more experiencing a significant improvement in their noise climate than those who are likely to experience detriment, will be a positive factor to weigh in the balance as will the general improvement in the environment for Mere and Bucklow Hill. The improvement that will arise in relation to local highway safety and generally in relation to local connectivity, including for NMUs, will also be a clear and substantial benefit.
- 5.176 Clearly, the principle and some aspects of the detail of the DCO scheme are supported by specific saved transport policies of the Macclesfield Local Plan 2004. This must weigh in favour as must the support for the scheme in general from current government transport policies including the draft National Networks NPS and specifically the identification of the scheme as a priority project within the National Infrastructure Plan. These policy documents draw attention to the economic benefit that is expected from easing congestion on a link in the strategic road network and on the approach to the international gateway of Manchester Airport with its related Enterprise Zones.
- 5.177 Taking all these considerations into account, in my judgement, the material considerations weighing in favour of the proposed development clearly outweigh the potential harm to the Green Belt and any other harm, including the residual harm to the settings of listed buildings, such that very special circumstances exist to justify the development within the Green Belt.
- 5.178 Consequently, I also regard the DCO scheme as generally in conformity with the policies of the development plan, notwithstanding any conflict with detailed environmental policies such as that concerning the historic environment.
- 5.179 If the development plan were regarded as out of date because it pre-dates the publication of the NPPF, a similar balance of considerations indicates overall consistency with the NPPF. The existence of very special circumstances to justify development in the Green Belt would mean that there are no specific policies in the Framework to indicate that development should be restricted and I consider that the benefits would outweigh the adverse impacts.
- 5.180 In assessing the scheme I have also found that it is in compliance with relevant sections of the draft National Networks NPS. In my judgement, therefore, the Order should be made in the public

interest in order to achieve the objectives for the scheme that are set out in paragraph 2.2 of this report.

6 FINDINGS AND CONCLUSIONS IN RELATION TO HABITATS REGULATIONS

Project Location

- 6.1 The DCO proposal lies to the north-west of Rostherne Mere and the meres that make up the Midland Meres and Mosses Phase 1, which are Ramsar sites. Rostherne Mere is set within a wider Site of Special Scientific Interest (SSSI) and National Nature Reserve (NNR). The Midland Meres and Mosses Phase 1 are also designated as SSSIs. The DCO scheme is further from these European Protected sites than the existing A556 that is to be replaced and down-graded. This is most clearly shown on Figure 10.1 in the ES (APP-045).

HRA implications of project

- 6.2 The application was accompanied by an HRA Scoping Report (APP-028). This noted 6 European Protected Sites within 30 km, but as none had bats among the European qualifying interests, attention was concentrated on the two Ramsar sites that are within 2 km that are referred to above. Tatton Mere is also a Ramsar site but as it is over 2 km from the nearest point of the DCO works, is not adjacent to a main road and has no hydrological interaction with the A556 existing or proposed nor with the M6, no further consideration was given to that mere.
- 6.3 Rostherne Mere is one of the deepest and largest and most northerly meres of the Shropshire-Cheshire Plain. It is one of a series of open water and peatland areas set in a glaciated landscape. There is little submerged vegetation and its shoreline is fringed with common reed for about half its circumference. Woodland and agricultural land surround the mere. The nutrient status of the water is eutrophic and eutrophication and introduction of non-native faunal species are identified as current threats to the favourable conservation status. Nationally important duck species are present. The mere does not support noteworthy flora but great cormorant, great bittern and water rail are noteworthy.
- 6.4 The meres forming the Midland Meres and Mosses Phase 1 are 330 m east of the existing A556. These are noted as demonstrating a diverse grouping of habitats from open water to raised bog and supporting a number of rare plant species including 5 that are nationally scarce, together with an assemblage of rare wetland invertebrates (3 endangered insects and 5 other British Red Data book species).
- 6.5 The perceived needs for the Ramsar Sites are to:
- Avoid the deterioration of the qualifying natural habitats and the habitats of qualifying species
 - Ensure appropriate water quality and water quantity

- Subject to natural change, to maintain or restore qualifying habitats including their structure and functions and the populations and distribution of qualifying species.
- 6.6 Part of the highway drainage from the northern end of the existing A556 drains into minor water courses that flow into these meres. However, the highway drainage from the replacement sections of new highway would be led via balancing ponds directly to the Birkin Brook and River Bollin without passing through the meres. Consequently, there would be no potential pollution of the meres from the DCO proposal and the existing volume of highway drainage entering the meres would also be reduced as a consequence of the de-trunking works that would reduce the extent of hard-surfacing of the existing A556.
- 6.7 The only physical work in the vicinity of any of these sites is construction of a retaining wall 80 m in length and a maximum of 1.9 m in height to support a section of realigned Cherry Tree Lane. This would be located about 0.5 metres outside the present hedge that marks the boundary of the SSSI and NNR in which Rostherne Mere is set. In order to construct the wall the length of hedge would have to be removed but the nature of construction proposed would not involve piling nor impede ground-water. Consequently, as it is well separated from the boundary of the Ramsar site no adverse effect is anticipated. The construction programme is agreed with NE to avoid any sensitivity with regard to breeding or wintering birds. Requirement 5(4)(d) secures this in the DCO.
- 6.8 Although some fields through which the new road would run are used for foraging by birds that over-winter in the area, these species are not those identified as noteworthy fauna of the meres.

Assessment of effects resulting from the project, alone and in combination

- 6.9 In their Relevant Representation NE agreed that HA had submitted a satisfactory ES and Assessment of Implications on European Sites. NE notes that it is satisfied that sufficient objective information has been supplied such that it can be concluded that the scheme will not have a significant effect on the international wetland sites either individually or in combination with other plans or projects (RR-037). They further commented with regard to Rostherne Mere SSSI that they are satisfied that damage is not likely to its notified features as a consequence of the proposed mitigation measures. At that stage NE sought identification of the mitigation in the CEMP and that the mitigation proposed regarding wintering birds and breeding birds needed to be differentiated.
- 6.10 These views were reiterated by NE in their SoCG with HA (PD-032) and in their written representations (REP-018).

- 6.11 The ExA circulated a Report on the Implications for European sites (RIES) for comment on 7 November 2013 (REP-081). In response NE simply pointed to the conclusions of the representations and SoCG that have already been cited. It has been agreed between HA and NE that post-construction monitoring of water quality in the meres should not be necessary given the nature of the proposals. The Environment Agency simply noted that they have no comments to make on the RIES (REP-083).
- 6.12 There were no directly dissenting views from other Interested Parties although NWTAR suggested that HS2 would cause there to be a cumulative impact on Rostherne Mere. The NE written representations cover this point, suggesting that mitigation intended should enable impact from that project also to be avoided. Moreover, NE expressly accept that as HS2 is a project that would follow sometime after the DCO scheme, it would be the responsibility of HS2 Ltd to take account of the in combination effects of that project (if any).
- 6.13 As a consequence, the RIES that is set out at Annex I is that which was consulted upon as no changes were required to reflect the views of SNCBs or other Interested Persons.
- 6.14 My conclusion, based on the information summarised in the matrices in the RIES report that forms Annex I to this report, is that there is sufficient information and assessment evidence to conclude that the proposed scheme will not give rise to a likely significant effect on any European Site within the locality of the of the scheme, either alone or in combination with other projects or plans.
- 6.15 As a consequence, I recommend to the Secretary of State that no Appropriate Assessment is required.

7 COMPULSORY ACQUISITION

The request for Compulsory Acquisition Powers

- 7.1 The application was accompanied by a Statement of Reasons (APP-062), a Funding Statement (APP-063), Book of Reference (APP-064) and Land Plans (APP-011 with Crown Land shown on APP-017). An update to the Book of Reference was provided with the certificates of compliance (PD-039). A fully revised Book of Reference was supplied in January 2014 to accompany the Rev 1 series of Drawings (REP-150 and REP-151-153) that embody the changes introduced by way of the formal amendment to the DCO that was accepted as a non-material alteration on 17 February 2014¹⁵ and changes offered at the January hearings. Shortly before the close of the Examination HA submitted a final revision of the Book of Reference to accompany the Rev 2 series of plans. These embody additional changes to take account of further negotiations over the National Grid Gas pipeline diversion and the landholdings of Mr H Bloor and Messrs Faulkner. References to individual plots in this report are to those in this February 2014 Book of Reference and Rev 2 Land Plans (REP-159 and REP-160).
- 7.2 CA powers are sought over land required for the linear development of the A556 improvement which is located wholly within the administrative area of Cheshire East Council in Cheshire. The majority of the land required for the scheme is currently in agricultural use. Other land required for the scheme includes land already part of the highway network, part of the car park of Tabley Parish Hall and some land would be needed from the grounds of private properties, including Bucklow Manor Nursing Home.

The purposes for which the land is required

- 7.3 Broadly stated, the purpose of the Compulsory Acquisition powers is to enable the applicant to construct the proposed development set out in Schedule 1 to the DCO, namely:
- (a) Work No.1: the construction of a new all-purpose dual carriageway and improvements to a section of the existing A556 to dual carriageway standard, totalling 7.5 kilometres in length, between M6 Junction 19 and M56 Junction 7;
 - (b) Associated development: Work No.1 Accommodation and mitigation works
 - (c) Associated development: Work No.2: the re-location of the Vehicle & Operators Services Agency (VOSA) Goods Vehicle Test Station from west of the existing A556 to the centre of Bowdon roundabout;

¹⁵ See paragraphs 3.24 and 3.25

- (d) Associated development: Work No.3: the improvement of the M6 southbound carriageway between M6 Junction 19 and the over-bridge of the A5033 Northwich Road;
- (e) Associated development: Work No.4: modifications to the existing A556 Chester Road from M6 Junction 19 to the new Cherry Tree Lane link;
- (f) Associated development: Work No. 5: the diversion of approximately 320 metres of gas transmission pipeline north of Old Hall Lane (west) and the new highway drainage attenuation / pollution control facility;
- (g) Associated development: Work No 6: the diversion of approximately 665 metres of oil pipeline from the south east of Chapel Lane diversion to the north-west of Chapel Lane diversion; and
- (h) Associated development: Work No. 7: the diversion of approximately 460 metres of water pipeline from A556 Chester Road at junction with Millington Lane to south of Mereside Farm.

7.4 CA is required to remove existing easements servitudes and other private rights in relation to all plots; to acquire the freehold in some 170 plots¹⁶, to acquire new rights in 31 plots. Temporary possession is also sought in respect of 113 plots.

7.5 Land in which there are Crown interests is shown on the Crown Land Plans (APP-017) and referenced in Part 4 of the Book of Reference. Initially, it was considered that a number of Crown Departments held interests in this land but after the Met Office indicated that they had no interests in the land to be acquired (APP-065) and further research by HA, it was established that all Crown Interests involved are held on behalf of the Secretary of State for Transport¹⁷ (REP-104 and REP-103). In order to meet the requirements of s135 PA 2008, the Secretary of State for Transport provided a letter consenting to the acquisition of interests other than those held by the Crown in respect of this land (AS-019/REP-104 and REP-103).

7.6 Part 6 of the Book of Reference contains a list of Statutory Undertakers and similar bodies that may have a right to keep equipment within the DCO boundary though the list does not include the current names of a number of bodies that are Statutory Undertakers or similar bodies and who have made representations in relation to the DCO. Those Statutory Undertakers who have made representations are the EA, National Grid, Manweb, Mainline Pipelines and United Utilities.

¹⁶ The numbers relate to Tables 1, 2 and 3A in the Statement of Reasons (APP-062) and may be slightly different in the Final Book of Reference and Land Plans as some plots have been merged, subdivided, created or deleted during the course of the Examination.

¹⁷ The Final Book of Reference still contains a reference to DCLG, but this is related to the assumed Met Office Interest. For the avoidance of doubt, the Met Office did indicate that the CA had their consent (APP-065).

- 7.7 The DCO seeks to incorporate the provisions of the Compulsory Purchase (General Vesting Declarations) Act 1981 with modifications and the provisions set out in s.138 and s158 of the PA 2008 relating to statutory authority and protection given to override easements and other rights.
- 7.8 Section 120(5)(a) of PA2008 provides that a DCO may apply, modify or exclude a statutory provision which relates to any matter for which provision may be made in the DCO and s117(4) provides that, if the DCO includes such provisions, it must be in the form of a statutory instrument. The DCO seeks to apply s120(5)(a) and is in the form of a statutory instrument.

The requirements of the Planning Act 2008

- 7.9 Compulsory Acquisition powers can only be granted if the conditions set out in sections 122 and 123 of the PA2008 are met.
- 7.10 Section 122(2) requires that the land must be required for the development to which the development consent order relates or is required to facilitate or is incidental to the development. In respect of land required for the development, the land to be taken must be no more than is reasonably required and be proportionate.¹⁸
- 7.11 Section 122(3) requires that there must be a compelling case in the public interest which means that the public benefit derived from the Compulsory Acquisition must outweigh the private loss that would be suffered by those whose land is affected. In balancing public interest against private loss, Compulsory Acquisition must be justified in its own right. But this does not mean that the Compulsory Acquisition proposal can be considered in isolation from the wider consideration of the merits of the project. There must be a need for the project to be carried out and there must be consistency and coherency in the decision-making process.
- 7.12 Section 123 requires that one of three conditions is met by the proposal¹⁹. The ExA is satisfied that the condition in s123(2) is met because the application for the DCO included a request for Compulsory Acquisition of the land to be authorised and the relevant Regulations were followed in as far as necessary with

¹⁸ Guidance related to procedures for compulsory acquisition DCLG February 2010

¹⁹ (1) An order granting development consent may include provision authorising the compulsory acquisition of land only if the Secretary of State is satisfied that one of the conditions in subsections (2) to (4) is met.

(2) The condition is that the application for the order included a request for compulsory acquisition of the land to be authorised.

(3) The condition is that all persons with an interest in the land consent to the inclusion of the provision.

(4) The condition is that the prescribed procedure has been followed in relation to the land.

regard to additional land as is made clear in paragraphs 3.24-3.25 of this report.

- 7.13 A number of general considerations also have to be addressed either as a result of following applicable guidance or in accordance with legal duties on decision-makers, namely that all reasonable alternatives to Compulsory Acquisition must be explored, the applicant must have a clear idea of how it intends to use the land and demonstrate that funds are available; and the decision-maker must be satisfied that the purposes stated for the acquisition are legitimate and sufficiently justify the inevitable interference with the human rights of those affected.

How the ExA examined the case for Compulsory Acquisition (CA)

- 7.14 In view of the Relevant Representations that had been made from a number of Affected Persons (APs), the ExA scheduled 4 days for CA hearings in December 2013 and January 2014. A further hearing on 20 February 2014 concluded consideration of CA matters. Not all APs who lodged Relevant or Written Representations sought to be heard orally. The following sections draw upon the cases made in writing, including in response to questions that I put to the applicant to pursue issues raised by APs, as well as points made orally at the hearings.
- 7.15 This section of the report first addresses the general case made for CA, before considering in detail the particular plots that were contested individually by APs.

The Applicant's case

- 7.16 HA maintains that all the land is required for (or facilitates or is incidental to) the purposes of the scheme that are set out in paragraphs 2.1-2.2 of this report. There is a need for timely delivery to fit within the DfT programme and this requires acquisition of third party interests and a means of overriding existing rights and interests and creating new rights. Without the certainty enabled through CA the objectives of the DfT could not be met and the national, regional and local need for the scheme as referred to in paragraphs 4.19-4.26 and 4.48-4.51 of this report would not be met.

Possible alternatives to Compulsory Acquisition

- 7.17 HA indicates that wherever possible it will seek to acquire land by agreement but this must be within budget and the scheme timeframe. The existence of the CA powers should ensure that the land can be acquired for the open market price.
- 7.18 The alternatives to the scheme considered are set out in the ES (APP-030) and the Consultation Report (APP-018 to APP-023). They are covered in detail in paragraphs 5.38-5.91 of this report.

HA therefore consider that there is no practicable alternative option or alignment that would achieve the objectives of the scheme and so avoid the need for CA. They maintain that the limits of the order have been drawn as tightly as possible at this stage of design, but if less land is ultimately required the applicant would not seek to acquire all of the land.

The case under s122

- 7.19 The applicant considers that the test of s122(2) is therefore met. In respect of s122(3), HA considers that there is a compelling case in the public interest for the CA powers in order to relieve the poor safety, congestion and journey time reliability currently experienced along the existing section of the A556 that would be bypassed and replaced by consistent standard of modern dual carriageway with a free flow junction with the M56 at the northern end. There would also be local environmental benefits and benefits for local traffic including NMUs.
- 7.20 They also draw attention to the economic benefits through upgrading this link in the strategic highway network on the approaches to Manchester and the important international gateway of Manchester Airport and its related Enterprise Zones. This was previously recognised in the scheme's prioritisation in Regional Funding Allocations. The CA powers sought are both necessary and proportionate to the extent that interference with private land and rights is justified.

The case under s127 or s138

- 7.21 As this application was made before June 2013, the requirement for certificates to be issued by the responsible Secretaries of State where representations against the CA are made by statutory undertakers and not withdrawn applies. As a consequence, applications for certificates were made by HA to the Secretaries of State for Energy and Climate Change and the Environment, Food and Rural Affairs with regard to representations from National Grid, Mainline Pipelines, United Utilities and the Environment Agency. Representations were also received from Manweb that could have required the issue of a certificate and there are a number of Telecommunications operators whose equipment is affected by the DCO scheme and provisions.
- 7.22 The ExA was appointed to make recommendations with regard to the 4 certificates applied for to the relevant Secretaries of State. However, during the Examination EA confirmed that they were not making representations in relation to the CA (which only involved securing rights for creation of an outfall for surface water to 'main river' that will also involve the issue of a consent by EA). Rather EA were only commenting on general ecological and hydrological matters (PD-020). HA therefore withdrew the relevant application for a certificate.

7.23 During the course of the Examination amendments to the scheme were agreed between HA and National Grid with regard to the diversion of a high pressure gas pipeline at Tabley. Protective provisions were also introduced and subsequently amended together with further amendments to relevant articles of the DCO that enabled National Grid, United Utilities and Mainline Pipelines (and Manweb) to withdraw their objections. These changes are detailed in section 8 of this report. Consequently, HA also withdrew their applications for s127 certificates. The relevant correspondence is set out in (PD-008 to PD-024 and PD-129 to PD-130). It should be noted that the withdrawals in relation to Mainline Pipelines are conditional upon the DCO being made containing the protective provisions and related articles that have been agreed between Mainline Pipelines and HA (PD-022 and PD-130).

Availability and Adequacy of Funds

7.24 The Applicant points out that they are an Executive Agency of the Department for Transport responsible for the operation, maintenance and improvement of the strategic highway network. This includes acquisition of land and payment of compensation on behalf of the Secretary of State.

7.25 As part of the Coalition Government's Spending Review, 'Investment in Highways and Transport Schemes' was published on 26 October 2010. This commits £2.3 billion on major roads in the period up to 2014-15 including £1.4 billion to start 14 new schemes. These included the Knutsford to Bowdon A556 improvement scheme (APP-063). It is indicated as one of 3 'bottlenecks' that would be removed. The DCO scheme is estimated to cost between £163.2 million and £204.2 million with a most likely cost of £174.8 million. These costs include compensation both for acquisition and claims under the Land Compensation Act 1973, Compulsory Purchase Act 1965 and s152(3) of PA 2008. Funding is thereby assured from the committed Government spending programme.

7.26 Since submission of the application, this financial commitment has been reiterated. HM Treasury published 'Investment in Britain's future' in June 2013. This contains a commitment to the biggest programme of investment in roads since the 1970s and refers to the A556 scheme. In the National Infrastructure Plan 2013, which was published in December 2013, the DCO Scheme is identified as one of 5 high capital value trunk road and junction improvement projects due for start of works in this Parliament where successful delivery is therefore particularly critical in ensuring the overall value for money of the programme (accessible via DEC-009).

The Objectors' cases in relation to the generality of the CA sought

- 7.27 A number of Relevant Representations were received from APs that do not simply refer to issues in respect of particular plots of land that will be addressed subsequently, but also raise general objections to the CA scheme. Mr Ben Wharfe on behalf of Mr & Mrs G Wharfe supports the stance of the A556 Lobby Group that alternatives have not been sufficiently considered and that the loss of farmland and impact on food security is unacceptable (RR-054, REP-029, REP-035, REP-078, AS-020 and AS-063). Mellor Braggins on behalf of Mr H Bloor, the tenant of Hulse Heath Farm suggested that in addition to ruining the farm, alternatives had not been sufficiently considered, that the need to improve the existing A556 had not been demonstrated and that while the environment for a few would be improved, others would experience worsened conditions (RR-064). Mellor Braggins made similar points on behalf of the various beneficiaries of the Mere Estate (RR-066 to RR-068).
- 7.28 Similar concerns were expressed by Mellor Braggins on behalf of Mr C Blockley who tenants land at Yarwood Heath Farm from the Tatton Estate (RR-069) and on behalf of the various beneficiaries of the Tatton and Millington Estates including Monckton Properties (RR-071 to RR-074). These particularly suggest that greater consideration needed to be given to on-line improvement possibilities and to the M6 Junction 20/M56 Junction 9 alternative and to the fact that there appeared to be excessive land-take for environmental mitigation. With regard to Monckton Properties in particular, concern was expressed in relation to longer journeys being required for business tenants as a result of the junction strategy. The Brooks group of land interests made further representations in (REP-032 and REP-033) and their final position is set out in letters from Fisher German in (AS-076 and AS-077). The desirability of proceeding by agreement rather than by way of CA is strongly emphasised, with Mr Brooks suggesting that this may have been achievable if HA had entered into meaningful negotiations at a much earlier date.
- 7.29 While the majority of points made on behalf of Mr David Cohen of Over Tabley Hall relate to detailed considerations in respect of the impact of the proposed road on the setting of the hall as an historic building and a home, the general point of the desirability of re-aligning the proposed road closer to the existing A556 is made and in the final summary it is stressed that Mr Cohen opposes the scheme as a generality (RR-077, REP-027, AS-025 and AS-070). It is suggested that re-aligning further from the hall might be possible if Tabley Village Hall were to be removed because its Trustees consider that it would be non-viable if the scheme proceeds. The Relevant Representation making this point is actually from Tabley Parish Council but there is a considerable

overlap in membership between the Trustees and the Parish Council (RR-078).

- 7.30 Finally, additional objections to the principle and to matters of detail were lodged on behalf of Springcare (Knutsford) Ltd, the proprietors of Bucklow Manor Nursing Home (REP-017), and on behalf of West Register (Realisations) Ltd, the owners of Tabley Hall Farm (REP-034, REP-019, AS-067 and AS-068). The latter queries the need for the Old Hall Lane diversion rather than expressing concern over the severance for vehicular traffic. However, on behalf of the Jacksons, who have farmland south of Old Hall Lane, the inconvenience of access is referred to even with this diversion in place (RR-053).

The ExA's Conclusions

- 7.31 The ExA's approach to the question whether and what Compulsory Acquisition powers should be recommended to the Secretary of State to grant is to seek to apply the relevant sections of the Act, notably s122 and s123, the Guidance²⁰, and the Human Rights Act 1998; and, in the light of the representations received and the evidence submitted, to consider whether a compelling case has been made in the public interest, balancing the public interest against private loss.
- 7.32 The draft DCO deals with both the development itself and Compulsory Acquisition powers. The case for Compulsory Acquisition powers cannot properly be considered separately from the view reached on the case for the development overall, and the consideration of the Compulsory Acquisition issues must be consistent with that view.
- 7.33 I have concluded at the end of section 5 of this report that development consent should be granted because the scheme is firmly based in national transport policy and the draft National Networks NPS and is on balance consistent with the development plan and the NPPF with a demonstrable need and national, regional and local benefits. The question therefore that I address here is the extent to which, in the light of the factors set out above, the case is made for Compulsory Acquisition powers necessary to enable the development to proceed.

The public benefit

- 7.34 The public benefit for the scheme derives from the relief to the poor safety, congestion and journey time reliability currently experienced along the existing section of the A556 that would be bypassed and replaced by consistent standard of modern dual carriageway with a free flow junction with the M56 at the northern end. The ExA also considers that there would be a net

²⁰ Planning Act 2008, Guidance related to procedures for compulsory acquisition (CLG, 2013)

environmental benefit as many more would receive a significant improvement as compared to detriment and there would also be overall benefits in terms of local connectivity.

- 7.35 While the economic benefit is asserted by the applicant in policy terms as opposed to being demonstrated by evidence, the assumed benefit is grounded in Government transport policy and must therefore also be regarded as a public benefit. In my judgement there is therefore a compelling case in the public interest for the generality of the land to be acquired compulsorily. It would clearly be desirable for acquisition of land or rights to be achieved by agreement, but the need for timely and cost effective acquisition has to temper such an objective.

Alternatives and the availability of funds

- 7.36 DCLG Guidance on CA under PA 2008 requires (paragraph 20) that: 'The promoter should be able to demonstrate to the satisfaction of the decision-maker that all reasonable alternatives to Compulsory Acquisition (including modifications to the scheme) have been explored...'
- 7.37 I have considered this in terms of the selection of the site, the scale of the development proposed and the specific characteristics of the development as a whole. The question of alternatives and the extent of acquisition in respect of specific parcels are considered in further sub-sections on those parcels.
- 7.38 As far as the scheme as a whole is concerned the possible alternatives that had been canvassed are considered in detail in paragraphs 5.38 to 5.91 of this report. Those paragraphs address all the alternatives argued against the scheme as a whole by or on behalf of Affected Persons. I do not consider that there are reasonable practicable alternatives to the scheme for which CA is sought.
- 7.39 DCLG guidance also advises that the application must be accompanied by a clear statement of how it is to be funded. In this case it is clear that the £174.8 million anticipated as required to meet all costs potentially arising in connection with the scheme is available within the committed roads programme of the Department for Transport.
- 7.40 It should be noted that CEC, some of whose land is subject to CA, has not raised any objection to the grant of CA powers either generally or in respect of specific plots.

The cases in respect of specific parcels where CA has been contested

Plots 2/7a-c Pownall Green Farm, Old Hall Lane

The case for the land-owner

- 7.41 On behalf of Mr Jackson and related interests in this farm which includes an abattoir, concern is expressed over the length of diversion involved in traversing Old Hall Lane to reach either the existing or proposed A556 through the proposed Tabley Junction. Concern was also raised originally over the loss of a field access to the remaining land in the field that would be situated between the new road and the M6. However, an amendment to the scheme and the Land Plan (Sheet 2/Rev 1 and Rev 2) was made by HA and agreed on behalf of the APs for temporary use of land to provide a replacement access (plot 2/7c). No actual objection was made to the CA.

ExA's conclusions

- 7.42 During the Examination I pressed HA on whether it might be possible to secure a less circuitous routing for the diversion of Old Hall Lane for vehicular traffic in order not only to address this objection but also that of West Register (Realisations) Ltd who did not wish to see the diversion past the residential conversion of Tabley Hall Farm. However, in view of the need to tie-in the new A556 to the roundabout at M6 Junction 19, which predetermines the location and level at which the proposed new A556 would start, there is no realistic alternative to a diversion essentially as proposed. The Rev 1 and Rev 2 Works and Land Plans do involve a slight realignment of the diversion through modifying the landscaping and re-shaping the proposed Balancing Pond A. While this marginally reduces the land-take from neighbouring land-owners it does not materially affect the length of diversion.
- 7.43 In the absence of a specific concern affecting the land proposed for CA or temporary occupation within Pownall Green Farm, I consider that CA is justified in respect of those plots for which it is proposed within this holding.

Plots 2/9a-9c The Trustees of Over Tabley Village Hall

The case for the land-owner

- 7.44 The concern of the Trustees of the Village Hall is not simply the loss of most of their parking places in order to construct the new A556, but over the impact of the road on the hall itself. In their view and that of Tabley Parish Council, the new road would render the Village Hall non-viable as it would be so cut off from the area it serves. The hall, although well fitted out internally, already suffers from the severance caused by construction of the M6 as most of the population of the parish live south of M6 Junction 19

along the A556 towards Northwich or in roads or lanes that link directly or indirectly to it and for which Old Hall Lane provides an alternative vehicular route to use of the A556 and M6 Junction 19.

- 7.45 Moreover, with the road proposed to run close to eaves level and requiring a retaining wall and acoustic fencing across the corner of the site, the Trustees consider that the noise from the road would render it very difficult to stage events within the Village Hall because sound-proofing would not be effective given the lightweight timber construction of the walls and roof.
- 7.46 The Trustees therefore argued that rather than simply acquiring the corner of the site of the Village Hall, HA should acquire the Village Hall itself and pay for its re-building elsewhere. After a survey of parishioners, their recommended solution is enlarging and enhancing the premises of Mere Club that is situated just off the A50 south-east of Mere crossroads (PD-123 and AS-086). It is suggested that this approach would enable a more satisfactory environmental scheme with embankments and bunds rather than a retaining wall and noise barriers at the point where the new road would cross the existing Old Hall Lane and the Village Hall site.

HA response

- 7.47 HA did not necessarily oppose the suggestion of the Village Hall Trustees, though it was pointed out that although noise would be increased on the west side of the hall it would be reduced to the east because A556 traffic would no longer pass along the existing road. However, it might not be possible to avoid the acoustic noise barrier because that is intended as mitigation for the two adjoining dwellings as well as the Village Hall. In addition, the footway round the M6 Junction 19 roundabout would remain as a link to the community on the other side of M6 and a NMU underpass would be provided beneath the new A556 broadly on the line of the existing Old Hall Lane such that non-car users would not have any greater difficulty of access than now.
- 7.48 The specific provision in Article 24 of the draft DCO that would provide for acquisition of the whole of a land interest where part is proposed for CA would not be applicable as that relates only to residential properties.

ExA's conclusions

- 7.49 I have considerable sympathy for the position of the Trustees of the Village Hall as there seems little doubt that it will be a less attractive venue after the construction of the proposed road notwithstanding the safeguarding of NMU access. This said, there is no possibility of material alteration of the alignment for the proposed new A556 for reasons given in paragraph 7.42 above so that the CA must be justified in the interests of the overall scheme.

- 7.50 As acquiring the whole site would involve land outside the DCO boundary this could only be achieved by agreement. Whether this would enable improved appearance in the landscape would be a matter that would require careful assessment. Further, whether the site would have any alternative development value given its location within the Green Belt must be a matter for CEC.
- 7.51 Overall, therefore, I would commend the continuation of negotiations between HA and the Village Hall Trustees, but consider that the extent of CA sought should be confirmed. If the Hall is to be retained, it would be essential for the replacement parking illustrated to be provided. This will be addressed in section 8 of this report.

Plots 2/1a-m Land at Tabley Hall Farm – West Register (Realisations) Ltd

The case for the land-owner

- 7.52 As already mentioned the concern of West Register is to keep new road construction as far as possible from the residential conversions that have already taken place within Tabley Hall Farm and from those, including of the Listed structure, that are proposed. The agreed provision to safeguard the Listed building from any vibration damage during the construction of a drainage outfall to Tabley brook has already been referred to in paragraph 5.115. Generally, the company seeks to minimise land-take and in its final submission objected to the more extensive rights to be acquired on behalf of National Grid in relation to the diversion of the high pressure gas pipeline on grounds of restricting development value (AS-068). Although appreciating the marginal reduction in land-take arising from re-shaping Balancing Pond A, the company remains concerned to ensure the water quality in the balancing pond is satisfactory (AS-067).

HA response

- 7.53 HA maintains that the alignments of both the proposed A556 mainline and the diversion of Old Hall Lane cannot be varied further without increasing harm to properties on the opposite side of the proposed A556 that front the existing road. A Requirement in Schedule 2 will regulate the construction of the outfall from the balancing pond past the Listed building to Tabley Brook where a consent to discharge to an ordinary watercourse will be required from CEC. However, as the purpose of the balancing pond is to enable mineral rather than organic sediments to settle out and the reeds that are planted within the depressions are intended to provide for cleansing the discharge, there would be no justification for filtration on the discharge from the highway into the balancing pond. There should be no risk of odour or other contaminants affecting the living conditions of residents in either Over Tabley Farm or Hall. The easement width sought for the diverted

National Grid pipeline is now standard, albeit that it is wider than historic easements.

ExA's conclusions

- 7.54 Subject to comments in relation to plot 2/1m to which reference will be made in paragraphs 7.57, 7.59 and 7.61, CA in relation to all plots for which it is sought is justified as the extent has been pared down during the Examination and all is required to implement the DCO scheme. Plot 2/1m is land required for structural planting to provide key mitigation of the effect of the DCO scheme on the setting of Over Tabley Hall as a Listed building (and as a dwelling).
- 7.55 As for the concern at diminution of development value in respect of the easement for the diverted National Grid gas pipeline, although the grazing land does not form part of an agricultural tenancy but is only used by a neighbouring farm on licence, it is not clear that there would be development value for anything other than agricultural purposes given that the land is within the Green Belt. This would be a matter for CEC and, if there is development value that would be foregone, this would be an issue for compensation.
- 7.56 It should be noted that the marginal reduction in the land-take in the Rev 1 (and Rev 2) variants of the relevant Land Plan and Book of Reference represents a partial success of the objector's case in respect of CA.

Plots 2/4a-m David Geoffrey Cohen (Over Tabley Hall)

The case for the land-owner

- 7.57 As already indicated, Mr Cohen, while opposing the DCO scheme altogether as summarised in the final submission on his behalf from Ruth Jackson (AS-070), also sought re-alignment of the new roads further from Over Tabley Hall and a relocation of Balancing Pond A so that it would not be in the outlook from the east elevation of the Hall. This particular issue was addressed in paragraph 5.139 of this report. A particular point that was pressed on behalf of Mr Cohen is that if the amendments offered in (REP-105 and REP-106) are adopted and the scheme goes ahead, why could CA not be avoided for plot 2/1m and this land simply occupied in order to construct the re-shaped balancing pond and plant the tree belt that HA has accepted is necessary as essential mitigation. It was suggested that leaving this tree belt in private ownership would be more likely to ensure that it is managed in the interests of the amenities of the Hall.

HA response

- 7.58 The HA response was given essentially in paragraph 5.140, namely that gravity drainage would not be possible if the

balancing pond were to be re-located further north (onto another land-owner's property) or, if located on the opposite side of the proposed new road, it would involve much more complex engineering with need for a culvert beneath the new road, possible need for disturbance to other existing drainage and, because of the landform and deeper excavation necessary, there would be significantly greater land-take. Soakaways would not be possible given the impermeable clay sub-soil and the high water table. An explanation as to why the new A556 alignment cannot be materially varied at this point is given in preceding paragraphs. The amendments embodied in (REP105 and REP-106) were carried through into the Rev 1 Works and Land Plans and thence into the final Rev 2 plans.

- 7.59 As for the non-acquisition of plot 2/1m, HA asserted that it should be in public ownership as it is required for essential mitigation planting. Moreover, if this argument is not accepted, it should be noted that the land is not in the ownership of Mr Cohen but rather of West Register (Realisations) Ltd. Thus, leaving it in its present ownership subject to imposition of duties to maintain planting would not be leaving it in the hands of the property owner that the mitigation planting is intended to benefit.

ExA's conclusions

- 7.60 As in the case of the West Register land, I am satisfied that the open land (which is also only subject to a grazing licence with a nearby farm) that is identified for CA, including the imposition of new rights in relation to the gas pipeline diversion, is all required to undertake the DCO scheme following the adjustments that have been made to minimise and adjust the land-take in the final revised plans.
- 7.61 With regard to plot 2/1m, I am sympathetic to the case argued on behalf of Mr Cohen that there would be merit in this land remaining outside the ownership of the applicant in order that the landscape mitigation planting can be maintained by those it is intended to benefit. However, unless the land were to change hands before the DCO is made, the fact that it is not currently owned by Mr Cohen would appear to present a fundamental difficulty that in my judgement could not be overcome within the terms of the Order. This is not to say, however, that agreement could not be reached subsequently between the two land-owners concerned and HA to enable such an outcome.
- 7.62 It should be noted that the marginal reduction in the land-take in the Rev 1 (and Rev 2) variants of the relevant Land Plan and Book of Reference represents a partial success of the objector's case in respect of CA.

**Plots 2/2a-2j Joseph Geoffrey Wharfe and June Wharfe
(Tabley Hill Farm)**

The case for the land owner

- 7.63 The initial Relevant Representation (RR-054) and the follow up Written Representation (REP-029) by Ben Wharfe on behalf of Mr & Mrs Wharfe draw attention to the fact that the DCO scheme would cause a loss of farmland thereby impacting on food security and farm businesses. It is argued that the farm would effectively lose 27% of its productive area which would reduce the profitability of the farm to the extent that it might become unviable and result in its remaining land having to be used by neighbouring farms. The loss of one or even both agricultural workers jobs on the farm must be anticipated as of the current 32.4 ha some 5.31 ha would be permanently acquired and initially an additional 1.75 ha temporarily acquired. While this land would be returned some 0.57 ha would become accesses rather than productive farmland and around 3.5 ha of additional land would be cut off from direct access to the existing farm area. It is suggested that this could result in a reduction in carrying capacity from 96 cattle to 73 cattle.
- 7.64 In relation to the formal change to the DCO, Mr Wharfe expressed concern that additional land would be temporarily occupied to facilitate the gas main diversion and the desire that work within the separate field should be kept as close to the edge as possible (AS-063). The same representation questioned whether HA should not additionally acquire an area of 0.36 ha that will be enclosed between the off-slip road for the new Tabley junction and the diversion of Old Hall Lane. It was suggested that such a small area with embankments around it would have little value as farmland and it was further suggested that it might be better used for mitigation woodland planting like plot 2/2a.

HA response

- 7.65 HA pointed out that they had continued to liaise with the Wharfe family in terms of accommodation works and that the final Rev 1 and 2 series plans include creation of accesses so that all remaining land would be accessible including the 0.36 ha within the junction. The new roadways would enable all land affected by the DCO scheme to be accessed without a lengthy detour. Because it would be enclosed by embanked roads, the 0.36 ha is not considered suitable for landscape or ecological mitigation unlike plot 2/2a that would form an extension to Tableypipe Wood, partially to replace the area lost beneath the new A556 and the proposed Tabley junction.

ExA's conclusions

- 7.66 I pressed HA over the possibility of using the small area of surrounded farmland within the junction for mitigation in lieu of potentially more productive farmland whether or not part of this holding. However, HA maintained that those areas shown to the north of the junction and east of the mainline served particular purposes in providing connectivity between habitats and scope for fly-overs so they could not be re-located to this parcel any more than the intended planting on plot 2/2a could be.
- 7.67 Even if this area of 0.36 ha is treated as effectively lost to productive farming, it would seem that having regard to the accesses to be provided the total loss of usable area would only be 6.24 ha (5.31 + 0.57 + 0.36 ha) or just over 19% of the 32.4 ha holding. If so, it would be hoped that the consequences would not be as severe as foreseen. Moreover, the severance caused by the proposed new A556 between the new Tabley Junction and the M6 Junction 19 interchange would provide opportunity to consolidate holdings or at least licences or tenancies. This might not necessarily benefit Tabley Hill Farm and, as all the land is currently grazed, there would be a loss to one or more farming operations should consolidation take place east of the mainline. However, it does mean that the fragmentation of operations that is immediately caused by the DCO scheme at Tabley need not necessarily persist. Overall, I am satisfied that all the land over which CA is sought is required to undertake the DCO scheme in the Tabley area. Any consequential reduction in profitability of this holding would be a matter to be taken account of in assessing compensation.

Plots 2/6a-6f and 3/2a-2p and 3/1a-1o Knowlespit and Bentleyhurst Farms (tenanted by T and A E Hartley from various owners within the Mere Estate group of holdings)

The case for the tenants and landowners

- 7.68 On behalf of the tenants, Mr Harvey (RR-017 and AS-026) pointed out that contrary to HA documentation there is not a single tenancy across both farms. Rather the Hartley family held two separate and distinct farm business tenancies for each farm. Knowlespit Farm (85 ha or 210 acres) is operated as a dairy unit where modern equipment had recently been installed at a cost of some £430,000 so it can support some 260-280 cows. The investment is intended to support Mr & Mrs Hartley and their two sons who are partners in the businesses. Bentleyhurst Farm (64.75 ha or 160 acres) is operated as a 'youngstock' rearing and forage production unit. Bentleyhurst Farm would lose some 16% of its area and Knowlespit Farm some 28% amounting in total to some 24.3 ha or 60 acres across both farms.

- 7.69 The loss of some 60 acres would probably mean that livestock numbers would have to be reduced by 60 cows unless replacement pasture could be obtained nearby. This would affect the ability to repay loans and support as many family members in the business. They could stop rearing cattle but buying-in stock would increase risks of diseases like bovine TB and they could house cattle for longer with feed brought in but their milk contract with Wiseman Dairies for the Co-op requires outdoor grass grazing. It was also pointed out that the Co-op milk contract also requires the farm to be within the Entry Level Stewardship scheme (ELS), which includes a requirement concerning the retention of hedgerows, some of which would be lost in the scheme. It was clarified that woodland would not be a substitute for lost hedgerows as only the margins of wooded areas can be counted. Quite apart from the milk contract, were the farm not to be in the ELS post 2015, the farm could lose 30% of its single farm payment.
- 7.70 As important matters of detail the scheme would leave fields isolated and unable to be used and it ignored landlords' requirements that the two tenancies must be kept separate with no access provided between the two farms other than via public roads. For the Mere Estate this requirement was confirmed. It was emphasised that although the Estate wished to retain the Hartleys as tenants, in the long-term it could not be assumed that the two farms would necessarily have the same tenants as the beneficial owners of the two farms were different²¹. A further submission (AS-064) detailed changes to plots to be acquired or to be used that would assist the farm businesses. These related in particular to the treatment of the severed part of Knowlespit Farm that would be west of the new road near Bentleyhurst Farmstead, to areas suggested for temporary use near Belt Wood that would sterilise other areas and detailed points concerning switching of areas for mitigation near the proposed 'green bridge' north of Mere Hall. With regard to the first, the Hartleys sought omission of the mitigation woodland planting on plot 3/2g and of the access route shown to be created through plot 3/2e to other Knowlespit Farm land to the south as that would be on Bentleyhurst Farm land. Instead they sought access to the Knowlespit Farm land through plot 3/2g.

HA response

- 7.71 The HA undertook a review of the extent of land to be taken from each farm. The agreed figures recorded in (EV-025) are that Knowlespit Farm would permanently lose some 16.25 ha or 40 acres from productive agriculture. This would be a little over 19%

²¹ The Book of Reference appears to contain errors in this respect as although two different owners are indicated, the ownership of plots noted are not consistent between the boundaries of the two tenancies as shown on plans submitted on behalf of the Hartleys and the Estate and cannot be explained simply by areas such as woodland being in hand.

of its area. Bentleyhurst Farm would permanently lose 1.39 ha or 3.5 acres which is a little over 2% of its area. Overall the permanent loss would be some 17.64 ha or 43.5 acres to the two farms or just under 12% of the combined area.

- 7.72 With regard to the particular points over individual plots, the areas for temporary use for soil storage near Belt Wood have been rationalised in the Rev 1 (and Rev 2) plans as requested to avoid sterilisation of land during the construction. Other minor changes had been made to improve accessibility. However, HA resist the concentration of ecological mitigation areas west of the new A56 at the northern end of the holding as NE have not yet agreed the great crested newt (GCN) mitigation strategy and are concerned that the populations on both sides of the new road should have sufficient connectivity.
- 7.73 As for plots 3/2g and 3/2e, again the HA wish to maintain the proposed landscape strategy as they suggested that ecological connectivity must be maintained on both sides of the new road. Thus, they maintain that all plots shown on the Rev 2 series of plans are necessary and so should be included within CA or for temporary use.

ExA's conclusions

- 7.74 While the argument concerning mitigation land for GCN habitat creation is convincing, I am unconvinced over the argument for woodland planting on plot 3/2g. During a CA hearing it was conceded that it is hedgerow trees rather than the woodland blocks that are the key to connectivity for bats, owls and other species that are of concern in relation to biodiversity. If this proposed woodland planting does not take place the hedgerow and trees would remain on the western boundary of this field and new north-south planting would be undertaken on the highway margin on its east side. Moreover, most of the woodland west of the mainline remains untouched with the fragmentation that is of concern primarily taking place on its east side not the west where plot 3/2g is located. In this particular location, only a very small fraction of Square Wood would be lost west of the new A556 and north of Bentleyhurst Lane (plot 3/2i - 410 square metres). This can be more than replaced also north of Bentleyhurst Lane (on plot 3/1f - 2479 square metres). Moreover, to continue to propose the access to severed Knowlespit Farm land over Bentleyhurst Farm land (Plot 3/2e) ignores the problem of the separate tenancies that was emphasised during the Examination.
- 7.75 Consequently, I asked HA to prepare a drawing to show the accesses that would be necessary to enable plot 3/2g to remain in farming use as part of the Knowlespit Farm with access to the remaining severed part of that holding through it. Both Messrs Hartley and agents for the Mere Estate expressed satisfaction with this variant (which would still provide a shortened access into the

Bentleyhurst Farm fields from the re-aligned Bentleyhurst Lane through a reduced plot 3/2e). Formal agreement was also given to the enlargement of the DCO boundary to include the accommodation works necessary to link up the Knowlespit Farm fields as plots 3/2q, 3/2r and 3/2s (AS-074 and AS-082).

- 7.76 In the light of the foregoing, I am not convinced that sufficiently compelling reasons of public benefit exist to outweigh the harm to the private interests of T & A E Hartley farming partnership and the Mere Estate in the CA shown on Land Plan 3/7 Rev 2 in relation to this land. Instead should the CA be confirmed, it should be in accordance with the Variant Land Plan 3/7 Reference A556-CAP-0000-PJW-SK-G-003 Rev P01 which shows the changes referred to in paragraph 7.75 above. This plan was provided at the request of the ExA and is appended to (EV-027). Pages 41, 44 and 45 from the variant Book of Reference should therefore also be substituted for those in the Rev 2 Book of Reference for certification in the Order (AS-079) to detail the amended plots. The consequence would be to reduce the permanent land take from Knowlespit Farm by about 0.72 ha or 1.8 acres thereby reducing the loss to that holding to about 18.25% and of the combined acreage to about 11.3%.

Hulme Barns Farm – part owned by and part tenanted by Mr H A E Bloor from various owners within the Mere Estate group of holdings

The case for the owner/tenant and landowners

- 7.77 After the initial Relevant Representation (RR-064) by Mellor Braggins on behalf of Mr Bloor that referred to general harm to the farm holding and opposition to the scheme on the basis that it had not been justified nor alternatives sufficiently assessed, no further representations were received either from Mr Bloor or from agents for the Mere Estate relating to any specific plots. The only specific reference received by the ExA is in emails forwarded by HA from Roystons indicating that Mr Bloor had agreed to a variation in the boundary of the DCO to secure a field access in relation to a preferable location for an area of GCN ecological mitigation off Bucklow Hill Lane (REP-157). The revised areas for CA and temporary occupation are shown on the Rev 2 Land Plan 4/7 (plots 4/4p and 4/4r (new)).

ExA's conclusions

- 7.78 As no specific plots remain being challenged within this farm holding no further comment is required from the ExA, though the amendment referred to in the Rev 2 Land Plan and Book of Reference may represent a partial success of the objector's case in respect of CA. The CA as amended is justified in order to implement the DCO scheme.

Mere Hall Farm – I W and A C Faulkner (owners)

The case for the land-owner

- 7.79 The initial Relevant Representations on behalf of the Faulkner family (RR-063 and RR-065) asked questions, sought assurances in relation to various accommodation works but also requested a modification to the location of proposed ecological mitigation areas for GCN. This was so that they might be more closely related to existing ponds and use less valuable agricultural land rather than occupying good quality frontage land north of Bucklow Hill Lane. No further representations were received from or on behalf of the Faulkner family by the ExA while negotiations continued with HA. The specific request to amend the location of an area for GCN mitigation was addressed in the formal amendment to the DCO that was accepted as non-material on 17 February on the expectation that the Faulknors had agreed to the new areas included within the DCO boundary (amended areas for temporary use are also included within this holding). However, the Faulknors sought a further adjustment of the mitigation areas so that they would be no larger than originally sought. Explicit confirmation of their agreement to further amendment to achieve this objective is in (REP-164), the relevant plots being 5/1n, 5/1q and 5/1e. These are shown on the Rev 2 Land Plans 5/7.

ExA's conclusions

- 7.80 As no specific plots remain being challenged within this farm holding no further comment is required from the ExA, though the amendment referred to in the Rev 2 Land Plan and Book of Reference may represent a partial success of the objector's case in respect of CA. The CA as amended is justified in order to implement the DCO scheme

Bucklow Manor Nursing Home – Springcare (Knutsford) Ltd (Plots 6/3a-6/3f)

The case for the land-owner

- 7.81 At paragraph 7.30 of this report, reference was made to the objection in principle on behalf of Springcare (REP-017). That representation also sought a number of assurances from HA and negotiations continued during the Examination with a view to minimising the land-take in order to facilitate upgrading and improvement of the home.

HA response

- 7.82 After further investigation HA agreed that it would be possible to reduce the permanent land-take or acquisition of rights on the west side of the home retaining only rights over a narrower strip to maintain the proposed retaining wall to the deep cutting in which the new road would run at this point to minimise noise,

visual impact and land-take. More land would thereby be available to re-shape gardens and surrounds for the home. Agreement had also been reached on the creation of a new main access from the down-graded A556 to replace that from Millington Lane that would be lost. The revised land-take is shown on the Rev 1 (and Rev 2) land plans and included in the updated Book of Reference.

ExA's conclusions

- 7.83 The impact of the DCO scheme is particularly significant on this nursing home as the main road would be transferred from the east side to the west side. Noise levels would be increased on the west side but reduced to the east, though the current orientation of activities is to locate the most noise sensitive rooms generally on the west side, albeit that the parts of the home that would be closest to the new road generally have windows facing north or south rather than directly towards the new road.
- 7.84 I was able to examine the site in detail at the ASV on 9 January 2014 that followed the CA hearings. I noted the works being undertaken to upgrade the home. It is apparent that significant external works would be necessary to re-locate/re-create the current secure garden area closer to the home as part would be lost permanently and part would need to be temporarily occupied during construction of the retaining wall. The informal grounds area, part of which is apparently used for functions, would also be greatly reduced. It would be important to retain the maximum extent of existing tree screening in the area that would remain as a significant number of mature trees would have to be removed to make way for the road construction at this point.
- 7.85 Nevertheless, with the land that would remain with the home and the greater safety for access that should result from the implementation of the DCO scheme, albeit that some journeys might be a little more circuitous, I am satisfied that the Rev 2 form the CA sought should enable the continuing satisfactory functioning of the home subject to accommodation works and measures that should be enabled through appropriate compensation. Thus, in its amended form I regard the CA as reasonable and proportionate with the public benefit outweighing any private loss.
- 7.86 It should be noted that the marginal reduction in the land-take in respect of new rights in the Rev 1 (and Rev 2) variants of the relevant Land Plan and Book of Reference would represent a partial success of the objector's case in respect of CA.

The Millington and Tatton Estates and related Brooks family land holdings

The case for the land-owner

- 7.87 At paragraph 7.28 of this report the objection of the tenant of part of the Yarwood Heath Farm to the DCO scheme was noted (RR-069), but following the initial Relevant Representations from Mellor Braggins for the Estates all issues relating to this group of land holdings at the northern end of the DCO scheme were pursued by Mr Henry Brooks one of the beneficiaries and agents appointed to act on their behalf in respect of CA matters, Fisher German.
- 7.88 A wide range of matters were pursued. The principle that acquisition or use should be by way of agreement rather than CA was repeatedly emphasised particularly in relation to the areas intended as works compounds, especially the main compound proposed adjacent to the A56 within Spode Green Farm (plots 7/1d, 7/1e and 7/1l). Securing the minimum length of time for such temporary uses was pressed. It was also argued that the CA should be restricted explicitly to the purposes for which it was sought.
- 7.89 In relation to the possible diversion of the Mainline Pipelines oil pipeline (plots 5/3a-c²²), it was argued that it was unreasonable for the DCO CA provisions to countenance two alternative options, one of protection 'in situ' and one of diversion because this would mean that CA powers might exist over a greater extent of land than would actually be required. In addition it was argued that the DCO should contain provisions to terminate easements relating to redundant lengths of pipeline.
- 7.90 It was argued that less land could be taken permanently adjacent to the off-slip south-west of Bucklow Manor Nursing Home (plot 6/1b) with more simply to be temporarily used (6/1d). The Estate would be willing to accept restrictions on the height of vegetation to prevent any obstruction to visibility.
- 7.91 It was also argued that where the existing A556 is being downgraded and trunk road carriageway removed land should not be used for a NMU route as it would be along the north side as far as Millington Lane because this is not the purpose of the DCO scheme. Nor should it be used for structural landscaping, as it would be on the east side adjoining the area of Yarwood Heath Farm, because that is unnecessary. Rather the land should be returned to the original owners, namely the Estates (plots 5/6a, 6/4a and 7/2g).

²² The issue would also affect plots 5/4a-b and plots 5/1b-d and 5/1h-i but representations on this point were not made by or on behalf of those with interests in these plots.

- 7.92 In pursuance of the argument that there should be the minimum possible permanent land-take, it was argued that the out-facing slopes to the bunding between Chapel Lane and Millington Hall Lane should only be temporarily occupied as the gradients would be sufficiently low as to enable continued agricultural use (plots 5/3/d, 5/3/h and part 5/3/f). Adjacent to Chapel Lane, particularly on the west side it was further argued that there would be no need for additional tree planting north of an existing tree-lined pond as those trees would provide adequate screening and the Estate would be willing to dedicate that pond area to HA although it is outside the DCO boundary²³. The Estate also opposes retention of GCN mitigation area on the north side of Chapel Lane east of the new road (variant plot 5/3/s).
- 7.93 Similar arguments to minimise land-take were made in relation to the land required for the United Utilities water main diversion and creation of a replacement private access to Mereside Farm and other Estate properties. It was not necessary for the private access to be acquired by HA but merely for there to be temporary occupation in order to create it. Moreover, there was no reason for the water main diversion to be north-west of the new access under productive farmland. Rather it could be run beneath the private access road or beneath the margin between that road and the toe of the embankment supporting the proposed re-aligned A556 as it merged back into the existing alignment. That margin could also house the diverted right of way Millington FP6. These changes would enable the DCO boundary to be reduced by as much as 14 metres. Consideration of reducing the land-take from Balancing Pond C within New Hall Farm was also requested through moving it closer to the A556. It was also suggested that temporary use and acquisition of rights might also suffice in respect of the proposed creation of a new access to the 'Cheshire Lounge' from the A56 around the margin of Spode Green Farm rather than outright CA.
- 7.94 In relation to Yarwood Heath Farm two arguments were advanced. Firstly, it was suggested that Balancing Pond D should be relocated northwards across the M56 Junction 7 on-slip so as to leave more productive land within the farm holding. It was suggested that this could enable omission of the footpath diversion proposed alongside the slip road that would then cross the existing accommodation bridge over the slip road to link to the right of way along the Bolin Valley. It was suggested that this right of way could instead be continued through the Yarwood Heath Farm land north of the slip road up to the A56 where it would link to the pedestrian crossings proposed at the Bowdon roundabout. The accommodation bridge might then be redundant and be able to be

²³ The disputed area that HA considers is essential for mitigation planting would be plot 5/3r on the variant land plan A556-CAP-000-PJW-SK-G-0005 Rev P01 (EV-027)

removed as the fields along the River Bollin had a field access to the A56.

- 7.95 Secondly, the CA of the route of the existing right of way through the farm from the bridge over the M56 up to the point where it would join the proposed new roundabout that would link the A56 into the proposed road (and for north-bound movements also the M56 to the A56) was opposed. This was proposed in Order initially to turn it into a bridleway but after further consideration of safety issues, instead into a cycle-track. While Mr Brooks opposed the cycle-track fearing increased trespass or safety issues in relation to farm traffic sharing what is otherwise a private road, he was willing to consent to its creation if that is necessary to avoid the CA of a strip of land through the holding.
- 7.96 The final position in relation to these issues is set out in the letters from Fisher German submitted in January, February and March 2014 (REP-149, REP-165, AS-077 and AS-076). The concern relating to access for occupiers of Cherry Tree Farm that was raised on behalf of Monckton Properties is addressed in section 5 of this report.

HA response

- 7.97 The response to the general point concerning the need for CA is given at paragraph 7.16 and 7.17 above. Nevertheless, negotiations were continuing with the Brooks land interests and it would be hoped that agreements would be reached over many of the matters referred to. The identification of the works to which temporary occupations would be related has been scrutinised twice during the course of the Examination and amendments made to the DCO schedules to tie them down more precisely. This would not necessarily assist in relation to the main compound area, at least not wholly, as that is required for all works including Work No 4, the de-trunking works, which can only be completed after the new road is opened.
- 7.98 As far as the possible diversion of the Mainline Pipelines oil pipeline is concerned, it was not possible to complete the necessary Feasibility Study until shortly before the close of the Examination (AS-080). The Study has not provided a definitive conclusion. Although both protection 'in situ' and diversion appear to be feasible, further detailed study is necessary particularly in relation to the 'in situ' option and on how avoidance of interruption in use can be achieved. While if finally demonstrated to be feasible, protection 'in situ' appears the cheaper option, it would also be the option involving the greater risk in long-term operation. If a fault did arise beneath the road and the Chapel Lane over-bridge, the pipeline, new road and Chapel Lane might all have to be taken out of use for a significant period. In short, with the current state of knowledge, CA for both options must be

justified as a decision could not yet be taken. If 'in situ' protection is pursued then the CA for the diversion would not be taken up.

- 7.99 As far as extinguishment of easements for any redundant lengths of pipe is concerned, while the logic of the objector's position is appreciated and the powers available to include incidental matters in a DCO are broad under s120 PA 2008, it is not considered that what is sought would fall within those powers. The extinguishment would not be incidental to the construction of the new road for operation by HA, but incidental to the operation of separate statutory undertakers. Moreover parts of the existing pipeline lie outside the DCO boundary and could therefore not be dealt with through its provisions but only by agreement.
- 7.100 In relation to land adjacent to the south side of the southbound off-slip, in order to achieve the requisite forward visibility in relation to the standards set in DRMB, the land in question would have to be remodelled and then kept clear of any obstruction to visibility so that fencing within that area would not be possible. It therefore needs to be kept as open grassland within the highway boundary.
- 7.101 With regard to use of downgraded sections of existing A556 carriageway, the highway authority has powers to modify highways so as to create a NMU route with that route remaining still as highway. There is therefore no question of returning land to former owners. Moreover, it has not been demonstrated that, although the Brooks land interests previously held rights to subsoil under the old highway, they had retained any interest following acquisition by the DfT of land for improvement of the trunk road. The establishment of the linear NMU was squarely within the objectives for the DCO scheme that are quoted in paragraph 2.2 of this report. As for the structural planting on the former carriageway south of the Bowdon roundabout, this is to guard against any risk of new highway works intruding into vistas from the Dunham Massey estate, a matter of concern to the National Trust. It is flagged up in their successive representations (RR-034, REP-028 and REP-169).
- 7.102 Between Chapel Lane and Millington Hall Lane, HA agree in principle that the greater part of the out-facing slopes of the bunds that will screen the new highway should be returned to their original owners, but there must be exception near Denfield Cottages to provide essential screening for those properties and at the southern end additional tree planting is required to mitigate views of the Chapel Lane over-bridge from the Listed Building to minimise the effect on its setting. Moreover mitigation areas specifically required for GCN ponds and adjacent habitat should remain in public ownership for on-going management. Finally, it must be noted that at the close of the Examination, NE had not yet been able to issue a final letter of no impediment in respect of a prospective licence application for the disturbance of GCN

because NE needed to be satisfied that sufficient connectivity would exist between populations that will be separated to the east and west of the new road. As a consequence, the CA should proceed as proposed because it is not possible as yet to define the rights that would be necessary in relation to new mitigation over plots 5/3d and 5/3h. Nevertheless, should a contrary view be taken a variant Land Plan 5/7 had been prepared together with variant pages for the Book of Reference²⁴ indicating the approach that should be taken. These documents represent the outcome anticipated when land could be returned to the Estate.

7.103 With regard to land within New Hall Farm and the United Utilities water main diversion, HA agrees that there is no reason for the private road to be taken into public ownership although it is considered best if the public right of way runs along it because it will have a paved surface. United Utilities initially indicated resistance to locating the diverted pipe adjacent to the toe of the embankment. Although United Utilities have subsequently agreed to the main being located under the private road provided that they have an easement to enable diversion of the road should works be required and are not necessarily opposed to routing between the road and the embankment boundary, they have pointed out an error in the drawing produced for HA illustrating that approach. HA remain of the view that the diversion would best be to the north-west side of the private road and so recommend adhering to the DCO Plans as in Rev 2. Nevertheless, they have prepared a variant Land Plan 6/7 in case a contrary view is taken which shows the private road remaining in the hands of the estate but the pipeline diversion still in the manner fully agreed with United Utilities and as considered most appropriate by HA²⁵. Differential levels preclude material adjustment to the location and form of Balancing Pond C and CA is necessary to provide the new access to the 'Cheshire Lounge' as it is to serve third party land not connected to the Brooks' group of land interests.

7.104 At Yarwood Heath Farm, while in principle HA would not be against considering relocation of the balancing pond to the north of the M56 eastbound on-slip, most if not all the potentially available land is within the functional flood plain of the River Bollin. A Balancing pond could not fulfil its intended function if already flooded and any embankments to keep it free of fluvial flooding would themselves need compensatory action. Whether a scheme could be contrived would require detailed investigation with EA, but as the land is outside the DCO boundary any such action could only be pursued by agreement.

7.105 In relation to the CA proposed to secure the creation of the proposed cycle-track, this is because there is no express legal

²⁴ A556-CAP-0000-PJW-SK-G-0005 Rev P01 and pages 83, 84 and 88 (EV-027 and AS-079)

²⁵ A556-CAP-0000-PJW-SK-G-0006 Rev P01 (EV-027)

provision in the Highway Acts to create as opposed to divert or modify an existing cycle-track on land that is not owned by the Highway Authority. HA accepted that other rights of way could be created or modified without land acquisition provided land-owners agreed and that the powers in relation to what could be contained within a DCO under s120 are wide. However, to put the matter beyond doubt, HA still consider that CA is justified. However, should a contrary view be taken, a variant Land Plan 7/7 had been prepared.²⁶

ExA's conclusions

- 7.106 In my judgement the amendment to the schedules of the DCO goes as far as possible in meeting the concern over risk of excessive length of temporary use. HA rightly pointed out that they would have a financial incentive to vacate such areas as quickly as possible to minimise compensation. Further assurances may be obtainable in the on-going negotiations. The issue of whether any land subject to CA should be restricted only to the purposes of the DCO will be considered further in section 8 of this report.
- 7.107 With regard, to the Mainlines Pipeline diversion issue, given the current state of knowledge, the ExA considers that a compelling case has been made to authorise CA in respect of both options – 'in situ' protection and possible diversion. Should diversion ultimately be the alternative that has to be followed, I have sympathy with the view that it would be beneficial to land-owners if redundant easements could be removed simply through the DCO, but I agree with the legal advice provided by the HA that this would not be possible. However, compensation that will be payable ought to ensure that land-owners are not disadvantaged in having to negotiate such matters separately.
- 7.108 I am satisfied that highway safety considerations do justify the extent of land-take adjacent to the southbound off-slip near Bucklow Manor Nursing Home. With regard to use of the existing A556 carriageway for other than vehicular traffic, I am satisfied that HA have legal powers to create the proposed NMU route on existing highway land and that its intended purpose falls fully within the safety and environmental objectives of the DCO scheme. And as for the proposed structural tree planting on the redundant carriageway south of Bowdon roundabout, I am also satisfied that this planting is necessary on a precautionary principle.
- 7.109 On the ASV to Dunham Massey, it was established that the Bowdon roundabout itself is to the east of the vista along the ride through the deer park from the frontage of the historic house and

²⁶ A556-CAP-0000-PJW-SK-G-0007 Rev P01 (EV-027)

that the trees in the centre of the vista with moving traffic apparent were those along the A56 west of that roundabout. However, once this orientation had been confirmed it was apparent that moving traffic was visible on the section of the existing A556 just to the south of the roundabout that will form part of the improved route. Concerns of the National Trust over new lighting being visible do not seem justified on what will become an off-slip to the Bowdon roundabout as there will be less lighting on that section than now. It will be of no greater height than that on the current A556 and almost certainly with greater attention to avoidance of light spillage.

- 7.110 Nevertheless, the proposed new roundabout south of the free-flow motorway standard link to the M56 and the bridge over that link will be above existing ground level and that junction will be lit. Thus, it cannot be excluded that this additional urbanisation might be visible, albeit at a distance, in vistas from the Dunham Massey deer park were the proposed structural tree planting not to be included within the landscape mitigation strategy. Consequently, I do not accept the argument for its deletion.
- 7.111 With regard to the land between Chapel Lane and Millington Hall Lane, I have sympathy with the main thrust of the objections on behalf of the Brooks land interests. Clearly the majority of the gently sloping outward facing slopes of the bunds should be returned to agricultural use in their current ownership if at all possible. Nevertheless, screening new bridge structures from views from Denfield Cottage, as this is an aspect of the setting of a Listed building, is a very important consideration, as is permanent maintenance of the GCN mitigation areas.
- 7.112 Thus, I consider that the Variant Land Plan 5/7 A556-CAP-0000-PJW-SK-G-0005 Rev P01 and pages 83, 84 and 88 of the variant Book of Reference (EV-027 and AS-079) should be essentially represent the final disposition with regard to CA that would appear to provide a proper balance between the public benefit of the overall scheme and the private interests in the estate. This would reduce plots 5/3/d and 5/3/h from outright CA to land for temporary occupation with permanent acquisition of rights, while retaining plots 5/3r and 5/3s as subject to outright CA to provide essential on-going mitigation. However, I cannot make a firm recommendation to modify the CA in this manner because, at the time of writing this report, there has been no final agreement between NE and HA over the GCN mitigation requirements in this locality (AS-085). It is not yet known therefore what rights might need to be reserved by HA for ensuring that favourable conservation status can be maintained for the GCN communities separated by the new road or whether the requirements would be compatible with agricultural use of the out-facing slopes. Should this matter be finally clarified before the Secretary of State makes a decision upon the DCO, the modification to the CA sought referred to in this paragraph could well be appropriate.

- 7.113 The situation within New Hall Farm and in relation to the Millington FP6 and United Utilities water pipeline diversion is even more complex. I have no doubt that the objector has rightly made the case that the proposed private road does not need to be brought into public ownership and that therefore a modification of the CA provisions in the DCO should be made. The case of the objector is also accepted that what can be agreed between the landowner and United Utilities should prevail over the preferences of the HA if that can result in the width of the Order land being able to be reduced by as much as 14 metres. However, there is no agreed plan before the Examination that shows the water main diversion in a manner fully agreed between United Utilities and the Estate. Without such an agreed plan, it seems to me that there would be a risk of bringing s127 PA 2008 back into the equation with possible need for a certificate from the Secretary of State for the Environment, Food and Rural affairs. As for the diverted footpath, while I can see that it would fit along the margin between the embankment and the proposed private road, I cannot see why that would necessarily be of benefit to the Estate, as the Right of Way would have to cross the proposed private road near Mereside Farm.
- 7.114 The way forward would seem to be to recommend that Variant Land Plan 6/7 A556-CAP-0000-PJW-SK-G-0006 Rev P01 (EV-027) should be the basis on which CA should go forward as that would ensure that the private road would remain in the hands of the Estate. Plots 6/1k, 6/1m, 6/1o, 6/1u, 6/1v and 6/1z would only be shown to be used temporarily use with permanent acquisition of rights as opposed to being shown for outright CA. Negotiations should continue between the Estate, United Utilities, HA and CEC with a view to securing a solution in respect of the routing of the diverted water main and of Millington FP6 that will minimise the extent of land-take and width of necessary easements from the Estate. That would represent the proper balance of between public benefit and the private interests concerned, but if that cannot be achieved HA would have the necessary CA powers to implement the DCO scheme. I accept the case put by HA to justify the extent of CA in relation Balancing Pond C and the proposed new access to the 'Cheshire Lounge'.
- 7.115 Finally, in relation to Yarwood Heath Farm, I accept the difficulty likely to arise in relation to seeking to relocate Balancing Pond D into functional flood plain. As this is would not be within the DCO boundary, it would be a matter that could only be pursued by agreement should the Estate wish to explore the matter further. The proposed CA to enable creation of a balancing pond south of the M56 on-slip road is therefore justified. Should any progress over an alternative location be made, I am not necessarily convinced that such action would enable the removal of the accommodation bridge over the M56 slip road. At the ASV it was very apparent that the bridge is in active use for livestock movements and the field entrance from the Yarwood Heath Farm

land to the A56 is very close to the Bowdon roundabout. Use of that access to move stock in or out of the river-side fields would only seem safe if they were moved by vehicles.

- 7.116 This leaves the question of the proposed CA to create the proposed cycle-track across the farm holding. While the proposal does remove the existing Rostherne FP13 from running through the farmstead, I can appreciate why neither tenant nor Estate would wish to see a linear strip of public ownership running through the holding. The footpath and proposed cycle-track would be a highway that would require statutory procedures in order to re-route it. However, should development be proposed that would affect the right of way, a diversion could be sought in the same way as the HA has in the DCO. I am mindful of HA's concerns over the availability of powers under the Highway Acts to create a cycle-track without owning the land. However, the powers of s120 PA 2008 are wide and it is noted that a cycle-track was created or at least modified under the M1 Junction 10A Grade-separation DCO²⁷ (Reference TR010009). Consequently, I consider that should the CA be confirmed, it should be on the basis of Variant Land Plan 7/7 A556-CAP-0000-PJW-SK-G-0007 Rev P01. The variant would see plots 7/4m, 7/4p, 7/4q, 7/r, 7/4s, 7/4t, 7/4u, 7/4v, 7/4w, 7/4x, 7/4y, 7/4z and 7/4aa not subject to outright CA but only to be used temporarily with permanent acquisition of rights. Plot 7/4ab would also have this status rather than only temporary use. This would then represent a proper balance of public benefit and the private interests involved.

The ExA's overall conclusions in relation to CA

Human Rights Act²⁸ 1998 considerations

- 7.117 A key consideration in formulating a compelling case is a consideration of the interference with human rights which would occur if compulsory acquisition powers are to be granted.
- 7.118 Article 1 of the First Protocol (rights of those whose property is to be compulsorily acquired and whose peaceful enjoyment of their property is to be interfered with) is clearly engaged as a significant number of interests are proposed to be acquired and rights are to be imposed on further land. In addition to the CA, land would also be used temporarily. In my judgement, save where expressly indicated to the contrary, CA and temporary use of land is justified in so far as the public benefit outweighs the loss to private interests in a way that is proportionate to the circumstances.
- 7.119 Article 6, which entitles those affected by Compulsory Acquisition powers sought for the project to a fair and public hearing of their objections, is also engaged. I consider that the requirements of

²⁷ M1 Junction 10a (Grade Separation) Order 2013 (SI 2013/2808).

²⁸ <http://www.legislation.gov.uk/ukpga/1998/42/contents>

this article have been fully met through the procedures laid down in PA 2008 and related Regulations. All representations whether in writing or at hearings have been taken into account in reaching my conclusions.

- 7.120 I do not consider that Article 8, which relates to the right of the individual to 'respect for his private and family life, his home' is engaged. This is because no persons are proposed to be deprived of their homes or to have their living conditions worsened to an extent that would be regarded as giving rise to unacceptable living conditions.

Summary of the ExA's Recommendations on the Granting of CA Powers

s122(2)

- 7.121 With the exceptions noted below, all the land in respect of which CA is sought under the Rev 2 series of Plans and the Rev 2 Book of Reference is required for the development to which the development consent relates or is required to facilitate or is incidental to that development.

s122(3)

- 7.122 Similarly, subject to those same exceptions, there is a compelling case in the public interest for this land to be acquired compulsorily as there are no practicable alternatives to meet the objectives sought and the public benefit outweighs the loss to private interests or the restrictions imposed on those interests.

- 7.123 The exceptions where the public benefit does not outweigh the harm to private interests are as follows:

- (i) In respect of land within the Mere Estate tenanted by T & A E Hartley, should the CA be confirmed, it should be confirmed in accordance with the Variant Land Plan 3/7 Reference A556-CAP-0000-PJW-SK-G-003 Rev P01. This is appended to (EV-027). Plot 3/2g would not be subject to CA, while reduced plots 3/2e and 3/2g would be subject to temporary use, as would new plots 3/2q, 3/2r and 3/2s. Pages 41, 44 and 45 from the variant Book of Reference should therefore also be substituted for those in the Rev 2 Book of Reference (AS-079) to detail the amendments.
- (ii) In respect of land at New Hall Farm within the Millington Estate, should the CA be confirmed, it should be confirmed in accordance with Variant that Variant Land Plan 6/7 A556-CAP-0000-PJW-SK-G-0006 Rev P01 (EV-027). Plots 6/1k, 6/1m, 6/1o, 6/1u, 6/1v and 6/1z would not be subject to outright CA but only to be used temporarily with permanent acquisition of rights.

(iii) In respect of land at Yarwood Heath Farm within the Tatton Estate, should the CA be confirmed, it should be confirmed in accordance with Variant Land Plan 7/7 A556-CAP-0000-PJW-SK-G-0007 Rev P01 (EV-027). Plots 7/4m, 7/4p, 7/4q, 7/r, 7/4s, 7/4t, 7/4u, 7/4v, 7/4w, 7/4x, 7/4y, 7/4z and 7/4aa would not be subject to outright CA but only to be used temporarily with permanent acquisition of rights. Plot 7/4ab would also have this status rather than only temporary use.

7.124 In addition, if final agreement is reached between NE and HA over clarifying the nature of the GCN mitigation measures required between Chapel Lane and Millington Hall Lane before the Secretary of State determines the DCO, a further exception may be appropriate as follows:

(iv) In respect of land within Millington Hall Farm, should the CA be confirmed, it may be appropriate to confirm it in accordance with Variant Land Plan 5/7 A556-CAP-0000-PJW-SK-G-0005 Rev P01 and pages 83, 84 and 88 of the variant Book of Reference (EV-027 and AS-079). Plots 5/3d and 5/3h would not then be subject to outright CA but only used temporarily with permanent acquisition of rights. However, newly designed revised plots 5/3r and 5/3s would remain subject to outright CA.

s120(5)(a) and s126

7.125 The amendments to statutory provisions that are included within the DCO such as those within Article 8 and more particularly the modification of Compensation and Compulsory Purchase enactments for the creation of new rights under Schedule 6 to the DCO were not subject to representations, following where requested, explanation of their import at hearings. I am satisfied that these provisions are consistent with the requirements of s120(5)(a) and s126.

s127 and s138

7.126 As is indicated in paragraphs 7.21-23 above, by the close of the Examination there were no outstanding representations from statutory undertakers or similar bodies to the provisions of the Order following successive amendments to the wording of relevant Articles within the Order and the insertion of extensive and specific Protective Provisions within Schedule 8. Subject to noting that in relation to Mainline Pipelines the withdrawal of their representations and the consequent withdrawal by HA of their application for a certificate under s127 in relation to that undertaker were conditional upon the Order being made in the form agreed between these parties in respect of Mainline Pipelines interests, no issue therefore arises in respect of need for certificates under s127. The text of the DCO that I recommend be

made as set out in Annex I is in the form agreed between HA and Mainline Pipelines.

- 7.127 With regard to S138, I am satisfied that the extinguishment of relevant rights or removal of relevant apparatus where required is necessary for the purpose of carrying out the development to which the order relates. I am satisfied that the Articles and the Protective Provisions in schedule 8 should meet all legitimate concerns of Undertakers whether in relation to s127 or s138.

8 DRAFT DEVELOPMENT CONSENT ORDER

- 8.1 The original text of the proposed DCO was submitted with the application (APP-005) with an accompanying Explanatory Memorandum (APP-006).
- 8.2 Article 1²⁹ cites the name of the Order and Article 2 provides for definitions of terms used. Article 3 provides the main purpose for the Order and Article 4 power for subsequent maintenance and Article 5 limits to deviation. Articles 6 and 7 permit the benefit to be transferred to others. Part 3 with Articles 8-14 addresses matters in relation to streets in respect of highways and road traffic matters including in Article 14 modification of existing Road Traffic Regulation Orders on existing highways and imposition of new restrictions in relation to the proposed roads. Part 4 including Articles 15-17 relate to Supplementary matters including discharge of water, protection of buildings and surveys. Part 5 (Articles 18-29³⁰) deals with aspects of Compulsory Acquisition including acquisition of rights and also temporary use of land. Finally, Parts 6 and 7 address operations in respect of tree lopping or felling (Article 30³¹) and Miscellaneous and General matters including defence to proceedings in respect of statutory nuisance (Article 32³²), certification of plans (Article 34³³) and further provisions with respect to traffic regulation including power to make TROs on roads for which the Secretary of State is not the traffic authority (Article 37³⁴).
- 8.3 The original draft Order had 8 schedules appended. Schedule 1 defines the authorised development, separately distinguishing within it 7 works of associated development. Schedule 2 lists requirements that would be imposed on the Order. Schedule 3 deals with road classifications, the proposed de-trunking of the existing A556 and imposition of speed limits. Schedule 4 deals with the stopping-up of streets and accesses and Schedule 5 lists those plots in respect of which rights only are proposed to be acquired. Schedule 6 defines the amendment of Compulsory Purchase powers where applied to the CA of rights and Schedule 7 lists those plots for temporary occupation only. Finally, Schedule 8 was intended to include protective provisions to safeguard the interests of statutory undertakers but in the originally submitted draft DCO these were not included.
- 8.4 While the provisions of the draft DCO were not generally exceptional, there were a number of places where a lack of clarity or other issues were apparent to the ExA, including the absence of

²⁹ All Article numbers referred to in the paragraph are to those in the originally submitted Order.

³⁰ In the Rev 6 version of the DCO that is the basis for the Order I recommend to be made there is a new article 30 within this Part on Crown land.

³¹ Article 31 in Rev 6 version after insertion of new Article 30

³² Article 33 in Rev 6 version after insertion of new Article 30

³³ Article 35 in Rev 6 version after insertion of new Article 30

³⁴ Article 38 in Rev 6 version after insertion of new Article 30

the protective provisions but also more widely. Consequently, in the first round of ExA questions, I included a list of matters that should be addressed in relation to the wording of the DCO³⁵. Provision was also made for a hearing early in the Examination programme in December 2013 on the wording of the DCO so that concerns could be aired, including those of statutory undertakers and statutory consultees. Further ExA questions sought to engage CEC and statutory consultees in the implications of the wording of the draft DCO³⁶ and further hearings were timetabled in January 2014 to finalise standpoints on the wording of the draft DCO. A final consideration of the wording of the DCO was facilitated at a hearing on 20 February 2014 after the acceptance of the formal change to the DCO as non-material on 17 February 2014. Final written submissions were made by HA on possible variant wordings immediately prior to the close of the Examination in the light of that hearing.

- 8.5 In response to the first ExA questions and points made in certain relevant representations, HA submitted a Rev 1 version of the Draft DCO on 4 October 2013 (PD-025). This only made minor changes including correction of the wording of Article 21, amendments to Requirement 5 concerning landscaping, deletion of the original Requirement 8 concerning archaeological protection and its replacement by a new wider Requirement 10 to ensure that all archaeological remains that may be found during construction are properly dealt with and a new Requirement 11 for there to be a Traffic Management Plan approved prior to the commencement of development. It was indicated that further consideration was being given to more substantial amendments, but in so far as these initial changes are concerned, I am satisfied that the changes should be accepted (save where subsequently further changed). The changes improve clarity and safeguards.
- 8.6 On 11 December 2013 for the first DCO hearing, HA submitted the promised more substantially amended Rev 2 version of the draft DCO (PD-026). This introduces a definition of cycle-track into Article 2 to facilitate the upgrade of the footpath through Yarwood Heath Farm solely to a cycle-track and not to a bridleway in the light of further consideration of safety issues. There are related changes within Schedule 4. Substantial changes were also made to the Requirements in Schedule 2. Requirement 1 now more fully defines the Construction Environmental Management Plan (CEMP) and when it has to be approved and also its relationship to the Environmental Management Plan (EMP) that is more fully described in expansion of Requirement 4. Within Requirement 3, NE is introduced as a consultee in relation to clearance of matters related to protected species. Requirement 8³⁷ is itself substantially expanded to safeguard protected species and further

³⁵ Questions 31-38 in Annex D to the Rule 8 letter (DEC-004)

³⁶ Questions 2.6, 2.14 and 2.15 in Annex to letter of 7 November 2013 (REP-081)

³⁷ Requirement 9 in the Rev 6 version

minor amendments are made to the new Requirement 10³⁸ concerning archaeological remains. Finally Schedule 8 is populated with protective provisions in Part 1 for Electricity, Gas, Water and Sewerage Undertakers and in Part 2 for the Protection of operations of Electronic Communications Code Networks.

- 8.7 In as far as these changes go, I am satisfied that all should be made in order to clarify intent and improve safeguards, though it was clear at the hearing that the protective provisions did not satisfy a number of the statutory undertakers that had made representations and a number of Affected Persons, particularly the Brooks group of Land Interests, raised concerns. I was also not satisfied that the procedure for the clearance of requirements had been sufficiently considered bearing in mind that the applicant is an agency of the Secretary of State and the Secretary of State is not a planning authority. The HA explained that they would seek clearance of Requirements from a different part of the Agency not involved with this scheme, but also submitted a further Rev 3 version of the draft DCO following the December hearing on 6 January in anticipation of further discussion at the timetabled January hearing session on the DCO (AS-038).
- 8.8 In this version, HA wished the definition of 'to maintain' in Article 2 to remain unchanged given the nature of works that might have to be undertaken and the precedent set by the wording of the Heysham to M6 Link Road DCO³⁹. I accept that the definition should remain as drafted because of this precedent. Mr Brooks questioned the power and the wording of the power that would enable the benefit of the Order to be transferred. However, again having regard to the precedent of the Heysham Order and so as not to fetter the manner in which government services might be provided, I am satisfied that the wording of the draft DCO in Article 7 is satisfactory. Mr Brooks and other APs argued that an express limitation should be written into the wording of the Order to prevent the Secretary of State using any land acquired for purposes other than those explicitly specified. HA resisted this suggestion on the grounds that it is not the usual approach in relation to the acquisition of land by a public body. Any proposal for any alternative or additional use would be subject to statutory procedures. I agree with HA that such a limitation is unnecessary and inappropriate.
- 8.9 HA put forward an amendment to Article 10 to take account of the fact that CEC will only classify the existing road after it has been de-trunked after the new road is brought into use. HA also proposed an amendment to Article 16 in order to authorise protective works to buildings that might be affected by the order works but outside the Order land. This is to address the concern of West Register (Realisations) Ltd in respect of a Listed Building

³⁸ Requirement 11 in the Rev 6 version

³⁹ Reference TR010008

on the 'at-risk register' that is close to a proposed surface water outfall at Over Tabley Farm. Both amendments are clearly appropriate.

- 8.10 HA wish, however, to retain through Article 20 the ability to impose restrictive covenants as this would enable less land to be compulsorily acquired outright. In the particular circumstances of this DCO, I accept that this is a correct approach in relation to the statutory tests set for CA. For a significant number of plots, the power enables HA to avoid outright acquisition and simply acquire rights to facilitate the implementation of the scheme or the future maintenance of the scheme itself or that of associated development. Without this power HA would have to acquire more outright interests to the detriment of the private landholders and thereby also increasing the cost of the scheme.
- 8.11 HA also proposed clarification of Article 34⁴⁰, so that it identifies the plans that would be certified, and corrections to Schedules in respect of the identification of certain rights of way as sought by CEC together with introduction of reference as associated development to the replacement parking for Tabley Village Hall and Tabley Parish Church. I consider that all these changes should be made in the interests of clarity and accuracy. With regard to Schedule 2 a considerable number of further changes were introduced by HA. In Requirement 1, a definition of the Handover Environmental Management Plan (HEMP) is introduced to further secure ecological and environmental mitigation. In Requirement 3 consultation on the clearance of any variation of the scheme design is now required to be with the relevant planning authority (in almost every case CEC, though in relation to air quality monitoring in Requirement 4 where there is also an amendment, it could also refer to Manchester City Council or Trafford Council). These changes, and further expansion and tightening of the wording of Requirement 4 meet my main concern, points made by a number of Interested Parties and Affected Persons and also satisfy CEC.
- 8.12 Further requirements for consultation with the relevant planning authority are introduced into Requirement 5 with regard to landscaping and in a new Requirement 12 relating to buildings at risk. A new Requirement 7 is also introduced to ensure that all structures for mammalian movement comply with the DMRB. And a new Requirement 14 is introduced providing that the proposed initial 60 mph speed limit remains in force until air quality monitoring has demonstrated that it is no longer necessary, that limit also being provided for in a new Part 5 to Schedule 3. Corrections to Schedule 4 are made to address further issues concerning rights of way that CEC had drawn attention to. Changes to Schedule 7 were also made to address the

⁴⁰ Article 35 in the Rev 6 version after insertion of new Article 30

amendments sought by National Grid to the proposed natural gas pipeline diversion at Tabley and to correct and tighten up the purposes for some of the temporary occupations as sought by Affected Persons. Finally, changes were proposed to Part 1 of Schedule 8 to address requirements of Mainline Pipelines as a transporter of oil. Although National Grid were still indicating that they were not satisfied that their interests would be provided for in relation to necessary advance works, I consider that all these changes were justified as far as they then went to correct and clarify the Order and further improve safeguards.

- 8.13 On 24 January 2014 to accompany the formal proposal to amend the submitted DCO, HA submitted a Rev 4 version of the DCO as what they then regarded as their final proposals. In Article 2 the definition of relevant planning authority is clarified. In Article 10 an additional paragraph (3) is added to impose the 60 mph speed limit referred to in Schedule 3. Article 26 (and Schedule 1) are amended at the request of National Grid, the key point being that they will need to undertake their pipeline diversion ahead of other works in the interests of safety and some of these works are on land for temporary occupation only. Article 34⁴¹ is amended to refer to the Rev 1 suite of plans and to include the ES and the 2 Addenda submitted during the Examination as documents to be certified. In new Requirement 14 concerning air quality, a need to agree a strategy with the relevant planning authority is also added. There are consequential amendments to Schedule 4 relating to the stopping-up of streets, to Schedule 5 concerning rights only being acquired and to Schedule 7 concerning the extent and purposes for temporary occupation to relate to the revised plans that embody the proposed amendment and to further address concerns of Affected Persons, in particular the Brooks family land interests.
- 8.14 As the proposed change was accepted as non-material on 17 February 2014, I am satisfied that all these changes should be made and are again helpful in clarifying the nature of the authorised works and meeting National Grid requirements. However, in order to meet the requirements of the relevant CA Regulations, I considered that it was necessary to press HA to make further amendments to Articles 20 and 23 to avoid any implication that the DCO would authorise these aspects of CA in respect of land outside the original DCO boundary that is only intended for temporary occupation.
- 8.15 As a consequence, on 17 February 2014, the HA submitted a Rev 5 version of the DCO for consideration at the final hearing on 20 February 2014. This amends Articles 20 and 23 as requested to exclude land outside the original DCO boundary. Article 22 is also amended to clarify that National Grid⁴² could make a general

⁴¹ Article 35 in Rev 6 version after insertion of new Article 30

⁴² The change would also apply to bodies with similar powers

vesting declaration in respect of land related to the gas pipeline diversion so that its requirements concerning safety can be met from the outset. Article 26 is also amended so that a comparable approach is taken over the Mainline Pipeline and United Utilities diversions to that previously agreed for National Grid, together with a specific insertion as paragraph (3)(a) to satisfy National Grid's safety obligations. Article 34⁴³ is further updated to refer to the Rev 2 plans that satisfy National Grid and certain Affected Persons in respect of accommodation and mitigation works. Finally, there further minor corrections to Schedules 2, 4, 5, 7 and 8 for the most part to address details concerning National Grid and Mainline Pipelines Limited. I am satisfied that these changes should be made to ensure compliance with legal requirements and in the interests of accuracy.

- 8.16 Finally following further discussion at the hearing on 20 February 2014, HA submitted a Rev 6 version of the DCO (PD-131). The only change offered by HA in this revision is insertion of a new Article 30 that puts beyond any doubt that the draft DCO does not authorise CA of Crown interests but only of other interests in land in which the Crown has interests. It is this version that is appended as the basis of Annex I to this report. A legal submission (REP-155) comments on a number of points raised by the ExA in Rule 17 requests and at hearings.

Further changes recommended by the ExA

- 8.17 There were a number of points that were of concern to the ExA and certain Affected Persons that were not, therefore, addressed in this final offered variant. However, HA helpfully provided wording to cover most of the points over which further recommendations might be made in the note provided to accompany the Rev 6 version (PD-131).
- 8.18 Firstly, in respect of the Mere Estate land tenanted by T and A E Hartley, in paragraphs 7.75 and 7.76 in section 7 of this report I concluded that CA was not justified in respect of plot 3/2g but only temporary use of a small portion nor most of the related temporary occupation proposed for plot 3/2e. I therefore recommended amendments to the relevant Rev 2 version Land Plan and to the relevant pages of the Rev 2 version of the Book of Reference in paragraph 7.123(i). There would, therefore, need to be consequential amendments to Articles 20(3) and 23(4) to add plots 3/2q, 3/2r and 3/2s and these are shown by a tracked change in Annex I so that CA provisions would not apply to this additional land that would only be used temporarily. There would also need to be a consequential insertion into Schedule 7 of land for temporary use only and this too is indicated by way of a tracked change in Annex I.

⁴³ Article 35 in Rev 6 after insertion of new Article 30

- 8.19 Corresponding changes are not required in relation to Articles 20(3) and 23(4) in respect of the other two areas that I recommended should be excluded from CA in my recommendations in paragraphs 7.123 (ii) and 7.123 (iii) in section 7 concerning the access to Mereside Farm and land at Yarwood Heath Farm. However, there would need to be insertion of sections into Schedule 5 to cover the rights required over the new private access to Mereside Farm and other properties on New Hall Farm over plots 6/1k, 6/1m, 6/1o, 6/1u, 6/1v and 6/1z and the new rights required in relation to the creation of the proposed new cycle-track across Yarwood Heath Farm and new access to that farm over plots 7/4m, 7/4p, 7/4q, 7/r, 7/4s, 7/4t, 7/4u, 7/4v, 7/4w, 7/4x, 7/4y, 7/4z and 7/4aa. The last would also require deletion of plot 7/4ab from Schedule 7 as it would no longer be a plot solely for temporary occupation. There would also need to be corresponding amendments to the specification of land plans in Article 35. All these changes are also shown by tracked changes in Annex I.
- 8.20 Should the Secretary of State be able also to omit the CA of land between Chapel Lane and Millington Hall Lane following final agreement between HA and NE over GCN mitigation, then a further insertion into Schedule 5 would also be warranted as set out in paragraph 17 of the Note to accompany Rev 6 of the draft DCO (PD-131) to specify the that rights would need to be permanently acquired over plots 5/3d and 5/3h.
- 8.21 The main remaining issue over which I am concerned is that there should be sufficient certainty over what would be authorised by the DCO. Article 35 in the Rev 6 version of the draft DCO, lists the Rev 2 series of drawings in respect of land plans, rights of way and access plans, works plans and engineering drawings and sections. However, there are a number of plans that were submitted to the Examination that are not listed and that specifically address concerns raised by Interested Parties or important issues that are referred to in the draft National Networks NPS or other government policy guidance.
- 8.22 Firstly, there is the issue of the replacement parking for Tabley Parish Hall (if it remains at Old Hall Lane) and for Tabley Parish Church. These provisions represent important aspects of mitigation and as a consequence I recommend that reference to these drawings is included in Article 35 and in Requirement 3. Similarly, junction layouts for the new A50 junction and at Mere and Bucklow Hill to be implemented as part of the de-trunking works of the existing road were agreed with CEC during the course of the Examination and presented to hearings. As these address concerns over local access arrangements and how the A50 would function, matters expressly raised in the LIR, again I recommend that these should be referenced within Article 35.

- 8.23 The Mere junction arrangements also address concerns raised by the Mere Estate as to safety at the access to Mere Hall and related Estate properties from the A50. Having studied the drawings and heard the HA explanation of the intended operation of the junction following the ASV, I am satisfied that the junction arrangements for the Mere Estate should function no less well than at present despite higher volumes of north-south traffic. This is a further reason for referencing the proposed junction drawing in the Order. The 2 alternative options for incorporating the entrance to Mere Golf Club and Spa Hotel into the Mere junction layout are not however recommended for inclusion as the final solution had not yet been agreed with CEC at the close of the Examination.
- 8.24 The situation with regard to the proposed lighting arrangements is comparable. It was of particular concern to a number of Interested Parties including the National Trust that light pollution of the countryside or in the outlook of individual properties should be minimised. Consequently, I recommend that the drawings illustrating the lighting intentions should be referenced in Article 35 and included in Requirement 3.
- 8.25 Finally, there is the design of structures. HA suggest that these need not be referenced as the HA would have to design in accordance with the DMRB and moreover prior to PA 2008 many Orders were made in the absence of design details. However, I consider that it is difficult to regard the instruction to have regard to good design that is contained in the draft National Networks NPS as fulfilled nor the similar stress on design in the NPPF if the DCO does not contain reference to the intended design of structures. Again, therefore, I recommend that these drawings and the drawings providing clearer reference to levels that were supplied during the examination should be referenced in Article 35 and included in Requirement 3. All the recommended insertions into article 35 are shown as tracked changes in Annex J.
- 8.26 Conversely, I do not consider that the drawings provided to the Examination of proposed main signage should be referenced in Article 35 and Requirement 3. Although these proposals were of interest to Interested Persons such as Premier Inns, the National Trust and residential occupiers along the proposed route of the new road, none were wholly satisfied with regard to indications given to date. Premier Inns considered that greater signposting could be given to local facilities such as hotels and the National Trust were concerned that at least as good signposting should be provided on the strategic network to places of national significance like Dunham Massey and Tatton Park. Individuals wished to avoid major signs intruding in views including those forming the setting of Listed Buildings like Over Tabley Hall.
- 8.27 While HA drew attention to policy against signing individual facilities like hotels on the strategic network, I was not convinced that a consistent approach in respect of symbols for local facilities

is envisaged and do not see any risk of diverting significant volumes of traffic off the new road by signposting local facilities southbound. As for the location of major signage on the approach to junctions on the new road, while the HA can appreciate the guidance contained in the DMRB, clearly discretion is applied at various locations on the strategic network. Thus, it ought to be possible to vary locations in detail so they do not intrude into key vistas. For all these reasons, I consider that it is appropriate at this stage to keep open flexibility in signing arrangements so that further negotiations can take place.

- 8.28 Having recommended inclusion of reference to additional structure, junction design, lighting and car parking drawings in Article 35 and Requirement 3, there remains the issue of whether that Requirement sufficiently constrains the ability to depart from the DCO that has been examined. The Requirement does refer to any alteration falling within the limits of deviation and at hearings HA agreed that any alteration would also have to fall within the envelope of the ES that accompanies the application. This ES is defined in Article 35(1)(f) of the final Rev 6 version of the DCO. I recommend that a cross-reference to this article be added to Requirement 3 to make this explicit.
- 8.29 There remain a few other details that have not been addressed in proposed changes. Most importantly, given the stress placed on the importance of the environmental benefit to be achieved through provision of the NMU route along much of the northern part of the carriageway of the existing A556 as part of de-trunking measures, I do not accept the arguments advanced on behalf of HA as to why the draft Order should not contain a Requirement that the traffic authority or the Secretary of State undertakes consultation on a TRO to give effect to this proposal. The Order does contain a number of TRO measures including speed limits, changes to clearway provisions as well as many proposals involving changes to rights of way. HA may well be correct that under the Highway Acts they have power to give effect to the physical de-trunking works illustrated in the ES. However, without the backing of a TRO, as the NMU route would be interrupted by numerous individual and field accesses quite apart from junctions with minor roads, it would seem likely to me that motorised traffic would also utilise the surface intended for NMUs. Consequently, I recommend adoption of the wording contained in the HA written response of 17 February 2014 (REP-168). This suggests that an additional Requirement worded as follows could be inserted: "Work No 4 shall not be brought into use until the traffic authority, or the Secretary of State pursuant to article 38⁴⁴, has carried out consultation on a proposed order under section 1 of the 1984 Act (Traffic Regulation Orders outside Greater London) to restrict access by motorised vehicles to Work No 4(b)." I show this

⁴⁴ The suggestion was to Article 37 which is re-numbered 38 in Rev 6 version.

inserted as new Requirement 15 in Schedule 2 in Annex I as a tracked change.

- 8.30 I also recommends insertion of a further new Requirement to give effect to the HA agreement in response to the late British Horse Society representation that the NMU underpass at Old Hall Lane should have a minimum head room of 3 metres. The issue is referred to in paragraph 5.162 above and such a Requirement would ensure that the minimum height in guidance for an underpass to be used by equestrian should be achieved. This is shown as new Requirement 16 by a tracked change in Annex I.
- 8.31 Finally, there were requests to secure further details of the highway drainage outfalls. I accept the HA arguments that these are not needed between the highway and the 4 proposed balancing ponds. However, in relation to the Heysham DCO⁴⁵ a requirement was imposed that details of the final outfalls into the water courses should be subject to approval in consultation with the relevant planning authority and the EA in Requirement 17⁴⁶ attached to that Order. Ordinary discharge consents are still to be obtained from CEC and the consents to discharge into a main river from EA as noted in Annex H. Consequently, as these are separate bodies from HA, I do not consider that a comparable additional Requirement is necessary in this instance. It would involve a duplication of clearance procedures contrary to government guidance in respect of use of analogous planning conditions.

Summary of General Conclusions on the wording of the DCO

Articles

- 8.32 The ExA is satisfied that the principal powers to be granted, if consented, properly describe the intended purposes in Article 3 taken together with Articles 4 and 5 and the Interpretation provided in Article 2. All references in these conclusions are to the Articles, Schedules and Requirements in the Final Rev 6 version of the draft Order and together with recommended changes indicated in Annex J.

Description of works

- 8.33 Schedule 1 describes the intended works and the works required to undertake the 7 associated developments that are described in that Schedule. The descriptions are detailed and can be related to the plans listed (and recommended to be listed) in Article 35.

⁴⁵ The Lancashire County Council (Torrisholme to the M6 Link (A683 Completion of Heysham to M6 Link Road) Order 2013

⁴⁶ "No part of the authorised development is to commence until, after consultation with the relevant planning authority and the Environment Agency, a scheme and programme of pollution control measures has been submitted to and approved in writing by the relevant planning authority. The scheme must include measures for sediment removal at all drainage outfalls."

- 8.34 As indicated in paragraphs 8.21-8.25, the lists of plans that the Secretary of State should certify under Article 35 should be increased to cover drawings of parking areas, junctions, lighting and structures.

Protective provisions

- 8.35 Protective provisions are set out in Schedule 8 which have been negotiated between applicant and statutory undertakers that had made representations. While the process involved a number of iterations, before the close of the Examination all representations against the DCO scheme had been withdrawn subject to the inclusion of those protective provisions together with related amendments to the wording of Articles within the body of the draft Order.
- 8.36 These changes that are embodied in the Rev 6 version that is set out at Annex J have resolved all s127 and s138 issues. As a consequence all applications for s127 certificates were withdrawn. In the case of Mainline Pipelines the withdrawals of representations and of the application to the Secretary of State for Energy and Climate Change were on a conditional basis that the protective provisions and other changes negotiated are embodied in the Order as enacted. The form of the DCO contained in Annex I that I recommend embodies these provisions and changes.

Other schedules

- 8.37 The remaining schedules, apart from that listing Requirements (Schedule 2) which are referred to below, are all necessary to deal with traffic regulation matters (Schedule 3), the stopping-up of streets (Schedule 4), plots where Rights only are to be acquired (Schedule 5), the modification of CPO powers in relation to the CA of rights (Schedule 6) and plots where temporary occupation only is required (Schedule 7).

Requirements

- 8.38 The list of Requirements in Schedule 2 was subject to detailed and repeated scrutiny. In the schedule, other than the additional amendments to Requirements recommended by the ExA in paragraphs 8.28-8.30, all Requirements are explicitly agreed by or drafted by HA for possible inclusion in the DCO.
- 8.39 The responsibility for discharge of specific requirements is left with the Secretary of State but with a requirement for consultation with the relevant planning authority (in most cases CEC), NE, EA or other statutory consultees where appropriate.
- 8.40 Where relevant the guidance of the Annex to Circular 11/95 or precedents provided in the wording of other DCOs that have been made have been followed. I am therefore satisfied that all the

Requirements set out in Schedule 2 to the DCO should be included in the form set out in Annex I.

Other legal agreements

- 8.41 Two legal agreements are proposed between HA and CEC, namely a Planning Agreement made under s1 of the Localism Act 2011 and a Highways Agreement made under s4 of the Highways Act 1980. These legal agreements are necessary and proportionate in relation to the proposed development in order to make the development acceptable in planning terms. They are directly related to the proposed development and fairly and reasonably related in scale and kind to the development in so far as the Planning Agreement provides for funding for future maintenance of the de-trunked existing A556, payment of a further sum to enable CEC to undertake additional minor highway works should they prove necessary together with measures to monitor and mitigate air quality issues on the A556 south of M6 Junction 19. The Highways Agreement provides for specified traffic calming measures to be undertaken by HA to preclude increases in traffic on minor roads
- 8.42 Neither agreement had been signed by the close of the Examination although the latest drafts are appended to (EV027) and the agreed Heads of Terms are set out as Annex H. No outstanding issues are known to exist in relation to these agreements, but Council procedures had not been completed by the close of the Examination. In my judgement, these agreements are so central to ensuring that the objectives of the DCO are met that the DCO should not be made until signed copies have been received by the Secretary of State.

9 SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

The Substance of the draft DCO

- 9.1 In section 4 of this report, I conclude that the draft DCO has been produced having regard to all statutory requirements.
- 9.2 In section 5 at paragraphs 5.28-5.30, I conclude that the need for the DCO scheme has been demonstrated and in paragraphs 5.38-5.91 that there are no reasonable practicable alternatives that would achieve the objectives sought. At paragraphs 7.68-5.72 I conclude that the DCO scheme should represent satisfactory value for money and probably high value for money on the basis of current DfT assumptions.
- 9.3 I further conclude at the end of section 5 that the material considerations weighing in favour of the proposed development clearly outweigh the harm to the green belt and all other harm that has been identified, including harm to the settings of any listed building such that very special circumstances exist. I thus conclude that on balance the DCO scheme is in accordance with the development plan and the provisions of the NPPF. It also is consistent with the provisions of the draft National Networks NPS. I therefore recommend that the DCO be made.

HRA Issues

- 9.4 In section 6 I conclude that the DCO scheme is not likely to give rise to any significant effect on the integrity of any European Site either alone or in combination with any other plan or project. A Report on the Implications on European sites set out as Annex F. I therefore recommend that no appropriate assessment is required.

CA Issues

- 9.5 In section 7 I conclude that the CA of land and rights sought is generally justified in relation to the tests set out in PA 2008 and DCLG Guidance by reference to the Rev 2 Land Plans and Book of Reference that were extant at the close of the Examination. It should be noted that in at least 3 instances, the changes made by the applicant between the DCO as submitted and the Rev 2 versions of the DCO have conceded in response to representations reductions in CA as compared to what was originally sought⁴⁷.
- 9.6 In respect of 4 further specific areas of land still shown as subject to CA in the Rev 2 documentation, I conclude that the public benefit does not outweigh the loss to private interests and, as a consequence, CA is not justified in relation to the specific plots concerned.

⁴⁷ In two further instances the areas of land to be subject of CA have been varied in location.

- 9.7 In three instances relating to:
- (i) Land at Knowlespit Farm and Bentleyhurst Farm;
 - (ii) Land at New Hall Farm on the approach the Mereside Farmhouse; and
 - (iii) Land at Yarwood Heath Farm

specific recommendations are made in paragraph 7.123 for substitution of variant Land Plans 3/7, 6/7 and 7/7 together with variant pages in the Book of Reference.

- 9.8 In the fourth, relating to land within Millington Hall Farm, a contingent recommendation is made in paragraph 7.124 for substitution of variant Land Plan 5/7 and relevant pages in the Book of Reference provided that the issue of GCN mitigation has first been agreed between HA and NE to the satisfaction of the Secretary of State in a manner that would enable definition of rights required to secure on-going mitigation in a form consistent with agricultural use of plots 5/3d and 5/3h.

The Wording of the DCO

- 9.9 The DCO went through 5 iterations before the Rev 6 version that was presented by the applicant at the close of the Examination. At paragraph 8.16 I conclude that this final version is generally acceptable. However, it would need amendment to give effect to the recommended deletions of specific areas from the proposed CA as set out in the preceding paragraphs.
- 9.10 Paragraphs 8.17-8.30 indicate further amendments to the DCO that are recommended by the ExA.
- 9.11 All changes to the Rev 6 version of the DCO that are recommended by the ExA are shown by tracked changes in the DCO that I recommend to be made as set out in Annex I.

Agreements

- 9.12 Agreements are proposed to be entered into between the applicant and CEC under the Planning and Highways Acts. These agreements are in my judgement required to secure essential mitigation. As a consequence, I recommend the Secretary of State to withhold consent for the DCO as amended until such time as signed copies of these agreements have been received. The agreed Heads of Terms are set out as Annex G.

Other consents required

- 9.13 Annex H sets out those other consents that will be required to implement the DCO if made and which had not yet been obtained by the close of the Examination. While there was little progress in

obtaining these consents during the examination, in no case is any issue seen that would be likely to prevent implementation of the DCO.

RECOMMENDATION

- 9.14 Subject to receipt of the signed Agreements referred to in paragraph 9.12 and consideration of the CA issue referred to in paragraph 9.8, I recommend that The A556 (Knutsford to Bowdon Improvement) Development Consent Order 201[] be made in the form set out in Annex I.

9.15 Page intentionally left blank

ANNEX A - EXAMINATION LIBRARY

The following list of documents has been used during the course of the Examination. The documents are grouped together by document type.

Each document has been given an identification number (ie APP-001), and all documents are available to view on the Planning Inspectorate's National Infrastructure Planning website at the Knutsford to Bowden Scheme page:

<http://infrastructure.planningportal.gov.uk/projects/north-west/a556-knutsford-to-bowdon-scheme/>

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| APP-020 | <u>5.1.3 Consultation Report - Part C - Appendices.</u> |
| APP-021 | <u>5.1.4 Consultation Report - Part D - Appendices</u> |
| APP-022 | <u>5.1.5 Consultation Report - Part E - Appendices.</u> |
| APP-023 | <u>5.1.6 Consultation Report - Part F - Appendices</u> |
| APP-024 | <u>5.2 Flood Risk Assessment</u> |
| APP-025 | <u>5.3 Nature Conservation Effects Statement</u> |
| APP-026 | <u>5.4 Historic Environment Effects Statement.</u> |
| APP-027 | <u>5.5 Statutory Nuisances Statement</u> |
| APP-028 | <u>5.6 Assessment Of Implications On European Sites.</u> |
| APP-029 | <u>5.7 Environmental Licensing</u> |

Environmental Statement

| | |
|---------|---|
| APP-030 | <u>6.1.1 Environmental Statement Volume 1- Part A</u> |
| APP-031 | <u>6.1.2 Environmental Statement Volume 1- Environmental Masterplan</u> |
| APP-032 | <u>A556 6.1.3 ES NTS</u> |
| APP-033 | <u>6.2.1 Environmental Statement Volume 2 - Figures Part A.</u> |
| APP-034 | <u>6.2.2 Environmental Statement Volume 2 - Figures Part B</u> |
| APP-035 | <u>6.2.3 Environmental Statement Volume 2 - Figures Part C</u> |
| APP-036 | <u>6.2.4 Environmental Statement Volume 2 - Figures Part D.</u> |
| APP-037 | <u>6.2.5 Environmental Statement Volume 2 - Figures Part E</u> |
| APP-038 | <u>6.2.6 Environmental Statement Volume 2 - Figures Part F</u> |
| APP-039 | <u>6.2.7 Environmental Statement Volume 2 - Figures Part G.</u> |
| APP-040 | <u>6.2.8 Environmental Statement Volume 2 - Figures Part H</u> |
| APP-041 | <u>6.2.9 Environmental Statement Volume 2 - Figures Part I</u> |
| APP-042 | <u>6.2.10 Environmental Statement Volume 2 - Figures Part J.</u> |
| APP-043 | <u>6.2.11 Environmental Statement Volume 2 - Figures Part K</u> |
| APP-044 | <u>6.2.12 Environmental Statement Volume 2 - Figures Part L.</u> |
| APP-045 | <u>6.2.13 Environmental Statement Volume 2 - Figures Part M.</u> |
| APP-046 | <u>6.2.14 Environmental Statement Volume 2 - Figures Part N</u> |
| APP-047 | <u>6.2.15 Environmental Statement Volume 2 - Figures Part O.</u> |
| APP-048 | <u>6.2.16 Environmental Statement Volume 2 - Figures Part P.</u> |
| APP-050 | <u>6.2.17 Environmental Statement Volume 2 - Figures Part Q.</u> |
| APP-051 | <u>6.2.18 Environmental Statement Volume 2 - Figures Part R.</u> |
| APP-052 | <u>6.2.19 Environmental Statement Volume 2 - Figures Part S</u> |
| APP-053 | <u>6.2.20 Environmental Statement Volume 2 - Figures Part T</u> |
| APP-054 | <u>6.3.1 Environmental Statement Volume 3 - Appendices Part 1</u> |
| APP-055 | <u>6.3.2 Environmental Statement Volume 3 - Appendices Part 2(i)</u> |
| APP-056 | <u>6.3.3 Environmental Statement Volume 3 - Appendices Part 2(ii)</u> |
| APP-057 | <u>6.3.4 Environmental Statement Volume 3 - Appendices Part 2(iii)</u> |
| APP-058 | <u>6.3.5 Environmental Statement Volume 3 - Appendices Part 3(i)</u> |
| APP-059 | <u>6.3.6 Environmental Statement Volume 3 - Appendices Part 3(ii).</u> |
| APP-060 | <u>6.3.7 Environmental Statement Volume 3 - Appendices Part 4.</u> |
| APP-061 | <u>Transboundary Screening and Re-screening Matrix</u> |

Compulsory Acquisition Documents

4

| | |
|---------|---|
| APP-062 | 4.1 Statement Of Reasons. |
| APP-063 | 4.2 Funding Statement |
| APP-064 | 4.3 Book of Reference |
| APP-065 | Met Office no objection to Compulsory Acquisition |

Project Documents

General Project Documents

| | |
|--------|--|
| PD-001 | Draft DCO EM and Works Plans meeting with HA |
| PD-002 | FINAL Knutsford to Bowdon Draft DCO Response |
| PD-003 | Letter to Ms A Pickering regarding consultation |
| PD-004 | Amended preferred route and prescribed consultees 21 05 10. |
| PD-005 | IPC response to HA re. s42, 46, 47 |
| PD-006 | Meeting notes 22 June.doc. |
| PD-007 | Correspondence between Highways Agency and PINS regarding Section 56 |

Section 127 Certificates

| | |
|--------|--|
| PD-008 | Highways Agency - sections 127 and 135 progress report |
| PD-009 | Highways Agency - Section 127 Certificates |
| PD-010 | Section 127 Application with The Environment Agency |
| PD-011 | Highways Agency - Applications for Certificate under section 127 |
| PD-012 | Section 127 Application with Mainline Pipelines |
| PD-013 | Section 127 Application with National Grid Gas |
| PD-014 | Section 127 Application with National Grid |
| PD-015 | Statement of Reasons |
| PD-016 | Section 127 Application with United Utilities |
| PD-017 | Berwin Leighton Paisner LLP (obo National Grid) - section 127 |
| PD-018 | Veale Wasbrough Vizards (obo Mainline Pipelines Ltd) re feasibility study |
| PD-019 | United Utilities - acceptance of protective provisions within DCO |
| PD-020 | Application for section 127 Certificate with Environment agency following Compulsory Aquisition hearing 18.12.13 |
| PD-021 | Section 127 Certificate Application withdrawl - United Utilities |
| PD-021 | Highways Agency Section 127 Certificate Application - United Utilities withdrawing |
| PD-022 | Mainline Pipelines- Conditional withdrawal |
| PD-023 | SP manweb- section 127 withdraw |
| PD-024 | National Grid -Response on section 127 position - 17th February 2014 (34342279) |
| PD-129 | Highways Agency-National grid withdrawal |
| PD-130 | Highways Agency-Mainline pipelines conditional withdrawal |

Updates to draft Development Consent Order

| | |
|--------|---|
| PD-025 | Highways Agency revised Draft DCO of 02 October 2013 |
| PD-026 | Highways Agency revised draft DCO of 11 December 2013 |
| PD-027 | Highways Agency revised draft DCO of 24 January |

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| PD-131 | Highways Agency - Draft DCO revision 6 |
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Scoping Documents

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| PD-028 | 6.4 EIA Scoping Opinion. |
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Local Impact Reports & Statements of Common Ground

| | |
|--------|---|
| PD-029 | HA and English Heritage |
| PD-030 | HA and Environment Agency |
| PD-031 | HA and National Trust |
| PD-032 | HA and Natural England |
| PD-033 | HA and Cheshire East Council |
| PD-034 | Cheshire East Council LIR |
| PD-035 | HA and Vehicle & Operator Services Agency |

Applicant's certificates

| | |
|--------|--|
| PD-036 | Certificates of Compliance including changes to BoR |
| PD-037 | Natural England - draft EPS mitigation license application |
| PD-038 | Natural England - response to Badger development licence application |

Correspondence from/to Interested Parties

| | |
|--------|---|
| PD-039 | Correspondence to Councillor Linda Reynolds. |
| PD-040 | Correspondence from Mr Wheeler correspondence regarding the PM |
| PD-041 | Correspondence from Henry Brooks- examinations hearings 9-20th December 2013. |
| PD-042 | Correspondence from Whitbread Plc and Premier Inn Hotels Ltd |
| PD-043 | High Legh PC PM April submission. |
| PD-044 | Submission from Mr Bill Whittle. |
| PD-045 | Correspondence from Lorraine Robinson |
| PD-046 | Response to Lorraine Robinson's letter of 1 March 2012 |
| PD-047 | Letter from M Parkinson |
| PD-048 | Response to Mr M Parkinson |
| PD-049 | Joint NW TARCPRE Response to the A556 Improvement |
| PD-050 | Letter from TP Burgess |
| PD-051 | Response to Mr T.P Burgess' correspondence of 6 March 2012 |
| PD-052 | Email from J Edwards |
| PD-053 | Email response to J Edwards |
| PD-054 | Email from Peter Marsland |
| PD-055 | Email response to Mr Marsland |
| PD-056 | Letter from Dr Ballardie |
| PD-057 | Dr.Ballardie response. |
| PD-058 | Bridget Gill Letter received 30 Jan 2012. |
| PD-059 | Response to Bridget Gill dated 30 Jan 2012 |
| PD-060 | Letter from Howard Clough dated 14 Feb 2012 |
| PD-061 | Response to Howard Clough's letter dated 14 February 2012 |
| PD-062 | Letter from Mrs J A Popley dated 5 Feb 12 |
| PD-063 | Response to Mrs Popley's letter dated 05 February 2012 |
| PD-064 | Letter from Michael John Herrieven |

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|--------|---|
| PD-065 | <u>Response to Michael Herrieven's letter dated 09 February 2012</u> |
| PD-066 | <u>Letter received from Mrs Needham</u> |
| PD-067 | <u>Mrs Needham response.</u> |
| PD-068 | <u>Response to A556 Lobby Group(1)</u> |
| PD-069 | <u>Response to A556 Lobby Group (2)</u> |
| PD-070 | <u>Letter from Diane Flanagan dated 16 April 2012.</u> |
| PD-071 | <u>Letter from Rachel Harrex dated 15 April 2012.</u> |
| PD-072 | <u>Letter from Trevor Allinson dated 13 April 2012.</u> |
| PD-073 | <u>Letter from CBO Transport dated 22 February 2012.</u> |
| PD-074 | <u>Response to CBO Transport.</u> |
| PD-075 | <u>Mrs Needham Letter opposing the proposed A556 bypass dated 22 February 2012</u> |
| PD-076 | <u>Letter from Danny and Mandy McNichol</u> |
| PD-077 | <u>Response to Mr and Mrs McNicoll dated 13 March</u> |
| PD-078 | <u>Letter from HP Clough.</u> |
| PD-079 | <u>Response to H P Clough's letter dated 24 February 2012.</u> |
| PD-080 | <u>Letter from Mr & Mrs A Ryan dated 26 March 2012.</u> |
| PD-081 | <u>Letter from CA Baines dated 09 March 2012.</u> |
| PD-082 | <u>Letter from Carol Ross dated 05 April 2012</u> |
| PD-083 | <u>Letter from Chris Matthews dated 04 March 2012.</u> |
| PD-084 | <u>Letter from Dorothy Pennington dated 10 April 2012</u> |
| PD-085 | <u>Letter from David & Linda Kennerley dated 10 March 2012.pdf</u> |
| PD-086 | <u>Letter from Ballardie family dated 09 April 2012</u> |
| PD-087 | <u>Letter from Graham Robinson dated 12 April 2012.</u> |
| PD-088 | <u>Letter from J.J. Mellor.</u> |
| PD-089 | <u>Letter from Karen Potter dated 03 April 2012</u> |
| PD-090 | <u>Response to Matt Parkinson's letter dated 01 April 2012</u> |
| PD-091 | <u>Letter from Matt and Sonya Ravenscroft dated 05 April 2012.</u> |
| PD-092 | <u>Letter from Nigel & Christine Packer 08 March 2012</u> |
| PD-093 | <u>Email from Richard & Pamela Winward dated 09 April 2012.</u> |
| PD-094 | <u>Philip Martins response to the public consultation on A556 environmental improvement scheme.</u> |
| PD-095 | <u>Letter from Philip Poulton dated 11 April 2012</u> |
| PD-096 | <u>Letter from Rev PJ Robinson dated 10 April 2012.</u> |
| PD-097 | <u>Letter from SH Coxon dated 22 March 2012</u> |
| PD-098 | <u>Letter from George Walter Wright dated 26 March 2012.</u> |
| PD-099 | <u>Mr Corbett CBO Transport response.</u> |
| PD-100 | <u>CBO Transport Mr Corbett response</u> |
| PD-101 | <u>Query from Mr Bill Whittle.</u> |
| PD-102 | <u>Query from Mr and Mrs Al-Hilali</u> |
| PD-103 | <u>Query from Mr S Tucker</u> |
| PD-104 | <u>Email from Mr and Mrs Duncalf</u> |
| PD-105 | <u>Response Mr and Mrs Duncalf</u> |
| PD-106 | <u>Letter from NWTAR</u> |
| PD-107 | <u>Response to NWTAR.</u> |
| PD-108 | <u>Letter from NWTAR 23-05-2013</u> |
| PD-109 | <u>NWTARS response [1].</u> |
| PD-110 | <u>NWTAR response [2].</u> |
| PD-111 | <u>Correspondence to Ian Hodgson regarding Planning Directorate letter of 10th October 2013</u> |

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|--------|---|
| PD-112 | <u>Correspondence from Fisher German regarding Simpatico authorisation</u> |
| PD-113 | <u>A556 Lobby Group - Comments on the M6 Junction 20 Improvement Economic Appraisal Report submitted by the Highways Agency on 18-10-2013</u> |
| PD-114 | <u>Correspondence from Mr Wright</u> |
| PD-115 | <u>Correspondence form Sian Berry</u> |
| PD-116 | <u>Correspondence from Houston</u> |
| PD-117 | <u>Correspondence from Mr.Parkinson</u> |
| PD-118 | <u>Correspondence from Mr.Summerton</u> |
| PD-119 | <u>Correspondence from Sheila Oliver</u> |
| PD-120 | <u>Correspondence regarding- Issue-Specific Hearing documents</u> |
| PD-121 | <u>Correspondence from Energetics</u> |
| PD-122 | <u>Correspondence from Mr.Wright following hearings</u> |
| PD-123 | <u>Correspondence from Tabley Parish Council</u> |
| PD-124 | <u>Highways Agency response to Mr.Houston</u> |
| PD-125 | <u>Highways agency Response to Sheila Oliver</u> |
| PD-126 | <u>Highways AgencyResponse to Consultation - Mr.Parkinson</u> |
| PD-127 | <u>Highways Agency response to Cluttons LLP</u> |
| PD-128 | <u>Mere Residents Association Correspondence</u> |

Procedural Decisions

General Procedural Decisions

| | |
|---------|--|
| DEC-001 | <u>Acceptance Decision Letter-17/5/13</u> |
| DEC-002 | <u>Section 55 Checklist Final-17/5/13</u> |
| DEC-003 | <u>Rule 4 & 6 Letter-24/7/13</u> |
| DEC-004 | <u>Rule 8 Final Letter-12/9/13</u> |
| DEC-016 | <u>Infrastructure Planning Commission Transition The Planning Inspectorate Leaflet</u> |
| DEC-005 | <u>Rule 13 letter - Notification of hearings and accompanied site visits</u> |
| DEC-007 | <u>Section 89 Rules 8 and 17 letter (2)</u> |
| DEC-008 | <u>Request for further information (Rule 17)</u> |
| DEC-009 | <u>Rule 17 and 8 letter re further timetabling requirements</u> |
| DEC-011 | <u>Acceptance of proposed changes - request for further information - order of proceedings for 20 February 2014 hearings</u> |
| DEC-012 | <u>RIES Report</u> |
| DEC-013 | <u>Rule 17 and Rule 8</u> |
| DEC-014 | <u>Further Rule 17</u> |
| DEC-015 | <u>Further Rule 8 and 17 with Annex</u> |
| DEC-017 | <u>Further Rule 8 and 17</u> |
| DEC-018 | <u>Request for further information on the applicability of the Compulsory Acquisition Regulations.doc</u> |
| DEC-019 | <u>Notification of Completion of ExA Examination</u> |

Relevant Representations

| | | |
|--------|----------|---|
| RR-001 | 10018793 | <u>Kim Barrett</u> |
| RR-002 | 10018852 | <u>Michael Hosker</u> |
| RR-003 | 10018876 | <u>Kathryn Jane Whitlow (Mere Parish Council)</u> |

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| RR-004 | 10018995 | <u>Dawn Smethurst</u> |
| RR-005 | 10018996 | <u>John Patterson/Mere Hall Apartments</u> |
| RR-006 | 10019001 | <u>Lorraine Robinson</u> |
| RR-007 | 10019000 | <u>Matthew Goggins/National Express</u> |
| RR-008 | 10018998 | <u>Neil Jones</u> |
| RR-009 | 10019006 | <u>Paul Griffiths/Andrew Spittlehouse Cheshire East council</u> |
| RR-010 | 10019004 | <u>Clive Jones/Midland Red South Ltd t/a megabus.com</u> |
| RR-011 | 10019003 | <u>Robin Holloway</u> |
| RR-012 | 10019029 | <u>Belinda Jane Clough</u> |
| RR-013 | 10019020 | <u>Howard Clough</u> |
| RR-014 | 10019013 | <u>Diane Flanagan</u> |
| RR-015 | 10019028 | <u>Dr Dylan Prosser</u> |
| RR-016 | 10019018 | <u>Heather J Walsh/Moss Lane Farm</u> |
| RR-017 | 10019030 | <u>Chris Harvey/Messrs T & A Hartley & Sons</u> |
| RR-018 | 10019037 | <u>Linda J Reynolds</u> |
| RR-019 | 10019048 | <u>Mike Morrison</u> |
| RR-020 | 10019061 | <u>Elisabeth Needham/Millington Parish Council</u> |
| RR-021 | 10019057 | <u>I G Hodgson</u> |
| RR-022 | 10019076 | <u>Alan Newnes/Mere Residents Association</u> |
| RR-023 | 10019068 | <u>Gillian Broadbent</u> |
| RR-024 | 10019067 | <u>Jean and Lionel Duncalf</u> |
| RR-025 | 10019066 | <u>Paul M. Reeves/Cheshire East Council - Highways</u> |
| RR-026 | 10019070 | <u>Genni Butler /Cheshire East Borough Council</u> |
| RR-027 | 10019073 | <u>Robert Anderson/Cheshire East Local Access Forum</u> |
| RR-028 | 10019078 | <u>Bob Sabberton</u> |
| RR-029 | 10019074 | <u>David John Jones</u> |
| RR-030 | 10019077 | <u>Kevin Carney</u> |
| RR-031 | 10019069 | <u>Linda Buckett</u> |
| RR-032 | 10019071 | <u>Miss E. Woloschin</u> |
| RR-033 | 10019081 | <u>Tony Raven/Moto Hospitality Ltd.</u> |
| RR-034 | 10019112 | <u>Alan Hubbard/National Trust</u> |
| RR-035 | 10019102 | <u>Barbara Fothergill/Public Health England</u> |
| RR-036 | 10019082 | <u>Chris Driver/Cheshire Wildlife Trust</u> |
| RR-037 | 10019088 | <u>Claire Storey/Natural England</u> |
| RR-038 | 10019108 | <u>Dave Sherratt/United Utilities</u> |
| RR-039 | 10019106 | <u>Helen Telfer/Environment Agency</u> |
| RR-040 | 10019119 | <u>David Bailey</u> |
| RR-041 | 10019095 | <u>J K Briggs</u> |
| RR-042 | 10019117 | <u>David James Bailey</u> |
| RR-043 | 10019103 | <u>Kenneth Brodie</u> |
| RR-044 | 10019094 | <u>Doreen Walker/High Legh Parish Council</u> |
| RR-045 | 10018835 | <u>Mrs F Armstrong</u> |
| RR-046 | 10018799 | <u>Suzi Cowan/A556 Lobby Group</u> |
| RR-047 | 10019002 | <u>Phil Mason/Cheshire East Council (Public Protection and Health)</u> |
| RR-048 | 10019063 | <u>Pamela Cunio/Cheshire East Council</u> |
| RR-051 | 10019105 | <u>Vicky Stirling/National Grid Gas Plc</u> |
| RR-052 | KNUT-002 | <u>Walter Wright</u> |
| RR-053 | 10019093 | <u>A J Thompson/Mr T Jackson</u> |
| RR-054 | 10019084 | <u>Ben Wharfe</u> |
| RR-055 | 10019083 | <u>Ian Dale/Cheshire East Council (Development</u> |

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| | | Management) |
| RR-056 | 10019087 | <u>Lillian Burns/NWTAR</u> |
| RR-057 | 10019092 | <u>Margaret Newnes</u> |
| RR-058 | 10019085 | <u>Richard Broome/Mainline Pipelines Ltd</u> |
| RR-059 | 10019091 | <u>Sian Berry/ Campaign for Better Transport</u> |
| RR-060 | 10018825 | <u>David Kennerly</u> |
| RR-061 | 10019089 | <u>Martin Wheeler on behalf of Mrs Valerie Bloor</u> |
| RR-063 | 10019100 | <u>Martin Wheeler on behalf of Mr William Alan Faulkner and Mrs Helena Elizabeth Faulkner</u> |
| RR-064 | 10019101 | <u>Martin Wheeler on behalf of Mr H A E Bloor</u> |
| RR-065 | 10019098 | <u>Martin Wheeler on behalf of Mr Andrew Faulkner and Mr Ian Faulkner</u> |
| RR-066 | 10019107 | <u>Martin Wheeler on behalf of Mrs H Langford-Brooke Will Trust and Mrs V Griffiths</u> |
| RR-067 | 10019109 | <u>Martin Wheeler on behalf of Trustees of the Mere Settled Estate</u> |
| RR-068 | 10019110 | <u>Martin Wheeler on behalf of Trustees of Mark Griffiths 1982 Settlement</u> |
| RR-069 | 10019111 | <u>Martin Wheeler on behalf of Mr C Blockley</u> |
| RR-071 | 10019114 | <u>Martin Wheeler on behalf of Monckton Properties Ltd</u> |
| RR-072 | 10019115 | <u>Martin Wheeler on behalf of Mr R Brooks - Tatton Estate</u> |
| RR-073 | 10019116 | <u>Martin Wheeler on behalf of Trustees of H R Brooks - Millington Estate</u> |
| RR-074 | 10019118 | <u>Martin Wheeler on behalf of Mr H R Brooks</u> |
| RR-077 | 10019096 | <u>Ruth Jackson/David Geoffrey Cohen</u> |
| RR-078 | 10019097 | <u>Sarah Sherwood/Tabley Parish Council</u> |

Representations

Adequacy of Consultation

| | |
|---------|---|
| REP-001 | <u>Adequacy of Consultation Response –Warrington Borough Council</u> |
| REP-002 | <u>Adequacy of Consultation Response –Stafford County Council</u> |
| REP-003 | <u>Adequacy of Consultation Response – Newcastle Under Lyme Borough Council</u> |
| REP-004 | <u>Adequacy of Consultation Response –Paul Corbett</u> |
| REP-005 | <u>Adequacy of Consultation Response- A556 Lobby Group</u> |
| REP-006 | <u>Adequacy of Consultation Response –Cheshire East Late Response</u> |
| REP-007 | <u>Adequacy of Consultation Response-Derbyshire County Council</u> |
| REP-008 | <u>Adequacy of Consultation Response-Peak District National Park</u> |
| REP-009 | <u>Adequacy of Consultation Response-Staffordshire Moorlands District Council</u> |
| REP-010 | <u>Adequacy of Consultation Response-Stockport Council</u> |
| REP-011 | <u>Adequacy of Consultation Response- Manchester City Council Late Response</u> |
| REP-012 | <u>NWTAR early Submission</u> |
| REP-013 | <u>Adequacy of consultation E-mail from Francis Ballardie.</u> |
| REP-014 | <u>Mere Parish Council Legitimacy of consultation process.</u> |

Written Representations

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| REP-015 | <u>Mere Parish Council</u> |
| REP-016 | <u>David J Jones</u> |
| REP-017 | <u>Bruton Knowles (obo Springcare)</u> |
| REP-018 | <u>Natural England</u> |
| REP-019 | <u>George Wright</u> |
| REP-020 | <u>PWC Surveyors on behalf of Mr Jackson</u> |
| REP-021 | <u>Monkton Properties</u> |
| REP-022 | <u>Whitbread/ Premier Inn Ltd</u> |
| REP-023 | <u>SP Energy</u> |
| REP-024 | <u>National Grid</u> |
| REP-025 | <u>Highways agency</u> |
| REP-026 | <u>Fisher German on behalf of Mainline Pipelines Ltd</u> |
| REP-027 | <u>Ruth Jackson on behalf of David Cohen</u> |
| REP-028 | <u>National Trust</u> |
| REP-029 | <u>Mr and Mrs G Wharf</u> |
| REP-030 | <u>Mere residence association</u> |
| REP-031 | <u>Campaign For Better Transport</u> |
| REP-032 | <u>R brooks Tatton estate</u> |
| REP-033 | <u>Trustees of HR Brooks, Millington Estate</u> |
| REP-034 | <u>West Register (Realisations) Ltd Written Representation.</u> |
| REP-035 | <u>B J Wharfe - Absence of critical information</u> |
| REP-036 | <u>Written representation from Fisher German on behalf of Simpatico</u> |
| REP-037 | <u>Second Written Representation from Highways Agency (part 1 of 4)</u> |
| REP-038 | <u>Second Written Representation from Highways Agency (part 2 of 4)</u> |
| REP-039 | <u>Second Written Representation from Highways Agency (part 3 of 4)</u> |
| REP-040 | <u>Second Written Representation from Highways Agency (part 4 of 4)</u> |
| REP-041 | <u>Written Representation from Highways Agency 2</u> |

Response to Rule 6 request

| | |
|---------|---|
| REP-171 | <u>Rule 6 Annex F - 1.</u> |
| REP-172 | <u>Rule 6 Annex F - 1A.</u> |
| REP-173 | <u>Rule 6 Annex F - 1B</u> |
| REP-174 | <u>Rule 6 Annex F - 1C</u> |
| REP-175 | <u>Rule 6 Annex F - 1D</u> |
| REP-178 | <u>Rule 6 Annex F - 1E</u> |
| REP-179 | <u>Rule 6 Annex F - 2</u> |
| REP-180 | <u>Rule 6 Annex F - 2A Consultation Documents.</u> |
| REP-181 | <u>Rule 6 Annex F - 2AA - Sustainability Statement - AoS Method and Alternatives 050713</u> |
| REP-182 | <u>A556 Rule 6 Annex F - 2AB - Sustainability Statement - Socio Economic Appraisal 090713</u> |
| REP-183 | <u>Rule 6 Annex F - 2AC - Sustainability Statement - Strategic Fit 050713</u> |
| REP-184 | <u>Rule 6 Annex F - 2AD - Sustainability Statement</u> |
| REP-185 | <u>Rule 6 Annex F - 2AE - Sustainability Statement</u> |
| REP-186 | <u>Rule 6 Annex F - 2AF - Sustainability Statement</u> |

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| REP-187 | Rule 6 Annex F - 2AG - Sustainability Statement |
| REP-188 | Rule 6 Annex F - 2B Information Events. |
| REP-189 | Rule 6 Annex F - 2C Libraries. |
| REP-190 | Rule 6 Annex F - 2D West Midlands to Manchester route section map |
| REP-191 | Rule 6 Annex F - 2E Route section HSM10 |
| REP-192 | Rule 6 Annex F - 2F Route section HSM10 |
| REP-193 | Rule 6 Annex F - 2G Route section HSM10 |
| REP-194 | Rule 6 Annex F - 2H Route section HSM12 |
| REP-195 | Rule 6 Annex F - 2J Route section HSM21 |
| REP-196 | Rule 6 Annex F - 2K Route section HSM22 |
| REP-197 | Rule 6 Annex F - 2L1 Route section HSM28 |
| REP-198 | Rule 6 Annex F - 2L2 Route section HSM28 |
| REP-199 | Rule 6 Annex F - 2M Route section HSM26 |
| REP-200 | Rule 6 Annex F - 2N Route section HSM30 |
| REP-201 | Rule 6 Annex F - 2O Crewe IMD plan and profile sheet 1 of 1 |
| REP-202 | Rule 6 Annex F - 2P Golborne RSD plan and profile |
| REP-203 | Rule 6 Annex F - 2Q How to use Plan & Profile maps 0 |
| REP-204 | Rule 6 Annex F - 2R Engineering Report Western Leg |
| REP-205 | Rule 6 Annex F - 2S Factsheets |
| REP-206 | Rule 6 Annex F - 2T Sustainability Statement Non Technical Summary |
| REP-207 | Rule 6 Annex F - 2U Sustainability Statement Vol 1 180713 |
| REP-208 | Rule 6 Annex F - 2V Sustainability Statement Erratum Note v2 0. |
| REP-209 | Rule 6 Annex F - 2W - Sustainability Statement Vol 2 |
| REP-210 | Rule 6 Annex F - 2X - Sustainability Statement Vol 2 |
| REP-211 | Rule 6 Annex F - 2Y - Sustainability Statement Vol 2 |
| REP-212 | Rule 6 Annex F - 2Z - Sustainability Statement - Equality Analysis 050713 |
| REP-213 | Rule 6 Annex F - 3 |
| REP-214 | Rule 6 Annex F - 3A. |
| REP-215 | Rule 6 Annex F - 3B |
| REP-216 | Rule 6 Annex F - 3C |
| REP-217 | Rule 6 Annex F - 4 |
| REP-218 | Rule 6 Annex F - 4A |
| REP-219 | Rule 6 Annex F - 5. |
| REP-220 | Rule 6 Annex F - 5A |
| REP-221 | Rule 6 Annex F - 5B |
| REP-222 | Rule 6 Annex F - 6 |
| REP-223 | Rule 6 Annex F - 7 |
| REP-224 | Rule 6 Annex F - 7A |
| REP-225 | Rule 6 Annex F - 7B |
| REP-226 | Rule 6 Annex F - 8 |
| REP-227 | Rule 6 Annex F - 8A. |
| REP-228 | Rule 6 Annex F - 8B |
| REP-229 | Rule 6 Annex F - 8C |
| REP-230 | Rule 6 Annex F - 8D |
| REP-231 | Rule 6 Annex F - 8E |
| REP-232 | Rule 6 Annex F - 9 |
| REP-233 | Rule 6 Annex F - 9A |
| REP-234 | Rule 6 Annex F - 9B |

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| REP-235 | Rule 6 Annex F - 9C |
| REP-236 | Rule 6 Annex F - 9D |
| REP-237 | Rule 6 Annex F - 9E |
| REP-238 | Rule 6 Annex F - 9F |
| REP-239 | Rule 6 Annex F - 9G |
| REP-240 | Rule 6 Annex F - 9H. |
| REP-241 | Rule 6 Annex F - 9I |
| REP-242 | Rule 6 Annex F - 9J |
| REP-243 | Rule 6 Annex F - 10. |
| REP-244 | Rule 6 Annex F - 10A |
| REP-245 | Rule 6 Annex F - 10B. |
| REP-246 | Rule 6 Annex F - 11. |
| REP-247 | Rule 6 Annex F - 11A. |
| REP-248 | Rule 6 Annex F - 12 |
| REP-249 | Rule 6 Annex F - 12A. |
| REP-250 | Rule 6 Annex F - 12B |
| REP-251 | Rule 6 Annex F - 12C. |
| REP-252 | Rule 6 Annex F - 12D |
| REP-253 | Rule 6 Annex F - 12E. |
| REP-254 | Rule 6 Annex F - 13. |
| REP-255 | Rule 6 Annex F - 13A. |
| REP-256 | Rule 6 Annex F - 13B |
| REP-257 | Rule 6 Annex F - 13C |
| REP-258 | Rule 6 Annex F - 13D. |
| REP-259 | Rule 6 Annex F - 13E |
| REP-260 | Rule 6 Annex F - 14 |
| REP-261 | Rule 6 Annex F - 15. |

Responses to Rule 17 Letter of 12 September 2013

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| REP-117 | Rule 17 Annex E - 1 |
| REP-118 | Rule 17 Annex E - 2 |
| REP-119 | Rule 17 Annex E - 3. |
| REP-120 | Rule 17 Annex E - 4. |
| REP-121 | Rule 17 Annex E - 5. |
| REP-122 | Rule 17 Annex E - 6 |
| REP-123 | Rule 17 Annex E - 7. |
| REP-124 | Rule 17 Annex E - 8 |
| REP-125 | Rule 17 Annex E - 9. |
| REP-126 | Rule 17 Annex E - 10. |
| REP-127 | Rule 17 Annex E - 11. |
| REP-128 | Rule 17 Annex E - 12. |
| REP-129 | Rule 17 Annex E - 13. |
| REP-130 | Rule 17 Annex E - 14. |

Responses to Examining Authority's First Written Questions

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| REP-042 | NW TAR - Comments on response to ExA's first round of questions |
| REP-043 | Cheshire East Council - Response to ExA's first round of questions |
| REP-044 | Highways Agency Annex D - 01 |

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| REP-045 | Highways Agency Annex D - 02 |
| REP-046 | Highways Agency Annex D - 03 |
| REP-047 | Highways Agency Annex D - 04 |
| REP-048 | A556 Rule 8 Annex D - 05 |
| REP-049 | Highways Agency Annex D - 06 |
| REP-050 | Highways Agency Annex D - 07 |
| REP-051 | Highways Agency Annex D - 08 |
| REP-052 | Highways Agency Annex D - 09 |
| REP-053 | Highways Agency Annex D - 10 |
| REP-054 | Highways Agency Annex D - 11 |
| REP-055 | Highways Agency Annex D - 12 |
| REP-056 | Highways Agency Annex D - 13 |
| REP-057 | Highways Agency Annex D - 14 |
| REP-058 | Highways Agency Annex D - 15 |
| REP-059 | Highways Agency Annex D - 16 |
| REP-060 | Highways Agency Annex D - 17 |
| REP-061 | Highways Agency Annex D - 18 |
| REP-062 | Highways Agency Annex D - 19 |
| REP-063 | Highways Agency Annex D - 20 |
| REP-064 | Highways Agency Annex D - 21 |
| REP-065 | Highways Agency Annex D - 22 |
| REP-066 | Highways Agency Annex D - 24 |
| REP-067 | Highways Agency Annex D - 25 |
| REP-068 | Highways Agency Annex D - 31 |
| REP-069 | Highways Agency Annex D - 32 |
| REP-070 | Highways Agency Annex D - 33 |
| REP-071 | Highways Agency Annex D - 34 |
| REP-072 | Highways Agency Annex D - 35 |
| REP-073 | Highways Agency Annex D - 36 |
| REP-074 | Highways Agency Annex D - 37 |
| REP-075 | Highways Agency Annex D - 38 |
| REP-076 | Highways Agency - bus services and A556 |
| REP-262 | A556 Lobby Group Response to Exa's first round of questions (Part 1 of 3) |
| REP-263 | A556 Lobby Group Response to Exa's first round of questions (Part 2 of 3) |
| REP-264 | A556 Lobby Group response to Exa's first round of questions (Part 3 of 3) HA JNC20 Findings |
| REP-265 | Cheshire Wildlife trust |
| REP-266 | Faulkner response |
| REP-267 | David Tucker Associates - Response to ExA's first round of questions. |

Comments on First Written Questions responses

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| REP-077 | Lobby Group - comments on response to ExA's first written questions |
| REP-268 | High Legh Parish Council - comments on proposed A50 roundabout. |

Comments on the Local Impact Report

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| REP-078 | Mr & Mrs G Wharfe - Comments on Rule 8 |
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| REP-079 | Mere Parish Council - response to CEC LIR |
| REP-080 | Cheshire East Council - noise mitigation raised in LIR |

Responses to Rule 17 Letter of 18 October 2013

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| REP-131 | Mere Residents Association - response to ExA's letter of 18th October |
| REP-132 | A556 Lobby group copies of completed petition forms |
| REP-133 | A556 Lobby Group in favour of H.A |
| REP-134 | A556 Lobby Group Leave A556, Against it (PART 1) |
| REP-135 | A556 Lobby Group Leave A556, Against it (PART 2) |
| REP-136 | A556 Lobby Group Leave A556, Against it (PART 3) |
| REP-137 | A556 Lobby Group leave A556 against it (PART 4) |
| REP-138 | A556 Lobby Group leave A556 against it (PART 5) |
| REP-139 | A556 Lobby Group leave A556 against it (PART 6) |
| REP-269 | Highway Agency's response to ExA's letter of the 18th October 2013 |
| REP-270 | Highways Agency (Part 2) Traffic Forecasting Report |
| REP-271 | Local model validation report |

Examining authority's Second Round of Written Questions

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| REP-081 | ExA's second round of questions and draft RIES report |
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Responses to Examining authority's Second Round of Written Questions and RIES consultation

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| REP-082 | Natural England's response to ExA's second round of written questions and RIES report |
| REP-083 | Environment Agency's response to ExA's second round of written questions and RIES report |
| REP-084 | Campaign for Better Transport - response to ExA's second round of questions |
| REP-085 | Cheshire East Council's response to ExA's second round of written questions |
| REP-086 | Highways Agency's response to ExA's second round of questions - item 2.1 |
| REP-087 | Highways Agency's response to ExA's second round of questions - item 2.10 |
| REP-088 | Highways Agency's response to ExA's second round of questions - item 2.11 |
| REP-089 | Highways Agency's response to ExA's second round of questions - item 2.12 |
| REP-090 | Highways Agency's response to ExA's second round of questions - item 2.13 |
| REP-091 | Highways Agency's response to ExA's second round of questions - item 2.2 |
| REP-092 | Highways Agency's response to ExA's second round of questions - item 2.3 |
| REP-093 | Highways Agency's response to ExA's second round of questions - item 2.4 |
| REP-094 | Highways Agency's response to ExA's second round of questions - item 2.5 |

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| REP-095 | Highways Agency's response to ExA's second round of questions - item 2.6 |
| REP-096 | Highways Agency's response to ExA's second round of questions - item 2.7 |
| REP-097 | Highways Agency's response to ExA's second round of questions - item 2.8 |
| REP-098 | Highways Agency's response to ExA's second round of questions - item 2.9 |
| REP-099 | NW TAR - response to ExA's second round of questions |
| REP-100 | Highways Agency's supplementary response to question 2.13 |
| REP-101 | Highways Agency Response to Question 2.13 in Annex A of the Examining 7th November 2013 letter containing the second round of written Questions |
| REP-102 | Highways Agency response to question 2.11 of the ExA second round of written questions issued 7 November 2013 |
| REP-103 | Highways Agency -Second Supplementary Response to Question 2.1 (Section 135 Crown Land Consents - Sos Transport Highways Agency) |
| REP-104 | Highways agency response to Question 2.1 Annex A -second round of questions |
| REP-105 | Second Written Questions - Supplementary Response to Question 2.7 (E-mail 1 of 2) |
| REP-106 | Second Written Questions - Supplementary Response to Question 2.7 (E-mail 2 of 2) |
| REP-107 | Highways Agency - Supplementary Response to Question 2.2 |
| REP-108 | Highways Agency |
| REP-109 | West Register Second Written Questions - Supplementary Response to Question 2.7 |
| REP-110 | Highways Agency ES Addendum Jan-2014 Appendix B - Figures Part-1 |
| REP-111 | Highways Agency ES Addendum Jan-2014 Appendix D - Figures Part-3 |
| REP-112 | Highways Agency ES Addendum Jan-2014 Appendix F - Addendum Appendices |
| REP-113 | Highways Agency-Environmental statement addendum |
| REP-114 | Highways Agency- response to Question 2.2 in Annex A -second round of written questions |
| REP-115 | Highways Agency supplementary response to Question 2.11 Annex A |
| REP-116 | Highways Agency's third supplementary response to 2nd Written Question 2.13 Submission of outcomes of further consultation |

Responses to Rule 17 letter 21 November 2013

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| REP-140 | Highways Agency - Green Belt |
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Responses to Rule 17 letter 9 December 2013

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| REP-141 | Cheshire East Council - Planning Application at Over Tabley Old Hall and Parkland at Mere Hall |
| REP-142 | Highways Agency - "On The Move" report |
| REP-158 | Highways agency-Response to Documents Received by Examining Authority after 29.11.13 |

Responses to Rule 17 letter 16 December 2013

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| REP-143 | Highways Agency response to item 8 in the ExA request for further information issued on 16 December 2013 |
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| REP-144 | Highways Agency response to item 3 in the request for further information issued on 16 December 2013 |
| REP-145 | Highways Agency response to item 6 in the ExA request for further information issued on 16 December 2013 |
| REP-146 | Mainline Pipelines Limited submission on the pipeline feasibility study |
| REP-147 | Highways Agency response to item 10 in the ExA request for further information issued on 16 December 2013 |
| REP-148 | Highways Agency response to item 7 in the ExA request for further information issued on 16 December 2013 |

Responses to Rule 17 letter 16 January 2014

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| REP-150 | Highways Agency Item 1&2 - Book of reference and Land plans (1 of 4) |
| REP-151 | Highways Agency Item 3- Rights of way (2 of 4) |
| REP-152 | Highways Agency Item 4 - Work plans highways agency (3 of 4) |
| REP-153 | Highways Agency Item 5 -Engineering Plans.(4 Of 4) |
| REP-154 | Highways Agency response to question 2.8- Rule 8 and 17 |

Responses to Rule 17 letter 21 January 2014

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| REP-156 | Highways Agency-Information Requested in 21st January 2014 letter |
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Responses to Rule 17 letter 24 January 2014

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| REP-149 | Fisher German response to Rule 8 & 17 |
| REP-155 | Highways Agency Written summary of case and Rule 17 requests |

Responses to Rule 17 letter 31 January 2014

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| REP-157 | Highways Agency response to Rule 17 of 31.1.14 -Further questions on Compulsory Acquisition |
| REP-159 | Highways Agency -Draft Development Consent Order and Article 34 documents (Email 1 of 2) |
| REP-160 | Highways Agency -Draft Development Consent Order and Article 34 documents(Email 2 Of 2) |
| REP-161 | Natural England response to Question 9 |
| REP-162 | Highways Agency -Response to question 5 in Annex A |
| REP-163 | Highways Agency-Response to question 5 in Annex A |
| REP-165 | Fisher German - Response to Questions 10 - 14 in Annex A |
| REP-166 | Highways Agency - Response to Questions 1 and 4 in Annex A - including revision 5 of the Draft Development Consent Order |
| REP-167 | Highways Agency- Further documents on National Grid easement required for the apparatus diversion |
| REP-168 | Highways Agency Response to questions 2 ,6,8 and 11 in Annex A |
| REP-169 | National trust- Update on the matters set out in the Statement of Common Ground between Highways Agency |
| REP-170 | Highways Agency-Response to the submission from Fisher German |

Responses to Rule 17 letter 17 February 2014

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| REP-164 | Highways Agency -Response to 17th February 2014 Procedural Letter - |
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| | <u>Faulkners plots</u> |
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Additional Submissions

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| AS-001 | <u>A556 Lobby Group - own report</u> |
| AS-002 | <u>Correspondence from Suzi Cowan A556 Lobby Group1(PART 1OF 2).</u> |
| AS-003 | <u>A556 Lobby Group - CBO report (Part 2 Of 2)</u> |
| AS-004 | <u>Natural England's EPS F License Application</u> |
| AS-005 | <u>NWBLT Transport Report</u> |
| AS-006 | <u>Mere parish Council</u> |
| AS-007 | <u>Millington Parish Council- Site Visit</u> |
| AS-008 | <u>Mr tucker on behalf of Whitbread plc and Premier Inn Hotels</u> |
| AS-009 | <u>Additional Submission from Mr and Mrs Al-Hilali.</u> |
| AS-010 | <u>Additional Submission from Joanne Chiorando</u> |
| AS-011 | <u>Mere residents Association</u> |
| AS-012 | <u>Highways Agency correspondence on crown land interests</u> |
| AS-013 | <u>NW TAR - HS2 exhibition</u> |
| AS-014 | <u>A556 Lobby Group - Supplementary Notes</u> |
| AS-015 | <u>NW TAR - HS2 proposal</u> |
| AS-016 | <u>Mere Parish Council Submission</u> |
| AS-017 | <u>Miss Woloschin Submission</u> |
| AS-018 | <u>Cheshire East Council</u> |
| AS-019 | <u>Mere Parish Council additional submission of 11.12.2013</u> |
| AS-020 | <u>Mr B Wharfe oral representation following issue specific hearing on 11.12.13</u> |
| AS-021 | <u>Highways Agency Response following Issue Specific Hearings</u> |
| AS-022 | <u>English Heritage submission on the application</u> |
| AS-023 | <u>Highways Agency representations on the Draft National Policy Statement for National Networks and the National Infrastructure Plan 2013</u> |
| AS-024 | <u>Highways Agency- Information Requested at 12.12.13 Issue Specific Hearing - Mere Parish Council</u> |
| AS-025 | <u>Ruth Jacskon on behalf of Mr. David Cohen additional submission</u> |
| AS-026 | <u>Chris Harvey on behalf of T&A Hartley & Sons</u> |
| AS-027 | <u>Correspondence from Campaign for better transport -significant scheme changes</u> |
| AS-028 | <u>Further evidence from NW TAR for the Knutsford-Bowdon Improvement Scheme ExA</u> |
| AS-029 | <u>Highways Agency-Information Requested at Issue Specific Hearings</u> |
| AS-030 | <u>NW TAR response to ExA's questions on the NPS National Infrastructure Plan</u> |
| AS-031 | <u>Highways Agency- Information Requested at Issue Specific Hearings - Item 4 - M6 J20 Options BCR's</u> |
| AS-032 | <u>Highways Agency- Information Requested at Issue Specific Hearings - Item 5 Air Quality Assessment (E-mail 1 of 3)</u> |
| AS-033 | <u>Highways Agency- Information Requested at Issue Specific Hearings - Item 5 Air Quality Assessment (E-mail 2 of 3)</u> |
| AS-034 | <u>Highways Agency- Information Requested at Issue Specific Hearings - Item 5 Air Quality Assessment (E-mail 3 of 3)</u> |
| AS-035 | <u>Highways agency-Information Requested at Issue Specific Hearings - Item 2 Metrolink and Northern Hub</u> |

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| AS-036 | National park |
| AS-037 | Highways Agency Information Requested at Issue Specific Hearings - Item 1 Value of Time BCR |
| AS-038 | Highways Agency-Information Requested at Issue Specific Hearings - Updated DCO Explanatory Note |
| AS-039 | Response from Campaign for Better Transport to NPS and further documents |
| AS-040 | A556 Knutsford to Bowdon Scheme - NE Written Summary of Oral Reps at IS Hearing 13 December |
| AS-041 | Highways agency Information Requested at Issue Specific Hearings - Item 7 Committee for Climate Change (UPDATE) |
| AS-042 | High legh parish Council- comments following Open floor hearing |
| AS-043 | Mere Parish Council-M6 Accident statistics |
| AS-044 | Mere Parish Council-Picture of the Queue on the A50 |
| AS-045 | Highways Agency submission on the consultation carried out between 19 December 2013 to 20 January 2014 |
| AS-046 | Mere Parish Council submission following hearings |
| AS-047 | Highways Agency - plan 1 - Millington lane |
| AS-048 | Highways Agency - plan 2 - Bowdon Link |
| AS-049 | Highways Agency - plan 3 - Millington Hall Lane |
| AS-050 | Highways Agency - plan 4 - Chapel Lane |
| AS-051 | Highways Agency - plan 5 - Bucklow Hill Lane |
| AS-052 | Highways Agency - plan 6 - A50 |
| AS-053 | Highways Agency - plan 7 - Green Bridge |
| AS-054 | Highways Agency - plan 8 - Bentleyhurst |
| AS-055 | Highways Agency - plan 9 - Tabley |
| AS-056 | Highways Agency - plan 10 - Old Hall Underpass |
| AS-057 | Highways agency further information on Item 9-Disaggregation of accidents & incidents at M6 J19 |
| AS-058 | National Grid - Proposed changes to the DCO |
| AS-059 | Mere Parish council -Questions to the Highways Agency |
| AS-060 | Highways Agency Responses received to date on the December 2013 consultation document |
| AS-061 | Highways Agency - Updated Planning Statement January 2014 (Revision 2) |
| AS-062 | National Grid |
| AS-063 | Mr.Wharfe-land take for pipelines |
| AS-064 | T&A Hartley and sons- Following 20.12.13 |
| AS-065 | A556 Lobby Group- following issue specific hearing |
| AS-067 | West register response to proposed balancing pond |
| AS-068 | West Register objection to the realignment of the National Grid pipeline |
| AS-069 | British Horse Society - regarding horse riders access |
| AS-070 | Ruth Jackson on behalf of Mr Cohen- Summary of objections |
| AS-071 | Natural England- Draft Great Crested Newt application |
| AS-072 | Highways Agency- Regarding Natural England statement |
| AS-073 | Campaign for better transport- final submission |
| AS-074 | T&A Hartley and sons- acceptance of proposed changes |
| AS-075 | National Grid Gas Plc and National Grid Electricity Transmission's |

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| | <u>withdrawing objection</u> |
| AS-076 | <u>Fisher German- Further Submission.</u> |
| AS-077 | <u>Fisher German-Brooks Landholding Final Submission</u> |
| AS-079 | <u>Highways Agency-Alternatives on the land owned by the Mere Estate and the Brooks Landholdings</u> |
| AS-080 | <u>Mainline Pipeline- Feasibility study</u> |
| AS-081 | <u>Millington Parish Council-Final Submission</u> |
| AS-082 | <u>Mere Estate-T& A Hartley and Sons- regarding the removal of the mitigation planting</u> |
| AS-083 | <u>Highways Agency- Regarding draft mitigation licence application</u> |
| AS-084 | <u>Highways Agency -Regarding United Utilities</u> |
| AS-085 | <u>Natural England-Interim letter regarding draft EPS mitigation licence application</u> |
| AS-086 | <u>Tabley Parish Council</u> |

Preliminary meeting, hearing and accompanied site visit documents

Preliminary Meeting – 3 September 2013

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| EV-001 | <u>Preliminary Meeting Note Final</u> |
| EV-002 | <u>Recording of Preliminary Meeting - 03-09-2013 - 1030</u> |
| EV-003 | <u>Correspondence to C. Harvey regarding site visits</u> |

Accompanied site visit 9/10 December

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| EV-004 | <u>Meller Braggins Site Inspection request regarding the junction of the access road leading from Mere Hall onto the A50</u> |
| EV-005 | <u>Agenda for Issue Specific Hearings</u> |
| EV-006 | <u>Accompanied Site Visit Itinerary 9 and 10 December 2013c</u> |

Open floor hearing 17 December

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| EV-007 | <u>Audio Recording of Open Floor Hearing (Afternoon Session Part 1)</u> |
| EV-008 | <u>Audio Recording of Open Floor Hearing (Afternoon Session Part 2)</u> |

Issue specific hearing on Alternative options and alignments and first consideration of DCO wording – 11-13 December.

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| EV-009 | <u>Audio Recording of Issue Specific Hearing (Morning Session)</u> |
| EV-010 | <u>Audio Recording of Issue Specific Hearing (Afternoon Session Part 1)</u> |
| EV-011 | <u>Audio Recording of Issue Specific Hearing (Afternoon Session Part 2)</u> |
| EV-012 | <u>Audio Recording of Issue Specific Hearing (Morning Session)</u> |
| EV-013 | <u>Audio Recording of Issue Specific Hearing (Afternoon Session)</u> |
| EV-014 | <u>Mere Parish Council</u> |
| EV-015 | <u>Audio Recording of Issue Specific Hearing</u> |
| EV-016 | <u>Agenda for Issue Specific Hearings</u> |
| EV-017 | <u>Agenda for Issue Specific Hearings</u> |
| EV-018 | <u>Highways Agency Written Summary of Oral Cases made at Issue specific hearing 11&12 December 2013</u> |

Compulsory acquisition hearing – 18-20 December

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| EV-019 | Audio Recording of Compulsory Acquisition Hearing - (Morning Session) |
| EV-020 | Audio Recording of Compulsory Acquisition Hearing - (Afternoon Session) |
| EV-021 | Audio Recording of Compulsory Acquisition Hearing (Morning Session) |
| EV-022 | Audio Recording of Compulsory Acquisition Hearing (Afternoon Session Part 1) |
| EV-023 | Audio Recording of Compulsory Acquisition Hearing (Afternoon Session Part 2) |
| EV-024 | Audio Recording of Compulsory Acquisition Hearing (Morning Session) |
| EV-025 | Highways Agency - written summary of oral case made at Compulsory Acquisition hearings |

Hearing on Outstanding Matters issue Specific matters and Compulsory Acquisition –20 February 2014

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| EV-026 | Hearing on Outstanding Issues Specific Matters, Compulsory Acquisition Matters, the Revised Draft DCO and Section 127 Matters |
| EV-027 | Highways Agency- Written summary of case made 20.2.14 hearing |
| EV-028 | A556 Lobby Group final submission |

General hearing documents

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| EV-029 | Highways Agency Publishing Request post R8(part 2 of 2). |
| EV-030 | Highways Agency-Notification of hearings in February 2014 |

ANNEX B - EVENTS IN THE EXAMINATION

| Item | Matters | Relevant Dates |
|----------|--|---------------------------------------|
| 1 | <p>Preliminary Meeting</p> <p>(This is the start day for the purposes of determining the period of the Examination)</p> | Tuesday 3 September 2013 |
| 2 | <p>Issue of:</p> <p style="padding-left: 40px;">Procedural timetable (Rule 8(1) and (2))</p> <p style="padding-left: 40px;">ExA first written questions (Rule 8(1)(b)(i) and (iii))</p> | Thursday 12 September 2013 |
| 3 | <p>Deadline for receipt by ExA of additional documents requested under Rule 17</p> | Friday 4 October 2013 |
| 4 | <p>Deadline for receipt by the ExA of:</p> <p style="padding-left: 40px;">Comments on relevant representations (RRs) (Rule 8(1)(c)(i) and (d)(i) and Rule 3(2)(b))</p> <p style="padding-left: 40px;">Any summaries of RRs exceeding 1500 words (Rule 8(1)(i))</p> <p style="padding-left: 40px;">Written representations (WRs) (Rule 8(1)(a) and Rule 10(1) and(2))</p> <p style="padding-left: 40px;">Any summaries of WRs exceeding 1500 words (Rule 8(1)(i))</p> <p style="padding-left: 40px;">LIR by local authority (Rule 8(1)(j))</p> <p style="padding-left: 40px;">Responses to ExA's first written questions (Rule 8(1)(b))</p> <p><input type="checkbox"/> Statements of common ground (SoCG) (Rule 8(1)(e))</p> <p><input type="checkbox"/> Notification of wish to make oral representations on the specific issue or issues being examined at the Issue Specific (IS) hearings, relating to alternative options and alignments including junction proposals, traffic flows and noise/air quality assessments; any amendments to the draft</p> | Friday 4 October 2013 |

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|----------|--|---------------------------------|
| | <p>development consent order (DCO) and its requirements and protective provisions by interested parties (s91 (PA 2008) and Rule 8(1)(k))</p> <p><input type="checkbox"/> Notification of wish to be heard at a compulsory acquisition (CA) hearing by affected persons (APs) (s92(2) (PA 2008) Rule 8(1)(f) and Rule 13(1))</p> <p><input type="checkbox"/> Notification of wish to be heard at an open floor (OF) hearing by interested parties (IPs) (s93(1) PA 2008, Rule 8(1)(f) and Rule 13(1))</p> <p><input type="checkbox"/> Notification of particular localities that interested parties or affected persons would wish the ExA to view.</p> | |
| 5 | <p>Notification by ExA of confirmed date(s) time(s) and place(s) for:</p> <p><input type="checkbox"/> IS hearings (s91 PA 2008 Rule 13(3)(a) and Rule 8(1)(h))</p> <p><input type="checkbox"/> CA hearing (s92 PA 2008 and Rule 13(3)(b))</p> <p><input type="checkbox"/> OF hearings (s93 PA 2008 and Rule 13(3)(a))</p> <p><input type="checkbox"/> Accompanied site visits (Rule 16(3))</p> | Thursday 10 October 2013 |
| 6 | <p>Deadline for receipt by the ExA of:</p> <p><input type="checkbox"/> Comments on WRs and responses to comments on RRs (Rule 8(1)(c) and (d) and Rule 10(5))</p> <p><input type="checkbox"/> Comments on LIR (Rule 8(1)(j))</p> <p><input type="checkbox"/> Comments on responses to ExA's first written questions (Rule 8(c)(ii) and(d)(ii))</p> | Friday 1 November 2013 |
| 7 | <p>Issue of 2nd ExA written questions and a draft Report on the Integrity of European Protected Sites (RIES)</p> | Thursday 7 November 2013 |
| 8 | <p>Deadline of receipt by ExA of responses to</p> | Friday 29 |

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| | 2 nd ExA questions and the draft RIES | November 2013 |
| 9a | Initial accompanied site visit to application site and surrounding area (Rule 16(2)). This visit was conducted in the presence of representatives of the applicant, Cheshire East Council and objectors and other Interested Parties. | 14:00 Monday 9 December 2013. Meeting at Curzon Cinema, Toft Road, Knutsford WA16 OPE |
| 9b | Initial accompanied site visits to historic properties affected by the DCO scheme and other locations expressly requested by land-owners including Tabley Village Hall, Over Tabley Hall and farm buildings, Mere Hall and walled garden, Dunham Massey and Yarwood Heath farm. This visit was conducted in the presence of representatives of the applicant, Cheshire East Council and affected landowners. | 10:00 Tuesday 10 December 2013 Meeting at Curzon Cinema, Toft Road, Knutsford WA16 OPE |
| 10 | IS hearings on: (1) alternative options and alignments including junction proposals, traffic flows and noise/air quality assessments and (2) first consideration of DCO wording (Rule 8(1)(h)) including its requirements and protective provisions | 10:00 Wednesday 11 and Thursday 12 December at Curzon Cinema, Toft Road, Knutsford WA16 OPE 10:00 Friday 13 December 2013 at Curzon Cinema, Toft Road, Knutsford WA16 OPE |
| 11 | OF hearings | 14:00 and 19:30 Tuesday 17 December 2013 at Curzon Cinema, Toft Road, Knutsford WA16 OPE |
| 12 | CA hearings (Rule 8(1)(h)) and related accompanied site visits* | 10:00 Wednesday 18, Thursday 19 and Friday 20 |

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| | | December 2013 at Curzon Cinema, Toft Road, Knutsford WA16 0PE |
| 13 | Deadline for receipt by ExA of any comments on responses to ExA 2 nd questions and the draft RIES | Friday 20 December 2013 |
| 13a | Deadline for representations in relation to Draft National Networks NPS and National Infrastructure Plan 2013 | Thursday 2 January 2014 |
| 14 | Time period reserved for any further <u>accompanied</u> site visits arising out of the Examination. | Monday 6 January 2014 (pm) [<i>not required nor on 7 or 8 January 2014, but on 9 January see below</i>] |
| 15 | Further CA Hearing (Rule 8(1)(h)) | 10:00 Tuesday 7 January 2014 at Cottons Hotel, Manchester Road, Knutsford WA16 0SU |
| 16 | Further IS Hearing on alterations to the wording of the draft DCO, its requirements and protective provisions | 10:00 Wednesday 8 January 2014 at Cottons Hotel, Manchester Road, Knutsford WA16 0SU |
| 16a | *Accompanied Site Visit to Bucklow Manor Nursing Home arranged at CA Hearing. This visit was conducted in the presence of the representatives of the applicant and affected landowners. | 09:30 Thursday 9 January |
| 17 | Deadline for receipt by ExA of: <input type="checkbox"/> Any proposed amendments to the draft DCO, requirements and s106 undertakings (Rule 8(1)(k)) <input type="checkbox"/> Any written summary of the oral cases | Friday 17 January 2014 |

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| | <p>put at the IS, CA or OF hearings (Rule 8(1)(k))</p> <p><input type="checkbox"/> Any outstanding documentation requested in 2nd ExA Questions if not previously received.</p> | |
| 17a | Deadline for any responses to representations made in relation to Draft National Networks NPS and National Infrastructure Plan 2013 | Friday 24 January 2014 |
| 17b | Deadline for any comments on responses to representations made in relation to Draft National Networks NPS and National Infrastructure Plan 2013 and the deadline for comment on any documentation submitted by 24 January 2014 and further questions and requests for information issued by the ExA on 31 January after the submission by the applicant of proposed changes to the DCO. | Monday 17 (extended to Tuesday 18) February 2014 |
| 18 | Further IS and CA Hearing into alternative options and related traffic flows, air quality, noise and related matters, Compulsory Acquisition matters and the wording of the DCO. | 10.00 Thursday 20 February 2014 at Cottons Hotel, Manchester Road, Knutsford WA16 0SU |
| 19 | Deadline for responses to any submissions made by 17 February 2014, at the hearing on 20 February 2014 and summaries of oral cases made at that hearing | Friday 28 February 2014 |
| 20 | Examination closed by ExA under the duty to complete its examination of the application by the end of the period of 6 months beginning with the day after the start day (s.98(1) PA 2008). | Monday 3 March 2014 |

ANNEX C - LISTS OF ATTENDEES

**Preliminary Meeting: 3 September 2013 at the Curzon Cinema,
Toft Road, Knutsford, Cheshire, WA16 0PE**

| NAME | REPRESENTING |
|---|--|
| Peter Robottom | Examining Authority |
| Kay Sully | Planning Inspectorate |
| Steffan Jones | Planning Inspectorate |
| Dean Alford | Planning Inspectorate |
| Mohammed Swapan | Highways Agency |
| Anna Pickering | Highways Agency |
| Mary Burroughs | Highways Agency |
| Jayne Geary of Costain | Highways Agency |
| Warren Rocca of Capita | Highways Agency |
| Andrew Spittlehouse of Jacobs | Cheshire East Council |
| Richard Wright | High Legh Parish Council |
| Ian Hodgson | Mere Parish Council |
| Diane Flanagan | Millington Parish Council |
| Chris Driver | Cheshire Wildlife Trust |
| Alan Hubbard | National Trust |
| David Sherratt | United Utilities |
| Daniel Jackson of Indigo Planning | West Register (Realisations) Ltd |
| Ben Wharfe of Wharfe Consultancy | Mr & Mrs G Wharfe |
| Roy Pilling | Mere Residents Association |
| Suzi Cowan | A556 Lobby Group |
| Lillian Burns | North West Transport Activist Roundtable |
| Chris Harvey of Harvey Hughes | T & A Hartley & Sons |
| Tim Hartley | T & A Hartley & Sons |
| Anne Hartley | T & A Hartley & Sons |
| Nigel Billingsley of Bruton Knowles | Springcare (Knutsford) |
| Ruth Jackson of Ruth Jackson Planning | David Geoffrey Cohen |
| Heather Clawson of Tatton Estate Management | Tatton/Millington Estate |
| Miss E. Woloschin | |
| George Walter Wright | |
| Robert John Campbell | |
| Rae Whittaker | |
| Sophie Diver | |
| Graham Dakin | |
| Pauleen Lane | Planning Inspectorate |

Accompanied Site Visits: 9 December 2013, Commenced at 14:00pm at the Curzon Cinema, Toft Road, Knutsford, Cheshire, WA16 0PE

| NAME | REPRESENTING |
|-------------------------------|---------------------------------|
| Peter Robottom | Examining Authority |
| Alan Nettey | Planning Inspectorate |
| Zena Madden | Planning Inspectorate |
| Mohammed Swapan | Highways Agency |
| Anna Pickering | Highways Agency |
| Andrew Brown of Capita | Highways Agency |
| Rachel Ellison of Costain | Highways Agency |
| Michael Hitchinson of Costain | Highways Agency |
| Keith Masser of Capita | Highways Agency |
| Conal Kearney | Cheshire East Council |
| Ian Dale | Cheshire East Council |
| Paul Griffiths | Cheshire East Council |
| Phil Mason | Cheshire East Council |
| Ian Hodgson | Mere Parish Council |
| Linda Reynolds | Mere Parish Council |
| Lillian Burns | North West Transport Roundtable |
| Diane Flanagan | Millington Parish Council |
| Alan Newnes | Mere Residents' Association |
| Chris Driver | Cheshire Wildlife Trust |
| Henry Brooks | Millington Estate etc |
| Suzi Cowan | A556 Lobby Group |

Accompanied Site Visits: 10 December 2013 Commenced at 10:00am at the Curzon Cinema, Toft Road, Knutsford, Cheshire, WA16 0PE (the land interests were generally only present for visits to particular properties)

| NAME | REPRESENTING |
|---------------------------------------|-----------------------|
| Peter Robottom | Examining Authority |
| Alan Nettey | Planning Inspectorate |
| Zena Madden | Planning Inspectorate |
| Mohammed Swapan | Highways Agency |
| Ian Dale | Cheshire East Council |
| Nigel Evans | Tabley Parish Council |
| Helen Gurney-Smith | Tabley Parish Council |
| Tony Jackson | Tabley Parish Council |
| Alan Greenway | Tabley Parish Hall |
| Ruth Jackson of Ruth Jackson Planning | David Geoffrey Cohen |
| Nicholas Grimshaw | David Geoffrey Cohen |
| David Geoffrey Cohen | David Geoffrey Cohen |
| Chris Harvey of Harvey Hughes | T & A Hartley & Sons |
| Tim Hartley | T & A Hartley & Sons |
| John Patterson | Mere Hall residents |
| Martin Wheeler of Mellor Braggins | Mere Estate |

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| Alan Hubbard | National Trust |
| Andrew Wyllie | Dunham Massey |
| Steve Adams | Dunham Massey |
| Henry Brooks | Millington/Tatton Estate |
| Charles Meynall of Fisher German LLP | Millington/Tatton Estate |
| James Wadford of Fisher German LLP | Millington/Tatton Estate |

Issue specific hearings on:

**(1) Alternative options and alignments including junction proposals, traffic flows and noise/air quality assessments; and
(2) First consideration of DCO wording (Rule 8(1)(h)) including its requirements and protective provisions**

11, 12 and 13 December 2013, Commenced at 10:00am at the Curzon Cinema, Toft Road, Knutsford, Cheshire, WA16 0PE

| NAME | REPRESENTING |
|------------------------------------|-----------------------|
| Peter Robotom | Examining Authority |
| Alan Nettey | Planning Inspectorate |
| Zena Madden | Planning Inspectorate |
| Steven Whale of Counsel | Highways Agency |
| Oksana Price of Bircham Dyson Bell | Highways Agency |
| Mohammed Swapan | Highways Agency |
| Anna Pickering | Highways Agency |
| Andrew Bean | Highways Agency |
| Aaron Nelson | Highways Agency |
| Alison Poytress | Highways Agency |
| Dave Clark | Highways Agency |
| Graham Ayers | Highways Agency |
| Graham Dakin | Highways Agency |
| Jeremy Bloom | Highways Agency |
| Mary Burroughs | Highways Agency |
| Peter Grant | Highways Agency |
| Peter Purvis | Highways Agency |
| Richard Steinberger | Highways Agency |
| Sheena Crombie | Highways Agency |
| Andrew Jackson of Capita | Highways Agency |
| Andrew Green of Capita | Highways Agency |
| Keith Masser of Capita | Highways Agency |
| Tabitha Boniface of Capita | Highways Agency |
| Tony Scutt of Costain | Highways Agency |
| Michael Hitchinson of Costain | Highways Agency |
| Rachel Ellison of Costain | Highways Agency |
| Martin Clarke of Jacobs | Highways Agency |
| Dan Johnston of Jacobs | Highways Agency |
| Diane Corfe of Jacobs | Highways Agency |
| Graeme Willis of Jacobs | Highways Agency |
| Nigel Bellamy of Jacobs | Highways Agency |
| Peter Shaw of Jacobs | Highways Agency |
| Robert Mansfield of Jacobs | Highways Agency |
| Simon Hayton of Jacobs | Highways Agency |

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| Stuart Turnbull of Jacobs | Highways Agency |
| Tim Beech of Jacobs | Highways Agency |
| Conal Kearney | Cheshire East Council |
| Phil Mason | Cheshire East Council |
| Paul Griffiths | Cheshire East Council |
| Ian Hodgson | Mere Parish Council |
| Diane Flanagan | Millington Parish Council |
| Alan Greenway | Tabley Parish Council |
| Daniel Jackson of Indigo Planning | West Register (Realisations) Ltd |
| Ben Wharfe of Wharfe Consultancy | Mr & Mrs G Wharfe |
| Henry Brooks | Millington/Tatton Estate |
| Sian Berry | Campaign for Better Transport |
| Lillian Burns | North West Transport Activists' Roundtable |
| Suzi Cowan | A556 Lobby Group |
| Ruth Jackson of Ruth Jackson Planning | David Geoffrey Cohen |
| Tom Hiles of Ruth Jackson Planning | David Geoffrey Cohen |
| Andrew Saunders | |
| George Walter Wright | |
| Jamie King | |
| Miss E. Woloschin | |
| Rae Whittaker | |

Open Floor Hearings: 17 December 2013, commenced at 14:00 and 19:30 at the Curzon Cinema, Toft Road, Knutsford, Cheshire, WA16 0PE

| NAME | REPRESENTING |
|---------------------------|--------------------------|
| Peter Robotom | Examining Authority |
| Alan Nettey | Planning Inspectorate |
| Chris Orman | Planning Inspectorate |
| Steven Whale of Counsel | Highways Agency |
| Mohammed Swapan | Highways Agency |
| Anna Pickering | Highways Agency |
| Andrew Goodwin | Highways Agency |
| Graham Ayers | Highways Agency |
| Mary Burroughs | Highways Agency |
| Keith Masser of Capita | Highways Agency |
| Rachel Ellison of Costain | Highways Agency |
| Jayne Geary of Costain | Highways Agency |
| Peter Shaw of Jacobs | Highways Agency |
| Gail Coenen | High Legh Parish Council |
| Richard Wright | High Legh Parish Council |
| Nigel Evans | Tabley Parish Council |
| Suzi Cowan | A556 Lobby Group |
| Miss E Woloschin | |
| George Walter Wright | |
| Rae Whittaker | |
| Chris Bailey | |

**Compulsory Acquisition hearings: 18, 19 and 20 December 2013;
commenced at 10:00am at the Curzon Cinema, Toft Road,
Knutsford, Cheshire, WA16 0PE**

| NAME | REPRESENTING |
|---|-------------------------------------|
| Peter Robottom | Examining Authority |
| Alan Nettey | Planning Inspectorate |
| Chris Orman | Planning Inspectorate |
| Steven Whale of Counsel | Highways Agency |
| Angus Walker of Bircham Dyson Bell | Highways Agency |
| Oksana Price of Bircham Dyson Bell | Highways Agency |
| Mohammed Swapan | Highways Agency |
| Anna Pickering | Highways Agency |
| Aaron Nelson | Highways Agency |
| Andrew Brown | Highways Agency |
| Alison Poytress | Highways Agency |
| Graham Dakin | Highways Agency |
| Kelly Taft | Highways Agency |
| Sarah Kearns | Highways Agency |
| Simon Johnston | Highways Agency |
| Ted Rogers | Highways Agency |
| Keith Masser of Capita | Highways Agency |
| Michael Hitchinson of Costain | Highways Agency |
| Rachel Ellison of Costain | Highways Agency |
| Dan Johnston of Jacobs | Highways Agency |
| Martin Clarke of Jacobs | Highways Agency |
| Peter Shaw of Jacobs | Highways Agency |
| Nigel Evans | Tabley Parish Council |
| Graham Bowen | Tabley Parish Council |
| Alan Greenway | Tabley Parish Hall |
| Dominic Stanger of WT Gunson | Trustees of the Mere Settled Estate |
| Ruth Jackson of Ruth Jackson Planning | David Geoffrey Cohen |
| Ben Wharfe of Wharfe Consultancy | Mr & Mrs G Wharfe |
| Chris Harvey of Harvey Hughes | T & A Hartley & Sons |
| Steve Hartley | T & A Hartley & Sons |
| HR Brooks | Tatton/Millington Estate |
| Charles Meynell of Fisher German LLP | Tatton/Millington Estate |
| Simon Heather of Sanderson Weatherall LLP | West Register (Realisations) Ltd |
| Nigel Billingsley of Bruton Knowles | Springcare (Knutsford) |
| Miss E Woloschin | |
| Graham Dakin | |
| Sophie Diver | |
| Simon Davis | |
| Graham Kent | |
| Mark Praciak | |
| Simon Davis | |

**Compulsory Acquisition hearing
07 January 2014; commenced at 10:00am at Cottons Hotel,
Manchester Road, Knutsford, WA16 0SU**

| NAME | REPRESENTING |
|--------------------------------------|--------------------------|
| Peter Robottom | Examining Authority |
| Alan Nettey | Planning Inspectorate |
| Angus Walker of Bircham Dyson Bell | Highways Agency |
| Mohammed Swapan | Highways Agency |
| Anna Pickering | Highways Agency |
| Graham Ayers | Highways Agency |
| Dan Johnston of Jacobs | Highways Agency |
| Peter Shaw of Jacobs | Highways Agency |
| Rachel Ellison of Costain | Highways Agency |
| Michael Hitchinson of Costain | Highways Agency |
| Keith Masser of Capita | Highways Agency |
| Charles Meynell of Fisher German LLP | Tatton/Millington Estate |
| James Wadland of Fisher German LLP | Tatton/Millington Estate |
| Ian Hodgson | Mere Parish Council |
| Arun Sahni | |
| George Walter Wright | |
| Miss E Woloschin | |

**Issue specific hearing on the draft DCO, its requirements and the protective provisions and related matters
8 January 2014; commenced at 10:00am at Cottons Hotel,
Manchester Road, Knutsford, WA16 0SU**

| NAME | REPRESENTING |
|------------------------------------|-----------------------|
| Peter Robottom | Examining Authority |
| Alan Nettey | Planning Inspectorate |
| Angus Walker of Bircham Dyson Bell | Highways Agency |
| Mohammed Swapan | Highways Agency |
| Anna Pickering | Highways Agency |
| Andrew Bean | Highways Agency |
| Jeremy Bloom | Highways Agency |
| Sheena Crombie | Highways Agency |
| Nigel Bellamy of Jacobs | Highways Agency |
| Stuart Turnbull of Jacobs | Highways Agency |
| Dan Johnston of Jacobs | Highways Agency |
| Peter Shaw of Jacobs | Highways Agency |
| James Green of Jacobs | Highways Agency |
| Rachel Ellison of Costain | Highways Agency |
| Michael Hitchinson of Costain | Highways Agency |

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| Keith Masser of Capita | Highways Agency |
| Conal Kearney | Cheshire East Council |
| Alan Greenway | Tabley Parish Council |
| Ian Hodgson | Mere Parish Council |
| Diane Flanagan | Millington Parish Council |
| Lillian Burns | North West Transport Activist Roundtable |
| Sian Berry | Campaign for Better Transport |
| Suzi Cowan | A556 Lobby Group |
| Meyric Lewis of Counsel | National Grid |
| Abigail Walters of Berwin Leighton Paisner | National Grid |
| Charles Meynell of Fisher German LLP | Tatton/Millington Estate |
| Ben Wharfe of Wharfe Consultancy | Mr & Mrs G Wharfe |
| George Walter Wright | |
| Jim Hancock | |

Accompanied Site Visit: 9 January 2014, Commenced at 10:00am at Bucklow Manor Nursing Home, Chester Road, Bucklow Hill, Knutsford, Cheshire, WA16 6RR

| NAME | REPRESENTING |
|-------------------------------------|------------------------|
| Peter Robottom | Examining Authority |
| Alan Nettey | Planning Inspectorate |
| Anna Pickering | Highways Agency |
| Rachel Ellison of Costain | Highways Agency |
| Nigel Billingsley of Bruton Knowles | Springcare (Knutsford) |
| Clare Delaney | Springcare (Knutsford) |

**Issue specific hearings on alternatives options and alignments, traffic forecasts and air quality; compulsory acquisition; and the draft DCO and related documents and section 127 matters
20 February 2014; commenced at 10:00am at Cottons Hotel, Manchester Road, Knutsford, WA16 0SU**

| NAME | REPRESENTING |
|------------------------------------|-----------------------|
| Peter Robottom | Examining Authority |
| Alan Nettey | Planning Inspectorate |
| Angus Walker of Bircham Dyson Bell | Highways Agency |
| Mohammed Swapan | Highways Agency |
| Anna Pickering | Highways Agency |
| Andrew Bean | Highways Agency |
| Alison Poytress | Highways Agency |
| Paula Lord | Highways Agency |
| Sheena Crombie | Highways Agency |
| Jacqui Allen | Highways Agency |

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|--------------------------------------|-----------------------------|
| Nigel Bellamy of Jacobs | Highways Agency |
| Stuart Turnbull of Jacobs | Highways Agency |
| Dan Johnston of Jacobs | Highways Agency |
| Rachel Ellison of Costain | Highways Agency |
| Michael Hitchinson of Costain | Highways Agency |
| Andrew Brown of Capita | Highways Agency |
| Keith Masser of Capita | Highways Agency |
| H R Brooks | Tatton/Millington Estate |
| Charles Meynell of Fisher German LLP | Tatton/Millington Estate |
| Evan Hughes of Fisher German LLP | Tatton/Millington Estate |
| Alan Greenway | Tabley Parish Council |
| Ken Sherlock | Millington Parish Council |
| Tim Hartley | Messrs T & A Hartley & Sons |
| Suzi Cowan | A556 Lobby Group |
| Miss E Woloschin | |
| Gillian Broadbent | |
| Jim Hancock | |

ANNEX D - LIST OF INTERESTED PARTIES

CORPORATE BODIES/ORGANISATIONS

A556 Lobby Group
Baileys Turkeys Ltd
Ben Wharfe on behalf of Mr and Mrs Wharfe
Campaign for Better Transport
Cheshire East Council (via Jacobs)
Cheshire East Council – Spatial Planning
Cheshire East Council - Public Protection and Health
Cheshire East Council - Principal Transport Officer
Cheshire East Council - Highways
Cheshire East Council - Public Rights of Way
Cheshire East Council - Development Management
Cheshire East Local Access Forum
Cheshire Wildlife Trust
Environment Agency
Fisher German on behalf of Monckton properties limited, Randle
Brooks Esq, Trustees of H R Brooks, Mr H R Brooks (and initially
Mainline Pipelines Ltd)
Harvey Hughes Ltd on behalf of T&A Hartley and sons.
High Legh Parish Council
Meller Braggins on behalf of Mrs V Bloor and H A Bloor (and initially
W Faulkner & H Faulkner listed below under Rostons and the
Brooks group of land interests listed above under Fisher German)
Mere Hall Apartments
Mere Parish Council
Mere Residents Association
Midland Red South t/a megabus.com
Millington Parish Council
Moto Hospitality Ltd
National Express Ltd
National Grid Gas Plc
National Trust
Natural England
North West Transport Activists' Roundtable
P Wilson & Company on behalf of Mr T Jackson
Public Health England
Rostons on behalf of W Faulkner and H Faulkner
Ruth Jackson Planning Limited on behalf of Mr David G Cohen
Tabley Parish Council
United Utilities
Veale Wasbrough Vizards LLP on behalf of Mainline Pipelines Ltd
Mellor Braggins on behalf of Mrs Langford-Brooke Will Trust, Mrs V
Griffiths, Trustees of Mere Settled Estate and Trustees of Mark
Griffiths 1982 Settlement and Mr C Blockley

INDIVIDUALS

Belinda Jane Clough
Bob Sabberton
David Bailey
David John Jones
David Kennerley

Dawn Smethurst
Dr Dylan Prosser
Diane Flanagan
Gillian Broadbent
Heather J Walsh
Howard Clough
Ian G Hodgson
J K Briggs
Jean and Lional Duncalf
Kenneth Brodie
Kevin Carney
Kim Barrett
Linda Buckett
Linda J Reynolds
Lorraine Robinson
Michael Hosker
Mike Morrison
Elizabeth Woloschin
F Armstrong
Margaret Newnes
Neil Jones
Robin Holloway
Walter George Wright

ANNEX E - GLOSSARY OF ABBREVIATIONS

| | |
|----------------|---|
| AADT | Annual Average Daily Traffic Flows |
| AP | Affected Persons |
| APFP Regs | The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 |
| ASV | Accompanied Site Visit |
| AQMA | Air Quality Management Area |
| BCR | Benefit Cost Ratio |
| BHS | British Horse Society |
| BMV | Best and most versatile |
| BoR | Book of Reference |
| CA | Compulsory Acquisition |
| CA hearing | Compulsory Acquisition hearing |
| CA regulations | The Infrastructure Planning (Compulsory Acquisition) Regulations 2010 |
| CEC | Cheshire East Council |
| CEMP | Construction Environmental Management Plan |
| COPA | Control of Pollution Act |
| DCLG | Department for Communities and Local Government |
| CfBT | Campaign for Better Transport |
| DaSTS | Delivering a Sustainable Transport System |
| DCO | Development Consent Order |
| Defra | Department for the Environment, Food and Rural affairs |
| DfT | Department for Transport |
| DMRB | Design Manual for Roads and Bridges |
| EA | Environment Agency |
| EIA | Environmental Impact Assessment |
| ELS | Entry Level Stewardship |
| EPS | European Protected Species |
| ES | Environmental Statement |
| EH | English Heritage |
| ExA | Examining Authority |
| FRA | Flood Risk Assessment |
| GCN | Great crested newt |
| ha | hectare |
| HA | Highways Agency |
| HAWRAT | Highways Agency Water Risk Assessment Tool |
| HEMP | Handover Environmental Action plan |
| HRA | Habitats Regulations Assessment |
| HS2 | High Speed Two |
| IS hearing | Issue Specific hearing |
| km | kilometres |
| LIR | Local Impact Report |
| m | metres |
| NE | Natural England |

| | |
|-------------|---|
| NG | National Grid |
| NMU | Non-motorised user |
| NNR | National Nature Reserve |
| NPPF | National Planning Policy Framework |
| NPS | National Policy Statement |
| NSIP | Nationally Significant Infrastructure Project |
| NWBLT | North West Business Leadership Team |
| NWTAR | North West Transport Activists' Roundtable |
| PA 2008 | Planning Act 2008 (as amended) |
| POPE Report | Post Opening Project Evaluation Report |
| RIES | Report on the Implications for European Sites |
| SBI | Sites of Biological Importance |
| SOCC | Statement of Community Consultation |
| SoCG | Statement of Common Ground |
| SoS | Secretary of State |
| SPA | Special Protection Area |
| SR13 | Spending Review 2013 |
| SSSI | Sites of Special Scientific Interest |
| TCPA | Town & Country Planning Act |
| TRO | Traffic Regulation Order |
| WCML | West Coast Main Line |
| WFD | Water Framework Directive |

**REPORT on the
IMPLICATIONS for
EUROPEAN SITES
A556 Knutsford to Bowdon
Scheme**

An Examining Authority report prepared with the support of the Planning Inspectorate Secretariat

Final

November 2013

(NOTE: This version was uploaded to the Planning Portal on 6 March 2014 following removal of the 'Draft' watermark. It is otherwise the same as the version consulted upon).

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| MATRIX 1: MIDLANDS MERES AND MOSSES RAMSAR PHASE 1..... | A52 |
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INTRODUCTION

The Secretary of State is a competent authority (CA) for the purposes of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (The Habitats Directive) and The Conservation of Habitats and Species Regulations 2010 (the Habitats Regulations) for applications submitted under the Planning Act regime (as amended).

This report compiles documents and signposts information received during the examination of the DCO application by The Highways Agency ('the Applicant') for the A556 Knutsford to Bowdon Scheme and will be issued for consultation, including with Natural England for the purposes of Regulation 61(3) of the Habitats Regulations.

This report is an Examining Authority report which has been prepared with the support of the Planning Inspectorate Secretariat.

The report comprises a series of screening matrices for the European (Natura 2000) sites that might potentially be affected by the A556 Knutsford to Bowdon Scheme. These matrices collate evidence on whether the project is likely to have significant effects on the key features of each European site. It acknowledges that the Applicant and Natural England have agreed that the European sites on which there would be potential for significant effects are:

- Midlands Meres and Mosses Phase 1 Ramsar
- Rostherne Mere Ramsar

1.0 SCREENING FOR LIKELY SIGNIFICANT EFFECTS

The project is not connected with or necessary to the management for nature conservation of any of the European sites considered within the assessment. The project has been assessed by the Applicant as not likely to have a significant effect on European sites within its vicinity, either alone or in combination with other projects. It has been subject to a screening exercise by the Applicant for likely significant effects of the project in relation to all the sites potentially affected.

The list of sites for inclusion within the assessment was presented within the Assessment of Implications on European Sites: Habitat Regulation Assessment (HRA) Screening Report (Application Document Reference 5.6) (herein referred to as the 'HRA Report') and had been subject to consultation with the relevant statutory nature conservation body (Natural England) together with the Environment Agency. The HRA Report was submitted to comply with Regulation 5(2)(g) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009. The Report was prepared in accordance with the following documents:

- Design Manual for Roads and Bridges, Volume 11, Section 4, 'Assessment of Implications on European Sites' (HD44/09; Highways Agency, 2009),
- Interim Advice Note 141/11 'Assessment of Implications on European Sites' (Highways Agency, 2011); and
- Planning Inspectorate Advice Note 10 (January 2013): Habitat Regulations Assessment (HRA) Relevant to Nationally Significant Infrastructure Projects.

The matrices appended to the Screening Report did not follow the format recommended in Planning Inspectorate Advice Note 10, which is the same as that within the updated version of the Advice Note published in August 2013. Revised versions of the matrices were therefore provided by the Applicant in response to Item 20 in the first round of ExA questions, together with a 'No Significant Effects Report' (NSER) to reflect the recommendations in the Advice Note. The NSER states that it is still subject to a quality review process and if necessary would be re-issued, however the Highways Agency confirmed via email to the Planning Inspectorate on 30 October 2013 that no changes were necessary as a result of this.

The potential for significant effects on the following European sites are considered in the NSER:

- **Rostherne Mere Ramsar site:** designated as it is 'one of the deepest and largest and most northerly of the meres of the Shropshire-Cheshire Plain' (JNCC, 1981). The Ramsar site sits within a wider site designated at a National rather than European level as a Site of Special Scientific Interest (SSSI) and a National Nature Reserve (NNR). The Ramsar site lies approximately 175m to the east of the existing A556.

- **Midland Meres and Mosses Phase 1 Ramsar site:** designated for its 'diverse range of habitats from open water to raised bog' and because the site 'supports a number of rare species of plants associated with wetlands including five nationally scarce species together with an assemblage of rare wetland invertebrates (three endangered insects and five other British Red Data Book species of invertebrates)'(JNCC, 1994). The designation includes the lakes at Mere (The Mere and Little Mere) located approximately 330m east of the existing A556.

The NSER explains how the proposed development is likely to affect each European site referred to above and refers to evidence to explain why these effects (either alone or in-combination with other plans or projects) are not considered to be significant. The Report concludes therefore that the project is not likely to have a significant effect on the European sites identified, either alone or in combination with other plans or projects and that there is no requirement for the competent authority to undertake an Appropriate Assessment under Regulation 61(1) of the Conservation of Species & Habitats Regulations 2010.

The Applicant's conclusions are supported by comments from Natural England, as set out in its Written Representations (dated 3 October 2013). The representations conclude at Paragraph 6.11.2 that:

"It is Natural England's view that the applicant has submitted a satisfactory Environmental Statement and Assessment of Implications on European Sites Habitat Regulations Assessment (Shadow HRA) Screening Report. Natural England is satisfied that these documents provide sufficient objective information such that it can be excluded that the plan or project will have a significant effect on the international wetland site as mentioned above, either individually or in combination with other plans or projects".

The same words are included in Paragraph 3.1 of the Statement of Common Ground between The Highways Agency and Natural England. Paragraph 3.2 of the Statement confirms further that:

"It is agreed that HA and NE are satisfied that there are no outstanding issues in respect of the HA's approach to the Habitats Regulations Assessment / European Sites".

Potential Impacts

Potential impacts upon the Natura 2000 sites identified above which were considered within the Applicant's HRA Report are provided in the table below. Impacts have been grouped where appropriate for ease of presentation.

| Designation | Impacts in submission information | Presented in screening matrices as |
|--|---|--|
| Midlands Meres and Mosses Phase 1 Ramsar (The Mere and Little Mere are component sites of the Midlands Mere and Mosses Phase 1 Ramsar site. Also SSSI) | <ul style="list-style-type: none"> Habitat/species direct loss and/or disturbance | <ul style="list-style-type: none"> Habitat/species direct loss/disturbance |
| | <ul style="list-style-type: none"> Indirect effects resulting from habitat loss and /or disturbance | <ul style="list-style-type: none"> Indirect effects resulting from habitat loss/disturbance |
| | <ul style="list-style-type: none"> Habitat/species severance and/or severance of ecosystems/territories | <ul style="list-style-type: none"> Habitat/species severance/severance of ecosystems |
| | <ul style="list-style-type: none"> Change in edaphic conditions (aspect, slopes, soil/nutrient conditions, water availability/quality etc) | <ul style="list-style-type: none"> Change in edaphic conditions |
| | <ul style="list-style-type: none"> Changes in air emissions (air and noise) | <ul style="list-style-type: none"> Changes in air emissions |
| | <ul style="list-style-type: none"> Change in surface water run-off (flow, volume and quality) | <ul style="list-style-type: none"> Change in surface water run-off |
| | <ul style="list-style-type: none"> Change in general disturbance levels from access (notable during construction) | <ul style="list-style-type: none"> Change in general disturbance levels from access |
| | <ul style="list-style-type: none"> Appraisal of Other Plans or Projects | <ul style="list-style-type: none"> In combination effects |

| Designation | Impacts in submission information | Presented in screening matrices as |
|------------------------------|---|--|
| Rostherne Mere Ramsar | <ul style="list-style-type: none"> Habitat/species direct loss and/or disturbance | <ul style="list-style-type: none"> Habitat/species direct loss/disturbance |
| | <ul style="list-style-type: none"> Indirect effects resulting from habitat loss and /or disturbance | <ul style="list-style-type: none"> Indirect effects resulting from habitat loss/disturbance |
| | <ul style="list-style-type: none"> Habitat/species severance and/or severance of ecosystems/territories | <ul style="list-style-type: none"> Habitat/species severance/severance of ecosystems |
| | <ul style="list-style-type: none"> Change in edaphic conditions (aspect, slopes, soil/nutrient conditions, water availability/quality etc) | <ul style="list-style-type: none"> Change in edaphic conditions |
| | <ul style="list-style-type: none"> Changes in air emissions (air and noise) | <ul style="list-style-type: none"> Changes in air emissions |
| | <ul style="list-style-type: none"> Change in surface water run-off (flow, volume and quality) | <ul style="list-style-type: none"> Change in surface water run-off |
| | <ul style="list-style-type: none"> Change in general disturbance levels from access (notable during construction) | <ul style="list-style-type: none"> Change in general disturbance levels from access |
| | <ul style="list-style-type: none"> Appraisal of Other Plans or Projects | <ul style="list-style-type: none"> In combination effects |

A heading for in-combination impacts has also been added to the screening matrices. Paragraph 6.2 of the NSER states that in line with the guidance contained in HD44/09, the assessment has included consideration of the following:

- Trunk road and motorway plans or projects which have been confirmed;
- Development projects with valid planning permissions (including those under consideration by the planning authority); and
- Local Plan commitments and indicative timescales for implementation.

Appendix C of the NSER sets out the other projects and plans that have been included in the in-combination assessment. It also includes the findings of the source-pathway-receptor assessment that has been applied.

2.0 SCREENING MATRICES

The European Sites included within the Applicant's assessment and the likely significant effects on their qualifying features are detailed within the screening matrices below.

Under each table a set of evidence footnotes is provided which outline the evidence on which the decision of likely significant effects have been based. This evidence has come from the information submitted by the Applicant, the Statement of Common Ground with Natural England and from the outcomes of the examination process.

Matrix Key:

- ✓ = Likely significant effect
- ✗ = No likely significant effect

C= construction
O = operation
D = decommissioning

Matrix 1: Midlands Meres and Mosses Ramsar Phase 1

| Name of European site: Midlands Meres and Mosses Phase 1 Ramsar UK11043 (The Mere is a component site of the Midlands Mere and Mosses Phase 1 Ramsar site and also a SSSI) | | | | | | | | | | | | |
|--|---|----------------|----------------|--|----------------|----------------|---|----------------|----------------|------------------------------|----------------|----------------|
| Distance to NSIP Two components of the Site (out of a total of 16 components), The Mere and Little Mere lie approximately 900m east of the proposed scheme, and approximately 355m east of the current A556. | | | | | | | | | | | | |
| European site features | Likely Effects of NSIP | | | | | | | | | | | |
| | Habitat/species direct loss/disturbance | | | Indirect effects resulting from habitat loss/disturbance | | | Habitat/species severance/severance of ecosystems | | | Change in edaphic conditions | | |
| | C | O | D | C | O | D | C | O | D | C | O | D |
| <i>Ramsar criterion 1: The site comprises a diverse range of habitats from open water to raised bog</i> | X ^a | X ^a | X ^a | X ^b | X ^b | X ^b | X ^c | X ^c | X ^c | X ^d | X ^d | X ^d |
| <i>Ramsar criterion 2: Supports a number of rare species of plants associated with wetlands including five nationally scarce species together with an assemblage of rare wetland invertebrates (three endangered insects and five other British Red Data Book species of invertebrates).</i> | X ^a | X ^a | X ^a | X ^b | X ^b | X ^b | X ^c | X ^c | X ^c | X ^d | X ^d | X ^d |
| <i>Additional Noteworthy Flora: Elatine hexandra, Eleocharis acicularis, Cicuta virosa, Thelypteris palustris, Carex elongata.</i> | X ^a | X ^a | X ^a | X ^b | X ^b | X ^b | X ^c | X ^c | X ^c | X ^d | X ^d | X ^d |
| <i>Additional Noteworthy Fauna (Invertebrates): Hagenella clathrata, Limnophila fasciata, Cararita limnaea, Lathrobium rufipenne, Donacia, aquaticae, Prionocerapubescens, Gonomyia abbreviata, Sitticus floricola</i> | X ^a | X ^a | X ^a | X ^b | X ^b | X ^b | X ^c | X ^c | X ^c | X ^d | X ^d | X ^d |

| Name of European site: Midlands Meres and Mosses Phase 1 Ramsar UK11043 (The Mere is a component site of the Midlands Mere and Mosses Phase 1 Ramsar site and also a SSSI) | | | | | | | | | | | | |
|--|---------------------------------|----------------------|----------------------|--|----------------------|----------------------|---|----------------------|----------------------|-------------------------------|----------------------|----------------------|
| Distance to NSIP Two components of the Site (out of a total of 16 components), The Mere and Little Mere lie approximately 900m east of the proposed scheme, and approximately 355m east of the current A556. | | | | | | | | | | | | |
| European site features | Likely Effects of NSIP | | | | | | | | | | | |
| | <i>Changes in air emissions</i> | | | <i>Change in surface water run-off</i> | | | <i>Change in general disturbance levels from access</i> | | | <i>In-combination effects</i> | | |
| | <i>C</i> | <i>O</i> | <i>D</i> | <i>C</i> | <i>O</i> | <i>D</i> | <i>C</i> | <i>O</i> | <i>D</i> | <i>C</i> | <i>O</i> | <i>D</i> |
| <i>Ramsar criterion 1: The site comprises a diverse range of habitats from open water to raised bog</i> | X^e | X^e | X^e | X^f | X^f | X^f | X^g | X^g | X^g | X^h | X^h | X^h |
| <i>Ramsar criterion 2: Supports a number of rare species of plants associated with wetlands including five nationally scarce species together with an assemblage of rare wetland invertebrates (three endangered insects and five other British Red Data Book species of invertebrates).</i> | X^e | X^e | X^e | X^f | X^f | X^f | X^g | X^g | X^g | X^h | X^h | X^h |
| <i>Additional Noteworthy Flora: Elatine hexandra, Eleocharis acicularis, Cicuta virosa, Thelypteris palustris, Carex elongata.</i> | X^e | X^e | X^e | X^f | X^f | X^f | X^g | X^g | X^g | X^h | X^h | X^h |
| <i>Additional Noteworthy Fauna (Invertebrates): Hagenella clathrata, Limnophila fasciata, Cararita limnaea, Lathrobium rufipenne, Donacia, aquatica, Prionocera pubescens, Gonomyia abbreviata, Sitticus floricola</i> | X^e | X^e | X^e | X^f | X^f | X^f | X^g | X^g | X^g | X^h | X^h | X^h |

Evidence supporting conclusions

| Reference | Evidence |
|-----------|---|
| a | Ramsar 900m east of scheme. No potential for direct habitat loss or disturbance. (A556 AIES/NSER paras 3.1.3; Figs 1-4a and 4b. ES Chapter 10; Paras 10.4, 10.5, 10.5.7). |
| b | Ramsar 900m east of scheme. No potential for indirect effects resulting from habitat loss/disturbance. (A556 AIES/NSER paras 1.4.8; 3.1.3; Figs 1-4a and 4b. ES Chapter 10; Para 10.4, 10.5, 10.5.7). |
| c | Ramsar 900m east of scheme. No potential for habitat or species severance or severance of ecosystems as scheme lies outside Ramsar site. (A556 AIES/NSER paras 3.1.3; Figs 1-4a and 4b. ES Chapter 10; Para 10.5, 10.5.7). |
| d | Ramsar 900m east of scheme. No potential for change in edaphic conditions. (A556 AIES/NSER paras 3.1.5, 3.1.6; Figs 1-4a and 4b. ES Chapter 10; Para 10.5, 10.5.7, Figs 1-4a and 4b). |
| e | Ramsar more than 200m (the distance at which effects air pollution is considered to impact on air quality) from scheme and volume of traffic on existing A556 will be reduced as a result of construction of the new road. No potential for change in air emissions (A556 AIES/NSER paras 3.1.5, 3.1.6; Figs 1-4a and 4b. ES Chapters 6, 6.3.38, 6.3.39 and 10; Para 10.5, 10.5.7). |
| f | No changes to discharge points and no significant additional run-off from new road into receptors for Ramsar site. No potential for change in surface water run-off. (A556 AIES/NSER paras 3.1.5, 3.1.6 Figs 1-4a and 4b. ES Chapters 11 and 10: Para 10.5, 10.5.7; Chapter 11, 11.3.17, 11.3.19, 11.3.22, Table 11.2, 11.4.2, 11.4.7, 11.7.2, Tables 11.4, 11.5). |
| g | Ramsar 900m east of scheme separating it from Ramsar and no access to Ramsar site is required. No potential for change in general disturbance levels from access. (AIES/NSER paras 3.1.3; Figs 1-4a and 4b). |
| h | No potential for likely significant effects in combination with other plans or projects at the time of assessment. (A556 AIES/NSER paras 3.1.27-3.1.33; Figure 7; Appendix F). |

Matrix 2: Rostherne Mere Ramsar site

| Name of European site: Rostherne Mere Ramsar UK11060 | | | | | | | | | | | | |
|---|---|----------------|----------------|--|----------------|----------------|---|----------------|----------------|------------------------------|----------------|----------------|
| Distance to NSIP Approximately 175m east of proposed scheme | | | | | | | | | | | | |
| European site features | Likely Effects of NSIP | | | | | | | | | | | |
| | Habitat/species direct loss/disturbance | | | Indirect effects resulting from habitat loss/disturbance | | | Habitat/species severance/severance of ecosystems | | | Change in edaphic conditions | | |
| | C | O | D | C | O | D | C | O | D | C | O | D |
| <i>Rostherne Mere is one of the deepest and largest of the meres of the Shropshire-Cheshire Plain. Its shoreline is fringed with common reed Phragmites australis.</i> | X ^a | X ^a | X ^a | X ^b | X ^b | X ^b | X ^c | X ^c | X ^c | X ^d | X ^d | X ^d |
| <p><i>Additional Noteworthy Fauna:</i></p> <p><i>Birds - Species currently occurring at levels of national importance:</i></p> <p><i>Great cormorant Phalacrocorax carbo carbo, NW Europe</i></p> <p><i>Great bittern , Botaurus stellaris stellaris, W Europe, NW Africa</i></p> <p><i>Water rail , Rallus aquaticus, Europe</i></p> | X ^a | X ^a | X ^a | X ^b | X ^b | X ^b | X ^c | X ^c | X ^c | X ^d | X ^d | X ^d |

| Name of European site: Rostherne Mere Ramsar UK11060 | | | | | | | | | | | | |
|--|--------------------------|----------------------|----------------------|---------------------------------|----------------------|----------------------|--|----------------------|----------------------|------------------------|----------------------|----------------------|
| Distance to NSIP Approximately 175m east of proposed scheme | | | | | | | | | | | | |
| European site features | Likely Effects of NSIP | | | | | | | | | | | |
| | Changes in air emissions | | | Change in surface water run-off | | | Change in general disturbance levels from access | | | In-combination effects | | |
| | C | O | D | C | O | D | C | O | D | C | O | D |
| <i>Rostherne Mere is one of the deepest and largest of the meres of the Shropshire-Cheshire Plain. Its shoreline is fringed with common reed Phragmites australis.</i> | X^a | X^a | X^a | X^b | X^b | X^b | X^c | X^c | X^c | X^d | X^d | X^d |
| <p><i>Additional Noteworthy Fauna:</i></p> <p><i>Birds - Species currently occurring at levels of national importance:</i></p> <p><i>Great cormorant Phalacrocorax carbo carbo, NW Europe</i></p> <p><i>Great bittern , Botaurus stellaris stellaris, W Europe, NW Africa</i></p> <p><i>Water rail, Rallus aquaticus, Europe</i></p> | X^a | X^a | X^a | X^b | X^b | X^b | X^c | X^c | X^c | X^d | X^d | X^d |

ANNEX G - HEADS OF TERMS FOR AGREEMENTS WITH CHESHIRE EAST COUNCIL

A556 (KNUTSFORD TO BOWDON) IMPROVEMENT WORKS, CHESHIRE AGREEMENTS BETWEEN THE SECRETARY OF STATE (ACTING BY THE HIGHWAYS AGENCY) AND CHESHIRE EAST COUNCIL

AGREED HEADS OF TERMS

1 Introduction

- 1.1 In respect of the A556 (Knutsford to Bowdon) improvement works scheme (the Scheme) the Secretary of State (acting by the Highways Agency) and Cheshire East Council (CEC) have agreed to complete two separate agreements to provide for:
- (a) The payment of certain contributions by the Secretary of State to CEC in respect of the mitigation of transport and air quality impacts of the Scheme and the on-going costs of maintenance of the portion of A556 which is to be detrunked; and
 - (b) The Secretary of State to carry out further improvement works to certain roads in the vicinity of the A556 in respect of which CEC is the local highway authority.
- 1.2 This document sets out the agreed heads of terms in respect of those two agreements.

2 Planning Agreement

- 2.1 The Secretary of State and CEC have agreed to enter into an agreement containing (but not limited to) the following provisions:
- (a) The Secretary of State shall pay to CEC a Local Road Schemes Contribution of £170,000 which shall be used by CEC towards the cost of:
 - 2.1.1 monitoring the traffic impact of the Scheme on the CEC local road network; and
 - 2.1.2 Small scale highway improvement schemes identified as being necessary to mitigate any traffic impacts of the A556 development.
 - (b) The Secretary of State shall pay to CEC a 'Detrunked Road' Maintenance Sum of £242,057 to be used by CEC to pay for the future maintenance, management,

monitoring and energy costs of the detrunked road (defined in Part 3 of Schedule 3 to the A556 Development Consent Order).

(c) It has been informally agreed, although formal Council consent is awaited, that the Secretary of State shall pay to CEC an Air Quality Mitigation Contribution of £19,000 to be used by CEC to pay for:

2.1.1 the relocation of a road data collection device ('Automatic Analyser'); and 2

2.1.2 a feasibility study into the effectiveness of linking live pollution monitoring into the MOVA system at Junction 19 of the M6 motorway.

3 Section 4 Highways Agreement

3.1 The Secretary of State and CEC have agreed to enter into an agreement pursuant to Section 4 of the Highways Act 1980 containing (but not limited to) the following provisions:

(a) the Secretary of State shall complete a package of improvement works (to be agreed by the parties) to roads in respect of which CEC is the local highway authority the cost of which (including all associated costs) shall not exceed £255,000;

(b) the Secretary of State shall submit to the Council for approval preliminary designs and estimated costs for the potential road schemes;

(c) once the scope of the works has been agreed the Secretary of State shall be responsible for obtaining any consents and approvals required for the works (including undertaking any consultation requirements).

Schedule showing the local roads which will be included in the Agreement between the HA and Cheshire East Council to be made under section 4 of the Highways Act 1980

| ROAD SECTION | Potential Mitigation Measure(s) Required |
|------------------------------|--|
| Millington Lane | Gateway Treatment (at detrunked Chester Road) |
| Millington Hall Lane | Gateway Treatment (at detrunked Chester Road) |
| Rosterne Lane | Gateway Treatment (at detrunked Chester Road) |
| Cicely Mill Lane | Weight restriction and gateway treatment (at detrunked Chester Road) |
| Chapel Lane | Gateway Treatment (at detrunked Chester Road) |
| Wrenshot Lane | Gateway Treatment (at A50 junction) |
| Old Hall Lane (west of A556) | Weight restriction and gateway treatment at both ends of road |
| A50 Warrington Road | Speed reduction, gateway measures, road markings etc |
| A5034 Mereside Road | Speed reduction, gateway measures, road markings etc |
| A556 / A5033 | MOVA installation and link CEC UTC system to the HA incident management system to provide information to activate diversionary signal settings etc |

ANNEX H - OTHER CONSENTS REQUIRED

At the close of the Examination the following other consents had still to be obtained:

1. Protected Species Licences from Natural England (to be applied for not less than 2 months ahead of construction) in respect of:
 - (i) Great Crested Newts
 - (ii) Badgers[Pre-construction surveys could lead to a need for additional licences e.g. in respect of otters or bats.]
2. Consent to discharge trade effluent (sewage) *[if required]* from EA or United Utilities under EPA 2010⁴⁸ and consent to discharge trade effluent to controlled waters from EA/CEC under EPA2010 to be applied for in September 2014.
3. Waste management permits from EA under EPA2010 to be applied for in September 2010.
4. Licences in respect of construction plant under COPA 1974⁴⁹ from CEC to be applied for in advance of construction.
5. Flood defence consents to carry out works under or near to 'main river' (Birkin Brook and River Bollin) from EA in respect of permanent (*and if necessary temporary*) outfalls.
6. Ordinary water-course consents to carry out works under or near to ordinary watercourses (Tabley Brook and other minor watercourses) from CEC in respect of permanent (and if necessary temporary) outfalls.
7. Temporary Traffic Regulation Orders from CEC/HA to facilitate construction to be sought approximately 3 months before needed.
8. Permanent Traffic Regulation Orders from CEC where required ahead of authority that would be granted to SoS under Article 37 in accordance with the required timetable under Road Traffic Regulation Act 1984.
9. Motorway permits and road space booking from Highways Agency Area 10 Asset Support Contractor at start of works.

⁴⁸ Environmental Permitting (England and Wales) Regulations 2010

⁴⁹ s60-s65 of the Control of Pollution Act 1974

ANNEX I - RECOMMENDED DEVELOPMENT CONSENT ORDER

ANNEX I

STATUTORY INSTRUMENTS

201[] No.

INFRASTRUCTURE PLANNING

The A556 (Knutsford to Bowdon Improvement) Development Consent Order 201[]

Made - - - -

*** 201[]

Coming into force - -

*** 201[]

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An application has been made to the Secretary of State, in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(a) for an Order under sections 37, 114, 115, 120 and 122 of the Planning Act 2008(b).

[The application was examined by a single appointed person (appointed by the Secretary of State) in accordance with Chapter 4 of Part 6 of the 2008 Act, and the Infrastructure Planning (Examination Procedure) Rules 2010(c).]

[The single appointed person, having considered the representations made and not withdrawn and the application together with the accompanying documents, in accordance with section 83 of the 2008 Act, has submitted a report to the Secretary of State.]

[The Secretary of State, having considered the representations made and not withdrawn, and the report of the single appointed person, has decided to make an Order granting development consent for the development described in the application with modifications which in the opinion of the Secretary of State do not make any substantial changes to the proposals comprised in the application.]

The Secretary of State, in exercise of the powers conferred by sections 114, 115, 120 and 122 of, and paragraphs 1 to 3, 10 to 17, 24, 26, 36 and 37 of Part 1 of Schedule 5 to, the 2008 Act, makes the following Order—

PART 1 PRELIMINARY

Citation and commencement

1. This Order may be cited as the A556 (Knutsford to Bowdon Improvement) Development Consent Order 201[] and comes into force on [] 201[].

Interpretation

2.—(1) In this Order—

“the 1961 Act” means the Land Compensation Act 1961(d);

“the 1965 Act” means the Compulsory Purchase Act 1965(e);

(a) S.I. 2009/2264

(b) 2008 c.29.

(c) S.I. 2010/103.

(d) 1961 c.33. Section 2(2) was amended by section 193 of, and paragraph 5 of Schedule 33 to, the Local Government, Planning and Land Act 1980 (c.65). There are other amendments to the 1980 Act which are not relevant to this Order.

(e) 1965 c.56. Section 3 was amended by section 70 of, and paragraph 3 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34). Section 4 was amended by section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c.71). Section 5 was amended by sections 67 and 80 of, and Part 2 of Schedule 18 to, the Planning and Compensation Act 1991 (c.34). Section 11(1) and sections 3, 31 and 32 were amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c.67) and by section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No.1). Section 12 was amended by section 56(2) of, and Part 1 to Schedule 9 to, the Courts Act 1971 (c.23). Section 13 was amended by section 139 of the Tribunals, Courts and Enforcement Act 2007 (c.15). Section 20 was amended by section 70 of, and paragraph 14 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34). Sections 9, 25 and 29 were amended by the Statute Law (Repeals) Act 1973 (c.39). Section 31 was also amended by section 70 of, and paragraph 19 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34) and by section 14 of, and paragraph 12(2) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No.1). There are other amendments to the 1965 Act which are not relevant to this Order.

“the 1980 Act” means the Highways Act 1980(a);

“the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981(b);

“the 1984 Act” means the Road Traffic Regulation Act 1984(c);

“the 1990 Act” means the Town and Country Planning Act 1990(d);

“the 1991 Act” means the New Roads and Street Works Act 1991(e);

“the 2008 Act” means the Planning Act 2008(f);

“address” includes any number or address for the purposes of electronic transmission;

“apparatus” has the same meaning as in Part 3 of the 1991 Act;

“authorised development” means the development and associated development described in Schedule 1 (authorised development) and any other development authorised by this Order, which is development within the meaning of section 32 of the 2008 Act;

“the book of reference” means the book of reference certified by the Secretary of State as the book of reference for the purposes of this Order;

“building” includes any structure or erection or any part of a building, structure or erection;

“carriageway” has the same meaning as in the 1980 Act;

“compulsory acquisition notice” means a notice served in accordance with section 134 of the 2008 Act;

“cycle track” has the same meaning as in section 329(1) of the 1980 Act, as if the words 'or without' were omitted;

“electronic transmission” means a communication transmitted—

(a) by means of an electronic communications network; or

(b) by other means but while in electronic form;

“the engineering drawings and sections” means the documents certified as the engineering drawings and sections by the Secretary of State for the purposes of this Order;

“highway”, “highway authority” and “local highway authority” have the same meaning as in the 1980 Act;

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- (a) 1980 c.66. Section 1(1) was amended by section 21(2) of the New Roads and Street Works Act 1991 (c.22); sections 1(2), (3) and (4) were amended by section 8 of, and paragraph (1) of Schedule 4 to, the Local Government Act 1985 (c.51); section 1(2A) was inserted by, and section 1(3) was amended by, section 259 (1), (2) and (3) of the Greater London Authority Act 1999 (c.29); sections 1(3A) and 1(5) were inserted by section 22(1) of, and paragraph 1 of Schedule 7 to, the Local Government (Wales) Act 1994 (c.19). Section 36(2) was amended by section 4(1) of, and paragraphs 47 (a) and (b) of Schedule 2 to, the Housing (Consequential Provisions) Act 1985 (c.71), by S.I. 2006/1177, by section 4 of and paragraph 45(3) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c.11), by section 64(1) (2) and (3) of the Transport and Works Act 1992 (c.42) and by section 57 of, and paragraph 5 of Part 1 of Schedule 6 to, the Countryside and Rights of Way Act 2000 (c.37); section 36(3A) was inserted by section 64(4) of the Transport and Works Act 1992 and was amended by S.I. 2006/1177; section 36(6) was amended by section 8 of, and paragraph 7 of Schedule 4 to, the Local Government Act 1985 (c.51); and section 36(7) was inserted by section 22(1) of, and paragraph 4 of Schedule 7 to, the Local Government (Wales) Act 1994 (c.19). Section 329 was amended by section 112(4) of, and Schedule 18 to, the Electricity Act 1989 (c.29) and by section 190(3) of, and Part 1 of Schedule 27 to, the Water Act 1989 (c.15). There are other amendments to the 1980 Act which are not relevant to this Order.
- (b) 1981 c. 66. Sections 2(3), 6(2) and 11(6) were amended by section 4 of, and paragraph 52 of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11). Section 15 was amended by sections 56 and 321(1) of, and Schedules 8 and 16 to, the Housing and Regeneration Act 2008 (c. 17). Paragraph 1 of Schedule 2 was amended by section 76 of, and Part 2 of Schedule 9 to, the Housing Act 1988 (c 50); section 161(4) of, and Schedule 19 to, the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28); and sections 56 and 321(1) of, and Schedule 8 to, the Housing and Regeneration Act 2008. Paragraph 3 of Schedule 2 was amended by section 76 of, and Schedule 9 to, the Housing Act 1988 and section 56 of, and Schedule 8 to, the Housing and Regeneration Act 2008. Paragraph 2 of Schedule 3 was repealed by section 277 of, and Schedule 9 to, the Inheritance Tax Act 1984 (c. 51). There are amendments to the 1981 Act which are not relevant to this Order.
- (c) 1984 c.27.
- (d) 1990 c.8. Section 206(1) was amended by section 192(8) to, and paragraphs 7 and 11 of Schedule 8 to, the Planning Act 2008 (c.29) (date in force to be appointed see section 241(3), (4)(a),(c) of the 2008 Act). There are other amendments to the 1990 Act which are not relevant to this Order.
- (e) 1991 c.22. Section 48(3A) was inserted by section 124 of the Local Transport Act 2008 (c.26). Sections 79(4), 80(4), and 83(4) were amended by section 40 of, and Schedule 1 to, the Traffic Management Act 2004 (c.18).
- (f) 2008 c.29.

“the land plans” means the plans certified as the land plans by the Secretary of State for the purposes of this Order;

“limits of deviation” means the limits of deviation referred to in article 5;

“maintain” and any of its derivatives include inspect, repair, adjust, alter, remove or reconstruct in relation to the authorised development and any derivative of “maintain” shall be construed accordingly;

“NMU” means non-motorised users;

“Order land” means the land shown on the land plans which is within the limits of land to be acquired or used permanently or temporarily, and described in the book of reference;

“the Order limits” means the limits of deviation shown on the works plans, and the limits of land to be acquired or used permanently or temporarily shown on the land plans, within which the authorised development may be carried out;

“owner”, in relation to land, has the same meaning as in section 7 of the Acquisition of Land Act 1981(a);

“relevant planning authority” means the local planning authority for the land in question;

“rights of way and access plans” means the plans certified as the rights of way and access plans by the Secretary of State for the purposes of this Order;

“Secretary of State” means the Secretary of State for Transport;

“special road” means a highway which is a special road in accordance with section 16 of the 1980 Act or by virtue of an order granting development consent;

“statutory undertaker” means any statutory undertaker for the purposes of section 127(8), 128(5) or 129(2) of the 2008 Act;

“street” means a street within the meaning of section 48 of the 1991 Act, together with land on the verge of a street or between two carriageways, and includes part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 of the 1991 Act;

“the car parking drawings” means the drawings certified as the car parking drawings by the Secretary of State for the purposes of this Order;

“the junction design drawings” means drawings certified as the junction design drawings by the Secretary of State for the purposes of this Order;

“the lighting drawings” means the drawings certified as the lighting drawings by the Secretary of State for the purposes of this Order;

“the structure drawings” means the drawings certified as the structure drawings by the Secretary of State for the purposes of this Order;

“the tribunal” means the Lands Chamber of the Upper Tribunal;

“trunk road” means a highway which is a trunk road by virtue of—

- (a) section 10 or 19(1) of the 1980 Act;
- (b) an order or direction under section 10 of that Act; or
- (c) an order granting development consent; or
- (d) any other enactment;

“watercourse” includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain; and

“the works plans” means the plans certified as the works plans by the Secretary of State for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do or to place and maintain, anything in, on or under land or in the airspace above its surface and references in this Order to the imposition of restrictive covenants are references to the creation of rights over land

(a) 1981 c. 67.

which interfere with the interests or rights of another and are for the benefit of land which is acquired under this Order or is otherwise comprised in the Order land.

(3) All distances, directions and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised development shall be taken to be measured along that work.

(4) For the purposes of this Order, all areas described in square metres in the Book of Reference are approximate.

(5) References in this Order to points identified by letters or numbers shall be construed as references to points so lettered or numbered on the rights of way and access plans.

(6) References in this Order to numbered works are references to the works as numbered in Schedule 1.

PART 2

PRINCIPAL POWERS

Development consent etc. granted by the Order

3.—(1) Subject to the provisions of this Order including the requirements in Schedule 2 (requirements), the Secretary of State is granted development consent for the authorised development to be carried out within the Order limits.

(2) Subject to article 5 (limits of deviation) the authorised development shall be constructed in the lines and situations shown on the works plans and the levels shown on the engineering drawings and sections.

Maintenance of authorised development

4. The Secretary of State may at any time maintain the authorised development, except to the extent that this Order or an agreement made under this Order, provides otherwise.

Limits of deviation

5. In carrying out linear works the Secretary of State may—

- (a) deviate laterally from the lines or situations of the authorised development shown on the works plans to the extent of the limits of deviation shown on those plans; and
- (b) deviate vertically from the levels of the authorised development shown on the engineering drawings and sections, provided that deviation is within the scope of the environmental impact assessment, to a maximum of 0.5 metres upwards or downwards.

Benefit of Order

6.—(1) Subject to article 7 (consent to transfer benefit of Order) and paragraph (2), the provisions of this Order conferring powers on the Secretary of State have effect solely for the benefit of the Secretary of State.

(2) Paragraph (1) does not apply to the works for which the consent is granted by this Order for the express benefit of owners and occupiers of land, statutory undertakers and other persons affected by the authorised development.

Consent to transfer benefit of Order

7.—(1) Subject to section 144 of the 2008 Act, the Secretary of State may—

- (a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed between the Secretary of State and the transferee; or
- (b) grant to another person (“the lessee”) for a period agreed between the Secretary of State and the lessee any or all of the benefit of the provisions of this Order and such related statutory rights as may be so agreed.

(2) Where an agreement has been made in accordance with paragraph (1) references in this Order to the Secretary of State, except in paragraph (3), includes references to the transferee or the lessee.

(3) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) shall be subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the Secretary of State.

PART 3 STREETS

Application of the 1991 Act

8.—(1) Works executed under this Order in relation to a highway which consists of or includes a carriageway shall be treated for the purposes of Part 3 of the 1991 Act (street works in England and Wales) as major highway works if—

- (a) they are of a description mentioned in any of paragraphs (a), (c) to (e), (g) and (h) of section 86(3) of that Act (which defines what highway authority works are major highway works); or
- (b) they are works which, had they been executed by the highway authority, might have been carried out in exercise of the powers conferred by section 64 of the 1980 Act (dual carriageways and roundabouts) or section 184 of that Act (vehicle crossings over footways and verges).

(2) In Part 3 of the 1991 Act references, in relation to major highway works, to the highway authority concerned shall, in relation to works which are major highway works by virtue of paragraph (1), be construed as references to the Secretary of State.

(3) The following provisions of the 1991 Act shall not apply in relation to any works executed under the powers of this Order—

- section 56 (directions as to timing);
- section 56A (power to give directions as to placing of apparatus);
- section 58 (restrictions following substantial road works);
- section 58A (restriction on works following substantial street works);
- section 73A (power to require undertaker to re-surface street);
- section 73B (power to specify timing etc. of re-surfacing);
- section 73C (materials, workmanship and standard of re-surfacing);
- section 78A (contributions to costs of re-surfacing by undertaker); and
- Schedule 3A (restriction on works following substantial street works).

(4) The provisions of the 1991 Act mentioned in paragraph (5) (which, together with other provisions of that Act, apply in relation to the execution of street works) and any regulations made, or code of practice issued or approved under, those provisions shall apply (with the necessary modifications) in relation to any stopping up, alteration or diversion of a street of a temporary nature by the promoter under the powers conferred by article 12 (temporary stopping up of streets) whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

- (5) The provisions of the 1991 Act referred to in paragraph (4) are—
- section 54 (advance notice of certain works), subject to paragraph (6);
 - section 55 (notice of starting date of works), subject to paragraph (6);
 - section 57 (notice of emergency works);
 - section 59 (general duty of street authority to co-ordinate works);
 - section 60 (general duty of undertakers to co-operate);
 - section 68 (facilities to be afforded to street authority);
 - section 69 (works likely to affect other apparatus in the street);
 - section 75 (inspection fees);
 - section 76 (liability for cost of temporary traffic regulation); and
 - section 77 (liability for cost of use of alternative route),

and all such other provisions as apply for the purposes of the provisions mentioned above.

(6) Sections 54 and 55 of the 1991 Act as applied by paragraph (4) shall have effect as if references in section 57 of that Act to emergency works were a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

(7) Nothing in article 9 (construction and maintenance of new, altered or diverted streets) shall—

- (a) affect the operation of section 87 of the 1991 Act (prospectively maintainable highways), and the Secretary of State shall not by reason of any duty under that article to maintain a street be taken to be the street authority in relation to that street for the purposes of Part 3 of that Act; or
- (b) have effect in relation to street works as respects which the provisions of Part 3 of the 1991 Act apply.

Construction and maintenance of new, altered or diverted streets

9.—(1) Any street (other than a trunk road or special road) to be constructed under this Order must be completed to the reasonable satisfaction of the local highway authority in whose area the street lies and, unless otherwise agreed with the local highway authority, must be maintained by and at the expense of the local highway authority from its completion.

(2) Where a street (other than a trunk road or special road) is altered or diverted under this Order, the altered or diverted part of the street must, when completed to the reasonable satisfaction of the street authority, unless otherwise agreed with the street authority, be maintained by and at the expense of the street authority from its completion.

(3) Where a highway is de-trunked under this Order—

- (a) section 265 of the 1980 applies in respect of that road; and
- (b) any alterations to that highway undertaken under this Order prior to and in connection with that de-trunking must, unless otherwise agreed with the local highway authority, be maintained by and at the expense of the local highway authority from the date of de-trunking.

(4) In the case of a bridge constructed under this Order to carry a public right of way, the highway surface shall be maintained by and at the expense of the local highway authority and the structure of the bridge shall be maintained by and at the expense of the Secretary of State.

(5) In the case of a bridge constructed under this Order to carry a private right of way, the surface and the structure of the bridge shall be maintained by and at the expense of the Secretary of State.

(6) In any action against the Secretary of State in respect of loss or damage resulting from any failure by it to maintain a street under this article, it is a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that the

Secretary of State had taken such care as in all the circumstances was reasonably required to secure that the part of the street to which the action relates was not dangerous to traffic.

(7) For the purposes of a defence under paragraph (6), the court shall in particular have regard to the following matters—

- (a) the character of the street and the traffic which was reasonably to be expected to use it;
- (b) the standard of maintenance appropriate for a street of that character and used by such traffic;
- (c) the state of repair in which a reasonable person would have expected to find the street;
- (d) whether the Secretary of State knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause danger to users of the street;
- (e) where the Secretary of State could not reasonably have been expected to repair that part of the street before the cause of action arose, what warning notices of its condition had been displayed,

but for the purposes of such a defence it is not relevant to prove that the Secretary of State had arranged for a competent person to carry out or supervise the maintenance of the part of the street to which the action relates unless it is also proved that the Secretary of State had given the competent person proper instructions with regard to the maintenance of the street and that the competent person had carried out those instructions.

Classification of roads etc.

10.—(1) On the date on which the authorised development is completed and open for traffic—

- (a) the roads described in Parts 1 and 2 of Schedule 3 (classification of roads) will become trunk roads as if they had become so by virtue of an order under section 10(2) of the 1980 Act specifying that date as the date on which they were to become trunk roads;
- (b) the roads described in Part 1 of Schedule 3 will—
 - (i) be classified as special roads for purposes of any enactments and instruments which refer to highways classified as special roads; and
 - (ii) be provided for the use of traffic of Classes I and II of the classes of traffic set out in Schedule 3 to the 1980 Act; and
- (c) the roads described in Part 2 of Schedule 3 will be classified as the A556 and will be—
 - (i) a principal road for the purpose of any enactment or instrument which refers to highways classified as principal roads; and
 - (ii) a classified road for the purpose of any enactment or instrument which refers to highways classified as classified roads,as if such classification had been made under section 12(3) of the 1980 Act.
- (d) On such day as the Secretary of State may determine, the roads described in Part 3 of Schedule 3 will cease to be trunk roads as if they had ceased to be trunk roads by virtue of an order under section 10(2) of the 1980 Act specifying that date as the date on which they were to cease to be trunk roads.

(2) On the date they are completed and open for traffic, no person is to drive any motor vehicle at a speed exceeding 50 miles per hour in the lengths of road identified in Part 4 of Schedule 3.

(3) On the date they are completed and open for traffic, no person is to drive any motor vehicle at a speed exceeding 60 miles per hour in the lengths of road identified in Part 5 of Schedule 3.

(4) The application of paragraphs (1) to (3) may be varied or revoked by any instrument made under any enactment which provides for the variation or revocation of such matters.

Permanent stopping up of streets

11.—(1) Subject to the provisions of this article, the Secretary of State may, in connection with the carrying out of the authorised development, stop up each of the streets specified in columns (1) and (2) of Parts 1 and 2 of Schedule 4 (permanent stopping up of streets) to the extent specified and described in column (3) of that Schedule.

(2) No street specified in columns (1) and (2) of Part 1 of Schedule 4 (being a street to be stopped up for which a substitute is to be provided) is to be wholly or partly stopped up under this article unless—

- (a) the new street to be substituted (constructed) for it, which is specified in column (4) of that Schedule, has been completed to the reasonable satisfaction of the street authority and is open for use; or
- (b) a temporary alternative route for the passage of such traffic as could have used the street to be stopped up is first provided and subsequently maintained by the Secretary of State, to the reasonable satisfaction of the street authority, between the commencement and termination points for the stopping up of the street until the completion and opening of the new street in accordance with sub-paragraph (a).

(3) No street specified in columns (1) and (2) of Part 2 of Schedule 4 (being a street to be stopped up for which no substitute is to be provided) is to be wholly or partly stopped up under this article unless the condition specified in paragraph (4) is satisfied in relation to all the land which abuts on either side of the street to be stopped up.

(4) The condition referred to in paragraph (3) is that—

- (a) the Secretary of State is in possession of the land; or
- (b) there is no right of access to the land from the street concerned; or
- (c) there is reasonably convenient access to the land otherwise than from the street concerned; or
- (d) the owners and occupiers of the land have agreed to the stopping up.

(5) Where a street has been stopped up under this article—

- (a) all rights of way over or along the street so stopped up are extinguished; and
- (b) the Secretary of State may appropriate and use for the purposes of the authorised development so much of the site of the street as is bounded on both sides by land owned by the Secretary of State.

(6) Any person who suffers loss by the suspension or extinguishment of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(7) This article is subject to article 28 (apparatus and rights of statutory undertakers in stopped up streets).

Temporary stopping up of streets

12.—(1) The Secretary of State, during and for the purposes of carrying out the authorised development, may temporarily stop up, alter or divert any street and may for any reasonable time—

- (a) divert the traffic from the street; and
- (b) subject to paragraph (2), prevent all persons from passing along the street.

(2) Without limitation on the scope of paragraph (1), the Secretary of State may use any street temporarily stopped up under the powers conferred by this article and within the Order limits as a temporary working site.

(3) The Secretary of State must provide reasonable access for pedestrians going to or from premises abutting a street affected by the temporary stopping up, alteration or diversion of a street under this article if there would otherwise be no such access.

(4) The Secretary of State must not temporarily stop up, alter or divert any street for which it is not street authority without the consent of the street authority, which may attach reasonable conditions to any consent but such consent must not be unreasonably withheld or delayed.

(5) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

Access to works

13. The Secretary of State may, for the purposes of the authorised development form and lay out means of access, or improve existing means of access at such locations within the Order limits as the Secretary of State reasonably requires for the purposes of the authorised development.

Clearways

14.—(1) On the date on which the roads described in Part 3 of Schedule 3 are de-trunked in accordance with article 10(2) —

(a) the Swansea-Manchester Trunk Road (Prohibition of Waiting) (Clearways) Order 1970 is varied by substituting for paragraph 1 of Schedule 1 “Between the southern boundary of the Borough of Altrincham to the point 356 metres south of the southern abutment of Chester Road Bridge”; and

(b) any other order prohibiting the waiting of vehicles in relation to those roads is revoked.

(2) From the date on which the roads described in Part 2 of Schedule 3 are open for traffic, save as provided in paragraph (3) below, no person shall cause or permit any vehicle to wait on any part of those roads, other than a lay-by, except upon the direction of, or with the permission of, a constable or traffic officer in uniform.

(3) Nothing in paragraph (2) above shall apply—

(a) to render it unlawful to cause or permit a vehicle to wait on any part of a road, for so long as may be necessary to enable that vehicle to be used in connection with—

(i) the removal of any obstruction to traffic;

(ii) the maintenance, improvement, reconstruction or operation of the road;

(iii) the laying, erection, inspection, maintenance, alteration, repair, renewal or removal in or near the road of any sewer, main pipe, conduit, wire, cable or other apparatus for the supply of gas, water, electricity or any telecommunications apparatus as defined in Schedule 2 to the Telecommunications Act 1984(a); or

(iv) any building operation or demolition;

(b) in relation to a vehicle being used—

(i) for police, ambulance, fire and rescue authority or traffic officer purposes;

(ii) in the service of a local authority, safety camera partnership or Vehicle and Operator Services Agency in pursuance of statutory powers or duties;

(iii) in the service of a water or sewerage undertaker within the meaning of the Water Industry Act 1991(b); or

(iv) by a universal service provider for the purposes of providing a universal postal service as defined by the Postal Service Act 2000(c); or

(c) in relation to a vehicle waiting when the person in control of it is—

(i) required by law to stop;

(ii) obliged to stop in order to avoid an accident; or

(iii) prevented from proceeding by circumstances outside his or her control.

(a) 1984 c. 12.

(b) 1991 c.56.

(c) 2000 c.26.

(4) No person shall cause or permit any vehicle to wait on any part of the roads described in paragraph 1 of Part 2 of Schedule 3 for the purposes of selling, or dispensing of, goods from that vehicle, unless the goods are immediately delivered at, or taken into, premises adjacent to the land on which the vehicle stood when the goods were sold or dispensed.

(5) Paragraphs (2), (3) and (4) have effect as if made by order under the 1984 Act, and their application may be varied or revoked by an order made under that Act or any other enactment which provides for the variation or revocation of such orders.

PART 4

SUPPLEMENTAL POWERS

Discharge of water

15.—(1) The Secretary of State may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised development and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the Secretary of State under paragraph (1) is to be determined as if it were a dispute under section 106 of the Water Industry Act 1991(a) (right to communicate with public sewers).

(3) The Secretary of State must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose, but shall not be unreasonably withheld.

(4) The Secretary of State must not make any opening into any public sewer or drain except—

- (a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval shall not be unreasonably withheld; and
- (b) where that person has been given the opportunity to supervise the making of the opening.

(5) The Secretary of State must not, in carrying out or maintaining works under this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.

(6) The Secretary of State must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain pursuant to this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(7) Nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) of the Environmental Permitting (England and Wales) Regulations 2010(b).

(8) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to the Homes and Communities Agency, the Environment Agency, an internal drainage board, a joint planning board, a local authority, a sewerage undertaker or an urban development corporation; and
- (b) other expressions, excluding watercourse, used both in this article and in the Environmental Permitting Regulations 2010 have the same meaning as in those regulations.

(a) 1991 c. 56.
(b) S.I. 2010/675.

Protective work to buildings

16.—(1) Subject to the following provisions of this article, the Secretary of State may at the Secretary of State's own expense carry out such protective works to any building lying within the Order limits or which may be affected by the authorised development as the Secretary of State considers necessary or expedient.

(2) Protective works may be carried out—

- (a) at any time before or during the carrying out in the vicinity of the building of any part of the authorised development; or
- (b) after the completion of that part of the authorised development in the vicinity of the building at any time up to the end of the period of 5 years beginning with the day on which that part of the authorised development is first opened for use.

(3) For the purpose of determining how the functions under this article are to be exercised the Secretary of State may enter and survey any building falling within paragraph (1) and any land within its curtilage.

(4) For the purpose of carrying out protective works under this article to a building the Secretary of State may (subject to paragraphs (5) and (6))—

- (a) enter the building and any land within its curtilage; and
- (b) where the works cannot be carried out reasonably conveniently without entering land which is adjacent to the building but outside its curtilage, enter the adjacent land (but not any building erected on it).

(5) Before exercising—

- (a) a right under paragraph (1) to carry out protective works to a building;
- (b) a right under paragraph (3) to enter a building and land within its curtilage;
- (c) a right under paragraph (4)(a) to enter a building and land within its curtilage; or
- (d) a right under paragraph (4)(b) to enter land,

the Secretary of State must, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice of its intention to exercise that right and, in a case falling within sub-paragraph (a) or (c), specifying the protective works proposed to be carried out.

(6) Where a notice is served under paragraph (5)(a), (c) or (d), the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question whether it is necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 36 (arbitration).

(7) The Secretary of State will compensate the owners and occupiers of any building or land in relation to which rights under this article have been exercised for any loss or damage arising to them by reason of the exercise of those rights.

(8) Where—

- (a) protective works are carried out under this article to a building; and
- (b) within the period of 5 years beginning with the day on which the part of the authorised development carried out in the vicinity of the building is first opened for use it appears that the protective works are inadequate to protect the building against damage caused by the carrying out or use of that part of the authorised development,

the Secretary of State must compensate the owners and occupiers of the building for any loss or damage sustained by them.

(9) Nothing in this article will relieve the Secretary of State from any liability to pay compensation under section 152 of the 2008 Act (compensation in case where no right to claim in nuisance).

(10) Any compensation payable under paragraph (7) or (8) will be determined, in case of dispute, under Part 1 of the 1961 Act (determination of questions of disputed compensation).

(11) In this article “protective works” in relation to a building means—

- (a) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the building by the carrying out, maintenance or use of the authorised development; and
- (b) any works the purpose of which is to remedy any damage which has been caused to the building by the carrying out, maintenance or use of the authorised development.

Authority to survey and investigate the land

17.—(1) The Secretary of State may for the purposes of this Order enter on any land shown within the Order limits or which may be affected by the authorised development and—

- (a) survey or investigate the land;
- (b) without limitation on the scope of sub-paragraph (a), make trial holes in such positions on the land as the Secretary of State thinks fit to investigate the nature of the surface layer and subsoil and remove soil samples;
- (c) without limitation on the scope of sub-paragraph (a), carry out ecological or archaeological investigations on such land; and
- (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes.

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least 14 days’ notice has been served on every owner and occupier of the land.

(3) Any person entering land under this article on behalf of the Secretary of State—

- (a) must, if so required, before or after entering the land, produce written evidence of their authority to do so; and
- (b) may take onto the land such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.

(4) No trial holes are to be made under this article—

- (a) in land located within the highway boundary without the consent of the highway authority; or
- (b) in a private street without the consent of the street authority,

but such consent shall not be unreasonably withheld.

(5) The Secretary of State must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the authority conferred by this article, such compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

PART 5

POWERS OF ACQUISITION

Compulsory acquisition of land

18.—(1) The Secretary of State may acquire compulsorily so much of the Order land as is required for the authorised development or to facilitate, or is incidental to, it.

(2) This article is subject to paragraph (2) of article 20 (compulsory acquisition of rights) and paragraph (8) of article 26 (temporary use of land for carrying out the authorised development).

Time limit for exercise of authority to acquire land compulsorily

19.—(1) After the end of the period of 5 years beginning on the day on which this Order is made—

- (a) no notice to treat is to be served under Part 1 of the 1965 Act; and
- (b) no declaration shall be executed under section 4 of the 1981 Act as applied by article 22 (application of the Compulsory Purchase (Vesting Declarations) Act 1981).

(2) The authority conferred by article 26 (temporary use of land for carrying out the authorised development) ceases at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents the Secretary of State remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

Compulsory acquisition of rights

20.—(1) Subject to paragraphs (2) and (3), the Secretary of State may acquire such rights over the Order land or impose restrictive covenants affecting the land as may be required for any purpose for which that land may be acquired under article 18 (compulsory acquisition of land) by creating them as well as acquiring rights already in existence.

(2) In the case of the Order land specified in column (1) of Schedule 5 (land in which only new rights etc. may be acquired) the Secretary of State's powers of compulsory acquisition are limited to the acquisition of such wayleaves, easements, new rights in the land or the imposition of restrictive covenants, as may be required for the purpose specified in relation to that land in column (2) of that Schedule.

(3) The power to acquire rights or impose restrictive covenants in paragraph (1) does not extend to the plots with reference numbers 2/1h, 2/1i, 2/2b, 2/2e, 2/2g, 2/2j, 2/6f, 2/7c, 2/8e, 2/8f, 2/8g, 2/8h, 3/1a, 3/2p, 3/q, 3/r, 3/s, 3/7, 4/2d, 4/2i, 4/4r, 4/7e, 4/7f, 4/7g, 5/1e and 5/1p.

(4) Subject to section 8 of the 1965 Act, as substituted by paragraph 5 of Schedule 6 (modification of compensation and compulsory purchase enactments for creation of new rights), where the Secretary of State acquires a right over land or the benefit of a restrictive covenant under paragraph (1) or (2), the Secretary of State is not required to acquire a greater interest in that land.

(5) Schedule 6 has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right or the imposition of a restrictive covenant.

Private rights over land

21.—(1) Subject to the provisions of this article, all private rights over land subject to compulsory acquisition under this Order are extinguished—

- (a) as from the date of acquisition of the land by the Secretary of State, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the Secretary of State under section 11(1) of the 1965 Act (power of entry),

whichever is the earlier.

(2) Subject to the provisions of this article, all private rights over land subject to the compulsory acquisition of rights or the imposition of restrictive covenants under this Order are extinguished in so far as their continuance would be inconsistent with the exercise of the right or burden of the restrictive covenant—

- (a) as from the date of the acquisition of the right or the benefit of the restrictive covenant by the Secretary of State, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the Secretary of State under section 11(1) of the 1965 Act (power of entry),

whichever is the earlier.

(3) Subject to the provisions of this article, all private rights over land owned by the Secretary of State which, being within the limits of land which may be acquired or used shown on the land plans, are required for the purposes of this Order are extinguished on commencement of any activity authorised by this Order which interferes with or breaches those rights.

(4) Subject to the provisions of this article, all private rights over land of which the Secretary of State takes temporary possession under this Order are suspended and unenforceable for as long as the Secretary of State remains in lawful possession of the land.

(5) Any person who suffers loss by the extinguishment or suspension of any private right under this article is entitled to compensation in accordance with the terms of section 152 of the 2008 Act to be determined, in case of dispute, under Part 1 of the 1961 Act.

(6) This article does not apply in relation to any right to which section 138 of the 2008 Act (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) or article 27 (statutory undertakers) applies.

(7) Paragraphs (1) to (4) have effect subject to—

(a) any notice given by the Secretary of State before—

(i) the completion of the acquisition of the land or the acquisition of the rights or the imposition of restrictive covenants over or affecting the land;

(ii) the Secretary of State's appropriation of it;

(iii) the Secretary of State's entry onto it; or

(iv) the Secretary of State's taking temporary possession of it,

that any or all of those paragraphs do not apply to any right specified in the notice; and

(b) any agreement made at any time between the Secretary of State and the person in or to whom the right in question is vested or belongs.

(8) If any such agreement as is referred to in paragraph (7)(b)—

(a) is made with a person in or to whom the right is vested or belongs; and

(b) is expressed to have effect also for the benefit of those deriving title from or under that person,

it is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

(9) References in this article to private rights over land include any trust, incident, easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support and include restrictions as to the user of land arising by virtue of a contract, agreement or undertaking having that effect.

Application of the Compulsory Purchase (Vesting Declarations) Act 1981

22.—(1) The 1981 Act shall apply as if this Order were a compulsory purchase order.

(2) The 1981 Act, as so applied, shall have effect with the following modifications.

(3) In section 1 (application of act) for subsection (2) there shall be substituted—

“(2) This section applies to any Minister, any local or other public authority or any other body or person authorised to acquire land by means of a compulsory purchase order”.

(4) In section 3 (preliminary notices) for subsection (1) there shall be substituted—

“(1) Before making a declaration under section 4 with respect to any land which is subject to a compulsory purchase order the acquiring authority shall include the particulars specified in subsection (3) in a notice which is—

(a) given to every person with a relevant interest in the land with respect to which the declaration is to be made (other than a mortgagee who is not in possession); and

(b) published in a local newspaper circulating in the area in which the land is situated.”.

(5) In that section, in subsection (2), for “(1)(b)” there shall be substituted “(1)” and after “given” there shall be inserted “and published”.

(6) In that section, for subsections (5) and (6) there shall be substituted—

“(5) For the purposes of this section, a person has a relevant interest in land if—

- (a) that person is for the time being entitled to dispose of the fee simple of the land, whether in possession or in reversion; or
- (b) that person holds, or is entitled to the rents and profits of, the land under a lease or agreement, the unexpired term of which exceeds one month.”.

(7) In section 5 (earliest date for execution of declaration)—

- (a) in subsection (1), after “publication” there shall be inserted “in a local newspaper circulating in the area in which the land is situated”; and
- (b) subsection (2) shall be omitted.

(8) In section 7 (constructive notice to treat) in subsection (1)(a), the words “(as modified by section 4 of the Acquisition of Land Act 1981)” shall be omitted.

(9) References to the 1965 Act in the 1981 Act shall be construed as references to the 1965 Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act to the compulsory acquisition of land under this Order.

Acquisition of subsoil or airspace only

23.—(1) The Secretary of State may acquire compulsorily so much of, or such rights in, the subsoil of or of the airspace over the land referred to in paragraph (1) of article 18 (compulsory acquisition of land) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) Where the Secretary of State acquires any part of, or rights in, the subsoil of or the airspace over land referred to in paragraph (1), the Secretary of State is not required to acquire an interest in any other part of the land.

(3) Paragraph (2) does not prevent article 24 (acquisition of part of certain properties) from applying where the Secretary of State acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.

(4) The power to acquire any part of, or rights in, the subsoil of or the airspace over land does not extend to the plots with reference numbers 2/1h, 2/1i, 2/2b, 2/2e, 2/2g, 2/2j, 2/6f, 2/7c, 2/8e, 2/8f, 2/8g, 2/8h, 3/1a, 3/2p, 3/2q, 3/2r, 3/s, 3/7, 4/2d, 4/2l, 4/4r, 4/7e, 4/7f, 4/7g, 5/1e and 5/1p.

Acquisition of part of certain properties

24.—(1) This article applies instead of section 8(1) of the 1965 Act (other provisions as to divided land) (as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act) where—

- (a) a notice to treat is served on a person (“the owner”) under the 1965 Act (as so applied) in respect of land forming only part of a house, building or manufactory or of land consisting of a house with a park or garden (“the land subject to the notice to treat”); and
- (b) a copy of this article is served on the owner with the notice to treat.

(2) In such a case, the owner may, within the period of 21 days beginning with the day on which the notice was served, serve on the Secretary of State a counter-notice objecting to the sale of the land subject to the notice to treat and stating that the owner is willing and able to sell the whole (“the land subject to the counter-notice”).

(3) If no such counter-notice is served within that period, the owner must sell the land subject to the notice to treat.

(4) If such a counter-notice is served within that period, the question whether the owner must sell only the land subject to the notice to treat is, unless the Secretary of State agrees to take the land subject to the counter-notice, to be referred to the tribunal.

(5) If on such a reference the tribunal determine that the land subject to the notice to treat can be taken—

- (a) without material detriment to the remainder of the land subject to the counter-notice; or
- (b) in the case of part of land consisting of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the owner must sell the land subject to the notice to treat.

(6) If on such a reference the tribunal determine that only part of the land subject to the notice to treat can be taken—

- (a) without material detriment to the remainder of the land subject to the counter-notice; or
- (b) in the case of part of land consisting of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the notice to treat is deemed to be a notice to treat for that part.

(7) If on such a reference the tribunal determine that—

- (a) the land subject to the notice to treat cannot be taken without material detriment to the remainder of the land subject to the counter-notice; but
- (b) the material detriment is confined to a part of the land subject to the counter-notice,

the notice to treat is deemed to be a notice to treat for the land to which the material detriment is confined in addition to the land already subject to the notice, whether or not the additional land is land which the Secretary of State is authorised to acquire compulsorily under this Order.

(8) If the Secretary of State agrees to take the land subject to the counter-notice, or if the tribunal determine that—

- (a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house; and
- (b) the material detriment is not confined to a part of the land subject to the counter-notice,

the notice to treat is deemed to be a notice to treat for the land subject to the counter-notice whether or not the whole of that land is land which the Secretary of State is authorised to acquire compulsorily under this Order.

(9) Where, by reason of a determination by the tribunal under this article a notice to treat is deemed to be a notice to treat for less land or more land than that specified in the notice, the Secretary of State may, within the period of 6 weeks beginning with the day on which the determination is made, withdraw the notice to treat; and in that event must pay the owner compensation for any loss or expense occasioned to the owner by the giving and withdrawal of the notice, to be determined in case of dispute by the tribunal.

(10) Where the owner is required under this article to sell only part of a house, building or manufactory or of land consisting of a house with a park or garden, the Secretary of State must pay the owner compensation for any loss sustained by the owner due to the severance of that part in addition to the value of the interest acquired.

Rights under or over streets

25.—(1) The Secretary of State may enter on and appropriate so much of the subsoil of, or airspace over, any street within the Order limits as may be required for the purposes of the

authorised development and may use the subsoil or airspace for those purposes or any other purpose ancillary to the authorised development.

(2) Subject to paragraph (3), the Secretary of State may exercise any power conferred by paragraph (1) in relation to a street without being required to acquire any part of the street or any easement or right in the street.

(3) Paragraph (2) does not apply in relation to—

- (a) any subway or underground building; or
- (b) any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting onto the street.

(4) Subject to paragraph (5), any person who is an owner or occupier of land in respect of which the power of appropriation conferred by paragraph (1) is exercised without the Secretary of State acquiring any part of that person's interest in the land, and who suffers loss as a result, shall be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) Compensation is not payable under paragraph (4) to any person who is an undertaker to whom section 85 of the 1991 Act (sharing cost of necessary measures) applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

Temporary use of land for carrying out the authorised development

26.—(1) The Secretary of State may, in connection with the carrying out of the authorised development—

- (a) enter on and take temporary possession of—
 - (i) the land specified in columns (1) and (2) of Schedule 7 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule relating to the part of the authorised development specified in column (4) of that Schedule; and
 - (ii) any other Order land in respect of which no notice of entry has been served under section 11 of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 of the 1981 Act;
- (b) remove any buildings and vegetation from that land;
- (c) construct temporary works (including the provision of means of access) and buildings on that land;
- (d) construct any permanent works specified in relation to that land in column (3) of Schedule 7, or any other mitigation works; and
- (e) construct Works Nos. 5, 6 and 7 on that land.

(2) Not less than 14 days before entering on and taking temporary possession of land under this article the Secretary of State must serve notice of the intended entry on the owners and occupiers of the land.

(3) The Secretary of State may not, without the agreement of the owners of the land, remain in possession of any land under this article—

- (a) in the case of the plots with reference numbers 2/1i, 2/2i, 2/4e and 2/4h, after the new rights have been created pursuant to article 20;
- (b) in the case of other land specified in paragraph (1)(a)(i), after the end of the period of one year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (4) of Schedule 7, or
- (c) in the case of any land referred to in paragraph (1)(a)(ii), after the end of the period of one year beginning with the date of completion of the work for which temporary possession of the land was taken unless the Secretary of State has, by the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section (4) of the 1981 Act in relation to that land.

(4) Before giving up possession of land of which temporary possession has been taken under this article, the Secretary of State must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the Secretary of State is not required to—

- (a) replace a building removed under this article;
- (b) restore the land on which any permanent works have been constructed under paragraphs (1)(d) or (1)(e); or
- (c) remove any ground strengthening works which have been placed on the land to facilitate construction of the authorised development.

(5) The Secretary of State must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of this article.

(6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, is to be determined under Part 1 of the 1961 Act.

(7) Nothing in this article affects any liability to pay compensation under section 152 of the 2008 Act (compensation in case where no right to claim in nuisance) or under any other enactment in respect of loss or damage arising from the carrying out of the authorised development, other than loss or damage for which compensation is payable under paragraph (5).

(8) The Secretary of State may not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i) except that the Secretary of State is not to be precluded from—

- (a) acquiring new rights over any part of that land under article 20 (compulsory acquisition of rights); or
- (b) acquiring any part of the subsoil (or rights in the subsoil of or airspace over) that land under article 23 (acquisition of subsoil or airspace only).

(9) Where the Secretary of State takes possession of land under this article, the Secretary of State is not required to acquire the land or any interest in it.

(10) Section 13 of the 1965 Act (refusal to give possession to acquiring authority) applies to the temporary use of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).

(11) Paragraph (1)(a)(ii) does not authorise the Secretary of State to take temporary possession of any land which the Secretary of State is not authorised to acquire under article 18 (compulsory acquisition of land) or any land specified in Schedule 5 (land in which only new rights etc. may be acquired).

Statutory undertakers

27.—(1) Subject to the provisions of Schedule 8 (protective provisions) and paragraph (2), the Secretary of State may—

- (a) acquire compulsorily, or acquire new rights or impose restrictive covenants over the land belonging to statutory undertakers shown on the land plans within the limits of the land to be acquired or used permanently or temporarily and described in the book of reference;
- (b) extinguish the rights of, remove or reposition the apparatus belonging to statutory undertakers over or within the Order land.

(2) Paragraph (1)(b) has no effect in relation to apparatus in respect of which the following provisions apply—

- (a) Part 3 of the 1991 Act; and
- (b) article 28 (apparatus and rights of statutory undertakers in stopped up streets).

Apparatus and rights of statutory undertakers in stopped-up streets

28.—(1) Where a street is stopped up under article 11 (permanent stopping up of streets), any statutory utility whose apparatus is under, in, on, along or across the street has the same powers

and rights in respect of that apparatus, subject to the provisions of this article, as if this Order had not been made.

(2) Where a street is stopped up under article 11 any statutory utility whose apparatus is under, in, on, over, along or across the street may, and if reasonably requested to do so by the Secretary of State must—

- (a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as the utility may reasonably determine and have power to place it; or
- (b) provide other apparatus in substitution for the existing apparatus and place it in such position as described in sub-paragraph (a).

(3) Subject to the following provisions of this article, the Secretary of State must pay to any statutory utility an amount equal to the cost reasonably incurred by the utility in or in connection with—

- (a) the execution of the relocation works required in consequence of the stopping up of the street; and
- (b) the doing of any other work or thing rendered necessary by the execution of the relocation works.

(4) If in the course of the execution of relocation works under paragraph (2)—

- (a) apparatus of a better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the Secretary of State, or, in default of agreement, is not determined by arbitration to be necessary, then, if it involves cost in the execution of the relocation works exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which, apart from this paragraph, would be payable to the statutory utility by virtue of paragraph (3) is to be reduced by the amount of that excess.

(5) For the purposes of paragraph (4)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(6) An amount which, apart from this paragraph, would be payable to a statutory utility in respect of works by virtue of paragraph (3) (and having regard, where relevant, to paragraph (4)) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

(7) Paragraphs (3) to (6) do not apply where the authorised development constitutes major highway works, major bridge works or major transport works for the purposes of Part 3 of the 1991 Act, but instead—

- (a) the allowable costs of the relocation works are to be determined in accordance with section 85 of that Act (sharing of cost of necessary measures) and any regulations for the time being having effect under that section; and
- (b) the allowable costs are to be borne by the Secretary of State and the statutory utility in such proportions as may be prescribed by any such regulations.

(8) In this article—

“relocation works” means work executed, or apparatus provided, under paragraph (2); and

“statutory utility” means a statutory undertaker for the purposes of the 1980 Act or a public communications provider as defined in section 151(1) of the Communications Act 2003^(a).

Recovery of costs of new connections

29.—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 27 (statutory undertakers) any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from the Secretary of State compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(2) Paragraph (1) does not apply in the case of the removal of a public sewer but where such a sewer is removed under article 27, any person who is—

- (a) the owner or occupier of premises the drains of which communicated with that sewer; or
- (b) the owner of a private sewer which communicated with that sewer,

is entitled to recover from the Secretary of State compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or sewer belonging to that person communicate with any other public sewer or with a private sewerage disposal plant.

(3) This article does not have effect in relation to apparatus to which article 28 (apparatus and rights of statutory undertakers in stopped up streets) or Part 3 of the 1991 Act applies.

(4) In this paragraph—

“public communications provider” has the same meaning as in section 151(1) of the Communications Act 2003; and

“public utility undertaker” has the same meaning as in the 1980 Act.

Crown land

30.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular, nothing in this Order authorises the undertaker or any licensee to exercise any right under this Order compulsorily to acquire an interest in any land which is Crown land (as defined in the 2008 Act) which is for the time being held otherwise than by or on behalf of the Crown without the consent in writing of the appropriate Crown authority (as defined in the 2008 Act).

(2) In relation to Crown land, the powers in article 18 (compulsory acquisition of land) and 20 (compulsory acquisition of rights) are limited to interests in that land which for the time being are held otherwise than by or on behalf of the Crown.

PART 6 OPERATIONS

Felling or lopping of trees

31.—(1) The Secretary of State may fell or lop any tree or shrub within or overhanging land within the Order limits, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub—

- (a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or

(a) 2003 c. 21. There are amendments to this Act which are not relevant to this Order.

(b) from constituting a danger to persons using the authorised development.

(2) In carrying out any activity authorised by paragraph (1), the Secretary of State must do no unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity.

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, is to be determined under Part 1 of the 1961 Act.

PART 7

MISCELLANEOUS AND GENERAL

Operational land for purposes of the 1990 Act

32. Development consent granted by this Order shall be treated as specific planning permission for the purposes of section 264(3)(a) of the 1990 Act (cases in which land is to be treated as operational land for the purposes of that Act).

Defence to proceedings in respect of statutory nuisance

33.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990(a) (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within paragraph (g) of section 79(1) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance) no order is to be made, and no fine may be imposed, under section 82(2) of that Act if—

- (a) the defendant shows that the nuisance—
 - (i) relates to premises used by the Secretary of State for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction site), or a consent given under section 61 (prior consent for work on construction site) or section 65 (noise exceeding registered level), of the Control of Pollution Act 1974(b); or
 - (ii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or
- (b) the defendant shows that the nuisance is a consequence of the use of the authorised development and that it cannot reasonably be avoided.

(2) Section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974 and section 65(8) of that Act (corresponding provision in relation to consent for registered noise level to be exceeded), does not apply where the consent relates to the use of premises by the Secretary of State for the purposes of or in connection with the construction or maintenance of the authorised development.

Protection of interests

34. Schedule 8 (protective provisions) to the Order has effect.

(a) 1990 c. 43. There are amendments to this Act which are not relevant to this Order.

(b) 1974 c. 40. Sections 61(9) and 65(8) were amended by section 162 of, and paragraph 15 of Schedule 3 to, the Environmental Protection Act 1990, c. 25. There are other amendments to the 1974 Act which are not relevant to this Order.

Certification of plans, etc.

35.—(1) As soon as practicable after the making of this Order, copies of—

- (a) the book of reference (revision 2, February 2014);
- (b) the land plans (document references B1076602/OD/65/01 - B1076602/OD/65/07, revision 2, February 2014 as amended by substitution of variant land plans A556-CAP-0000-PJW-SK-G-0003, 0006 and 0007 Rev P01 for 03, 06 and 07);
- (c) the rights of way and access plans (document references B1076602/OD/62/01 - B1076602/OD/62/07, revision 2, February 2014);
- (d) the works plans (document references B1076602/OD/105/01 - B1076602/OD/105/07, revision 2, February 2014);
- (e) the engineering drawings and sections (document references B1076602/OD/149/01 - B1076602/OD/149/23, revision 2, February 2014);
- (f) the environmental statement (document references:
 - (i) 6.1.1-6.1.3,
 - (ii) 6.2.1-6.2.20,
 - (iii) 6.3.1-6.3.7,
 - (iv) A556 Rule 8-10 HA WR 1A-C,
 - (v) Rule 8_10 HAWR 3 - ES Addendum January 2014,
 - (vi) Rule 8_10 HAWR 3 - ES Addendum January 2014 Appendices A-F) ~~and~~
- (g) the structure drawings (documents references SK071-SK080, A556-CAP-0000-MLG-SK-C-0001, A556-CAP-0000-BWN-SK-C-0001, A556-CAP-0000-MLI-SK-C-0003, A556-CAP-0000-CHP-SK-C-0003, A556-CAP-0000-MLI-SK-C-0002, A556-CAP-0000-A50-SK-C-0001, A556-CAP-0000-GRE-SK-C-0001, A556-CAP-0000-BEN-SK-C-0001, A556-CAP-0000-TAB-SK-C-0001 and A556-CAP-0000-OHU-SK-C-0001);
- (h) the junction design drawings (document references A556-CAP-0000-A50-SK-C-0002, A556-CAP-0100-DTR-SK-C-0022 and A556-CAP-0100-MER-SK-C-0027);
- (i) the lighting drawings (document references A556-CAP-1300-PJW-SK-C-0024 to A556-CAP-1300-PJW-SK-C-0028);
- (j) the car parking drawings (document references A556-CAP-0000-DTR-SK-C-0147 and A556-CAP-0000-DTR-SK-C-0148);
- ~~(g)~~(k) any other plans or documents referred to in this Order,

must be certified by the Secretary of State as true copies of the documents referred to in this Order.

(2) A plan or document so certified shall be admissible in any proceedings as evidence of the contents of the document of which it is a copy.

Service of notices

36.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

- (a) by post;
- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or
- (c) with the consent of the recipient and subject to paragraphs (5) to (8) by electronic transmission.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 of the Interpretation Act 1978(a) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address, and otherwise—

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and
- (b) in any other case, the last known address of that person at the time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to that person by name or by the description of “owner”, or as the case may be “occupier”, of the land (describing it); and
- (b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement shall be taken to be fulfilled only where—

- (a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;
- (b) the notice or document is capable of being accessed by the recipient;
- (c) the notice or document is legible in all material respects; and
- (d) in a form sufficiently permanent to be used for subsequent reference.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 7 days of receipt that the recipient requires a paper copy of all or part of that notice or other document the sender will provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of electronic communication given by a person may be revoked by that person in accordance with paragraph (8).

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

- (a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
- (b) such revocation will be final and shall take effect on a date specified by the person in the notice but that date shall not be less than 7 days after the date on which the notice is given.

(9) This article will not be taken to exclude the employment of any method of service not expressly provided for by it.

(10) In this article “legible in all material respects” means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served, given or supplied by means of a notice or document in printed form.

Arbitration

37. Except where otherwise expressly provided for in this Order and unless otherwise agreed between the parties, any difference under any provision of this Order (other than a difference which falls to be determined by the tribunal) must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the President of the Institute of Civil Engineers.

(a) 1978 c. 30.

Traffic regulation

38.—(1) This article applies to roads in respect of which the Secretary of State is not the traffic authority.

(2) Subject to the provisions of this article, and the consent of the traffic authority in whose area the road concerned is situated, which consent shall not be unreasonably withheld, the Secretary of State may, for the purposes of the authorised development—

- (a) revoke, amend or suspend in whole or in part any order made, or having effect as if made, under the 1984 Act;
- (b) permit, prohibit or restrict the stopping, waiting, loading or unloading of vehicles on any road;
- (c) authorise the use as a parking place of any road;
- (d) make provision as to the direction or priority of vehicular traffic on any road; and
- (e) permit or prohibit vehicular access to any road,

either at all times or at times, on days or during such periods as may be specified by the Secretary of State.

(3) The power conferred by paragraph (2) may be exercised at any time prior to the expiry of 12 months from the opening of the authorised development for public use but subject to paragraph (7) any prohibition, restriction or other provision made under paragraph (2) may have effect both before and after the expiry of that period.

(4) The Secretary of State must consult the chief officer of police and the traffic authority in whose area the road is situated before complying with the provisions of paragraph (5).

(5) The Secretary of State must not exercise the powers conferred by paragraph (2) unless the Secretary of State has—

- (a) given not less than—
 - (i) 12 weeks' notice in writing of the Secretary of State's intention so to do in the case of a prohibition, restriction or other provision intended to have effect permanently; or
 - (ii) 4 weeks' notice in writing of the Secretary of State's intention so to do in the case of a prohibition, restriction or other provision intended to have effect temporarily,to the chief officer of police and to the traffic authority in whose area the road is situated; and
- (b) advertised the Secretary of State's intention in such manner as the traffic authority may specify in writing within 28 days of its receipt of notice of the Secretary of State's intention in the case of sub-paragraph (a)(i), or within 7 days of its receipt of notice of the Secretary of State's intention in the case of sub-paragraph (a)(ii).

(6) Any prohibition, restriction or other provision made by the Secretary of State under paragraph (2) shall—

- (a) have effect as if duly made by, as the case may be—
 - (i) the traffic authority in whose area the road is situated, as a traffic regulation order under the 1984 Act; or
 - (ii) the local authority in whose area the road is situated, as an order under section 32 of the 1984 Act,and the instrument by which it is effected may specify savings and exemptions to which the prohibition, restriction or other provision is subject; and
- (b) be deemed to be a traffic order for the purposes of Schedule 7 to the Traffic Management Act 2004(a) (road traffic contraventions subject to civil enforcement).

(a) 2004 c. 18.

(7) Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by the Secretary of State from time to time by subsequent exercise of the powers of paragraph (2) within a period of 24 months from the opening of the authorised development.

(8) Before exercising the powers of paragraph (2) the Secretary of State must consult such persons as the Secretary of State considers necessary and appropriate and shall take into consideration any representations made to the Secretary of State by any such person.

(9) Expressions used in this article and in the 1984 Act shall have the same meaning in this article as in that Act.

(10) The powers conferred on the Secretary of State by this article with respect to any road shall have effect subject to any agreement entered into by the Secretary of State with any person with an interest in (or who undertakes activities in relation to) premises served by the road.

Signed by authority of the Secretary of State for Transport

[] 201[]

[Name]
[Designation]
Department for Transport

SCHEDULES

SCHEDULE 1

Articles 2 and 3

AUTHORISED DEVELOPMENT

In the administration area of Cheshire East Council

A nationally significant infrastructure project as defined in sections 14 and 22 of the 2008 Act, comprising:

Work No.1 — the construction of a new all-purpose dual carriageway (‘the new A556’) and improvements to a section of the existing A556 to dual carriageway standard, totalling 7.5 kilometres in length, between M6 Junction 19 and M56 Junction 7, to include:

- (a) the modification of the existing M6 Junction 19 roundabout to stop up the existing access to and from Chester Road (the existing A556) and to create a new access to the new A556;
- (b) the construction of a new non-motorised user link between the de-trunked A556 and Old Hall Lane, to accommodate pedestrians, cyclists and horse riders;
- (c) the construction of a new underpass for the new Old Hall Lane to A556 non-motorised user link, beneath the new A556;
- (d) the construction of a new non-motorised user link between the M6 Junction 19 roundabout and the Old Hall Lane to A556 non-motorised user link, to accommodate pedestrians and cyclists;
- (e) the construction of a new retaining wall to support the earthworks for the new A556 carriageway adjacent to Tabley Parish Hall;
- (f) the construction of the new Old Hall Lane (West) single carriageway highway, from a point 36 metres east of the access to Over Tabley Hall Farm, northwards, along the western boundary of the new trunk road, to a new grade separated roundabout junction for the new A556 northbound off-slip, west of the new A556, a total distance of 830 metres, including the roundabout circumference (*Reference A - Rights of Way and Access Plans – Sheet 2*) to include the improvement of the existing C610 Old Hall Lane from a point 74 metres west from the access to Over Tabley Hall Farm, eastwards for a distance of 109 metres;
- (g) the construction of a new northbound off-slip to the west of the new A556 and one new southbound on-slip to the east of the new A556;
- (h) the construction of a new highway drainage attenuation and pollution control facility to the west of the new A556 and Old Hall Lane (West);
- (i) the construction of a new outfall to Tabley Brook to the west of the new highway drainage attenuation and pollution control facility;
- (j) the construction of the new Old Hall Lane (East) single carriageway highway, from a point 2 metres south of the existing access to field OS No. 3843, generally westwards then over the new A556, to a new roundabout junction for the new A556 northbound off-slip, west of the new A556, a total distance of 419 metres (*Reference B - Rights of Way and Access Plans – Sheet 2*) to include the improvement of the existing A556 Chester Road from a point 104 metres south from the access to field OS No. 3351 and field OS No. 3843, northwards for a distance of 213 metres;
- (k) the construction of a new culvert beneath the new Old Hall Lane (East);
- (l) the construction of a new Chester Road Roundabout to connect Old Hall Lane (East) with the existing Chester Road and associated improvement works;

- (m) the construction of a new culvert beneath the new A556, north of Tabley Junction;
- (n) the construction of a new overbridge on UW2127 Bentley Hurst Lane and the re-alignment of the UW2127 Bentley Hurst Lane carriageway;
- (o) the construction of a new highway drainage attenuation and pollution control facility to the west of the new A556 and 500 metres to the north of UW2127 Bentley Hurst Lane;
- (p) the construction of a second new outfall to Tabley Brook to the west of the new highway drainage attenuation and pollution control facility;
- (q) the construction of a new Green / Accommodation overbridge for the provision of a new access track to privately owned fields to the east and west of the new A556;
- (r) the construction of a new culvert beneath the new A556, south of the new Green / Accommodation overbridge;
- (s) the construction of a new culvert beneath access track, east of the Green / Accommodation overbridge;
- (t) the construction of a new overbridge on the A50 and the re-alignment of the A50 carriageway;
- (u) the construction of a new roundabout junction on the re-aligned A50 and a new northbound on-slip road to the new A556;
- (v) the construction of a new culvert beneath re-aligned A50, west of the new A556 and the new A50 roundabout junction;
- (w) the construction of new highway turning areas on C113 Bucklow Hill Lane, on the east and west of the new A556; to include the improvement of the existing C113 Bucklow Hill Lane from a point 156 metres east of its junction with the access to Hulme Barns Farm, north eastwards for a distance of 23 metres and the improvement of the existing C113 Bucklow Hill Lane from a point 189 metres west of its junction with A556 Chester Road, westwards for a distance of 28 metres;
- (x) the construction of a new overbridge on C114 Chapel Lane and re-alignment of the C114 Chapel Lane carriageway;
- (y) the construction of a new culvert beneath the new A556, south of the new C114 Chapel Lane overbridge;
- (z) the construction of new highway turning areas on UW2104 Millington Hall Lane, on the east and west of the new A556; to include the improvement of the existing UW2104 Millington Hall Lane from a point 67 metres east of Denfield Cottage access, south eastwards for a distance of 18 metres and the improvement of the existing UW2104 Millington Hall Lane from a point 120 metres west of its junction with A556 Chester Road, south eastwards for a distance of 25 metres;
- (aa) the construction of new highway from a point approximately 215 metres north of the junction between UW2104 Millington Hall Lane and A556 Chester Road, northwards for a distance of 17 metres to connect to the new A556 southbound off-slip (*Reference B - Rights of Way and Access Plans – Sheet 5*) to include the improvement of the existing A556 Chester Road, from a point 32 metres north of its junction with UW2104 Millington Hall Lane, northwards for a distance of 272 metres;
- (bb) the construction of new highway from a point approximately 215 metres north of the junction between UW2104 Millington Hall Lane and A556 Chester Road, southwards for a distance of 161 metres, including the roundabout circumference of the new Millington Roundabout junction, to connect to the improved A556 Chester Road (*Reference C - Rights of Way and Access Plans – Sheet 5*);
- (cc) the construction of new highway from a point approximately 207 metres north of the junction between UW2104 Millington Hall Lane and A556 Chester Road, north eastwards for a distance of 27 metres to connect to the improved A556 Chester Road (*Reference D - Rights of Way and Access Plans – Sheet 5*);
- (dd) the construction of a new engineered earthworks slope on the east of new A556 and adjacent to Bucklow Manor;

- (ee) the improvement of UW2089 Cherry Tree Lane and construction of new link road to connect UW2089 Cherry Tree Lane to the existing A556 Chester Road, to the east of the new A556;
- (ff) the construction of a new overbridge on C116 Millington Lane and the re-alignment of the C116 Millington Lane carriageway;
- (gg) the construction of a new at-grade junction on C116 Millington Lane to connect the re-aligned C116 Millington Lane with the Chester Road (Northern Link) and Cherry Tree Lane Link road to include the improvement of the existing A556 Chester Road junction with C116 Millington Lane;
- (hh) the re-modelling of the existing junction between the existing A556 Chester Road and UW2089 Cherry Tree Lane to accommodate the new Cherry Tree Lane Link road;
- (ii) the construction of a retaining wall to the east of the new Cherry Tree Lane Link to support the widened highway of the improved existing A556 and the Cherry Tree Lane Link road;
- (jj) the construction of a new highway drainage attenuation and pollution control facility to the west of the new A556 and south of the M56;
- (kk) the re-modelling of the existing Bowdon Roundabout to accommodate additional links provided for M56 Junction 7/8;
- (ll) the construction of a new roundabout to improve M56 Junction 7/8 and the construction of the new M56 spur westbound off-slip, a new A556 southbound merge interchange link and the Bowdon Roundabout Link between the new roundabout and the re-modelled Bowdon Roundabout;
- (mm) the construction of a new overbridge for the Bowdon Roundabout Link road and the construction of the re-aligned M56 westbound and eastbound spur roads;
- (nn) the realignment of the existing M56 spur eastbound on-slip road from Bowdon Roundabout to accommodate the re-aligned M56 eastbound spur road;
- (oo) the construction of a new highway drainage attenuation and pollution control facility in the land between the new M56 eastbound on-slip road from Bowdon Roundabout, the re-aligned M56 eastbound spur road and the new Bowdon Roundabout Link road;
- (pp) the construction of a new outfall to the River Bollin from the new highway drainage attenuation and pollution control facility;
- (qq) the construction of a new footpath (Reference A - Rights of Way and Access Plans – Sheet 7) from the southern access to the Cheshire Lounge Public House eastwards for a distance of 8 metres, then northwards for a distance of 82 metres to connect to existing footpath reference MILL FP10 and new footpath (Reference B);
- (rr) the construction of a new footpath (Reference B - Rights of Way and Access Plans – Sheet 7) off the Bowdon Roundabout, from a point 54 metres south of its junction with the A56 Lymm Road, southwards for a total distance of 521 metres, parallel to the western boundary of the new A556 to connect to new footpath (Reference A); *(Along the route of the new footpath Reference B, a new private means of access Reference 1 (which includes vehicular rights) is to be provided and, subject thereto, that footpath is to be created);*
- (ss) the construction of a new culvert beneath the new access to Yarwoodheath Lane on the south of the improved M56 Junction 7/8;
- (tt) the construction of a new culvert beneath the existing M56 eastbound on-slip road, the realigned M56 eastbound spur road, the re-aligned M56 westbound spur road and M56 westbound spur road off-slip road and construction of a new outfall from the new culvert with Birkin Brook;
- (uu) the re-modelling of the M56 Junction 7/8 eastbound diverge interchange link to accommodate the new M56 westbound spur road off-slip road;
- (vv) the construction of a new retaining wall to support a new access track and public footpath for Yarwoodheath Farm above the re-aligned M56 eastbound spur road;

- (ww) the construction of a new retaining wall to support the new M56 Spur Eastbound on-slip to the north of the link; and
- (xx) the construction of a new non-motorised user facility for pedestrians running between the western end of footpath reference MILL FP1 in a westerly direction for approximately 44m to the edge of the re-aligned Chapel Lane.

Associated development within the meaning of section 115(2) of the 2008 Act, comprising

Work No.1

- (yy) the construction of new private means of access from C610 Old Hall Lane to private properties and privately owned fields to the east of the new A556;
- (zz) the construction of an extension of the existing outfall pipe (discharge from Tabley Services) to the unnamed watercourse feeding Tabley Brook at Over Tabley;
- (aaa) the construction of a new private means of access to field OS No. 0031, on the west of the proposed new Old Hall Lane (West) (Reference A), 546 metres north of the junction between C610 Old Hall Lane and the access to Over Tabley Hall Farm (Reference 1 - Rights of Way and Access Plans – Sheet 2);
- (bbb) the provision of replacement parking spaces for Tabley Parish Hall;
- (ccc) the provision of replacement parking spaces for St Paul’s Church, Tabley;
- (ddd) the construction of a new private means of access to field OS No. 0031, on the east of the proposed new Old Hall Lane (West) (Reference A), 211 metres south of the northern end of Old Hall Lane (West) (Reference 4 - Rights of Way and Access Plans – Sheet 2);
- (eee) the construction of a new private means of access to the new highway drainage attenuation and pollution control facility, west of the proposed new Old Hall Lane (West) (Reference A) and field OS No. 1280, 126 metres northeast of the junction between C610 Old Hall Lane and the access to Over Tabley Hall Farm (Reference 5 - Rights of Way and Access Plans – Sheet 2);
- (fff) the construction of a new private means of access to field OS No. 0031, on the south of the proposed Old Hall Lane (East) (Reference B), 205m east of the western end of Old Hall Lane (East) (Reference 8 - Rights of Way and Access Plans – Sheet 2);
- (ggg) the diversion of a watercourse (unnamed ditch) to the south of the new Old Hall Lane (East);
- (hhh) the construction of a new private means of access to field OS No. 0077 and field OS No. 0058, on the south of the improved UW2127 Bentley Hurst Lane, 180 metres east of its junction with the eastern access to Bentley Hurst Farm (Reference 1 - Rights of Way and Access Plans – Sheet 3);
- (iii) the construction of new private means of access from UW2127 Bentley Hurst Lane to private properties and privately owned fields to the west of the new A556;
- (jjj) the diversion of Tabley Brook to the west of the new A556 and to the south of the new highway drainage attenuation and pollution control facility;
- (kkk) the construction of new private means of access from the A50 to private properties and privately owned fields to the east and west of the new A556;
- (lll) the construction of a new culvert beneath re-aligned A50, east of the new A556 and the new A50 roundabout junction;
- (mmm) the construction of new private means of access from C113 Bucklow Hill Lane to private properties and privately owned fields to the east and west of the new A556;
- (nnn) the construction of new private means of access from C114 Chapel Lane to private properties and privately owned fields to the east and west of the new A556;
- (ooo) the construction of a new private means of access to field OS No. 9164 on the north of the improved C114 Chapel Lane, 346 metres north west of its junction with A556 Chester Road (Reference 4 - Rights of Way and Access Plans – Sheet 5);

- (ppp) the construction of new private means of access from C116 Millington Lane to private properties and privately owned fields to the west of the new A556;
- (qqq) the construction of a new access track from the M56 westbound carriageway to the new highway drainage attenuation pond to the west of the new A556 and south of the M56;
- (rrr) the construction of a new private means of access to field OS No. 4161, on the west of the Bowdon Roundabout Link, 48 metres south of its junction with Bowdon Roundabout (Reference 2 - Rights of Way and Access Plans – Sheet 7);
- (sss) the construction of a new private means of access to the new highway drainage attenuation and pollution control facility and field OS No. 6285, on the east of Bowdon Roundabout Link, 51 metres south of its junction with Bowdon Roundabout, north eastwards then south eastwards for a distance of 400 metres to join Yarwoodheath Farm Access Bridge (Reference 4 - Rights of Way and Access Plans – Sheet 7); and
- (ttt) the construction of a new access to Yarwoodheath Lane and privately owned fields on the south the improved M56 Junction 7/8, and re-alignment of Yarwoodheath Lane.

Work No.2 — the re-location of the Vehicle & Operators Services Agency (VOSA) Goods Vehicle Test Station from west of the existing A556 to the centre of Bowdon Roundabout;

Work No.3 — the improvement of the M6 southbound carriageway between M6 Junction 19 and the overbridge of the A5033 Northwich Road to include:

- (a) the construction of a new engineered earthworks slope to the north of the M6 southbound carriageway, but within the existing highway boundary;
- (b) relining of the southbound carriageway; and
- (c) associated highway works.

Work No.4 — the improvements associated with the de-trunking of the existing A556 Chester road from M6 Junction 19 to the new Cherry Tree Lane link, including:

- (a) reducing the current road cross section to a rural type single carriageway road;
- (b) the construction of a new non-motorised user facility for pedestrians, cyclists and equestrian users, running between the new non-motorised user link from M6 Junction 19 and the new at grade junction at Millington Lane;
- (c) the construction of a low profile bund and landscaping to provide separation between the single carriageway road and the non-motorised user facility;
- (d) the construction of new access tracks and private means of access' to adjacent lands and properties;
- (e) the construction of a new private means of access to field OS No. 3111 and field OS No. 2500, on the west of the new A556, 171 metres south of its junction with the improved C116 Millington Lane (Reference 2 - Rights of Way and Access Plans – Sheet 6); and
- (f) the construction of a new private means of access to field OS No. 4848, 46 metres north of the junction of the existing A556 Chester Road with C116 Millington Lane (Reference 5 - Rights of Way and Access Plans – Sheet 6);

Work No. 5 — the diversion of approximately 320 metres of gas transmission pipeline north of Old Hall Lane (West) and the new highway drainage attenuation / pollution control facility, including the erection of marker posts.

Work No 6 — the diversion of approximately 665 metres of oil pipeline from the south east of Chapel Lane diversion to the north west of Chapel Lane diversion.

Work No. 7 — the diversion of approximately 460 metres of water pipeline from A556 Chester Road at junction with Millington Lane to south of Mereside Farm.

and in connection with the construction of any of those works, further development within the Order limits consisting of:

- (a) alteration of the layout of any street permanently or temporarily, including but not limited to increasing the width of the carriageway of the street by reducing the width of any kerb,

footpath, footway, cycle track or verge within the street; altering the level or increasing the width of any such kerb, footway, cycle track or verge; and reducing the width of the carriageway of the street;

- (b) ramps, means of access, footpaths, bridleways, cycleways, embankments, viaducts, aprons, abutments, shafts, foundations, retaining walls, drainage, wing walls, highway lighting, fencing and culverts;
- (c) street works, including breaking up or opening a street, or any sewer, drain or tunnel under it; tunnelling or boring under a street; works to place or maintain apparatus in a street; works to alter the position of apparatus, including mains, sewers, drains and cables;
- (d) works to alter the course of, or otherwise interfere with a watercourse other than a navigable watercourse;
- (e) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised development;
- (f) works for the benefit or protection of land affected by the authorised development;
- (g) works required for the strengthening, improvement, maintenance, or reconstruction of any streets; and
- (h) such other works, including contractor's compounds, working sites, storage areas and works of demolition, as may be necessary or expedient for the purposes of or in connection with the construction of the authorised development and which fall within the scope of the environmental impact assessment.

SCHEDULE 2 REQUIREMENTS

Article 3

Interpretation

1. In this Schedule—

“CEMP” means the construction environmental management plan, being the EMP as approved prior to the construction of the authorised development;

“EMP” means the environmental management plan referred to in paragraph 4(1);

“environmental statement” means the document certified as the environmental statement certified as such under article 34 for the purposes of this Order;

“European protected species” has the same meaning as in regulations 40 and 44 of the Conservation of Habitats and Species Regulations 2010(a);

“HEMP” means the handover environmental management plan, being the EMP to be developed towards the end of the construction of the authorised development to contain

(a) the environmental information needed for the future maintenance and operation of the authorised development,

(b) the long-term commitments to aftercare, monitoring and maintenance activities relating to the environmental features and mitigation measures that will be required to ensure the continued long-term effectiveness of the environmental mitigation measures and the prevention of unexpected environmental impacts during the operation of the scheme, and

(c) a record of the consents, commitments and permissions resulting from liaison with Statutory Bodies including Natural England and

“the Secretary of State” means the Secretary of State for Transport.

Time limits

2. The authorised development must not commence later than the expiration of 5 years beginning with the date on which this Order comes into force.

Detailed design

3.—(1) The authorised development must be carried out in accordance with the scheme design shown on the works plans, the structure drawings, the junction design drawings, the lighting drawings, the car parking drawings and engineering drawings and sections, unless otherwise agreed in writing by the Secretary of State, following consultation with the relevant planning authority on matters related to its statutory powers, and provided the development so altered falls within the limits of deviation and within the envelope of the environmental statement referenced in Article 35(1)(f).

(2) Natural England shall be consulted on the design of any structures that serve to mitigate or compensate for impacts on protected species referred to in paragraph 9.

Environmental management plan

4.—(1) An EMP must be prepared and implemented for the purpose of managing the environmental effects of the authorised development.

(a) SI 2010/490

(2) The EMP must include:

- (a) a written scheme for the investigation of areas of archaeological interest,
- (b) management and maintenance information on cultural heritage assets,
- (c) a site waste management plan,
- (d) a materials management plan,
- (e) a landscape management plan,
- (f) a resources management plan, and
- (g) an ecological management plan.

(3) The authorised development must be constructed in accordance with the EMP.

(4) No authorised development must commence until a CEMP has been submitted to and approved in writing by the Secretary of State, in consultation with Natural England to the extent that it relates to protected species or protected sites and the relevant planning authority to the extent that it relates to methods for the control of nuisances and pollution.

(5) The CEMP must reflect the mitigation and compensation measures included in the environmental statement, and must include measures to address—

- (a) outline plans to address each of the matters to be included in the EMP;
- (b) measures to address control of noise, fumes, light, vibration and dust during construction;
- (c) measures to address site waste management;
- (d) restrictions on carrying out construction works close to the Rostherne Mere site of special scientific interest or the Rostherne Mere Ramsar site during the wintering bird season from the beginning of September to the end of February;
- (e) action plans, working methods and mitigation measures for each of the topics covered in the environmental statement and
- (f) any additional mitigation or compensation measures relating to nationally or European protected species or habitats that are subsequently agreed with Natural England, which includes working methods and mitigation or compensation measures agreed through any protected species licence applications.

(6) The construction of the authorised development must be carried out in accordance with the CEMP.

(7) The Secretary of State may modify the CEMP at any time after the authorised development has commenced and shall notify Natural England of any modifications as far as they relate to protected species or protected sites.

(8) Before the end of the construction of the authorised development the CEMP will be converted into the HEMP.

(9) Any transferee or lessee of powers to operate or maintain the authorised development shall be obliged to act in accordance with the HEMP.

Implementation and maintenance of landscaping

5.—(1) The authorised development must be landscaped in accordance with a landscaping scheme that has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority.

(2) The landscaping scheme must reflect the mitigation measures included in the environmental statement and set out details of all proposed hard and soft landscaping works, including—

- (a) location, number, species, size and planting density of any proposed planting;
- (b) cultivation, importing of materials and other operations to ensure plant establishment;
- (c) proposed finished ground levels;
- (d) hard surfacing materials;
- (e) vehicular and pedestrian access, parking and circulation areas;

- (f) details of existing trees to be retained, with measures for their protection during the construction period;
- (g) retained historic landscape features and proposals for restoration, where relevant; and
- (h) implementation timetables for all landscaping works.

(3) All landscaping works must be carried out to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised codes of good practice.

(4) The landscaping works must be carried out in accordance with implementation timetables referred to in sub-paragraph (2).

(5) Any tree or shrub planted as part of the landscaping scheme that, within a period of two years after planting, dies or becomes, in the opinion of the Secretary of State, seriously diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted, unless otherwise approved by the Secretary of State.

Fencing

6. Any permanent and temporary fencing and other means of enclosure for the authorised development must be constructed and installed in accordance with the Highways Agency's Manual of Contract Documents for Highway Works, Volume 1 – Specification for Highway Works.

Ecological mitigation

7. Ecological mitigation of the authorised development with respect to protected species, including the provision of any mammal underpasses or tunnels, must be provided in accordance with the principles of guidance from the Highways Agency's Design Manual for Roads and Bridges, Volume 10, Section 4, as supported by additional guidance from the Institute of Ecology and Environmental Management, published ecological literature, and consultation with statutory and non-statutory nature conservation bodies, except where any departures from that guidance are agreed in writing by the Secretary of State, following consultation with Natural England.

Contaminated land and groundwater

8.—(1) In the event that contaminated land, including groundwater, are found at any time when carrying out the authorised development which were not previously identified in the environmental statement, it must be reported immediately to the relevant planning authority or the Environment Agency (as appropriate) and the Secretary of State must complete a risk assessment of the contamination.

(2) Where the Secretary of State determines that remediation is necessary, a written scheme and programme for the remedial measures to be taken to render the land fit for its intended purpose, must be submitted to and approved by the Secretary of State, following consultation with the relevant planning authority and the Environment Agency.

(3) Remediation must be carried out in accordance with the approved scheme.

Protected species

9.—(1) No authorised development must commence until final pre-construction survey work has been carried out to establish whether European or nationally protected species are present on any of the land affected, or likely to be affected, by any part of the relevant works or in any of the trees and shrubs to be lopped or felled as part of the relevant works.

(2) Where a protected species is shown to be, or where there is a reasonable likelihood of it being, present, the relevant part(s) of the relevant works shall not begin until a scheme of protection and mitigation measures has been submitted to and approved by the Secretary of State and, where appropriate, Natural England

(3) The relevant works shall be carried out in accordance with the approved scheme, and under licence where necessary, unless otherwise agreed by the Secretary of State, after consultation with Natural England.

(4) Monitoring of impacts to protected species and habitats prior to, during and after construction, together with the monitoring and management of mitigation measures, will be carried out as far as required to meet the licence requirements.

(5) In the event that any protected species are found at any time when carrying out the authorised development which were not previously identified in the environmental statement:-

- (a) the finding must be reported immediately to Natural England; and
- (b) no activities requiring a protected species licence must continue until a scheme of protection and mitigation measures for the protected species has been submitted in writing to, and approved in writing by, Natural England and the Secretary of State..

Surface water drainage

10.—(1) No authorised development must commence until written details of the surface and foul water drainage system, reflecting the mitigation measures in the environmental statement and including means of pollution control, have been submitted to and approved by the Secretary of State.

(2) The surface and foul water drainage system must be constructed in accordance with the approved details.

Archaeological remains

11.—(1) Any archaeological remains not previously identified which are revealed when carrying out the authorised development will be investigated and recorded and reported to the Secretary of State by means of a technical report identifying the location for the housing of any finds.

(2) No construction operations will take place within 10 metres of such remains for a period of 14 days from the date of such notification unless otherwise agreed in writing by the Secretary of State following consultation with the relevant planning authority.

(3) If the Secretary of State is of the view that the archaeological remains require further investigation, no construction operations will take place within 10 metres of the remains until provision has been made for the further investigation and recording of the remains in accordance with details first submitted in writing to, and approved in writing by, the Secretary of State.

Buildings at risk

12. No authorised development in the vicinity of any buildings assessed to be at risk in the environmental statement or in the opinion of the relevant planning authority without first notifying the relevant planning authority.

Traffic management

13.—(1) No authorised development must commence until a traffic management plan has been submitted to and approved by the Secretary of State, following consultation with the relevant planning authority.

(2) The authorised development must be constructed in accordance with the approved details.

Air quality

14. The speed limit referred to in Part 5 of Schedule 3 shall remain in place until the results of air quality monitoring indicate that air quality has improved sufficiently to allow the authorised development to operate at 70mph, pursuant to a monitoring strategy developed in consultation with the relevant planning authority.

15. Work No 4 shall not be brought into use until the traffic authority, or the Secretary of State pursuant to article 38 , has carried out consultation on a proposed order under section 1 of the

1984 Act (Traffic Regulation Orders outside Greater London) to restrict access by motorised vehicles to Work No 4(b).

~~14.16.~~ The headroom within the non-motorised user underpass at Old Hall Lane shall not be less than 3 metres.

Amendments to approved details

~~15.17.~~ With respect to any requirement which requires the authorised development to be carried out in accordance with the details approved under this Schedule, the approved details are taken to include any amendments that may subsequently be approved in writing.

CLASSIFICATION OF ROADS ETC.

PART 1

SPECIAL ROADS

In the administrative area of Cheshire East Council —

1. A road constructed on a route, approximately 871 metres in length, starting at a point 249 metres north by north east of a point forming the intersect of the centre line of the existing A556 Chester Road Bridge with the centreline of the M56 motorway, proceeding initially in a north easterly direction, to a point 260 metres south east of the intersection between the centreline of the existing Yarwoodheath Farm Access Bridge and the centreline of the M56 Eastbound Spur On-Slip, reference letter AA on the Special Roads Plan.
2. A road constructed on a route, approximately 828 metres in length, starting at a point 256 metres south east of the intersection between the centreline of the existing Yarwoodheath Farm Access Bridge and the centreline of the M56 Eastbound Spur On-Slip, proceeding initially in a north westerly direction, to a point 251 metres north by north east of a point forming the intersect of the centreline of the existing A556 Chester Road Bridge with the centreline of the M56 motorway, reference letter BB on the Special Roads Plan.
3. A road constructed on a route, approximately 619 metres in length, starting at a point 421 metres south by south east of the intersection between the centreline of the existing Yarwoodheath Farm Access Bridge and the centreline of the M56 Eastbound Spur On-Slip, proceeding initially in a north westerly direction, to a point 291 metres south of the junction between the centreline of the M56 Eastbound Spur On-Slip with Bowdon Roundabout, reference letter CC on the Special Roads Plan.
4. A road constructed on a route, approximately 96 metres in length, starting at a point 280 metres south by south east of the intersection between the centreline of the existing Yarwoodheath Farm Access Bridge and the centreline of the M56 Eastbound Spur On-Slip, proceeding in a north westerly direction, to a point 186 metres south east of the intersection between the centreline of the existing Yarwoodheath Farm Access Bridge and the centreline of the M56 Eastbound Spur On-Slip, reference letter DD on the Special Roads Plan.

PART 2

OTHER TRUNK ROADS

In the administrative area of Cheshire East Council —

1. A road constructed on a route, comprising the new A556 Trunk Road, between point A on sheet 2 of the engineering drawings and sections, being a point on the existing M6 Junction 19 roundabout and point B on sheet 7 of the engineering drawings and sections, being a point 250 metres north of a point forming the intersect of the centre line of the

existing A556 Chester Road Bridge with the centreline of the M56 motorway, for a distance of approximately 6556 metres in a northerly direction.

2. A road constructed on a route, comprising the new Bowdon Roundabout Link Road, the circulatory carriageway of the new M56 J7/8 South Roundabout and the new A556 Southbound Merge Interchange Link, between point C on sheet 7 of the engineering drawings and sections, being a point on the existing Bowdon Roundabout highway boundary and point D on sheet 7 of the engineering drawings and sections, being a point on the existing A556 highway boundary, 201 metres north of a point forming the intersect of the centre line of the existing A556 Chester Road Bridge with the centreline of the M56 motorway, for a distance of approximately 691 metres in a southerly then south westerly direction.

PART 3

ROADS TO BE DE-TRUNKED

In the administrative area of Cheshire East Council —

The section of highway between point A on sheet 2 of the De-Trunking Plans, being a point 10 metres south of the junction between Old Hall Lane and the A556 Chester Road and point B on sheet 6 of the De-Trunking Plans, being a point 202 metres north of the junction between Millington Lane and the A556 Chester Road, for a distance of approximately 5003 metres in a northerly direction.

PART 4

ROADS SUBJECT TO 50 MPH SPEED LIMIT

1. The new A556 northbound carriageway continued into the new M56 Spur eastbound carriageway from a point 395 metres south of the southern abutment of Chester Road Bridge to a point 559 metres south east of the centre of Bowdon Roundabout, a distance of 1418 metres.
2. The new M56 Spur westbound carriageway continued into the new A556 southbound carriageway from a point 827 metres south east of the centre of Bowdon Roundabout to a point 395 metres south of the southern abutment of Chester Road Bridge, a distance of 1698 metres.
3. The new A556-A56 northbound off-slip from its junction with the new A556 and its junction with Bowdon Roundabout, a distance of 383 metres.
4. The new A556 southbound merge interchange link from its junction with the new M56 Junction 7/8 South Roundabout to its junction with the M56 westbound entry loop, a distance of 528 metres.

PART 5

ROADS SUBJECT TO 60 MPH SPEED LIMIT

1. The new A556 from its junction with M6 Junction 19 to a point 395 metres south of the southern abutment of Chester Road Bridge.

SCHEDULE 4

Article 11

PERMANENT STOPPING UP OF STREETS

PART 1

STREETS FOR WHICH A SUBSTITUTE IS TO BE PROVIDED

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Street to be stopped up</i> | <i>(3)</i> <i>Extent of stopping up</i> | <i>(4)</i> <i>New street to be substituted</i> |
|--|--|--|--|
| <i>Rights of Way and Access Plans – Sheet 2</i> | | | |
| In the administrative area of Cheshire East Council — | C610 Old Hall Lane | From a point 46 metres west of its junction with the existing A556 Chester Road, westwards to a point 20 metres east of the access to Over Tabley Hall Farm, a total distance of 182 metres. | Reference C – Rights of Way and Access Plans Sheet 2 = New bridleway from a point on the A556 Chester Road 13 metres south of its junction with C610 Old Hall Lane, generally westwards beneath the new trunk road, then northwards along the western boundary of the new trunk road, then westwards along the route of the stopped up C610 Old Hall Lane, to a new junction with the improved C610 Old Hall Lane, a total distance of 269 metres. |
| | A556 Chester Road | From a point 13 metres south of its junction with C610 Old Hall Lane, southwards for a distance of 45 metres. | Reference C – Rights of Way and Access Plans Sheet 2 (see above) and; Reference D – Rights of Way and Access Plans Sheet 2 = New cycleway from a point in the verge of the M6 Junction 19 southbound exit slip, 10 metres west of its junction with the M6 Junction 19 circulatory carriageway, northwards along the western boundary of the new trunk road for a distance of 113 metres to join new bridleway Reference C. |
| | Reference a – Rights of Way and Access Plans Sheet 2 = Access to property known as Over Tabley Hall, on the north of C610 Old Hall Lane, | The whole access | Reference 2 – Rights of Way and Access Plans Sheet 2 = New private means of access to Over Tabley Hall in the same location as stopped up |

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Street to be stopped up</i> | <i>(3)</i> <i>Extent of stopping up</i> | <i>(4)</i> <i>New street to be substituted</i> |
|---------------------------|--|--|--|
| | 245m west of its junction with A556 Chester Road. | | access Reference a, but realigned to the improved C610 Old Hall Lane |
| | Reference b – Rights of Way and Access Plans Sheet 2 = Access to property known as Over Tabley Hall Farm, on the north of C610 Old Hall Lane, 240m west of its junction with A556 Chester Road. | The whole access | Reference 3 – Rights of Way and Access Plans Sheet 2 = New private means of access to Over Tabley Hall Farm in the same location as stopped up access Reference b, but realigned to the improved C610 Old Hall Lane. |
| | Reference c – Rights of Way and Access Plans Sheet 2 = Access to field OS No. 0070 on the south of C610 Old Hall Lane, 102 metres west of its junction with A556 Chester Road | The whole access | Reference 12 – Rights of Way and Access Plans Sheet 2 = New private means of access to field OS No. 0070, on the south of the realigned C610 Old Hall Lane, 38 metres east of the access to Over Tabley Hall. |
| | Reference d – Rights of Way and Access Plans Sheet 2 = Access to field OS No. 1280 and field OS No. 1691, on the north of C610 Old Hall Lane, 64 metres west of its junction with A556 Chester Road. | The whole access | Reference 3 – Rights of Way and Access Plans Sheet 2 (see above) and; Reference 9 – Rights of Way and Access Plans Sheet 2 = New private means of access to field OS No. 1691 and field OS No. 1500, on the west of A556 Chester Road, 30 metres south of the access to St Paul’s Church, generally westwards, for a distance of 70 metres. |
| | Reference e – Rights of Way and Access Plans Sheet 2 = Access to property known as Tabley Parish Hall, on the north of C610 Old Hall Lane, 48 metres west of its junction with A556 Chester Road. | The whole access | Reference 6 – Rights of Way and Access Plans Sheet 2 = New private means of access to Tabley Parish Hall on the north of C610 Old Hall Lane, 45 metres west of its junction with A556 Chester Road. |
| | Reference f – Rights of Way and Access Plans Sheet 2 = Access to field OS No. 0070 on the south of C610 Old Hall Lane, 45 metres west of the junction of C610 Old Hall Lane with A556 Chester Road. | The whole access | Reference 12 – Rights of Way and Access Plans Sheet 2 = New private means of access to field OS No. 0070, on the south of the realigned C610 Old Hall Lane 38 metres east of the access to Over Tabley Hall. |

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Street to be stopped up</i> | <i>(3)</i> <i>Extent of stopping up</i> | <i>(4)</i> <i>New street to be substituted</i> |
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| | Reference g – Rights of Way and Access Plans Sheet 2 = Access to the property known as Rose Cottage, on the north of C610 Old Hall Lane, 42 metres west of its junction with A556 Chester Road. | The whole access | Reference 7 – Rights of Way and Access Plans Sheet 2 = New private means of access to the property known as Rose Cottage on the north of C610 Old Hall Lane, 39 metres west of its junction with A556 Chester Road. |
| | Reference h – Rights of Way and Access Plans Sheet 2 = Access to field OS No. 3843 and field OS No. 3351, west of A556 Chester Road, 220 metres north of the access to Church Farm. | The whole access | Reference 10 – Rights of Way and Access Plans Sheet 2 = New private means of access to field OS No. 3437, on the south of Old Hall Lane (East), 128 metres west of the existing A556 Chester Road; and Reference 11 - Rights of way and Access Plans Sheet 2 = New private means of access to field OS No. 3351 & OS No. 3843 on the north of Old Hall Lane (East), 128m west of the Existing A556 Chester Road. |
| <i>Rights of Way and Access Plans – Sheet 3</i> | | | |
| In the administrative area of Cheshire East Council — | UW2127 Bentley Hurst Lane | From a point 304 metres north east of its junction with the eastern access to Bentley Hurst Farm, northeastwards for a distance of 69 metres. | Reference A – Rights of Way and Access Plans Sheet 3 = New highway from a point on the improved UW2127 Bentley Hurst Lane 206 metres northeast of its junction with the eastern access to Bentley Hurst Farm, north eastwards for a distance of 232 metres to connect to the improved UW2127 Bentley Hurst Lane east of the new trunk road; to include the improvement of the existing UW2127 Bentley Hurst Lane, from a point approximately 173 metres north east of its junction with the eastern access to Bentley Hurst Farm, north eastwards for a distance of 27 metres; and to include the improvement of the existing UW2127 Bentley Hurst Lane, from a |

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Street to be stopped up</i> | <i>(3)</i> <i>Extent of stopping up</i> | <i>(4)</i> <i>New street to be substituted</i> |
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| | | | point approx 557 metres west of its junction with the A556 Chester Road, south westwards for a distance of 28 metres. |
| | Reference a – Rights of Way and Access Plans Sheet 3 = Access to field OS No. 0004, on the south of UW2127 Bentley Hurst Lane, 303 metres east of the junction of UW2127 Bentley Hurst Lane with the eastern access to Bentley Hurst Farm. | The whole access | Reference 2 – Rights of Way and Access Plans Sheet 3 = New private means of access to field OS No.0004 on the south of the improved UW2127 Bentley Hurst Lane, 193 metres east of its junction with the eastern access to Bentley Hurst Farm. |
| <i>Rights of Way and Access Plans – Sheet 4</i> | | | |
| In the administrative area of Cheshire East Council — | A50 | From a point 133 metres southeast of its junction with the eastern access to Hulme Barns Farm, south eastwards for a distance of 85 metres. | Reference A – Rights of Way and Access Plans Sheet 4 = New highway from a point on the improved A50, 74 metres south east of its junction with the western access to Hulme Barns Farm, south eastwards for a distance of 577 metres (including the roundabout circumference) to connect to the improved A50 south east of the new A556; to include the improvement of the existing A50 from a point 154 metres south east of its junction with UW2103 Hulse Heath Lane, south eastwards for a distance of 204 metres; and to include the improvement of the existing A50 from a point 134 metres south east of its junction with access to field OS No. 4523, north westwards for a distance of 201 metres. |

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Street to be stopped up</i> | <i>(3)</i> <i>Extent of stopping up</i> | <i>(4)</i> <i>New street to be substituted</i> |
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| | Reference a – Rights of Way and Access Plans Sheet 4 = Access to the field OS No. 0045 on the south west of the A50, 290 metres south east of its junction with UW2103 Hulse Heath Lane. | The whole access | Reference 1 – Rights of Way and Access Plans Sheet 4 = New private means of access to the field OS No. 0045 on the south west of the A50, opposite the access to Hulme Barn Farm, 169m east of the Post Office’s eastern most access. |
| | Reference b – Rights of Way and Access Plans Sheet 4 = Western access to Hulme Barns Farm on the north east of the A50, 289 metres south east of its junction with UW2103 Hulse Heath Lane. | The whole access | Reference 2 – Rights of Way and Access Plans Sheet 4 = New private means of access to Hulme Barns Farm in the same location as stopped up access Reference b, but realigned to the improved A50. |
| | Reference d – Rights of Way and Access Plans Sheet 4 = Eastern access to Hulme Barns Farm on the north east of the A50, 441 metres south east of its junction with UW2103 Hulse Heath Lane. | The whole access | Reference 3 – Rights of Way and Access Plans Sheet 4 = New private means of access to Hulme Barns Farm in the same location as stopped up access Reference d, but realigned to the improved A50. |
| | Reference f – Rights of Way and Access Plans Sheet 4 = Access to the compound on the north of C113 Bucklow Hill Lane, 261 metres north east of its junction with the access to Hulme Barns Farm. | The whole access | Reference 4 – Rights of Way and Access Plans Sheet 4 = New private means of access to the compound, field OS No. 4619 and field OS No. 5000 at the end of the proposed C113 Bucklow Hill Lane north eastwards for a distance of 162 metres. |
| | Reference g – Rights of Way and Access Plans Sheet 4 = Access to the field OS No. 4619 on the north of C113 Bucklow Hill Lane, 290 metres north east of its junction with the access to Hulme Barns Farm. | The whole access | Reference 4 – Rights of Way and Access Plans Sheet 4 = New private means of access to the compound, field OS No. 4619 and field OS No. 5000 at the end of the proposed C113 Bucklow Hill Lane north eastwards for a distance of 184 metres. |
| | Reference h – Rights of Way and Access Plans Sheet 4 = Access to the field OS No. 5000 on the | The whole access | Reference 4 – Rights of Way and Access Plans Sheet 4 = New private means of access to the |

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Street to be stopped up</i> | <i>(3)</i> <i>Extent of stopping up</i> | <i>(4)</i> <i>New street to be substituted</i> |
|--|--|--|--|
| | south of C113 Bucklow Hill Lane, 290 metres north east of its junction with the access to Hulme Barns Farm. | | compound, field OS No. 4619 and field OS No. 5000 at the end of the proposed C113 Bucklow Hill Lane north eastwards for a distance of 184 metres, and Reference 2 – Rights of Way and Access Plans Sheet 5 = New private means of access to field OS No. 4619, field OS No. 6900 field OS No.5000 and telecommunications site on the east of the proposed new A556. |
| | Reference i – Rights of Way and Access Plans Sheet 4 = Access to field OS No. 4523 on the northeast of the A50, 450 metres south east of its junction with the eastern access to Hulme Barns Farm. | The whole access | Reference 5 – Rights of Way and Access Plans Sheet 4 = New private means of access to the field OS No. 4523 in the same location as stopped up access Reference i, but realigned to the improved A50. |
| | Reference j – Rights of Way and Access Plans Sheet 4 = Access to field OS No. 5600 on the east of the improved A50, 555 metres south east of its junction with the eastern access to Hulme Barns Farm. | The whole access | Reference 6 – Rights of Way and Access Plans Sheet 4 = New private means of access to field OS No. 5600 in the same location as stopped up access Reference j, but realigned to the improved A50. |
| <i>Rights of Way and Access Plans – Sheet 5</i> | | | |
| In the administrative area of Cheshire East Council — | C114 Chapel Lane | From a point 441 metres northwest of its junction with A556 Chester Road, north westwards for a distance of 69 metres. | Reference A – Rights of Way and Access Plans Sheet 5 = New highway from a point on the improved C114 Chapel Lane 443 metres northwest of its junction with A556 Chester Road, north westwards for a distance of 74 metres to connect to the improved C114 Chapel Lane; to include the improvement of the existing C114 Chapel Lane, from a point 108 metres southeast of its junction with UW2103 Hulse Heath Lane, south eastwards for a distance of 284 metres; and |

| <i>(1) Area</i> | <i>(2) Street to be stopped up</i> | <i>(3) Extent of stopping up</i> | <i>(4) New street to be substituted</i> |
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| | | | to include the improvement of the existing C114 Chapel Lane, from a point 305 metres north west of its junction with A556 Chester Road, north westwards for a distance of 139 metres. |
| | Reference a – Rights of Way and Access Plans Sheet 5 = Access to field OS No. 6877 on the north of C114 Chapel Lane, 651 metres north west of its junction with A556 Chester Road. | The whole access | Reference 1 – Rights of Way and Access Plans Sheet 5 = New private means of access to field OS no. 6877 on the north of C114 Chapel Lane, 698 metres north west of its junction with A556 Chester Road. |
| | Reference b – Rights of Way and Access Plans Sheet 5 = Access to field OS No. 4619 on the north of C113 Bucklow Hill Lane, 413 metres west of its junction with A556 Chester Road. | The whole access | Reference 2 – Rights of Way and Access Plans Sheet 5 = New private means of access to field OS No. 4619, field OS No. 6900, field OS No. 5000 and telecommunications site on the east of the proposed new A556; and Reference 7 – Rights of way and Access Plans Sheet 5 = New private means of access to field OS No. 9424, on the north of C113 Bucklow Hill Lane, 52m west of access to Maltkiln House. |
| | Reference d – Rights of Way and Access Plans Sheet 5 = Access to field OS No. 6900 on the south of C113 Bucklow Hill Lane, 368 metres west of its junction with A556 Chester Road. | The whole access | Reference 2 – Rights of Way and Access Plans Sheet 5 = New private means of access to field OS No. 4619, field OS No. 6900, field OS No. 5000 and telecommunications site on the east of the proposed new A556; and Reference 7 – Rights of way and Access Plans Sheet 5 = New private means of access to field OS No. 9424, on the north of C113 Bucklow Hill Lane, 52m west of access to Maltkiln House. |
| | Reference e – Rights of Way and Access Plans Sheet 5 = Access to the property known as Thornedge on the south of | The whole access | Reference 3 – Rights of Way and Access Plans Sheet 5 = New private means of access to the property known as |

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Street to be stopped up</i> | <i>(3)</i> <i>Extent of stopping up</i> | <i>(4)</i> <i>New street to be substituted</i> |
|---------------------------|--|--|--|
| | C114 Chapel Lane, 371 metres north west of its junction with A556 Chester Road. | | Thornedge on the south of the improved C114 Chapel Lane, in the same location as stopped up access Ref. e, but realigned to the improved C114 Chapel Lane |
| | Reference f – Rights of Way and Access Plans Sheet 5 = Access to field OS No. 9164 on the south of UW2104 Millington Hall Lane, 295 metres west of its junction with A556 Chester Road. | The whole access | Reference 6 – Rights of Way and Access Plans Sheet 5 = New private means of access between fields OS No. 9164 on the south of UW2104 Millington Hall Lane and field OS No. 1284 on the north of UW2104 Millington Hall Lane, 200 metres north west of the junction between UW2104 Millington Hall Lane and A556 Chester Road, northwards for a distance of 25 metres. |
| | Reference g – Rights of Way and Access Plans Sheet 5 = Access to field OS No. 0005 and field OS No. 1284, on the north of UW2104 Millington Hall Lane, 224 metres north west of its junction with A556 Chester Road. | The whole access | Reference 5 – Rights of Way and Access Plans Sheet 5 = New private means of access to field OS No. 0005 on the north of UW2104 Millington Hall Lane, 357 metres north west of its junction with A556 Chester Road and; Reference 6 – Rights of Way and Access Plans Sheet 5 (see above) |
| | Reference c – Rights of Way and Access Plans Sheet 5 = Access to field OS No. 5451 on the south of C114 Chapel Lane, 494 metres north west of its junction with A556 Chester Road. | The whole access | Reference 8 – Rights of way and Access Plans Sheet 5 = New private means of access to field OS No. 4263 & OS No. 5451 on south of C114 Chapel Lane, 86m east of junction with UW2103 Hulse Heath Lane; Reference 9 – Rights of way and Access Plans Sheet 5 = New private means of access to field OS No. 4263 & OS No. 5451 on south of C114 Chapel Lane, 185m east of junction with UW2103 Hulse Heath Lane; and Reference 10 – Rights of way and Access Plans |

| <i>(1)</i> Area | <i>(2)</i> Street to be stopped up | <i>(3)</i> Extent of stopping up | <i>(4)</i> New street to be substituted |
|--------------------|---------------------------------------|-------------------------------------|--|
| | | | Sheet 5 = New private means of access to field OS No. 7133, via private means of access (Reference 3) on south of C114 Chapel Lane, 120m west of Crescent Road |

Rights of Way and Access Plans – Sheet 6

| | | | |
|--|---------------------------|---|---|
| In the administrative area of Cheshire East Council — | Part of footpath MILL FP6 | From a point 13m west of its junction with MILL FP7, eastwards to its junction with MILL FP7. | Reference A – Rights of Way and Access Plans Sheet 6 = New footpath for MILL FP6 and MILL FP7, from a point 269 metres south of the access to Newhall Cottages, generally northwards for a distance of 571 metres. |
| | Part of footpath MILL FP7 | From a point 152 metres south of the junction of A556 Chester Road with UW2089 Cherry Tree Lane, generally westwards for a distance of 52 metres to its junction with MILL FP6, then generally in a north westerly direction for a distance of 63m. | Reference A – Rights of Way and Access Plans Sheet 6 (see above) |
| | C116 Millington Lane | From a point 40 metres northwest of its junction with the A556 Chester Road, north westwards for a distance of 60 metres. | Reference B – Rights of Way and Access Plans Sheet 6 = New highway from a point on the improved C116 Millington Lane, about 88 metres east of the access to Newhall Farm, generally eastwards for a distance of 162 metres, to connect to the improved C116 Millington Lane; to include the improvement of the existing C116 Millington Lane from a point 47 metres east of the access to Newhall Farm, eastwards for a distance of 46 metres; and to include the improvement of the existing C116 Millington Lane from its junction with the A556 Chester Road, westwards for a distance of 26 metres. |
| | A556 Chester Road | Eastern half width from a point 205 metres north of its junction with C116 Millington Lane, | Reference C – Rights of Way and Access Plans Sheet 6 = New highway from a point on the |

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Street to be stopped up</i> | <i>(3)</i> <i>Extent of stopping up</i> | <i>(4)</i> <i>New street to be substituted</i> |
|---------------------------|---|--|---|
| | | northwards for a distance of 524 metres, to its junction with UW2089 Cherry Tree Lane. | existing A556 Chester Road 205 metres north of its junction with C116 Millington Lane, northwards for a distance of 524 metres to connect to UW2089 Cherry Tree Lane; to include the improvement of the existing UW2089 Cherry Tree Lane at its junction with the A556 Chester Road, eastwards for a distance of 67 metres. |
| | Reference a – Rights of Way and Access Plans Sheet 6 = Access to field OS No. 4848, on the north of C116 Millington Lane, 160 metres west of its junction with A556 Chester Road. | The whole access | Reference 1 – Rights of Way and Access Plans Sheet 6 = New private means of access to field OS No. 4848, on the north of the improved C116 Millington Lane, 160 metres west of its junction with A556 Chester Road. |
| | Reference c – Rights of Way and Access Plans Sheet 6 = Access to Bucklow Manor Nursing Home, on the south of C116 Millington Lane, 46 metres west of its junction with A556 Chester Road. | The whole access | Reference 4 – Rights of Way and Access Plans Sheet 6 = New private means of access to Bucklow Manor Nursing Home, west of A556 Chester Road, 113 metres south of its junction with the improved C116 Millington Lane. |
| | Reference d – Rights of Way and Access Plans Sheet 6 = Access to Newhall Cottages on the west of A556 Chester Road 321 metres north of the junction of A556 Chester Road with C116 Millington Lane. | The whole access | Reference 3 – Rights of Way and Access Plans Sheet 6 = New private means of access to Newhall Cottages, Mereside Farm and fields OS No. 6173 and OS No. 6100, on the north of the improved C116 Millington Lane, 110 metres north west of its junction with A556 Chester Road, generally northwards for a total distance of 659 metres. |
| | Reference e – Rights of Way and Access Plans Sheet 6 = Access to field OS No. 6173, on the west of A556 Chester Road, 175 metres south of the junction of A556 Chester Road with UW2089 | The whole access | Reference 3 – Rights of Way and Access Plans Sheet 6 = New private means of access to Newhall Cottages, Mereside Farm and fields OS No. 6173 and OS No. 6100, on the north of the |

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Street to be stopped up</i> | <i>(3)</i> <i>Extent of stopping up</i> | <i>(4)</i> <i>New street to be substituted</i> |
|---------------------------|---|--|---|
| | Cherry Tree Lane. | | improved C116 Millington Lane, 110 metres north west of its junction with A556 Chester Road, generally northwards for a total distance of 659 metres. |
| | Reference f – Rights of Way and Access Plans Sheet 6 = Access to Mereside Farm on the west of A556 Chester Road, 79 metres south of the junction of A556 Chester Road with UW2089 Cherry Tree Lane. | The whole access | Reference 3 – Rights of Way and Access Plans Sheet 6 = New private means of access to Newhall Cottages, Mereside Farm and fields OS No. 6173 and OS No. 6100, on the north of the improved C116 Millington Lane, 110 metres north west of its junction with A556 Chester Road, generally northwards for a total distance of 659 metres. |
| | Reference g – Rights of Way and Access Plans Sheet 6 = Access to Mereside Farm on the west of A556 Chester Road, opposite the junction of A556 Chester Road with UW2089 Cherry Tree Lane. | The whole access | Reference 3 – Rights of Way and Access Plans Sheet 6 = New private means of access to Newhall Cottages, Mereside Farm and fields OS No. 6173 and OS No. 6100, on the north of the improved C116 Millington Lane, 110 metres north west of its junction with A556 Chester Road, generally northwards for a total distance of 659 metres. |

Rights of Way and Access Plans – Sheet 7

| | | | |
|--|-------------------|--|---|
| In the administrative area of Cheshire East Council — | Footpath ROS FP9 | From its junction with Yardwoodheath Lane, generally north eastwards for a distance of 552 metres to a point 18 metres southwest of Yarwoodheath Farm Access Bridge. | Reference C – Rights of Way and Access Plans Sheet 7 = New footpath from a point on the eastern boundary of Bowdon Roundabout Link 60 metres south of its junction with Bowdon Roundabout, generally south eastwards for a distance of 401 metres to join existing footpath ref. ROS FP9. |
| | Footpath ROS FP13 | From its junction with the A556 Chester Road, generally south eastwards for a distance of 744 metres to its junction with Tom Lane. | Reference D – Rights of Way and Access Plans Sheet 7 = New cycle track from the M56 J7/8 South Roundabout, southwards for a distance of 525 |

| <i>(1) Area</i> | <i>(2) Street to be stopped up</i> | <i>(3) Extent of stopping up</i> | <i>(4) New street to be substituted</i> |
|---------------------|--|--------------------------------------|--|
| | | | metres along the route of the re-aligned Yarwoodheath Lane, to the junction of Yarwoodheath Lane and Tom Lane. |
| | Reference a – Rights of Way and Access Plans Sheet 7 = Access to The Cheshire Lounge Public House on the western boundary of the A556 Chester Road, 46 metres north from the northern boundary of M56. | The whole access | Reference 1 – Rights of Way and Access Plans Sheet 7 = New private means of access for The Cheshire Lounge Public House and field OS No. 0643, on the south of A56 Lymm Road 172 metres west of its junction with Bowdon Roundabout, eastwards then southwards for a total distance of 707 metres. |
| | Reference b – Rights of Way and Access Plans Sheet 7 = Access to The Cheshire Lounge Public House on the western boundary of the A556 Chester Road, 68 metres north from the northern boundary of M56 | The whole access | Reference 1 – Rights of Way and Access Plans Sheet 7 (see above) |
| | Reference c – Rights of Way and Access Plans Sheet 7 = Access to field OS No. 0643, on the western boundary of the A556 Chester Road, 180 metres north from the northern boundary of M56. | The whole access | Reference 1 – Rights of Way and Access Plans Sheet 7 (see above) |
| | Reference d – Rights of Way and Access Plans Sheet 7 = Access to Yarwoodheath Lane and Yarwoodheath Farm from its junction with the A556 Chester Road. | The whole access | Reference 3 – Rights of Way and Access Plans Sheet 7 = New private means of access to Yarwoodheath Lane and Yarwoodheath Farm at the junction of the re-aligned Yarwoodheath Lane with M56 Junction 7/8 South Roundabout. |

PART 2

STREETS FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

| (1) <i>Area</i> | (2) <i>Street to be stopped up</i> | (3) <i>Extent of stopping up</i> |
|--|--|--|
| <i>Rights of Way and Access Plans – Sheet 4</i> | | |
| In the administrative area of Cheshire East Council — | C113 Bucklow Hill Lane | From a point 179 metres northeast of its junction with the access to Hulme Barns Farm, north eastwards for a distance of 183 metres. |
| | Reference c – Rights of Way and Access Plans Sheet 4 = Access to the field OS No. 2527 on the south west of the A50, 354 metres south east of its junction with UW2103 Hulse Heath Lane. | The whole access |
| | Reference e – Rights of Way and Access Plans Sheet 4 = Access to field OS No. 3746 on the north east of the A50, 481 metres south east of its junction with UW2103 Hulse Heath Lane. | The whole access |
| <i>Rights of Way and Access Plans – Sheet 5</i> | | |
| In the administrative area of Cheshire East Council — | C113 Bucklow Hill Lane | From a point 217 metres west of its junction with the A556 Chester Road, south westwards for a distance of 439 metres. |
| | UW2104 Millington Hall Lane | From a point 143 metres northwest of its junction with the A556 Chester Road, north westwards for a distance of 141 metres. |
| | Reference h – Rights of Way and Access Plans Sheet 5 = Access to field OS No. 2500, on the west of A556 Chester Road, 132 metres north of its junction with UW2104 Millington Hall Lane. | The whole access |
| <i>Rights of Way and Access Plans – Sheet 6</i> | | |
| In the administrative area of Cheshire East Council — | Reference b – Rights of Way and Access Plans Sheet 6 = Access to field OS No. 3930 on the south of C116 Millington Lane, 100 metres west of its junction with A556 Chester Road. | The whole access |
| <i>Rights of Way and Access Plans – Sheet 7</i> | | |

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Street to be stopped up</i> | <i>(3)</i> <i>Extent of stopping up</i> |
|--|--|--|
| In the administrative area of Cheshire East Council — | A556 Chester Road | Part of western width of the A556 Chester Road from the northern boundary of M56, northwards for a distance of 223 metres. |
| | M56 to A556 Spur | Part of southern width of the M56 to A556 Spur from a point 32 metres east of Bowdon roundabout, south eastwards for a distance of 330 metres. |

SCHEDULE 5

Article 20

LAND IN WHICH ONLY NEW RIGHTS ETC., MAY BE ACQUIRED

| <i>(1)</i> <i>Plot Reference Number</i> <i>shown on Land Plans</i> | <i>(2)</i> <i>Purpose for which rights over land may be acquired</i> |
|--|---|
| Land Plans - Sheet 2 | |
| 2/1b | New right for the construction, inspection and maintenance of a new highway drainage outfall pipe and headwall to Tabley Brook for the benefit of the Secretary of State for Transport. |
| 2/1i | New rights for the construction, inspection and maintenance of, and related rights for working spaces and access to, a new buried mains gas pipeline and equipment for the benefit of National Grid Plc and new ducting and equipment for Geo Networks Limited. |
| 2/2h | New right for the construction, inspection and maintenance of an unnamed watercourse diversion for the benefit of the Secretary of State for Transport. |
| 2/2i | New rights for the construction, inspection and maintenance of, and related rights for working spaces and access to, a new buried mains gas pipeline and equipment for the benefit of National Grid Plc and new ducting and equipment for Geo Networks Limited. |
| 2/4e | New rights for the construction, inspection and maintenance of, and related rights for working spaces and access to, a new buried mains gas pipeline and equipment for the benefit of National Grid Plc and new ducting and equipment for Geo Networks Limited. |
| 2/4h | New rights for the construction, inspection and maintenance of, and related rights for working spaces and access to, a new buried mains gas pipeline and equipment for the benefit of National Grid Plc and new ducting and equipment for Geo Networks Limited. |
| 2/8b | New right for the construction, inspection and maintenance of an unnamed watercourse diversion for the benefit of the Secretary of State for Transport. |
| 2/9c | New right for the construction, inspection and maintenance of the new Tabley Parish Hall retaining wall for the benefit of the Secretary of State for Transport. |
| Land Plans - Sheet 3 | |
| 3/1c | New right for the construction, inspection and maintenance of Tabley Brook watercourse diversion for the benefit of the Secretary of State for Transport. |
| 3/1e | New right for the construction, inspection and maintenance of Tabley Brook watercourse diversion for the benefit of the Secretary of State for Transport. |
| 3/1h | New right for the construction, inspection and maintenance of the new Green / Accommodation overbridge and access track for the benefit of the Secretary of State for Transport. |
| 3/1i | New right for the construction, inspection and maintenance of the new Green / Accommodation overbridge access track for the benefit of the Secretary of State for Transport. |
| 3/1m | New right for the construction, inspection and maintenance of the new Green / Accommodation overbridge and access track for the benefit of the Secretary of State for Transport. |

| <i>(1)</i> <i>Plot Reference Number shown on Land Plans</i> | <i>(2)</i> <i>Purpose for which rights over land may be acquired</i> |
|--|--|
| 3/2b | New right for the construction, inspection and maintenance of Tabley Brook watercourse diversion for the benefit of the Secretary of State for Transport. |
| 3/2d | New right for the construction, inspection and maintenance of Tabley Brook watercourse diversion for the benefit of the Secretary of State for Transport. |
| 3/2l | New right for the construction, inspection and maintenance of the new Green / Accommodation overbridge access track for the benefit of the Secretary of State for Transport. |
| 3/2m | New right for the construction, inspection and maintenance of a new ditch for the diversion of an unnamed watercourse to Tabley Brook for the benefit of the Secretary of State for Transport. |
| Land Plans - Sheet 5 | |
| 5/1c | New right for the construction, inspection and maintenance of a new buried multi-product pipeline and equipment for the benefit of Mainline Pipelines Limited. |
| 5/1i | New right for the construction, inspection and maintenance of a new buried multi-product pipeline and equipment for the benefit of Mainline Pipelines Limited. |
| 5/3b | New right for the construction, inspection and maintenance of a new buried multi-product pipeline and equipment for the benefit of Mainline Pipelines Limited. |
| 5/4b | New right for the construction, inspection and maintenance of a new buried multi-product pipeline and equipment for the benefit of Mainline Pipelines Limited. |
| Land Plans - Sheet 6 | |
| 6/1k, 6/1o, 6/1u and 6/1z | New rights for creation of a public right of way and private rights of way and for it to be laid out and maintained for the benefit of Cheshire East Council and the Secretary of State for Transport, and restrictions on the existing landowners not to interfere with the public right of way, its laying out, structural integrity, use and maintenance |
| 6/1m and 6/1v | New rights for the creation of a public right of way and private rights of way and for it to be laid out and maintained for the benefit of Cheshire East Council and the Secretary of State for Transport, a new right for the construction, inspection and maintenance of a buried pipeline and equipment for the benefit of United Utilities Water plc, and restrictions on the existing landowners not to interfere with the public right of way, its laying out, structural integrity, use and maintenance |
| 6/1n | New right for the construction, inspection and maintenance of a new buried water pipeline and equipment for the benefit of United Utilities Water Plc. |
| 6/1r | New right for the construction, inspection and maintenance of a new buried water pipeline and equipment for the benefit of United Utilities Water Plc. |
| 6/1x | New right for the construction, inspection and maintenance of a new buried water pipeline and equipment for the benefit of United Utilities Water Plc. |
| 6/3b | New right for the construction, inspection, maintenance and protection of a new engineered earthworks slope for the benefit of the Secretary of State for Transport. |
| 6/6a | New right for the construction, inspection and maintenance of the new Cherry Tree Lane retaining wall for the benefit of Cheshire East Council. |

| <i>(1)</i> <i>Plot Reference Number shown on Land Plans</i> | <i>(2)</i> <i>Purpose for which rights over land may be acquired</i> |
|--|---|
| Land Plans - Sheet 7 | |
| 7/4m, 7/4p, 7/4q, 7/4r, 7/4s, 7/4t, 7/4u, 7/4v, 7/4w, 7/4x, 7/4y, 7/4z, 7/4aa, and 7/4ab | New rights for the creation of a public right of way and for it and associated drainage to be laid out and maintained for the benefit of Cheshire East Council and the Secretary of State for Transport, and restrictions on the existing landowners not to interfere with the public right of way, its laying out, structural integrity, use and maintenance |
| 7/4ag | New right for the construction, inspection and maintenance of a new highway drainage outfall pipe, headwall and overflow channel/pipe to the River Bollin for the benefit of the Secretary of State for Transport. |
| 7/4ak | New right for the construction, inspection and maintenance of a new retaining wall and construction, inspection and maintenance of a new culvert and highway drainage outfall to Birkin Brook for the benefit of the Secretary of State for Transport. |
| 7/4al | New right for the construction, inspection and maintenance of a new culvert and highway drainage outfall to Birkin Brook for the benefit of the Secretary of State for Transport. |
| 7/4an | New right for the construction, inspection and maintenance of a new retaining wall for the benefit of the Secretary of State for Transport. |
| 7/6a | New right for the construction, inspection and maintenance of a new highway drainage outfall pipe, headwall and overflow channel/pipe to the River Bollin for the benefit of the Secretary of State for Transport. |
| 7/6d | New right for the construction, inspection and maintenance of a new retaining wall for the benefit of the Secretary of State for Transport. |

MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS

Compensation enactments

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land shall apply, with the necessary modifications as respects compensation, in the case of a compulsory acquisition under this Order of a right by the creation of a new right as they apply as respects compensation on the compulsory purchase of land and interests in land.

2.—(1) Without prejudice to the generality of paragraph 1, the Land Compensation Act 1973(a) has effect subject to the modifications set out in sub-paragraphs (2) and (3).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 of the 1965 Act as substituted by paragraph 4—

- (a) for the words “land is acquired or taken” there shall be substituted the words “a right or restrictive covenant over land is purchased from or imposed on”; and
- (b) for the words “acquired or taken from him” there shall be substituted the words “over which the right is exercisable or the restrictive covenant enforceable”.

(3) In section 58(1) (determination of material detriment where part of house etc. proposed for compulsory acquisition), as it applies to determinations under section 8 of the 1965 Act as substituted by paragraph 5—

- (a) for the word “part” in paragraphs (a) and (b) there shall be substituted the words “a right over or restrictive covenant affecting land consisting”;
- (b) for the word “severance” there shall be substituted the words “right or restrictive covenant over or affecting the whole of the house, building or manufactory or of the house and the park or garden”;
- (c) for the words “part proposed” there shall be substituted the words “right or restrictive covenant proposed”; and
- (d) for the words “part is” there shall be substituted the words “right or restrictive covenant is”.

Application of the 1965 Act

3.—(1) The 1965 Act shall have effect with the modifications necessary to make it apply to the compulsory acquisition under this Order of a right by the creation of a new right, or to the imposition under this Order of a restrictive covenant, as it applies to the compulsory acquisition under this Order of land, so that, in appropriate contexts, references in that Act to land are read (according to the requirements of the particular context) as referring to, or as including references to—

- (a) the right acquired or to be acquired; or
- (b) the land over which the right is or is to be exercisable.

(2) Without prejudice to the generality of sub-paragraph (1), Part 1 of the 1965 Act shall apply in relation to the compulsory acquisition under this Order of a right by the creation of a new right with the modifications specified in the following provisions of this Schedule.

(a) 1973 c. 26.

4. For section 7 of the 1965 Act (measure of compensation) there shall be substituted the following section—

“7. In assessing the compensation to be paid by the acquiring authority under this Act, regard shall be had not only to the extent (if any) to which the value of the land over which the right is to be acquired or the restrictive covenant is to be imposed is depreciated by the acquisition of the right or the imposition of the covenant but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”.

5. For section 8 of the 1965 Act (provisions as to divided land) there shall be substituted the following section—

“8.—(1) Where in consequence of the service on a person under section 5 of this Act of a notice to treat in respect of a right over land consisting of a house, building or manufactory or of a park or garden belonging to a house (“the relevant land”)—

- (a) a question of disputed compensation in respect of the purchase of the right or the imposition of the restrictive covenant would apart from this section fall to be determined by the Upper Tribunal (“the tribunal”); and
- (b) before the tribunal has determined that question the tribunal is satisfied that the person has an interest in the whole of the relevant land and is able and willing to sell that land and—
 - (i) where that land consists of a house, building or manufactory, that the right cannot be purchased or the restrictive covenant imposed without material detriment to that land; or
 - (ii) where that land consists of such a park or garden, that the right cannot be purchased or the restrictive covenant imposed without seriously affecting the amenity or convenience of the house to which that land belongs,

the A556 (Knutsford to Bowdon) Development Consent Order 201[](a) (“the Order”), in relation to that person, ceases to authorise the purchase of the right and is deemed to authorise the purchase of that person’s interest in the whole of the relevant land including, where the land consists of such a park or garden, the house to which it belongs, and the notice is deemed to have been served in respect of that interest on such date as the tribunal directs.

(2) Any question as to the extent of the land in which the Order is deemed to authorise the purchase of an interest by virtue of subsection (1) of this section is to be determined by the tribunal.

(3) Where in consequence of a determination of the tribunal that it is satisfied as mentioned in subsection (1) of this section the Order is deemed by virtue of that subsection to authorise the purchase of an interest in land, the acquiring authority may, at any time within the period of 6 weeks beginning with the date of the determination, withdraw the notice to treat in consequence of which the determination was made; but nothing in this subsection prejudices any other power of the authority to withdraw the notice.”.

6. The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

- (a) section 9(4) (failure by owners to convey);
- (b) paragraph 10(3) of Schedule 1 (owners under incapacity);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

(a) S.I. 201[]/ []

are modified so as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired or the restrictive covenant which is to be imposed is vested absolutely in the acquiring authority.

7. Section 11 of the 1965 Act (powers of entry) is modified so as to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant (which is deemed for this purpose to have been created on the date of service of the notice); and sections 12 (penalty for unauthorised entry) and 13 (entry on warrant in the event of obstruction) of the 1965 Act are modified correspondingly.

8. Section 20 of the 1965 Act (protection for interests of tenants at will, etc.) applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right or the enforcement of the restrictive covenant in question.

9. Section 22 of the 1965 Act (interests omitted from purchase) is modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

SCHEDULE 7

Article 26

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

| (1) <i>Location</i> | (2) <i>Plot Reference Number(s) shown on Land Plans</i> | (3) <i>Purpose for which temporary possession may be taken</i> | (4) <i>Relevant part of the authorised development</i> |
|--|--|---|---|
| <i>Land Plans – Sheet 1</i> | | | |
| In the administrative area of Cheshire East Council — | 1/1a, 1/1b & 1/2 | Required to enable the improvement of the M6 southbound carriageway between M6 Junction 19 and Knutsford Services. This would include localised pavement widening within the highway boundary, provision of a new southbound merge layout from M6 junction 19 and other associated highway works. | Work No.3 |
| <i>Land Plans – Sheet 2</i> | | | |
| In the administrative area of Cheshire East Council — | 2/1f, 2/2f, 2/4c, 2/4f and 2/4j | Required to provide working space for the new A556 Trunk Road, top soil storage areas and material storage. | Work No. 1 and Work No. 5 |
| | 2/1j, 2/1l and 2/4k | Required to provide working space for the gas main diversion, top soil storage areas and material storage | Work No. 5 |
| | 2/2d and 2/4a | Required to provide a temporary drainage and attenuation facility. | All works |
| | 2/2b, 2/2g and 2/8e | Required to enable the construction of new private means of access. | Work No. 1 |
| | 2/2j, 2/6f, 2/7c, 2/8f, 2/8g and 2/8h | Required to enable the construction of new private means of access | Work No. 1 and Work No. 4 |
| | 2/3b, 2/3c, 2/5b (part), 2/10a and 2/10b (part) | Required to enable the improvements to M6 J19, part of the de-trunking of the existing A556 Trunk Road and the stopping up of the existing A556 Trunk Road at its junction with M6 Junction 19 to enable the construction of a new non-motorised user link. | Work No. 1 |
| | 2/3d, 2/5b (part), 2/5c, 2/10b (part) and 2/10d | Required to enable works associated with the de-trunking of the existing A556 Trunk Road, and the subsequent improvement. To generally include the reduction of current road cross section to single carriageway, the modification of adjoining side road junctions, the construction of a new non-motorised user facility and the construction of bunding between the single carriageway road and non-motorised user facility. | Work No. 4 |

| <i>(1)</i> <i>Location</i> | <i>(2)</i> <i>Plot Reference Number(s) shown on Land Plans</i> | <i>(3)</i> <i>Purpose for which temporary possession may be taken</i> | <i>(4)</i> <i>Relevant part of the authorised development</i> |
|-------------------------------|---|---|--|
| | 2/4l | Required to enable the construction of new private means of access. | Work No. 4(d) |
| | 2/4m | Required to provide working space for the new A556 Trunk Road and for works associated with the re-alignment of an existing mains gas pipeline | Work No. 1 and Work No. 5 |
| | 2/8d | Required as part of the works associated with the de-trunking of the A556 to include material storage. | Work No. 4 |
| | 2/1h, 2/2e, 2/4d and 2/4g | Required to provide working space for the new A556 Trunk Road and for works associated with the re-alignment of an existing mains gas pipeline. | Work No. 5 |

Land Plans – Sheet 3

| | | | |
|--|--------------------------------|---|----------------------------|
| In the administrative area of Cheshire East Council — | 3/1a (part), 3/1n and 3/2o | Required to provide working space, top soil storage areas and material storage. | Work No. 1 |
| | 3/1a (part) | Required to provide a temporary drainage and attenuation facility. | Work No. 1 |
| | 3/1d | Required as a structure laydown area for the construction of the new Green / Accommodation Overbridge. | Work No. 1(q), (r) and (s) |
| | 3/2e, 3/2g, 3/q, 3/2r and 3/2s | Required to enable the construction of a new private means of access. | Work No. 1 |
| | 3/2p and 3/7 | Required to enable the construction of new private means of access | Work No. 4 |
| | 3/3c, 3/3d, 3/4, 3/5 and 3/6 | Required to enable part of the works associated with the de-trunking of the existing A556 Trunk Road, and the subsequent improvement. To generally include the reduction of current road cross section to single carriageway, the modification of adjoining side road junctions, the construction of a new non-motorised user facility, the construction of bunding between the single carriageway road and non-motorised user facility and the improvement of the Mere Crossroads junction with the A50. | Work No. 4 |

Land Plans – Sheet 4

| | | | |
|--|----------------------|---|------------|
| In the administrative area of Cheshire East Council — | 4/7e, 4/7f and 4/7g | Required to enable the construction of new private means of access | Work No. 4 |
| | 4/4l | Required to provide working space, top soil storage areas and material storage. | Work No. 1 |
| | 4/4e, 4/4j, and 4/4m | Required to provide working space, top soil storage areas and material storage. | All works |

| <i>(1)</i> <i>Location</i> | <i>(2)</i> <i>Plot Reference Number(s) shown on Land Plans</i> | <i>(3)</i> <i>Purpose for which temporary possession may be taken</i> | <i>(4)</i> <i>Relevant part of the authorised development</i> |
|-------------------------------|---|---|--|
| | 4/4i | Required for the provision of a site compound, including but not limited to site offices, welfare facilities, parking for workers' private vehicles and works vehicles, storage of plant, material and top soil and the treatment of site-generated waste. | All works |
| | 4/2d, 4/2l, 4/4a, 4/4b, 4/4o, 4/4r and 4/7a | Required to enable the construction of new private means of access. | Work No. 1 |
| | 4/1d and 4/9 | Required to enable part of the works associated with the de-trunking of the existing A556 Trunk Road, and the subsequent improvement. To generally include the reduction of current road cross section to single carriageway, the modification of adjoining side road junctions, the construction of a new non-motorised user facility, the construction of bunding between the single carriageway road and non-motorised user facility and alterations to the A50. | Work No. 4 |

Land Plans – Sheet 5

| | | | |
|--|---|---|---------------------------|
| In the administrative area of Cheshire East Council — | 5/1e | Required to provide working space, top soil storage areas and material storage. | Work No. 1 and Work No. 6 |
| | 5/1j | Required as a structure laydown area for the construction of the new Chapel Lane Overbridge. | Work No. 1(x) and (y) |
| | 5/1p | Required to enable the construction of new private means of access | Work No. 1 and Work No. 4 |
| | 5/3j, 5/3m, 5/3n, 5/3o and 5/3p | Required to enable the construction of new private means of access. | Work No. 1 |
| | 5/2e, 5/2f, 5/2h, 5/2i and 5/6a | Required to enable part of the works associated with the de-trunking of the existing A556 Trunk Road, and the subsequent improvement. To generally include the reduction of current road cross section to single carriageway, the modification of adjoining side road junctions, the construction of a new non-motorised user facility and the construction of bunding between the single carriageway road and non-motorised user facility. | Work No. 4 |
| 5/1b, 5/1d, 5/1h, 5/3a, 5/3c and 5/4a | Required to provide working space for the new A556 Trunk Road and for works associated with the re-alignment of an existing multi-product pipeline. | Work No. 6 | |

Land Plans – Sheet 6

| <i>(1)</i> <i>Location</i> | <i>(2)</i> <i>Plot Reference Number(s) shown on Land Plans</i> | <i>(3)</i> <i>Purpose for which temporary possession may be taken</i> | <i>(4)</i> <i>Relevant part of the authorised development</i> |
|--|---|---|--|
| In the administrative area of Cheshire East Council — | 6/1c and 6/1d | Required to provide working space, top soil storage areas and material storage. | Work No. 1 and Work No. 4 |
| | 6/1a, 6/1aa and 6/3d | Required to enable the construction of new private means of access. | Work No. 1 |
| | 6/3e | Required to enable the construction of a new temporary private means of access. | Work No. 1 |
| | 6/6b | Required to provide working space to construct a new retaining wall. | Work No. 1(ii) |
| | 6/1f | Required as a structure laydown area for the construction of the new Millington Lane Overbridge. | Work No. 1(ff) and Work No. 7 |
| | 6/2c and 6/4a | Required to enable part of the works associated with the de-trunking of the existing A556 Trunk Road, and the subsequent improvement. To generally include the reduction of current road cross section to single carriageway, the modification of adjoining side road junctions, the construction of a new non-motorised user facility and the construction of bunding between the single carriageway road and non-motorised user facility. | Work No. 4 |
| <i>Land Plans – Sheet 7</i> | | | |
| In the administrative area of Cheshire East Council — | 7/1a | Required to provide working space, top soil storage areas and material storage. | Work No. 1 and Work No. 7 |
| | 7/1b, 7/4c, 7/4g, 7/4h, 7/4i, 7/4k, 7/4l, 7/4n and 7/4ah | Required to provide working space, top soil storage areas and material storage | Work No. 1 |
| | 7/1d, 7/1h and 7/1l | Required to provide working space, top soil storage areas and material storage | All works |
| | 7/1e | Required for the provision of a site compound, including but not limited to site offices, welfare facilities, parking for workers' private vehicles and works vehicles, storage of plant, material and top soil and the treatment of site-generated waste. | All works |

| <i>(1)</i> <i>Location</i> | <i>(2)</i> <i>Plot Reference Number(s) shown on Land Plans</i> | <i>(3)</i> <i>Purpose for which temporary possession may be taken</i> | <i>(4)</i> <i>Relevant part of the authorised development</i> |
|-------------------------------|---|---|--|
| | 7/4ab | Required to enable the improvement and re-alignment of Yarwoodheath Lane. | Work No. 1 |
| | 7/4j, 7/4ac, 7/4ad and 7/4ae | Required to enable the construction of new private means of access. | Work No. 1 |
| | 7/4f | Required as a structure laydown area for the construction of the new Bowdon Roundabout Link Overbridge. | Work No. 1(mm) |
| | 7/2a, 7/2d, 7/2e and 7/3b | Required to enable the improvement of the M56 westbound carriageway and merge from the A556, in the vicinity of the existing Chester Road Bridge. This would include relining of the carriageway and temporary traffic management and temporary alterations to the M56. | Work No. 1 |
| | 7/2k | Required to enable the improvement of the M56 eastbound diverge at Junction 7/8. This would include relining of the carriageway. | Work No. 1 |

PROTECTIVE PROVISIONS

PART 1

FOR THE PROTECTION OF ELECTRICITY, GAS, OIL, WATER AND
SEWERAGE UNDERTAKERS

1. For the protection of the undertakers referred to in this part of this Schedule the following provisions shall, unless otherwise agreed in writing between the Secretary of State and the undertaker concerned, have effect.

2. In this Part of this Schedule—

“alternative apparatus” means alternative apparatus adequate to enable the undertaker in question to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means—

- (a) in the case of an electricity undertaker, electric lines or electrical plant (as defined in the Electricity Act 1989(a)), belonging to or maintained by that undertaker;
- (b) in the case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by a gas transporter within the meaning of Part 1 of the Gas Act 1986 for the purposes of gas supply;
- (c) in the case of a water undertaker, mains, pipes or other apparatus belonging to or maintained by that undertaker for the purposes of water supply; and
- (d) in the case of a sewerage undertaker—
 - (i) any drain or works vested in the undertaker under the Water Industry Act 1991(b); and
 - (ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) of that Act or an agreement to adopt made under section 104 of that Act,

and includes a sludge main, disposal main (within the meaning of section 219 of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works,

- (e) in the case of Mainline Pipelines Limited, any oil apparatus,

and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“functions” includes powers and duties;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over or upon land;

“oil apparatus” means any pipeline, apparatus and works as described in section 65(2) Pipelines Act 1962 and all protective wrappings, sleeves and slabs, together with ancillary cables and markers; and such legal interest, and benefit of property rights and covenants as are vested in Mainline Pipelines Limited in respect of such items;

(a) 1989 c. 29.

(b) 1991 c. 56.

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed;

“undertaker” means—

- (f) any licence holder within the meaning of Part 1 of the Electricity Act 1989;
 - (g) a gas transporter within the meaning of Part 1 of the Gas Act 1986(a);
 - (h) a water undertaker within the meaning of the Water Industry Act 1991; and
 - (i) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991,
 - (j) Mainline Pipelines Limited and its successors in title and function,
- for the area of the authorised development, and in relation to any apparatus, means the undertaker to whom it belongs or by whom it is maintained.

On street apparatus

3. This part of this Schedule does not apply to apparatus in respect of which the relations between the Secretary of State and the undertaker are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus in stopped up streets

4. —(1) Where any street is stopped up under article 11 (permanent stopping up of streets), any undertaker whose apparatus is in the street shall have the same powers and rights in respect of that apparatus as it enjoyed immediately before the stopping up and the Secretary of State will grant to the undertaker legal easements reasonably satisfactory to the undertaker in respect of such apparatus and access to it, but nothing in this paragraph shall affect any right of the Secretary of State or of the specified undertaker to require the removal of that apparatus under paragraph 7 or the power of the Secretary of State to carry out works under paragraph 9.

(2) Notwithstanding the temporary stopping up or diversion of any highway under the powers of article 12 (temporary stopping up of streets), an undertaker shall be at liberty at all times to take all necessary access across any such stopped up highway and/or to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway.

Protective works to buildings

5. The Secretary of State, in the case of the powers conferred by article 16 (protective work to buildings), shall so exercise those powers as not to obstruct or render less convenient the access to any apparatus.

Acquisition of land

6. Regardless of any provision in this Order or anything shown on the land plans, the Secretary of State shall not acquire any apparatus otherwise than by agreement.

Removal of apparatus

7.—(1) If, in the exercise of the powers conferred by this Order, the Secretary of State acquires any interest in any land in which any apparatus is placed or over which access to any apparatus is enjoyed or requires that the undertaker’s apparatus is relocated or diverted, that apparatus shall not be removed under this part of this Schedule and any right of an undertaker to maintain that apparatus in that land and to gain access to it shall not be extinguished until alternative apparatus

(a) 1986 c. 44. A new section 7 was substituted by section 5 of the Gas Act 1995 (c.45), and was further amended by section 76 of the Utilities Act 2000 (c. 27).

has been constructed and is in operation, and access to it has been provided, to the reasonable satisfaction of the undertaker in question in accordance with sub-paragraphs (2) to (7).

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the Secretary of State requires the removal of any apparatus placed in that land, he shall give to the undertaker in question 56 days' written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order an undertaker reasonably needs to remove any of its apparatus) the Secretary of State shall, subject to sub-paragraph (3), afford to the undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the Secretary of State and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the Secretary of State, or the Secretary of State is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed,

- (a) the undertaker in question (but not Mainline Pipelines Limited) shall, on receipt of a written notice to that effect from the Secretary of State, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed; and
- (b) the Secretary of State shall afford to and, if necessary, acquire for the benefit of Mainline Pipelines Limited the necessary facilities and rights (equivalent to those currently enjoyed by Mainline Pipelines Limited) for the construction, maintenance and use of the alternative apparatus and access to it.

(4) Any alternative apparatus to be constructed in land of the Secretary of State under this part of this Schedule shall be constructed in such manner and in such line or situation as may be agreed between the undertaker in question and the Secretary of State or in default of agreement settled by arbitration in accordance with article 36 (arbitration).

(5) The undertaker in question shall, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 36, and after the grant to the undertaker of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the Secretary of State to be removed under the provisions of this part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if the Secretary of State gives notice in writing to the undertaker in question that he desires himself to execute any work, or part of any work in connection with the construction or removal of apparatus in any land of the Secretary of State, that work, instead of being executed by the undertaker, shall be executed by the Secretary of State without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the undertaker.

(7) Nothing in sub-paragraph (6) shall authorise the Secretary of State to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within—

- (a) 300 millimetres of apparatus other than oil apparatus; and
- (b) 3000 millimetres of oil apparatus.

(8) Sub-paragraphs (6) and (7) shall apply to Mainline Pipelines Limited and its apparatus only if it fails to comply with its obligations under sub-paragraph (5).

Facilities and rights for alternative apparatus

8.—(1) Where, in accordance with the provisions of this part of this Schedule, the Secretary of State affords to an undertaker facilities and rights for the construction and maintenance in land of the Secretary of State of alternative apparatus in substitution for apparatus to be removed, those facilities and rights shall be granted upon such terms and conditions as may be agreed between the

Secretary of State and the undertaker in question or in default of agreement settled by arbitration in accordance with article 36 (arbitration).

(2) If the facilities and rights to be afforded by the Secretary of State in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to the undertaker in question than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator shall make such provision for the payment of compensation by the Secretary of State to that undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus

9.—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus the removal of which has not been required by the Secretary of State under paragraph 7(2), the Secretary of State shall submit to the undertaker in question a plan of the works to be executed.

(2) Those works shall be executed only in accordance with the plan submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the undertaker shall be entitled to watch and inspect the execution of those works.

(3) Any requirements made by an undertaker under sub-paragraph (2) shall be made within a period of 21 days beginning with the date on which a plan under sub-paragraph (1) are submitted to it.

(4) If an undertaker in accordance with sub-paragraph (3) and in consequence of the works proposed by the Secretary of State, reasonably requires the removal of any apparatus and gives written notice to the Secretary of State of that requirement, paragraphs 1 to 3 and 6 to 8 shall apply as if the removal of the apparatus had been required by the Secretary of State under paragraph 7(2).

(5) Nothing in this paragraph shall preclude the Secretary of State from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan instead of the plan previously submitted, and having done so the provisions of this paragraph shall apply to and in respect of the new plan.

(6) The Secretary of State shall not be required to comply with sub-paragraph (1) in a case of emergency but in that case it shall give to the undertaker in question notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable subsequently and shall comply with sub-paragraph (3) in so far as is reasonably practicable in the circumstances.

(7) In relation to works which will or may be situated on, over, under or within 15 metres measured in any direction of any oil apparatus, or (wherever situated) impose any load directly upon any oil apparatus or involve embankment works within 15 metres of any oil apparatus, the plan to be submitted to the undertaker under sub-paragraph (1) shall be detailed including a material statement and describing—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal;
- (d) the position of all oil apparatus; and
- (e) by way of detailed drawings, every alteration proposed to be made to such apparatus.

(8) In relation to works which will or may be situated on, over, under or within 30 metres measured in any direction of any electricity apparatus, or involve embankment works within 30

metres of any electricity apparatus, the plan to be submitted to the undertaker under sub-paragraph (1) shall be detailed including a material statement and describing—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal;
- (d) the position of all electricity apparatus; and
- (e) by way of detailed drawings, every alteration proposed to be made to such apparatus.

Expenses and costs

10.—(1) Subject to the following provisions of this paragraph, the Secretary of State shall repay to an undertaker all expenses reasonably incurred by that undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 7(2), including any costs reasonably incurred in connection with the acquisition of rights under paragraph 7(3), and in watching and inspecting the execution of works under paragraph 9(2) and in making reasonable requirements under paragraph 9(3).

(2) There shall be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Schedule, that value being calculated after removal.

(3) If in accordance with the provisions of this part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the Secretary of State or, in default of agreement, is not determined by arbitration in accordance with article 36 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the undertaker in question by virtue of sub-paragraph (1) shall be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus shall not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole shall be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to an undertaker in respect of works by virtue of sub-paragraph (1) shall, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

11.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of the authorised development or any such works referred to in paragraphs 5 or 7(2), or 9(1), or by reason of any subsidence resulting from such development or works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property

of an undertaker, or there is any interruption in any service provided or of any access to any apparatus, or in the supply of any goods, by any undertaker, the Secretary of State shall—

- (a) bear and pay the cost reasonably incurred by that undertaker in making good such damage or restoring the supply; and
- (b) make reasonable compensation to that undertaker for any other expenses, loss, damages, penalty or costs incurred by the undertaker,

by reason or in consequence of any such damage or interruption.

(2) The fact that any act or thing may have been done by an undertaker on behalf of the Secretary of State or in accordance with a plan approved by an undertaker or in accordance with any requirement of an undertaker or under its supervision shall not, subject to sub-paragraph (3), excuse the Secretary of State from liability under the provisions of sub-paragraph (1).

(3) Nothing in sub-paragraph (1) shall impose any liability on the Secretary of State with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an undertaker, its officers, servants, contractors or agents.

(4) An undertaker shall give the Secretary of State reasonable notice of any such claim or demand and no settlement or compromise shall be made without the consent of the Secretary of State and, if he withholds such consent, he shall have the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

Cooperation

12. Where in consequence of the proposed construction of any of the authorised development, the Secretary of State or an undertaker requires the removal of apparatus under paragraph 7(2) or an undertaker makes requirements for the protection or alteration of apparatus under paragraph 9, the Secretary of State shall use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of the undertaker's undertaking and each undertaker shall use its best endeavours to co-operate with the Secretary of State for that purpose

13. Nothing in this Part of this Schedule shall affect the provisions of any enactment or agreement regulating the relations between the Secretary of State and an undertaker in respect of any apparatus laid or erected in land belonging to the Secretary of State on the date on which this Order is made.

PART 2

FOR THE PROTECTION OF OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

14. For the protection of any operator, the following provisions shall, unless otherwise agreed in writing between the Secretary of State and the operator, have effect.

15. In this part of this Schedule—

“the 2003 Act” means the Communications Act 2003(a);

“conduit system” has the same meaning as in the electronic communications code and references to providing a conduit system shall be construed in accordance with paragraph 1(3A) of that code;

(a) 2003 c.21.

“electronic communications apparatus” has the same meaning as in the electronic communications code;

“the electronic communications code” has the same meaning as in Chapter 1 of Part 2 of the 2003 Act^(a);

“electronic communications code network” means—

- (a) so much of an electronic communications network or conduit system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 of the 2003 Act; and
- (b) an electronic communications network which the Secretary of State is providing or proposing to provide;

“electronic communications code operator” means a person in whose case the electronic communications code is applied by a direction under section 106 of the 2003 Act; and

“operator” means the operator of an electronic communications code network.

16. The exercise of the powers of article 27 (statutory undertakers) are subject to paragraph 23 of Schedule 2 to the Telecommunication Act 1984^(b) (undertaker’s works).

17.—(1) Subject to sub-paragraphs (2) to (4), if as the result of the authorised development or their construction, or of any subsidence resulting from any of those works—

- (a) any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works, or other property of an operator); or
- (b) there is any interruption in the supply of the service provided by an operator,

the Secretary of State shall bear and pay the cost reasonably incurred by the operator in making good such damage or restoring the supply and make reasonable compensation to that operator for any other expenses, loss, damages, penalty or costs incurred by it, by reason, or in consequence of, any such damage or interruption.

(2) Nothing in sub-paragraph (1) shall impose any liability on the Secretary of State with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an operator, its officers, servants, contractors or agents.

(3) The operator must give the Secretary of State reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand shall be made without the consent of the Secretary of State which, if it withholds such consent, shall have the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) Any difference arising between the Secretary of State and the operator under this Part of this Schedule shall be referred to and settled by arbitration under article 36 (arbitration).

(5) This Part of this Schedule shall not apply to—

- (a) any apparatus in respect of which the relations between the Secretary of State and an operator are regulated by the provisions of Part 3 of the 1991 Act; or
- (b) any damages, or any interruptions, caused by electro-magnetic interference arising from the construction or use of the authorised development.

(6) Nothing in this Part of this Schedule shall affect the provisions of any enactment or agreement regulating the relations between the Secretary of State and an operator in respect of any apparatus laid or erected in land belonging to the Secretary of State on the date on which this Order is made.

(a) See section 106.

(b) 1984 c. 12.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises the Secretary of State to construct a dual carriageway between the M6 and M56 to be known as the A556 and carry out all associated works.

The Order would permit the Secretary of State to acquire, compulsorily or by agreement, land and rights in land and to use land for this purpose.

The Order also makes provision in connection with the maintenance of the new section of highway.

A copy of the plans, engineering drawings and sections and the book of reference [and environmental statement] mentioned in this Order and certified in accordance with article 34 of this Order (certification of plans, etc.) may be inspected free of charge during working hours at [].

STATUTORY INSTRUMENTS

201[] No.

INFRASTRUCTURE PLANNING

The A556 (Knutsford to Bowdon Improvement) Development
Consent Order 201[]

BIRCHAM DYSON BELL LLP
50 Broadway
London SW1H 0BL
Solicitors and Parliamentary Agents
[9218609.09 — 23.04.13]

ANNEX I

STATUTORY INSTRUMENTS

201[] No.

INFRASTRUCTURE PLANNING

The A556 (Knutsford to Bowdon Improvement) Development Consent Order 201[]

Made - - - -

*** 201[]

Coming into force - -

*** 201[]

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 - 32. Defence to proceedings in respect of statutory nuisance
 - 33. Protection of interests
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SCHEDULES

- Schedule 1 — Authorised development
- Schedule 2 — Requirements
- Schedule 3 — Classification of roads etc.
 - Part 1 — Special roads
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 - Part 3 — Roads to be de-trunked
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- Schedule 4 — Permanent stopping up of streets
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- Schedule 5 — Land in which only new rights etc., may be acquired
- Schedule 6 — Modification of compensation and compulsory purchase enactments for creation of new rights
- Schedule 7 — Land of which temporary possession may be taken
- Schedule 8 — Protective provisions
 - Part 1 — For the protection of electricity, gas, water and sewerage undertakers
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An application has been made to the Secretary of State, in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(a) for an Order under sections 37, 114, 115, 120 and 122 of the Planning Act 2008(b).

[The application was examined by a single appointed person (appointed by the Secretary of State) in accordance with Chapter 4 of Part 6 of the 2008 Act, and the Infrastructure Planning (Examination Procedure) Rules 2010(c).]

[The single appointed person, having considered the representations made and not withdrawn and the application together with the accompanying documents, in accordance with section 83 of the 2008 Act, has submitted a report to the Secretary of State.]

[The Secretary of State, having considered the representations made and not withdrawn, and the report of the single appointed person, has decided to make an Order granting development consent for the development described in the application with modifications which in the opinion of the Secretary of State do not make any substantial changes to the proposals comprised in the application.]

The Secretary of State, in exercise of the powers conferred by sections 114, 115, 120 and 122 of, and paragraphs 1 to 3, 10 to 17, 24, 26, 36 and 37 of Part 1 of Schedule 5 to, the 2008 Act, makes the following Order—

PART 1 PRELIMINARY

Citation and commencement

1. This Order may be cited as the A556 (Knutsford to Bowdon Improvement) Development Consent Order 201[] and comes into force on [] 201[].

Interpretation

2.—(1) In this Order—

“the 1961 Act” means the Land Compensation Act 1961(d);

“the 1965 Act” means the Compulsory Purchase Act 1965(e);

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- (a) S.I. 2009/2264
(b) 2008 c.29.
(c) S.I. 2010/103.
(d) 1961 c.33. Section 2(2) was amended by section 193 of, and paragraph 5 of Schedule 33 to, the Local Government, Planning and Land Act 1980 (c.65). There are other amendments to the 1980 Act which are not relevant to this Order.
(e) 1965 c.56. Section 3 was amended by section 70 of, and paragraph 3 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34). Section 4 was amended by section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c.71). Section 5 was amended by sections 67 and 80 of, and Part 2 of Schedule 18 to, the Planning and Compensation Act 1991 (c.34). Section 11(1) and sections 3, 31 and 32 were amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c.67) and by section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No.1). Section 12 was amended by section 56(2) of, and Part 1 to Schedule 9 to, the Courts Act 1971 (c.23). Section 13 was amended by section 139 of the Tribunals, Courts and Enforcement Act 2007 (c.15). Section 20 was amended by section 70 of, and paragraph 14 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34). Sections 9, 25 and 29 were amended by the Statute Law (Repeals) Act 1973 (c.39). Section 31 was also amended by section 70 of, and paragraph 19 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34) and by section 14 of, and paragraph 12(2) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No.1). There are other amendments to the 1965 Act which are not relevant to this Order.

“the 1980 Act” means the Highways Act 1980(a);

“the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981(b);

“the 1984 Act” means the Road Traffic Regulation Act 1984(c);

“the 1990 Act” means the Town and Country Planning Act 1990(d);

“the 1991 Act” means the New Roads and Street Works Act 1991(e);

“the 2008 Act” means the Planning Act 2008(f);

“address” includes any number or address for the purposes of electronic transmission;

“apparatus” has the same meaning as in Part 3 of the 1991 Act;

“authorised development” means the development and associated development described in Schedule 1 (authorised development) and any other development authorised by this Order, which is development within the meaning of section 32 of the 2008 Act;

“the book of reference” means the book of reference certified by the Secretary of State as the book of reference for the purposes of this Order;

“building” includes any structure or erection or any part of a building, structure or erection;

“carriageway” has the same meaning as in the 1980 Act;

“compulsory acquisition notice” means a notice served in accordance with section 134 of the 2008 Act;

“cycle track” has the same meaning as in section 329(1) of the 1980 Act, as if the words 'or without' were omitted;

“electronic transmission” means a communication transmitted—

(a) by means of an electronic communications network; or

(b) by other means but while in electronic form;

“the engineering drawings and sections” means the documents certified as the engineering drawings and sections by the Secretary of State for the purposes of this Order;

“highway”, “highway authority” and “local highway authority” have the same meaning as in the 1980 Act;

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- (a) 1980 c.66. Section 1(1) was amended by section 21(2) of the New Roads and Street Works Act 1991 (c.22); sections 1(2), (3) and (4) were amended by section 8 of, and paragraph (1) of Schedule 4 to, the Local Government Act 1985 (c.51); section 1(2A) was inserted by, and section 1(3) was amended by, section 259 (1), (2) and (3) of the Greater London Authority Act 1999 (c.29); sections 1(3A) and 1(5) were inserted by section 22(1) of, and paragraph 1 of Schedule 7 to, the Local Government (Wales) Act 1994 (c.19). Section 36(2) was amended by section 4(1) of, and paragraphs 47 (a) and (b) of Schedule 2 to, the Housing (Consequential Provisions) Act 1985 (c.71), by S.I. 2006/1177, by section 4 of and paragraph 45(3) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c.11), by section 64(1) (2) and (3) of the Transport and Works Act 1992 (c.42) and by section 57 of, and paragraph 5 of Part 1 of Schedule 6 to, the Countryside and Rights of Way Act 2000 (c.37); section 36(3A) was inserted by section 64(4) of the Transport and Works Act 1992 and was amended by S.I. 2006/1177; section 36(6) was amended by section 8 of, and paragraph 7 of Schedule 4 to, the Local Government Act 1985 (c.51); and section 36(7) was inserted by section 22(1) of, and paragraph 4 of Schedule 7 to, the Local Government (Wales) Act 1994 (c.19). Section 329 was amended by section 112(4) of, and Schedule 18 to, the Electricity Act 1989 (c.29) and by section 190(3) of, and Part 1 of Schedule 27 to, the Water Act 1989 (c.15). There are other amendments to the 1980 Act which are not relevant to this Order.
- (b) 1981 c. 66. Sections 2(3), 6(2) and 11(6) were amended by section 4 of, and paragraph 52 of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11). Section 15 was amended by sections 56 and 321(1) of, and Schedules 8 and 16 to, the Housing and Regeneration Act 2008 (c. 17). Paragraph 1 of Schedule 2 was amended by section 76 of, and Part 2 of Schedule 9 to, the Housing Act 1988 (c 50); section 161(4) of, and Schedule 19 to, the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28); and sections 56 and 321(1) of, and Schedule 8 to, the Housing and Regeneration Act 2008. Paragraph 3 of Schedule 2 was amended by section 76 of, and Schedule 9 to, the Housing Act 1988 and section 56 of, and Schedule 8 to, the Housing and Regeneration Act 2008. Paragraph 2 of Schedule 3 was repealed by section 277 of, and Schedule 9 to, the Inheritance Tax Act 1984 (c. 51). There are amendments to the 1981 Act which are not relevant to this Order.
- (c) 1984 c.27.
- (d) 1990 c.8. Section 206(1) was amended by section 192(8) to, and paragraphs 7 and 11 of Schedule 8 to, the Planning Act 2008 (c.29) (date in force to be appointed see section 241(3), (4)(a),(c) of the 2008 Act). There are other amendments to the 1990 Act which are not relevant to this Order.
- (e) 1991 c.22. Section 48(3A) was inserted by section 124 of the Local Transport Act 2008 (c.26). Sections 79(4), 80(4), and 83(4) were amended by section 40 of, and Schedule 1 to, the Traffic Management Act 2004 (c.18).
- (f) 2008 c.29.

“the land plans” means the plans certified as the land plans by the Secretary of State for the purposes of this Order;

“limits of deviation” means the limits of deviation referred to in article 5;

“maintain” and any of its derivatives include inspect, repair, adjust, alter, remove or reconstruct in relation to the authorised development and any derivative of “maintain” shall be construed accordingly;

“NMU” means non-motorised users;

“Order land” means the land shown on the land plans which is within the limits of land to be acquired or used permanently or temporarily, and described in the book of reference;

“the Order limits” means the limits of deviation shown on the works plans, and the limits of land to be acquired or used permanently or temporarily shown on the land plans, within which the authorised development may be carried out;

“owner”, in relation to land, has the same meaning as in section 7 of the Acquisition of Land Act 1981(a);

“relevant planning authority” means the local planning authority for the land in question;

“rights of way and access plans” means the plans certified as the rights of way and access plans by the Secretary of State for the purposes of this Order;

“Secretary of State” means the Secretary of State for Transport;

“special road” means a highway which is a special road in accordance with section 16 of the 1980 Act or by virtue of an order granting development consent;

“statutory undertaker” means any statutory undertaker for the purposes of section 127(8), 128(5) or 129(2) of the 2008 Act;

“street” means a street within the meaning of section 48 of the 1991 Act, together with land on the verge of a street or between two carriageways, and includes part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 of the 1991 Act;

“the car parking drawings” means the drawings certified as the car parking drawings by the Secretary of State for the purposes of this Order;

“the junction design drawings” means drawings certified as the junction design drawings by the Secretary of State for the purposes of this Order;

“the lighting drawings” means the drawings certified as the lighting drawings by the Secretary of State for the purposes of this Order;

“the structure drawings” means the drawings certified as the structure drawings by the Secretary of State for the purposes of this Order;

“the tribunal” means the Lands Chamber of the Upper Tribunal;

“trunk road” means a highway which is a trunk road by virtue of—

- (a) section 10 or 19(1) of the 1980 Act;
- (b) an order or direction under section 10 of that Act; or
- (c) an order granting development consent; or
- (d) any other enactment;

“watercourse” includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain; and

“the works plans” means the plans certified as the works plans by the Secretary of State for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do or to place and maintain, anything in, on or under land or in the airspace above its surface and references in this Order to the imposition of restrictive covenants are references to the creation of rights over land

(a) 1981 c. 67.

which interfere with the interests or rights of another and are for the benefit of land which is acquired under this Order or is otherwise comprised in the Order land.

(3) All distances, directions and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised development shall be taken to be measured along that work.

(4) For the purposes of this Order, all areas described in square metres in the Book of Reference are approximate.

(5) References in this Order to points identified by letters or numbers shall be construed as references to points so lettered or numbered on the rights of way and access plans.

(6) References in this Order to numbered works are references to the works as numbered in Schedule 1.

PART 2 PRINCIPAL POWERS

Development consent etc. granted by the Order

3.—(1) Subject to the provisions of this Order including the requirements in Schedule 2 (requirements), the Secretary of State is granted development consent for the authorised development to be carried out within the Order limits.

(2) Subject to article 5 (limits of deviation) the authorised development shall be constructed in the lines and situations shown on the works plans and the levels shown on the engineering drawings and sections.

Maintenance of authorised development

4. The Secretary of State may at any time maintain the authorised development, except to the extent that this Order or an agreement made under this Order, provides otherwise.

Limits of deviation

5. In carrying out linear works the Secretary of State may—

- (a) deviate laterally from the lines or situations of the authorised development shown on the works plans to the extent of the limits of deviation shown on those plans; and
- (b) deviate vertically from the levels of the authorised development shown on the engineering drawings and sections, provided that deviation is within the scope of the environmental impact assessment, to a maximum of 0.5 metres upwards or downwards.

Benefit of Order

6.—(1) Subject to article 7 (consent to transfer benefit of Order) and paragraph (2), the provisions of this Order conferring powers on the Secretary of State have effect solely for the benefit of the Secretary of State.

(2) Paragraph (1) does not apply to the works for which the consent is granted by this Order for the express benefit of owners and occupiers of land, statutory undertakers and other persons affected by the authorised development.

Consent to transfer benefit of Order

7.—(1) Subject to section 144 of the 2008 Act, the Secretary of State may—

- (a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed between the Secretary of State and the transferee; or
- (b) grant to another person (“the lessee”) for a period agreed between the Secretary of State and the lessee any or all of the benefit of the provisions of this Order and such related statutory rights as may be so agreed.

(2) Where an agreement has been made in accordance with paragraph (1) references in this Order to the Secretary of State, except in paragraph (3), includes references to the transferee or the lessee.

(3) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) shall be subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the Secretary of State.

PART 3 STREETS

Application of the 1991 Act

8.—(1) Works executed under this Order in relation to a highway which consists of or includes a carriageway shall be treated for the purposes of Part 3 of the 1991 Act (street works in England and Wales) as major highway works if—

- (a) they are of a description mentioned in any of paragraphs (a), (c) to (e), (g) and (h) of section 86(3) of that Act (which defines what highway authority works are major highway works); or
- (b) they are works which, had they been executed by the highway authority, might have been carried out in exercise of the powers conferred by section 64 of the 1980 Act (dual carriageways and roundabouts) or section 184 of that Act (vehicle crossings over footways and verges).

(2) In Part 3 of the 1991 Act references, in relation to major highway works, to the highway authority concerned shall, in relation to works which are major highway works by virtue of paragraph (1), be construed as references to the Secretary of State.

(3) The following provisions of the 1991 Act shall not apply in relation to any works executed under the powers of this Order—

- section 56 (directions as to timing);
- section 56A (power to give directions as to placing of apparatus);
- section 58 (restrictions following substantial road works);
- section 58A (restriction on works following substantial street works);
- section 73A (power to require undertaker to re-surface street);
- section 73B (power to specify timing etc. of re-surfacing);
- section 73C (materials, workmanship and standard of re-surfacing);
- section 78A (contributions to costs of re-surfacing by undertaker); and
- Schedule 3A (restriction on works following substantial street works).

(4) The provisions of the 1991 Act mentioned in paragraph (5) (which, together with other provisions of that Act, apply in relation to the execution of street works) and any regulations made, or code of practice issued or approved under, those provisions shall apply (with the necessary modifications) in relation to any stopping up, alteration or diversion of a street of a temporary nature by the promoter under the powers conferred by article 12 (temporary stopping up of streets) whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

- (5) The provisions of the 1991 Act referred to in paragraph (4) are—
- section 54 (advance notice of certain works), subject to paragraph (6);
 - section 55 (notice of starting date of works), subject to paragraph (6);
 - section 57 (notice of emergency works);
 - section 59 (general duty of street authority to co-ordinate works);
 - section 60 (general duty of undertakers to co-operate);
 - section 68 (facilities to be afforded to street authority);
 - section 69 (works likely to affect other apparatus in the street);
 - section 75 (inspection fees);
 - section 76 (liability for cost of temporary traffic regulation); and
 - section 77 (liability for cost of use of alternative route),

and all such other provisions as apply for the purposes of the provisions mentioned above.

(6) Sections 54 and 55 of the 1991 Act as applied by paragraph (4) shall have effect as if references in section 57 of that Act to emergency works were a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

(7) Nothing in article 9 (construction and maintenance of new, altered or diverted streets) shall—

- (a) affect the operation of section 87 of the 1991 Act (prospectively maintainable highways), and the Secretary of State shall not by reason of any duty under that article to maintain a street be taken to be the street authority in relation to that street for the purposes of Part 3 of that Act; or
- (b) have effect in relation to street works as respects which the provisions of Part 3 of the 1991 Act apply.

Construction and maintenance of new, altered or diverted streets

9.—(1) Any street (other than a trunk road or special road) to be constructed under this Order must be completed to the reasonable satisfaction of the local highway authority in whose area the street lies and, unless otherwise agreed with the local highway authority, must be maintained by and at the expense of the local highway authority from its completion.

(2) Where a street (other than a trunk road or special road) is altered or diverted under this Order, the altered or diverted part of the street must, when completed to the reasonable satisfaction of the street authority, unless otherwise agreed with the street authority, be maintained by and at the expense of the street authority from its completion.

(3) Where a highway is de-trunked under this Order—

- (a) section 265 of the 1980 applies in respect of that road; and
- (b) any alterations to that highway undertaken under this Order prior to and in connection with that de-trunking must, unless otherwise agreed with the local highway authority, be maintained by and at the expense of the local highway authority from the date of de-trunking.

(4) In the case of a bridge constructed under this Order to carry a public right of way, the highway surface shall be maintained by and at the expense of the local highway authority and the structure of the bridge shall be maintained by and at the expense of the Secretary of State.

(5) In the case of a bridge constructed under this Order to carry a private right of way, the surface and the structure of the bridge shall be maintained by and at the expense of the Secretary of State.

(6) In any action against the Secretary of State in respect of loss or damage resulting from any failure by it to maintain a street under this article, it is a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that the

Secretary of State had taken such care as in all the circumstances was reasonably required to secure that the part of the street to which the action relates was not dangerous to traffic.

(7) For the purposes of a defence under paragraph (6), the court shall in particular have regard to the following matters—

- (a) the character of the street and the traffic which was reasonably to be expected to use it;
- (b) the standard of maintenance appropriate for a street of that character and used by such traffic;
- (c) the state of repair in which a reasonable person would have expected to find the street;
- (d) whether the Secretary of State knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause danger to users of the street;
- (e) where the Secretary of State could not reasonably have been expected to repair that part of the street before the cause of action arose, what warning notices of its condition had been displayed,

but for the purposes of such a defence it is not relevant to prove that the Secretary of State had arranged for a competent person to carry out or supervise the maintenance of the part of the street to which the action relates unless it is also proved that the Secretary of State had given the competent person proper instructions with regard to the maintenance of the street and that the competent person had carried out those instructions.

Classification of roads etc.

10.—(1) On the date on which the authorised development is completed and open for traffic—

- (a) the roads described in Parts 1 and 2 of Schedule 3 (classification of roads) will become trunk roads as if they had become so by virtue of an order under section 10(2) of the 1980 Act specifying that date as the date on which they were to become trunk roads;
- (b) the roads described in Part 1 of Schedule 3 will—
 - (i) be classified as special roads for purposes of any enactments and instruments which refer to highways classified as special roads; and
 - (ii) be provided for the use of traffic of Classes I and II of the classes of traffic set out in Schedule 3 to the 1980 Act; and
- (c) the roads described in Part 2 of Schedule 3 will be classified as the A556 and will be—
 - (i) a principal road for the purpose of any enactment or instrument which refers to highways classified as principal roads; and
 - (ii) a classified road for the purpose of any enactment or instrument which refers to highways classified as classified roads,as if such classification had been made under section 12(3) of the 1980 Act.
- (d) On such day as the Secretary of State may determine, the roads described in Part 3 of Schedule 3 will cease to be trunk roads as if they had ceased to be trunk roads by virtue of an order under section 10(2) of the 1980 Act specifying that date as the date on which they were to cease to be trunk roads.

(2) On the date they are completed and open for traffic, no person is to drive any motor vehicle at a speed exceeding 50 miles per hour in the lengths of road identified in Part 4 of Schedule 3.

(3) On the date they are completed and open for traffic, no person is to drive any motor vehicle at a speed exceeding 60 miles per hour in the lengths of road identified in Part 5 of Schedule 3.

(4) The application of paragraphs (1) to (3) may be varied or revoked by any instrument made under any enactment which provides for the variation or revocation of such matters.

Permanent stopping up of streets

11.—(1) Subject to the provisions of this article, the Secretary of State may, in connection with the carrying out of the authorised development, stop up each of the streets specified in columns (1) and (2) of Parts 1 and 2 of Schedule 4 (permanent stopping up of streets) to the extent specified and described in column (3) of that Schedule.

(2) No street specified in columns (1) and (2) of Part 1 of Schedule 4 (being a street to be stopped up for which a substitute is to be provided) is to be wholly or partly stopped up under this article unless—

- (a) the new street to be substituted (constructed) for it, which is specified in column (4) of that Schedule, has been completed to the reasonable satisfaction of the street authority and is open for use; or
- (b) a temporary alternative route for the passage of such traffic as could have used the street to be stopped up is first provided and subsequently maintained by the Secretary of State, to the reasonable satisfaction of the street authority, between the commencement and termination points for the stopping up of the street until the completion and opening of the new street in accordance with sub-paragraph (a).

(3) No street specified in columns (1) and (2) of Part 2 of Schedule 4 (being a street to be stopped up for which no substitute is to be provided) is to be wholly or partly stopped up under this article unless the condition specified in paragraph (4) is satisfied in relation to all the land which abuts on either side of the street to be stopped up.

(4) The condition referred to in paragraph (3) is that—

- (a) the Secretary of State is in possession of the land; or
- (b) there is no right of access to the land from the street concerned; or
- (c) there is reasonably convenient access to the land otherwise than from the street concerned; or
- (d) the owners and occupiers of the land have agreed to the stopping up.

(5) Where a street has been stopped up under this article—

- (a) all rights of way over or along the street so stopped up are extinguished; and
- (b) the Secretary of State may appropriate and use for the purposes of the authorised development so much of the site of the street as is bounded on both sides by land owned by the Secretary of State.

(6) Any person who suffers loss by the suspension or extinguishment of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(7) This article is subject to article 28 (apparatus and rights of statutory undertakers in stopped up streets).

Temporary stopping up of streets

12.—(1) The Secretary of State, during and for the purposes of carrying out the authorised development, may temporarily stop up, alter or divert any street and may for any reasonable time—

- (a) divert the traffic from the street; and
- (b) subject to paragraph (2), prevent all persons from passing along the street.

(2) Without limitation on the scope of paragraph (1), the Secretary of State may use any street temporarily stopped up under the powers conferred by this article and within the Order limits as a temporary working site.

(3) The Secretary of State must provide reasonable access for pedestrians going to or from premises abutting a street affected by the temporary stopping up, alteration or diversion of a street under this article if there would otherwise be no such access.

(4) The Secretary of State must not temporarily stop up, alter or divert any street for which it is not street authority without the consent of the street authority, which may attach reasonable conditions to any consent but such consent must not be unreasonably withheld or delayed.

(5) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

Access to works

13. The Secretary of State may, for the purposes of the authorised development form and lay out means of access, or improve existing means of access at such locations within the Order limits as the Secretary of State reasonably requires for the purposes of the authorised development.

Clearways

14.—(1) On the date on which the roads described in Part 3 of Schedule 3 are de-trunked in accordance with article 10(2) —

(a) the Swansea-Manchester Trunk Road (Prohibition of Waiting) (Clearways) Order 1970 is varied by substituting for paragraph 1 of Schedule 1 “Between the southern boundary of the Borough of Altrincham to the point 356 metres south of the southern abutment of Chester Road Bridge”; and

(b) any other order prohibiting the waiting of vehicles in relation to those roads is revoked.

(2) From the date on which the roads described in Part 2 of Schedule 3 are open for traffic, save as provided in paragraph (3) below, no person shall cause or permit any vehicle to wait on any part of those roads, other than a lay-by, except upon the direction of, or with the permission of, a constable or traffic officer in uniform.

(3) Nothing in paragraph (2) above shall apply—

(a) to render it unlawful to cause or permit a vehicle to wait on any part of a road, for so long as may be necessary to enable that vehicle to be used in connection with—

(i) the removal of any obstruction to traffic;

(ii) the maintenance, improvement, reconstruction or operation of the road;

(iii) the laying, erection, inspection, maintenance, alteration, repair, renewal or removal in or near the road of any sewer, main pipe, conduit, wire, cable or other apparatus for the supply of gas, water, electricity or any telecommunications apparatus as defined in Schedule 2 to the Telecommunications Act 1984(a); or

(iv) any building operation or demolition;

(b) in relation to a vehicle being used—

(i) for police, ambulance, fire and rescue authority or traffic officer purposes;

(ii) in the service of a local authority, safety camera partnership or Vehicle and Operator Services Agency in pursuance of statutory powers or duties;

(iii) in the service of a water or sewerage undertaker within the meaning of the Water Industry Act 1991(b); or

(iv) by a universal service provider for the purposes of providing a universal postal service as defined by the Postal Service Act 2000(c); or

(c) in relation to a vehicle waiting when the person in control of it is—

(i) required by law to stop;

(ii) obliged to stop in order to avoid an accident; or

(iii) prevented from proceeding by circumstances outside his or her control.

(a) 1984 c. 12.

(b) 1991 c.56.

(c) 2000 c.26.

(4) No person shall cause or permit any vehicle to wait on any part of the roads described in paragraph 1 of Part 2 of Schedule 3 for the purposes of selling, or dispensing of, goods from that vehicle, unless the goods are immediately delivered at, or taken into, premises adjacent to the land on which the vehicle stood when the goods were sold or dispensed.

(5) Paragraphs (2), (3) and (4) have effect as if made by order under the 1984 Act, and their application may be varied or revoked by an order made under that Act or any other enactment which provides for the variation or revocation of such orders.

PART 4

SUPPLEMENTAL POWERS

Discharge of water

15.—(1) The Secretary of State may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised development and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the Secretary of State under paragraph (1) is to be determined as if it were a dispute under section 106 of the Water Industry Act 1991(a) (right to communicate with public sewers).

(3) The Secretary of State must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose, but shall not be unreasonably withheld.

(4) The Secretary of State must not make any opening into any public sewer or drain except—

- (a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval shall not be unreasonably withheld; and
- (b) where that person has been given the opportunity to supervise the making of the opening.

(5) The Secretary of State must not, in carrying out or maintaining works under this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.

(6) The Secretary of State must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain pursuant to this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(7) Nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) of the Environmental Permitting (England and Wales) Regulations 2010(b).

(8) In this article—

- (a) “public sewer or drain” means a sewer or drain which belongs to the Homes and Communities Agency, the Environment Agency, an internal drainage board, a joint planning board, a local authority, a sewerage undertaker or an urban development corporation; and
- (b) other expressions, excluding watercourse, used both in this article and in the Environmental Permitting Regulations 2010 have the same meaning as in those regulations.

(a) 1991 c. 56.
(b) S.I. 2010/675.

Protective work to buildings

16.—(1) Subject to the following provisions of this article, the Secretary of State may at the Secretary of State's own expense carry out such protective works to any building lying within the Order limits or which may be affected by the authorised development as the Secretary of State considers necessary or expedient.

(2) Protective works may be carried out—

- (a) at any time before or during the carrying out in the vicinity of the building of any part of the authorised development; or
- (b) after the completion of that part of the authorised development in the vicinity of the building at any time up to the end of the period of 5 years beginning with the day on which that part of the authorised development is first opened for use.

(3) For the purpose of determining how the functions under this article are to be exercised the Secretary of State may enter and survey any building falling within paragraph (1) and any land within its curtilage.

(4) For the purpose of carrying out protective works under this article to a building the Secretary of State may (subject to paragraphs (5) and (6))—

- (a) enter the building and any land within its curtilage; and
- (b) where the works cannot be carried out reasonably conveniently without entering land which is adjacent to the building but outside its curtilage, enter the adjacent land (but not any building erected on it).

(5) Before exercising—

- (a) a right under paragraph (1) to carry out protective works to a building;
- (b) a right under paragraph (3) to enter a building and land within its curtilage;
- (c) a right under paragraph (4)(a) to enter a building and land within its curtilage; or
- (d) a right under paragraph (4)(b) to enter land,

the Secretary of State must, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice of its intention to exercise that right and, in a case falling within sub-paragraph (a) or (c), specifying the protective works proposed to be carried out.

(6) Where a notice is served under paragraph (5)(a), (c) or (d), the owner or occupier of the building or land concerned may, by serving a counter-notice within the period of 10 days beginning with the day on which the notice was served, require the question whether it is necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 36 (arbitration).

(7) The Secretary of State will compensate the owners and occupiers of any building or land in relation to which rights under this article have been exercised for any loss or damage arising to them by reason of the exercise of those rights.

(8) Where—

- (a) protective works are carried out under this article to a building; and
- (b) within the period of 5 years beginning with the day on which the part of the authorised development carried out in the vicinity of the building is first opened for use it appears that the protective works are inadequate to protect the building against damage caused by the carrying out or use of that part of the authorised development,

the Secretary of State must compensate the owners and occupiers of the building for any loss or damage sustained by them.

(9) Nothing in this article will relieve the Secretary of State from any liability to pay compensation under section 152 of the 2008 Act (compensation in case where no right to claim in nuisance).

(10) Any compensation payable under paragraph (7) or (8) will be determined, in case of dispute, under Part 1 of the 1961 Act (determination of questions of disputed compensation).

(11) In this article “protective works” in relation to a building means—

- (a) underpinning, strengthening and any other works the purpose of which is to prevent damage which may be caused to the building by the carrying out, maintenance or use of the authorised development; and
- (b) any works the purpose of which is to remedy any damage which has been caused to the building by the carrying out, maintenance or use of the authorised development.

Authority to survey and investigate the land

17.—(1) The Secretary of State may for the purposes of this Order enter on any land shown within the Order limits or which may be affected by the authorised development and—

- (a) survey or investigate the land;
- (b) without limitation on the scope of sub-paragraph (a), make trial holes in such positions on the land as the Secretary of State thinks fit to investigate the nature of the surface layer and subsoil and remove soil samples;
- (c) without limitation on the scope of sub-paragraph (a), carry out ecological or archaeological investigations on such land; and
- (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes.

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least 14 days’ notice has been served on every owner and occupier of the land.

(3) Any person entering land under this article on behalf of the Secretary of State—

- (a) must, if so required, before or after entering the land, produce written evidence of their authority to do so; and
- (b) may take onto the land such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.

(4) No trial holes are to be made under this article—

- (a) in land located within the highway boundary without the consent of the highway authority; or
- (b) in a private street without the consent of the street authority,

but such consent shall not be unreasonably withheld.

(5) The Secretary of State must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the authority conferred by this article, such compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

PART 5

POWERS OF ACQUISITION

Compulsory acquisition of land

18.—(1) The Secretary of State may acquire compulsorily so much of the Order land as is required for the authorised development or to facilitate, or is incidental to, it.

(2) This article is subject to paragraph (2) of article 20 (compulsory acquisition of rights) and paragraph (8) of article 26 (temporary use of land for carrying out the authorised development).

Time limit for exercise of authority to acquire land compulsorily

19.—(1) After the end of the period of 5 years beginning on the day on which this Order is made—

- (a) no notice to treat is to be served under Part 1 of the 1965 Act; and
- (b) no declaration shall be executed under section 4 of the 1981 Act as applied by article 22 (application of the Compulsory Purchase (Vesting Declarations) Act 1981).

(2) The authority conferred by article 26 (temporary use of land for carrying out the authorised development) ceases at the end of the period referred to in paragraph (1), except that nothing in this paragraph prevents the Secretary of State remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

Compulsory acquisition of rights

20.—(1) Subject to paragraphs (2) and (3), the Secretary of State may acquire such rights over the Order land or impose restrictive covenants affecting the land as may be required for any purpose for which that land may be acquired under article 18 (compulsory acquisition of land) by creating them as well as acquiring rights already in existence.

(2) In the case of the Order land specified in column (1) of Schedule 5 (land in which only new rights etc. may be acquired) the Secretary of State's powers of compulsory acquisition are limited to the acquisition of such wayleaves, easements, new rights in the land or the imposition of restrictive covenants, as may be required for the purpose specified in relation to that land in column (2) of that Schedule.

(3) The power to acquire rights or impose restrictive covenants in paragraph (1) does not extend to the plots with reference numbers 2/1h, 2/1i, 2/2b, 2/2e, 2/2g, 2/2j, 2/6f, 2/7c, 2/8e, 2/8f, 2/8g, 2/8h, 3/1a, 3/2p, 3/q, 3/r, 3/s, 3/7, 4/2d, 4/2i, 4/4r, 4/7e, 4/7f, 4/7g, 5/1e and 5/1p.

(4) Subject to section 8 of the 1965 Act, as substituted by paragraph 5 of Schedule 6 (modification of compensation and compulsory purchase enactments for creation of new rights), where the Secretary of State acquires a right over land or the benefit of a restrictive covenant under paragraph (1) or (2), the Secretary of State is not required to acquire a greater interest in that land.

(5) Schedule 6 has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right or the imposition of a restrictive covenant.

Private rights over land

21.—(1) Subject to the provisions of this article, all private rights over land subject to compulsory acquisition under this Order are extinguished—

- (a) as from the date of acquisition of the land by the Secretary of State, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the Secretary of State under section 11(1) of the 1965 Act (power of entry),

whichever is the earlier.

(2) Subject to the provisions of this article, all private rights over land subject to the compulsory acquisition of rights or the imposition of restrictive covenants under this Order are extinguished in so far as their continuance would be inconsistent with the exercise of the right or burden of the restrictive covenant—

- (a) as from the date of the acquisition of the right or the benefit of the restrictive covenant by the Secretary of State, whether compulsorily or by agreement; or
- (b) on the date of entry on the land by the Secretary of State under section 11(1) of the 1965 Act (power of entry),

whichever is the earlier.

(3) Subject to the provisions of this article, all private rights over land owned by the Secretary of State which, being within the limits of land which may be acquired or used shown on the land plans, are required for the purposes of this Order are extinguished on commencement of any activity authorised by this Order which interferes with or breaches those rights.

(4) Subject to the provisions of this article, all private rights over land of which the Secretary of State takes temporary possession under this Order are suspended and unenforceable for as long as the Secretary of State remains in lawful possession of the land.

(5) Any person who suffers loss by the extinguishment or suspension of any private right under this article is entitled to compensation in accordance with the terms of section 152 of the 2008 Act to be determined, in case of dispute, under Part 1 of the 1961 Act.

(6) This article does not apply in relation to any right to which section 138 of the 2008 Act (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) or article 27 (statutory undertakers) applies.

(7) Paragraphs (1) to (4) have effect subject to—

(a) any notice given by the Secretary of State before—

(i) the completion of the acquisition of the land or the acquisition of the rights or the imposition of restrictive covenants over or affecting the land;

(ii) the Secretary of State's appropriation of it;

(iii) the Secretary of State's entry onto it; or

(iv) the Secretary of State's taking temporary possession of it,

that any or all of those paragraphs do not apply to any right specified in the notice; and

(b) any agreement made at any time between the Secretary of State and the person in or to whom the right in question is vested or belongs.

(8) If any such agreement as is referred to in paragraph (7)(b)—

(a) is made with a person in or to whom the right is vested or belongs; and

(b) is expressed to have effect also for the benefit of those deriving title from or under that person,

it is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

(9) References in this article to private rights over land include any trust, incident, easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, including any natural right to support and include restrictions as to the user of land arising by virtue of a contract, agreement or undertaking having that effect.

Application of the Compulsory Purchase (Vesting Declarations) Act 1981

22.—(1) The 1981 Act shall apply as if this Order were a compulsory purchase order.

(2) The 1981 Act, as so applied, shall have effect with the following modifications.

(3) In section 1 (application of act) for subsection (2) there shall be substituted—

“(2) This section applies to any Minister, any local or other public authority or any other body or person authorised to acquire land by means of a compulsory purchase order”.

(4) In section 3 (preliminary notices) for subsection (1) there shall be substituted—

“(1) Before making a declaration under section 4 with respect to any land which is subject to a compulsory purchase order the acquiring authority shall include the particulars specified in subsection (3) in a notice which is—

(a) given to every person with a relevant interest in the land with respect to which the declaration is to be made (other than a mortgagee who is not in possession); and

(b) published in a local newspaper circulating in the area in which the land is situated.”.

(5) In that section, in subsection (2), for “(1)(b)” there shall be substituted “(1)” and after “given” there shall be inserted “and published”.

(6) In that section, for subsections (5) and (6) there shall be substituted—

“(5) For the purposes of this section, a person has a relevant interest in land if—

- (a) that person is for the time being entitled to dispose of the fee simple of the land, whether in possession or in reversion; or
- (b) that person holds, or is entitled to the rents and profits of, the land under a lease or agreement, the unexpired term of which exceeds one month.”.

(7) In section 5 (earliest date for execution of declaration)—

- (a) in subsection (1), after “publication” there shall be inserted “in a local newspaper circulating in the area in which the land is situated”; and
- (b) subsection (2) shall be omitted.

(8) In section 7 (constructive notice to treat) in subsection (1)(a), the words “(as modified by section 4 of the Acquisition of Land Act 1981)” shall be omitted.

(9) References to the 1965 Act in the 1981 Act shall be construed as references to the 1965 Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act to the compulsory acquisition of land under this Order.

Acquisition of subsoil or airspace only

23.—(1) The Secretary of State may acquire compulsorily so much of, or such rights in, the subsoil of or of the airspace over the land referred to in paragraph (1) of article 18 (compulsory acquisition of land) as may be required for any purpose for which that land may be acquired under that provision instead of acquiring the whole of the land.

(2) Where the Secretary of State acquires any part of, or rights in, the subsoil of or the airspace over land referred to in paragraph (1), the Secretary of State is not required to acquire an interest in any other part of the land.

(3) Paragraph (2) does not prevent article 24 (acquisition of part of certain properties) from applying where the Secretary of State acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.

(4) The power to acquire any part of, or rights in, the subsoil of or the airspace over land does not extend to the plots with reference numbers 2/1h, 2/1i, 2/2b, 2/2e, 2/2g, 2/2j, 2/6f, 2/7c, 2/8e, 2/8f, 2/8g, 2/8h, 3/1a, 3/2p, 3/2q, 3/2r, 3/s, 3/7, 4/2d, 4/2l, 4/4r, 4/7e, 4/7f, 4/7g, 5/1e and 5/1p.

Acquisition of part of certain properties

24.—(1) This article applies instead of section 8(1) of the 1965 Act (other provisions as to divided land) (as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act) where—

- (a) a notice to treat is served on a person (“the owner”) under the 1965 Act (as so applied) in respect of land forming only part of a house, building or manufactory or of land consisting of a house with a park or garden (“the land subject to the notice to treat”); and
- (b) a copy of this article is served on the owner with the notice to treat.

(2) In such a case, the owner may, within the period of 21 days beginning with the day on which the notice was served, serve on the Secretary of State a counter-notice objecting to the sale of the land subject to the notice to treat and stating that the owner is willing and able to sell the whole (“the land subject to the counter-notice”).

(3) If no such counter-notice is served within that period, the owner must sell the land subject to the notice to treat.

(4) If such a counter-notice is served within that period, the question whether the owner must sell only the land subject to the notice to treat is, unless the Secretary of State agrees to take the land subject to the counter-notice, to be referred to the tribunal.

(5) If on such a reference the tribunal determine that the land subject to the notice to treat can be taken—

- (a) without material detriment to the remainder of the land subject to the counter-notice; or
- (b) in the case of part of land consisting of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the owner must sell the land subject to the notice to treat.

(6) If on such a reference the tribunal determine that only part of the land subject to the notice to treat can be taken—

- (a) without material detriment to the remainder of the land subject to the counter-notice; or
- (b) in the case of part of land consisting of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the notice to treat is deemed to be a notice to treat for that part.

(7) If on such a reference the tribunal determine that—

- (a) the land subject to the notice to treat cannot be taken without material detriment to the remainder of the land subject to the counter-notice; but
- (b) the material detriment is confined to a part of the land subject to the counter-notice,

the notice to treat is deemed to be a notice to treat for the land to which the material detriment is confined in addition to the land already subject to the notice, whether or not the additional land is land which the Secretary of State is authorised to acquire compulsorily under this Order.

(8) If the Secretary of State agrees to take the land subject to the counter-notice, or if the tribunal determine that—

- (a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house; and
- (b) the material detriment is not confined to a part of the land subject to the counter-notice,

the notice to treat is deemed to be a notice to treat for the land subject to the counter-notice whether or not the whole of that land is land which the Secretary of State is authorised to acquire compulsorily under this Order.

(9) Where, by reason of a determination by the tribunal under this article a notice to treat is deemed to be a notice to treat for less land or more land than that specified in the notice, the Secretary of State may, within the period of 6 weeks beginning with the day on which the determination is made, withdraw the notice to treat; and in that event must pay the owner compensation for any loss or expense occasioned to the owner by the giving and withdrawal of the notice, to be determined in case of dispute by the tribunal.

(10) Where the owner is required under this article to sell only part of a house, building or manufactory or of land consisting of a house with a park or garden, the Secretary of State must pay the owner compensation for any loss sustained by the owner due to the severance of that part in addition to the value of the interest acquired.

Rights under or over streets

25.—(1) The Secretary of State may enter on and appropriate so much of the subsoil of, or airspace over, any street within the Order limits as may be required for the purposes of the

authorised development and may use the subsoil or airspace for those purposes or any other purpose ancillary to the authorised development.

(2) Subject to paragraph (3), the Secretary of State may exercise any power conferred by paragraph (1) in relation to a street without being required to acquire any part of the street or any easement or right in the street.

(3) Paragraph (2) does not apply in relation to—

- (a) any subway or underground building; or
- (b) any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting onto the street.

(4) Subject to paragraph (5), any person who is an owner or occupier of land in respect of which the power of appropriation conferred by paragraph (1) is exercised without the Secretary of State acquiring any part of that person's interest in the land, and who suffers loss as a result, shall be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) Compensation is not payable under paragraph (4) to any person who is an undertaker to whom section 85 of the 1991 Act (sharing cost of necessary measures) applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

Temporary use of land for carrying out the authorised development

26.—(1) The Secretary of State may, in connection with the carrying out of the authorised development—

- (a) enter on and take temporary possession of—
 - (i) the land specified in columns (1) and (2) of Schedule 7 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule relating to the part of the authorised development specified in column (4) of that Schedule; and
 - (ii) any other Order land in respect of which no notice of entry has been served under section 11 of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 of the 1981 Act;
- (b) remove any buildings and vegetation from that land;
- (c) construct temporary works (including the provision of means of access) and buildings on that land;
- (d) construct any permanent works specified in relation to that land in column (3) of Schedule 7, or any other mitigation works; and
- (e) construct Works Nos. 5, 6 and 7 on that land.

(2) Not less than 14 days before entering on and taking temporary possession of land under this article the Secretary of State must serve notice of the intended entry on the owners and occupiers of the land.

(3) The Secretary of State may not, without the agreement of the owners of the land, remain in possession of any land under this article—

- (a) in the case of the plots with reference numbers 2/1i, 2/2i, 2/4e and 2/4h, after the new rights have been created pursuant to article 20;
- (b) in the case of other land specified in paragraph (1)(a)(i), after the end of the period of one year beginning with the date of completion of the part of the authorised development specified in relation to that land in column (4) of Schedule 7, or
- (c) in the case of any land referred to in paragraph (1)(a)(ii), after the end of the period of one year beginning with the date of completion of the work for which temporary possession of the land was taken unless the Secretary of State has, by the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section (4) of the 1981 Act in relation to that land.

(4) Before giving up possession of land of which temporary possession has been taken under this article, the Secretary of State must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the Secretary of State is not required to—

- (a) replace a building removed under this article;
- (b) restore the land on which any permanent works have been constructed under paragraphs (1)(d) or (1)(e); or
- (c) remove any ground strengthening works which have been placed on the land to facilitate construction of the authorised development.

(5) The Secretary of State must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of this article.

(6) Any dispute as to a person's entitlement to compensation under paragraph (5), or as to the amount of the compensation, is to be determined under Part 1 of the 1961 Act.

(7) Nothing in this article affects any liability to pay compensation under section 152 of the 2008 Act (compensation in case where no right to claim in nuisance) or under any other enactment in respect of loss or damage arising from the carrying out of the authorised development, other than loss or damage for which compensation is payable under paragraph (5).

(8) The Secretary of State may not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i) except that the Secretary of State is not to be precluded from—

- (a) acquiring new rights over any part of that land under article 20 (compulsory acquisition of rights); or
- (b) acquiring any part of the subsoil (or rights in the subsoil of or airspace over) that land under article 23 (acquisition of subsoil or airspace only).

(9) Where the Secretary of State takes possession of land under this article, the Secretary of State is not required to acquire the land or any interest in it.

(10) Section 13 of the 1965 Act (refusal to give possession to acquiring authority) applies to the temporary use of land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 of the 2008 Act (application of compulsory acquisition provisions).

(11) Paragraph (1)(a)(ii) does not authorise the Secretary of State to take temporary possession of any land which the Secretary of State is not authorised to acquire under article 18 (compulsory acquisition of land) or any land specified in Schedule 5 (land in which only new rights etc. may be acquired).

Statutory undertakers

27.—(1) Subject to the provisions of Schedule 8 (protective provisions) and paragraph (2), the Secretary of State may—

- (a) acquire compulsorily, or acquire new rights or impose restrictive covenants over the land belonging to statutory undertakers shown on the land plans within the limits of the land to be acquired or used permanently or temporarily and described in the book of reference;
- (b) extinguish the rights of, remove or reposition the apparatus belonging to statutory undertakers over or within the Order land.

(2) Paragraph (1)(b) has no effect in relation to apparatus in respect of which the following provisions apply—

- (a) Part 3 of the 1991 Act; and
- (b) article 28 (apparatus and rights of statutory undertakers in stopped up streets).

Apparatus and rights of statutory undertakers in stopped-up streets

28.—(1) Where a street is stopped up under article 11 (permanent stopping up of streets), any statutory utility whose apparatus is under, in, on, along or across the street has the same powers

and rights in respect of that apparatus, subject to the provisions of this article, as if this Order had not been made.

(2) Where a street is stopped up under article 11 any statutory utility whose apparatus is under, in, on, over, along or across the street may, and if reasonably requested to do so by the Secretary of State must—

- (a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as the utility may reasonably determine and have power to place it; or
- (b) provide other apparatus in substitution for the existing apparatus and place it in such position as described in sub-paragraph (a).

(3) Subject to the following provisions of this article, the Secretary of State must pay to any statutory utility an amount equal to the cost reasonably incurred by the utility in or in connection with—

- (a) the execution of the relocation works required in consequence of the stopping up of the street; and
- (b) the doing of any other work or thing rendered necessary by the execution of the relocation works.

(4) If in the course of the execution of relocation works under paragraph (2)—

- (a) apparatus of a better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the Secretary of State, or, in default of agreement, is not determined by arbitration to be necessary, then, if it involves cost in the execution of the relocation works exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which, apart from this paragraph, would be payable to the statutory utility by virtue of paragraph (3) is to be reduced by the amount of that excess.

(5) For the purposes of paragraph (4)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(6) An amount which, apart from this paragraph, would be payable to a statutory utility in respect of works by virtue of paragraph (3) (and having regard, where relevant, to paragraph (4)) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

(7) Paragraphs (3) to (6) do not apply where the authorised development constitutes major highway works, major bridge works or major transport works for the purposes of Part 3 of the 1991 Act, but instead—

- (a) the allowable costs of the relocation works are to be determined in accordance with section 85 of that Act (sharing of cost of necessary measures) and any regulations for the time being having effect under that section; and
- (b) the allowable costs are to be borne by the Secretary of State and the statutory utility in such proportions as may be prescribed by any such regulations.

(8) In this article—

“relocation works” means work executed, or apparatus provided, under paragraph (2); and

“statutory utility” means a statutory undertaker for the purposes of the 1980 Act or a public communications provider as defined in section 151(1) of the Communications Act 2003^(a).

Recovery of costs of new connections

29.—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 27 (statutory undertakers) any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from the Secretary of State compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(2) Paragraph (1) does not apply in the case of the removal of a public sewer but where such a sewer is removed under article 27, any person who is—

- (a) the owner or occupier of premises the drains of which communicated with that sewer; or
- (b) the owner of a private sewer which communicated with that sewer,

is entitled to recover from the Secretary of State compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or sewer belonging to that person communicate with any other public sewer or with a private sewerage disposal plant.

(3) This article does not have effect in relation to apparatus to which article 28 (apparatus and rights of statutory undertakers in stopped up streets) or Part 3 of the 1991 Act applies.

(4) In this paragraph—

“public communications provider” has the same meaning as in section 151(1) of the Communications Act 2003; and

“public utility undertaker” has the same meaning as in the 1980 Act.

Crown land

30.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular, nothing in this Order authorises the undertaker or any licensee to exercise any right under this Order compulsorily to acquire an interest in any land which is Crown land (as defined in the 2008 Act) which is for the time being held otherwise than by or on behalf of the Crown without the consent in writing of the appropriate Crown authority (as defined in the 2008 Act).

(2) In relation to Crown land, the powers in article 18 (compulsory acquisition of land) and 20 (compulsory acquisition of rights) are limited to interests in that land which for the time being are held otherwise than by or on behalf of the Crown.

PART 6 OPERATIONS

Felling or lopping of trees

31.—(1) The Secretary of State may fell or lop any tree or shrub within or overhanging land within the Order limits, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub—

- (a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or

(a) 2003 c. 21. There are amendments to this Act which are not relevant to this Order.

(b) from constituting a danger to persons using the authorised development.

(2) In carrying out any activity authorised by paragraph (1), the Secretary of State must do no unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity.

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, is to be determined under Part 1 of the 1961 Act.

PART 7

MISCELLANEOUS AND GENERAL

Operational land for purposes of the 1990 Act

32. Development consent granted by this Order shall be treated as specific planning permission for the purposes of section 264(3)(a) of the 1990 Act (cases in which land is to be treated as operational land for the purposes of that Act).

Defence to proceedings in respect of statutory nuisance

33.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990(a) (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within paragraph (g) of section 79(1) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance) no order is to be made, and no fine may be imposed, under section 82(2) of that Act if—

- (a) the defendant shows that the nuisance—
 - (i) relates to premises used by the Secretary of State for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction site), or a consent given under section 61 (prior consent for work on construction site) or section 65 (noise exceeding registered level), of the Control of Pollution Act 1974(b); or
 - (ii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or
- (b) the defendant shows that the nuisance is a consequence of the use of the authorised development and that it cannot reasonably be avoided.

(2) Section 61(9) (consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974 and section 65(8) of that Act (corresponding provision in relation to consent for registered noise level to be exceeded), does not apply where the consent relates to the use of premises by the Secretary of State for the purposes of or in connection with the construction or maintenance of the authorised development.

Protection of interests

34. Schedule 8 (protective provisions) to the Order has effect.

(a) 1990 c. 43. There are amendments to this Act which are not relevant to this Order.

(b) 1974 c. 40. Sections 61(9) and 65(8) were amended by section 162 of, and paragraph 15 of Schedule 3 to, the Environmental Protection Act 1990, c. 25. There are other amendments to the 1974 Act which are not relevant to this Order.

Certification of plans, etc.

35.—(1) As soon as practicable after the making of this Order, copies of—

- (a) the book of reference (revision 2, February 2014);
- (b) the land plans (document references B1076602/OD/65/01 - B1076602/OD/65/07, revision 2, February 2014 as amended by substitution of variant land plans A556-CAP-0000-PJW-SK-G-0003, 0006 and 0007 Rev P01 for 03, 06 and 07);
- (c) the rights of way and access plans (document references B1076602/OD/62/01 - B1076602/OD/62/07, revision 2, February 2014);
- (d) the works plans (document references B1076602/OD/105/01 - B1076602/OD/105/07, revision 2, February 2014);
- (e) the engineering drawings and sections (document references B1076602/OD/149/01 - B1076602/OD/149/23, revision 2, February 2014);
- (f) the environmental statement (document references:
 - (i) 6.1.1-6.1.3,
 - (ii) 6.2.1-6.2.20,
 - (iii) 6.3.1-6.3.7,
 - (iv) A556 Rule 8-10 HA WR 1A-C,
 - (v) Rule 8_10 HAWR 3 - ES Addendum January 2014,
 - (vi) Rule 8_10 HAWR 3 - ES Addendum January 2014 Appendices A-F)
- (g) the structure drawings (documents references SK071-SK080, A556-CAP-0000-MLG-SK-C-0001, A556-CAP-0000-BWN-SK-C-0001, A556-CAP-0000-MLI-SK-C-0003, A556-CAP-0000-CHP-SK-C-0003, A556-CAP-0000-MLI-SK-C-0002, A556-CAP-0000-A50-SK-C-0001, A556-CAP-0000-GRE-SK-C-0001, A556-CAP-0000-BEN-SK-C-0001, A556-CAP-0000-TAB-SK-C-0001 and A556-CAP-0000-OHU-SK-C-0001);
- (h) the junction design drawings (document references A556-CAP-0000-A50-SK-C-0002, A556-CAP-0100-DTR-SK-C-0022 and A556-CAP-0100-MER-SK-C-0027);
- (i) the lighting drawings (document references A556-CAP-1300-PJW-SK-C-0024 to A556-CAP-1300-PJW-SK-C-0028);
- (j) the car parking drawings (document references A556-CAP-0000-DTR-SK-C-0147 and A556-CAP-0000-DTR-SK-C-0148);
- (k) any other plans or documents referred to in this Order,

must be certified by the Secretary of State as true copies of the documents referred to in this Order.

(2) A plan or document so certified shall be admissible in any proceedings as evidence of the contents of the document of which it is a copy.

Service of notices

36.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

- (a) by post;
- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or
- (c) with the consent of the recipient and subject to paragraphs (5) to (8) by electronic transmission.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 of the Interpretation Act 1978(a) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address, and otherwise—

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and
- (b) in any other case, the last known address of that person at the time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to that person by name or by the description of “owner”, or as the case may be “occupier”, of the land (describing it); and
- (b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement shall be taken to be fulfilled only where—

- (a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;
- (b) the notice or document is capable of being accessed by the recipient;
- (c) the notice or document is legible in all material respects; and
- (d) in a form sufficiently permanent to be used for subsequent reference.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 7 days of receipt that the recipient requires a paper copy of all or part of that notice or other document the sender will provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of electronic communication given by a person may be revoked by that person in accordance with paragraph (8).

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

- (a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
- (b) such revocation will be final and shall take effect on a date specified by the person in the notice but that date shall not be less than 7 days after the date on which the notice is given.

(9) This article will not be taken to exclude the employment of any method of service not expressly provided for by it.

(10) In this article “legible in all material respects” means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served, given or supplied by means of a notice or document in printed form.

Arbitration

37. Except where otherwise expressly provided for in this Order and unless otherwise agreed between the parties, any difference under any provision of this Order (other than a difference which falls to be determined by the tribunal) must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the President of the Institute of Civil Engineers.

(a) 1978 c. 30.

Traffic regulation

38.—(1) This article applies to roads in respect of which the Secretary of State is not the traffic authority.

(2) Subject to the provisions of this article, and the consent of the traffic authority in whose area the road concerned is situated, which consent shall not be unreasonably withheld, the Secretary of State may, for the purposes of the authorised development—

- (a) revoke, amend or suspend in whole or in part any order made, or having effect as if made, under the 1984 Act;
- (b) permit, prohibit or restrict the stopping, waiting, loading or unloading of vehicles on any road;
- (c) authorise the use as a parking place of any road;
- (d) make provision as to the direction or priority of vehicular traffic on any road; and
- (e) permit or prohibit vehicular access to any road,

either at all times or at times, on days or during such periods as may be specified by the Secretary of State.

(3) The power conferred by paragraph (2) may be exercised at any time prior to the expiry of 12 months from the opening of the authorised development for public use but subject to paragraph (7) any prohibition, restriction or other provision made under paragraph (2) may have effect both before and after the expiry of that period.

(4) The Secretary of State must consult the chief officer of police and the traffic authority in whose area the road is situated before complying with the provisions of paragraph (5).

(5) The Secretary of State must not exercise the powers conferred by paragraph (2) unless the Secretary of State has—

- (a) given not less than—
 - (i) 12 weeks' notice in writing of the Secretary of State's intention so to do in the case of a prohibition, restriction or other provision intended to have effect permanently; or
 - (ii) 4 weeks' notice in writing of the Secretary of State's intention so to do in the case of a prohibition, restriction or other provision intended to have effect temporarily,to the chief officer of police and to the traffic authority in whose area the road is situated; and
- (b) advertised the Secretary of State's intention in such manner as the traffic authority may specify in writing within 28 days of its receipt of notice of the Secretary of State's intention in the case of sub-paragraph (a)(i), or within 7 days of its receipt of notice of the Secretary of State's intention in the case of sub-paragraph (a)(ii).

(6) Any prohibition, restriction or other provision made by the Secretary of State under paragraph (2) shall—

- (a) have effect as if duly made by, as the case may be—
 - (i) the traffic authority in whose area the road is situated, as a traffic regulation order under the 1984 Act; or
 - (ii) the local authority in whose area the road is situated, as an order under section 32 of the 1984 Act,and the instrument by which it is effected may specify savings and exemptions to which the prohibition, restriction or other provision is subject; and
- (b) be deemed to be a traffic order for the purposes of Schedule 7 to the Traffic Management Act 2004^(a) (road traffic contraventions subject to civil enforcement).

(a) 2004 c. 18.

(7) Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by the Secretary of State from time to time by subsequent exercise of the powers of paragraph (2) within a period of 24 months from the opening of the authorised development.

(8) Before exercising the powers of paragraph (2) the Secretary of State must consult such persons as the Secretary of State considers necessary and appropriate and shall take into consideration any representations made to the Secretary of State by any such person.

(9) Expressions used in this article and in the 1984 Act shall have the same meaning in this article as in that Act.

(10) The powers conferred on the Secretary of State by this article with respect to any road shall have effect subject to any agreement entered into by the Secretary of State with any person with an interest in (or who undertakes activities in relation to) premises served by the road.

Signed by authority of the Secretary of State for Transport

[] 201[]

[Name]
[Designation]
Department for Transport

SCHEDULES

SCHEDULE 1

Articles 2 and 3

AUTHORISED DEVELOPMENT

In the administration area of Cheshire East Council

A nationally significant infrastructure project as defined in sections 14 and 22 of the 2008 Act, comprising:

Work No.1 — the construction of a new all-purpose dual carriageway (‘the new A556’) and improvements to a section of the existing A556 to dual carriageway standard, totalling 7.5 kilometres in length, between M6 Junction 19 and M56 Junction 7, to include:

- (a) the modification of the existing M6 Junction 19 roundabout to stop up the existing access to and from Chester Road (the existing A556) and to create a new access to the new A556;
- (b) the construction of a new non-motorised user link between the de-trunked A556 and Old Hall Lane, to accommodate pedestrians, cyclists and horse riders;
- (c) the construction of a new underpass for the new Old Hall Lane to A556 non-motorised user link, beneath the new A556;
- (d) the construction of a new non-motorised user link between the M6 Junction 19 roundabout and the Old Hall Lane to A556 non-motorised user link, to accommodate pedestrians and cyclists;
- (e) the construction of a new retaining wall to support the earthworks for the new A556 carriageway adjacent to Tabley Parish Hall;
- (f) the construction of the new Old Hall Lane (West) single carriageway highway, from a point 36 metres east of the access to Over Tabley Hall Farm, northwards, along the western boundary of the new trunk road, to a new grade separated roundabout junction for the new A556 northbound off-slip, west of the new A556, a total distance of 830 metres, including the roundabout circumference (*Reference A - Rights of Way and Access Plans – Sheet 2*) to include the improvement of the existing C610 Old Hall Lane from a point 74 metres west from the access to Over Tabley Hall Farm, eastwards for a distance of 109 metres;
- (g) the construction of a new northbound off-slip to the west of the new A556 and one new southbound on-slip to the east of the new A556;
- (h) the construction of a new highway drainage attenuation and pollution control facility to the west of the new A556 and Old Hall Lane (West);
- (i) the construction of a new outfall to Tabley Brook to the west of the new highway drainage attenuation and pollution control facility;
- (j) the construction of the new Old Hall Lane (East) single carriageway highway, from a point 2 metres south of the existing access to field OS No. 3843, generally westwards then over the new A556, to a new roundabout junction for the new A556 northbound off-slip, west of the new A556, a total distance of 419 metres (*Reference B - Rights of Way and Access Plans – Sheet 2*) to include the improvement of the existing A556 Chester Road from a point 104 metres south from the access to field OS No. 3351 and field OS No. 3843, northwards for a distance of 213 metres;
- (k) the construction of a new culvert beneath the new Old Hall Lane (East);
- (l) the construction of a new Chester Road Roundabout to connect Old Hall Lane (East) with the existing Chester Road and associated improvement works;

- (m) the construction of a new culvert beneath the new A556, north of Tabley Junction;
- (n) the construction of a new overbridge on UW2127 Bentley Hurst Lane and the re-alignment of the UW2127 Bentley Hurst Lane carriageway;
- (o) the construction of a new highway drainage attenuation and pollution control facility to the west of the new A556 and 500 metres to the north of UW2127 Bentley Hurst Lane;
- (p) the construction of a second new outfall to Tabley Brook to the west of the new highway drainage attenuation and pollution control facility;
- (q) the construction of a new Green / Accommodation overbridge for the provision of a new access track to privately owned fields to the east and west of the new A556;
- (r) the construction of a new culvert beneath the new A556, south of the new Green / Accommodation overbridge;
- (s) the construction of a new culvert beneath access track, east of the Green / Accommodation overbridge;
- (t) the construction of a new overbridge on the A50 and the re-alignment of the A50 carriageway;
- (u) the construction of a new roundabout junction on the re-aligned A50 and a new northbound on-slip road to the new A556;
- (v) the construction of a new culvert beneath re-aligned A50, west of the new A556 and the new A50 roundabout junction;
- (w) the construction of new highway turning areas on C113 Bucklow Hill Lane, on the east and west of the new A556; to include the improvement of the existing C113 Bucklow Hill Lane from a point 156 metres east of its junction with the access to Hulme Barns Farm, north eastwards for a distance of 23 metres and the improvement of the existing C113 Bucklow Hill Lane from a point 189 metres west of its junction with A556 Chester Road, westwards for a distance of 28 metres;
- (x) the construction of a new overbridge on C114 Chapel Lane and re-alignment of the C114 Chapel Lane carriageway;
- (y) the construction of a new culvert beneath the new A556, south of the new C114 Chapel Lane overbridge;
- (z) the construction of new highway turning areas on UW2104 Millington Hall Lane, on the east and west of the new A556; to include the improvement of the existing UW2104 Millington Hall Lane from a point 67 metres east of Denfield Cottage access, south eastwards for a distance of 18 metres and the improvement of the existing UW2104 Millington Hall Lane from a point 120 metres west of its junction with A556 Chester Road, south eastwards for a distance of 25 metres;
- (aa) the construction of new highway from a point approximately 215 metres north of the junction between UW2104 Millington Hall Lane and A556 Chester Road, northwards for a distance of 17 metres to connect to the new A556 southbound off-slip (*Reference B - Rights of Way and Access Plans – Sheet 5*) to include the improvement of the existing A556 Chester Road, from a point 32 metres north of its junction with UW2104 Millington Hall Lane, northwards for a distance of 272 metres;
- (bb) the construction of new highway from a point approximately 215 metres north of the junction between UW2104 Millington Hall Lane and A556 Chester Road, southwards for a distance of 161 metres, including the roundabout circumference of the new Millington Roundabout junction, to connect to the improved A556 Chester Road (*Reference C - Rights of Way and Access Plans – Sheet 5*);
- (cc) the construction of new highway from a point approximately 207 metres north of the junction between UW2104 Millington Hall Lane and A556 Chester Road, north eastwards for a distance of 27 metres to connect to the improved A556 Chester Road (*Reference D - Rights of Way and Access Plans – Sheet 5*);
- (dd) the construction of a new engineered earthworks slope on the east of new A556 and adjacent to Bucklow Manor;

- (ee) the improvement of UW2089 Cherry Tree Lane and construction of new link road to connect UW2089 Cherry Tree Lane to the existing A556 Chester Road, to the east of the new A556;
- (ff) the construction of a new overbridge on C116 Millington Lane and the re-alignment of the C116 Millington Lane carriageway;
- (gg) the construction of a new at-grade junction on C116 Millington Lane to connect the re-aligned C116 Millington Lane with the Chester Road (Northern Link) and Cherry Tree Lane Link road to include the improvement of the existing A556 Chester Road junction with C116 Millington Lane;
- (hh) the re-modelling of the existing junction between the existing A556 Chester Road and UW2089 Cherry Tree Lane to accommodate the new Cherry Tree Lane Link road;
- (ii) the construction of a retaining wall to the east of the new Cherry Tree Lane Link to support the widened highway of the improved existing A556 and the Cherry Tree Lane Link road;
- (jj) the construction of a new highway drainage attenuation and pollution control facility to the west of the new A556 and south of the M56;
- (kk) the re-modelling of the existing Bowdon Roundabout to accommodate additional links provided for M56 Junction 7/8;
- (ll) the construction of a new roundabout to improve M56 Junction 7/8 and the construction of the new M56 spur westbound off-slip, a new A556 southbound merge interchange link and the Bowdon Roundabout Link between the new roundabout and the re-modelled Bowdon Roundabout;
- (mm) the construction of a new overbridge for the Bowdon Roundabout Link road and the construction of the re-aligned M56 westbound and eastbound spur roads;
- (nn) the realignment of the existing M56 spur eastbound on-slip road from Bowdon Roundabout to accommodate the re-aligned M56 eastbound spur road;
- (oo) the construction of a new highway drainage attenuation and pollution control facility in the land between the new M56 eastbound on-slip road from Bowdon Roundabout, the re-aligned M56 eastbound spur road and the new Bowdon Roundabout Link road;
- (pp) the construction of a new outfall to the River Bollin from the new highway drainage attenuation and pollution control facility;
- (qq) the construction of a new footpath (Reference A - Rights of Way and Access Plans – Sheet 7) from the southern access to the Cheshire Lounge Public House eastwards for a distance of 8 metres, then northwards for a distance of 82 metres to connect to existing footpath reference MILL FP10 and new footpath (Reference B);
- (rr) the construction of a new footpath (Reference B - Rights of Way and Access Plans – Sheet 7) off the Bowdon Roundabout, from a point 54 metres south of its junction with the A56 Lymm Road, southwards for a total distance of 521 metres, parallel to the western boundary of the new A556 to connect to new footpath (Reference A); *(Along the route of the new footpath Reference B, a new private means of access Reference 1 (which includes vehicular rights) is to be provided and, subject thereto, that footpath is to be created);*
- (ss) the construction of a new culvert beneath the new access to Yarwoodheath Lane on the south of the improved M56 Junction 7/8;
- (tt) the construction of a new culvert beneath the existing M56 eastbound on-slip road, the realigned M56 eastbound spur road, the re-aligned M56 westbound spur road and M56 westbound spur road off-slip road and construction of a new outfall from the new culvert with Birkin Brook;
- (uu) the re-modelling of the M56 Junction 7/8 eastbound diverge interchange link to accommodate the new M56 westbound spur road off-slip road;
- (vv) the construction of a new retaining wall to support a new access track and public footpath for Yarwoodheath Farm above the re-aligned M56 eastbound spur road;

- (ww) the construction of a new retaining wall to support the new M56 Spur Eastbound on-slip to the north of the link; and
- (xx) the construction of a new non-motorised user facility for pedestrians running between the western end of footpath reference MILL FP1 in a westerly direction for approximately 44m to the edge of the re-aligned Chapel Lane.

Associated development within the meaning of section 115(2) of the 2008 Act, comprising

Work No.1

- (yy) the construction of new private means of access from C610 Old Hall Lane to private properties and privately owned fields to the east of the new A556;
- (zz) the construction of an extension of the existing outfall pipe (discharge from Tabley Services) to the unnamed watercourse feeding Tabley Brook at Over Tabley;
- (aaa) the construction of a new private means of access to field OS No. 0031, on the west of the proposed new Old Hall Lane (West) (Reference A), 546 metres north of the junction between C610 Old Hall Lane and the access to Over Tabley Hall Farm (Reference 1 - Rights of Way and Access Plans – Sheet 2);
- (bbb) the provision of replacement parking spaces for Tabley Parish Hall;
- (ccc) the provision of replacement parking spaces for St Paul’s Church, Tabley;
- (ddd) the construction of a new private means of access to field OS No. 0031, on the east of the proposed new Old Hall Lane (West) (Reference A), 211 metres south of the northern end of Old Hall Lane (West) (Reference 4 - Rights of Way and Access Plans – Sheet 2);
- (eee) the construction of a new private means of access to the new highway drainage attenuation and pollution control facility, west of the proposed new Old Hall Lane (West) (Reference A) and field OS No. 1280, 126 metres northeast of the junction between C610 Old Hall Lane and the access to Over Tabley Hall Farm (Reference 5 - Rights of Way and Access Plans – Sheet 2);
- (fff) the construction of a new private means of access to field OS No. 0031, on the south of the proposed Old Hall Lane (East) (Reference B), 205m east of the western end of Old Hall Lane (East) (Reference 8 - Rights of Way and Access Plans – Sheet 2);
- (ggg) the diversion of a watercourse (unnamed ditch) to the south of the new Old Hall Lane (East);
- (hhh) the construction of a new private means of access to field OS No. 0077 and field OS No. 0058, on the south of the improved UW2127 Bentley Hurst Lane, 180 metres east of its junction with the eastern access to Bentley Hurst Farm (Reference 1 - Rights of Way and Access Plans – Sheet 3);
- (iii) the construction of new private means of access from UW2127 Bentley Hurst Lane to private properties and privately owned fields to the west of the new A556;
- (jjj) the diversion of Tabley Brook to the west of the new A556 and to the south of the new highway drainage attenuation and pollution control facility;
- (kkk) the construction of new private means of access from the A50 to private properties and privately owned fields to the east and west of the new A556;
- (lll) the construction of a new culvert beneath re-aligned A50, east of the new A556 and the new A50 roundabout junction;
- (mmm) the construction of new private means of access from C113 Bucklow Hill Lane to private properties and privately owned fields to the east and west of the new A556;
- (nnn) the construction of new private means of access from C114 Chapel Lane to private properties and privately owned fields to the east and west of the new A556;
- (ooo) the construction of a new private means of access to field OS No. 9164 on the north of the improved C114 Chapel Lane, 346 metres north west of its junction with A556 Chester Road (Reference 4 - Rights of Way and Access Plans – Sheet 5);

- (ppp) the construction of new private means of access from C116 Millington Lane to private properties and privately owned fields to the west of the new A556;
- (qqq) the construction of a new access track from the M56 westbound carriageway to the new highway drainage attenuation pond to the west of the new A556 and south of the M56;
- (rrr) the construction of a new private means of access to field OS No. 4161, on the west of the Bowdon Roundabout Link, 48 metres south of its junction with Bowdon Roundabout (Reference 2 - Rights of Way and Access Plans – Sheet 7);
- (sss) the construction of a new private means of access to the new highway drainage attenuation and pollution control facility and field OS No. 6285, on the east of Bowdon Roundabout Link, 51 metres south of its junction with Bowdon Roundabout, north eastwards then south eastwards for a distance of 400 metres to join Yarwoodheath Farm Access Bridge (Reference 4 - Rights of Way and Access Plans – Sheet 7); and
- (ttt) the construction of a new access to Yarwoodheath Lane and privately owned fields on the south the improved M56 Junction 7/8, and re-alignment of Yarwoodheath Lane.

Work No.2 — the re-location of the Vehicle & Operators Services Agency (VOSA) Goods Vehicle Test Station from west of the existing A556 to the centre of Bowdon Roundabout;

Work No.3 — the improvement of the M6 southbound carriageway between M6 Junction 19 and the overbridge of the A5033 Northwich Road to include:

- (a) the construction of a new engineered earthworks slope to the north of the M6 southbound carriageway, but within the existing highway boundary;
- (b) relining of the southbound carriageway; and
- (c) associated highway works.

Work No.4 — the improvements associated with the de-trunking of the existing A556 Chester road from M6 Junction 19 to the new Cherry Tree Lane link, including:

- (a) reducing the current road cross section to a rural type single carriageway road;
- (b) the construction of a new non-motorised user facility for pedestrians, cyclists and equestrian users, running between the new non-motorised user link from M6 Junction 19 and the new at grade junction at Millington Lane;
- (c) the construction of a low profile bund and landscaping to provide separation between the single carriageway road and the non-motorised user facility;
- (d) the construction of new access tracks and private means of access' to adjacent lands and properties;
- (e) the construction of a new private means of access to field OS No. 3111 and field OS No. 2500, on the west of the new A556, 171 metres south of its junction with the improved C116 Millington Lane (Reference 2 - Rights of Way and Access Plans – Sheet 6); and
- (f) the construction of a new private means of access to field OS No. 4848, 46 metres north of the junction of the existing A556 Chester Road with C116 Millington Lane (Reference 5 - Rights of Way and Access Plans – Sheet 6);

Work No. 5 — the diversion of approximately 320 metres of gas transmission pipeline north of Old Hall Lane (West) and the new highway drainage attenuation / pollution control facility, including the erection of marker posts.

Work No 6 — the diversion of approximately 665 metres of oil pipeline from the south east of Chapel Lane diversion to the north west of Chapel Lane diversion.

Work No. 7 — the diversion of approximately 460 metres of water pipeline from A556 Chester Road at junction with Millington Lane to south of Mereside Farm.

and in connection with the construction of any of those works, further development within the Order limits consisting of:

- (a) alteration of the layout of any street permanently or temporarily, including but not limited to increasing the width of the carriageway of the street by reducing the width of any kerb,

footpath, footway, cycle track or verge within the street; altering the level or increasing the width of any such kerb, footway, cycle track or verge; and reducing the width of the carriageway of the street;

- (b) ramps, means of access, footpaths, bridleways, cycleways, embankments, viaducts, aprons, abutments, shafts, foundations, retaining walls, drainage, wing walls, highway lighting, fencing and culverts;
- (c) street works, including breaking up or opening a street, or any sewer, drain or tunnel under it; tunnelling or boring under a street; works to place or maintain apparatus in a street; works to alter the position of apparatus, including mains, sewers, drains and cables;
- (d) works to alter the course of, or otherwise interfere with a watercourse other than a navigable watercourse;
- (e) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised development;
- (f) works for the benefit or protection of land affected by the authorised development;
- (g) works required for the strengthening, improvement, maintenance, or reconstruction of any streets; and
- (h) such other works, including contractor's compounds, working sites, storage areas and works of demolition, as may be necessary or expedient for the purposes of or in connection with the construction of the authorised development and which fall within the scope of the environmental impact assessment.

SCHEDULE 2 REQUIREMENTS

Article 3

Interpretation

1. In this Schedule—

“CEMP” means the construction environmental management plan, being the EMP as approved prior to the construction of the authorised development;

“EMP” means the environmental management plan referred to in paragraph 4(1);

“environmental statement” means the document certified as the environmental statement certified as such under article 34 for the purposes of this Order;

“European protected species” has the same meaning as in regulations 40 and 44 of the Conservation of Habitats and Species Regulations 2010(a);

“HEMP” means the handover environmental management plan, being the EMP to be developed towards the end of the construction of the authorised development to contain

(a) the environmental information needed for the future maintenance and operation of the authorised development,

(b) the long-term commitments to aftercare, monitoring and maintenance activities relating to the environmental features and mitigation measures that will be required to ensure the continued long-term effectiveness of the environmental mitigation measures and the prevention of unexpected environmental impacts during the operation of the scheme, and

(c) a record of the consents, commitments and permissions resulting from liaison with Statutory Bodies including Natural England and

“the Secretary of State” means the Secretary of State for Transport.

Time limits

2. The authorised development must not commence later than the expiration of 5 years beginning with the date on which this Order comes into force.

Detailed design

3.—(1) The authorised development must be carried out in accordance with the scheme design shown on the works plans, the structure drawings, the junction design drawings, the lighting drawings, the car parking drawings and engineering drawings and sections, unless otherwise agreed in writing by the Secretary of State, following consultation with the relevant planning authority on matters related to its statutory powers, and provided the development so altered falls within the limits of deviation and within the envelope of the environmental statement referenced in Article 35(1)(f).

(2) Natural England shall be consulted on the design of any structures that serve to mitigate or compensate for impacts on protected species referred to in paragraph 9.

Environmental management plan

4.—(1) An EMP must be prepared and implemented for the purpose of managing the environmental effects of the authorised development.

(a) SI 2010/490

(2) The EMP must include:

- (a) a written scheme for the investigation of areas of archaeological interest,
- (b) management and maintenance information on cultural heritage assets,
- (c) a site waste management plan,
- (d) a materials management plan,
- (e) a landscape management plan,
- (f) a resources management plan, and
- (g) an ecological management plan.

(3) The authorised development must be constructed in accordance with the EMP.

(4) No authorised development must commence until a CEMP has been submitted to and approved in writing by the Secretary of State, in consultation with Natural England to the extent that it relates to protected species or protected sites and the relevant planning authority to the extent that it relates to methods for the control of nuisances and pollution.

(5) The CEMP must reflect the mitigation and compensation measures included in the environmental statement, and must include measures to address—

- (a) outline plans to address each of the matters to be included in the EMP;
- (b) measures to address control of noise, fumes, light, vibration and dust during construction;
- (c) measures to address site waste management;
- (d) restrictions on carrying out construction works close to the Rostherne Mere site of special scientific interest or the Rostherne Mere Ramsar site during the wintering bird season from the beginning of September to the end of February;
- (e) action plans, working methods and mitigation measures for each of the topics covered in the environmental statement and
- (f) any additional mitigation or compensation measures relating to nationally or European protected species or habitats that are subsequently agreed with Natural England, which includes working methods and mitigation or compensation measures agreed through any protected species licence applications.

(6) The construction of the authorised development must be carried out in accordance with the CEMP.

(7) The Secretary of State may modify the CEMP at any time after the authorised development has commenced and shall notify Natural England of any modifications as far as they relate to protected species or protected sites.

(8) Before the end of the construction of the authorised development the CEMP will be converted into the HEMP.

(9) Any transferee or lessee of powers to operate or maintain the authorised development shall be obliged to act in accordance with the HEMP.

Implementation and maintenance of landscaping

5.—(1) The authorised development must be landscaped in accordance with a landscaping scheme that has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority.

(2) The landscaping scheme must reflect the mitigation measures included in the environmental statement and set out details of all proposed hard and soft landscaping works, including—

- (a) location, number, species, size and planting density of any proposed planting;
- (b) cultivation, importing of materials and other operations to ensure plant establishment;
- (c) proposed finished ground levels;
- (d) hard surfacing materials;
- (e) vehicular and pedestrian access, parking and circulation areas;

- (f) details of existing trees to be retained, with measures for their protection during the construction period;
- (g) retained historic landscape features and proposals for restoration, where relevant; and
- (h) implementation timetables for all landscaping works.

(3) All landscaping works must be carried out to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised codes of good practice.

(4) The landscaping works must be carried out in accordance with implementation timetables referred to in sub-paragraph (2).

(5) Any tree or shrub planted as part of the landscaping scheme that, within a period of two years after planting, dies or becomes, in the opinion of the Secretary of State, seriously diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted, unless otherwise approved by the Secretary of State.

Fencing

6. Any permanent and temporary fencing and other means of enclosure for the authorised development must be constructed and installed in accordance with the Highways Agency's Manual of Contract Documents for Highway Works, Volume 1 – Specification for Highway Works.

Ecological mitigation

7. Ecological mitigation of the authorised development with respect to protected species, including the provision of any mammal underpasses or tunnels, must be provided in accordance with the principles of guidance from the Highways Agency's Design Manual for Roads and Bridges, Volume 10, Section 4, as supported by additional guidance from the Institute of Ecology and Environmental Management, published ecological literature, and consultation with statutory and non-statutory nature conservation bodies, except where any departures from that guidance are agreed in writing by the Secretary of State, following consultation with Natural England.

Contaminated land and groundwater

8.—(1) In the event that contaminated land, including groundwater, are found at any time when carrying out the authorised development which were not previously identified in the environmental statement, it must be reported immediately to the relevant planning authority or the Environment Agency (as appropriate) and the Secretary of State must complete a risk assessment of the contamination.

(2) Where the Secretary of State determines that remediation is necessary, a written scheme and programme for the remedial measures to be taken to render the land fit for its intended purpose, must be submitted to and approved by the Secretary of State, following consultation with the relevant planning authority and the Environment Agency.

(3) Remediation must be carried out in accordance with the approved scheme.

Protected species

9.—(1) No authorised development must commence until final pre-construction survey work has been carried out to establish whether European or nationally protected species are present on any of the land affected, or likely to be affected, by any part of the relevant works or in any of the trees and shrubs to be lopped or felled as part of the relevant works.

(2) Where a protected species is shown to be, or where there is a reasonable likelihood of it being, present, the relevant part(s) of the relevant works shall not begin until a scheme of protection and mitigation measures has been submitted to and approved by the Secretary of State and, where appropriate, Natural England

(3) The relevant works shall be carried out in accordance with the approved scheme, and under licence where necessary, unless otherwise agreed by the Secretary of State, after consultation with Natural England.

(4) Monitoring of impacts to protected species and habitats prior to, during and after construction, together with the monitoring and management of mitigation measures, will be carried out as far as required to meet the licence requirements.

(5) In the event that any protected species are found at any time when carrying out the authorised development which were not previously identified in the environmental statement:-

- (a) the finding must be reported immediately to Natural England; and
- (b) no activities requiring a protected species licence must continue until a scheme of protection and mitigation measures for the protected species has been submitted in writing to, and approved in writing by, Natural England and the Secretary of State..

Surface water drainage

10.—(1) No authorised development must commence until written details of the surface and foul water drainage system, reflecting the mitigation measures in the environmental statement and including means of pollution control, have been submitted to and approved by the Secretary of State.

(2) The surface and foul water drainage system must be constructed in accordance with the approved details.

Archaeological remains

11.—(1) Any archaeological remains not previously identified which are revealed when carrying out the authorised development will be investigated and recorded and reported to the Secretary of State by means of a technical report identifying the location for the housing of any finds.

(2) No construction operations will take place within 10 metres of such remains for a period of 14 days from the date of such notification unless otherwise agreed in writing by the Secretary of State following consultation with the relevant planning authority.

(3) If the Secretary of State is of the view that the archaeological remains require further investigation, no construction operations will take place within 10 metres of the remains until provision has been made for the further investigation and recording of the remains in accordance with details first submitted in writing to, and approved in writing by, the Secretary of State.

Buildings at risk

12. No authorised development in the vicinity of any buildings assessed to be at risk in the environmental statement or in the opinion of the relevant planning authority without first notifying the relevant planning authority.

Traffic management

13.—(1) No authorised development must commence until a traffic management plan has been submitted to and approved by the Secretary of State, following consultation with the relevant planning authority.

(2) The authorised development must be constructed in accordance with the approved details.

Air quality

14. The speed limit referred to in Part 5 of Schedule 3 shall remain in place until the results of air quality monitoring indicate that air quality has improved sufficiently to allow the authorised development to operate at 70mph, pursuant to a monitoring strategy developed in consultation with the relevant planning authority.

15. Work No 4 shall not be brought into use until the traffic authority, or the Secretary of State pursuant to article 38 , has carried out consultation on a proposed order under section 1 of the

1984 Act (Traffic Regulation Orders outside Greater London) to restrict access by motorised vehicles to Work No 4(b).

16. The headroom within the non-motorised user underpass at Old Hall Lane shall not be less than 3 metres.

Amendments to approved details

17. With respect to any requirement which requires the authorised development to be carried out in accordance with the details approved under this Schedule, the approved details are taken to include any amendments that may subsequently be approved in writing.

CLASSIFICATION OF ROADS ETC.

PART 1

SPECIAL ROADS

In the administrative area of Cheshire East Council —

1. A road constructed on a route, approximately 871 metres in length, starting at a point 249 metres north by north east of a point forming the intersect of the centre line of the existing A556 Chester Road Bridge with the centreline of the M56 motorway, proceeding initially in a north easterly direction, to a point 260 metres south east of the intersection between the centreline of the existing Yarwoodheath Farm Access Bridge and the centreline of the M56 Eastbound Spur On-Slip, reference letter AA on the Special Roads Plan.
2. A road constructed on a route, approximately 828 metres in length, starting at a point 256 metres south east of the intersection between the centreline of the existing Yarwoodheath Farm Access Bridge and the centreline of the M56 Eastbound Spur On-Slip, proceeding initially in a north westerly direction, to a point 251 metres north by north east of a point forming the intersect of the centreline of the existing A556 Chester Road Bridge with the centreline of the M56 motorway, reference letter BB on the Special Roads Plan.
3. A road constructed on a route, approximately 619 metres in length, starting at a point 421 metres south by south east of the intersection between the centreline of the existing Yarwoodheath Farm Access Bridge and the centreline of the M56 Eastbound Spur On-Slip, proceeding initially in a north westerly direction, to a point 291 metres south of the junction between the centreline of the M56 Eastbound Spur On-Slip with Bowdon Roundabout, reference letter CC on the Special Roads Plan.
4. A road constructed on a route, approximately 96 metres in length, starting at a point 280 metres south by south east of the intersection between the centreline of the existing Yarwoodheath Farm Access Bridge and the centreline of the M56 Eastbound Spur On-Slip, proceeding in a north westerly direction, to a point 186 metres south east of the intersection between the centreline of the existing Yarwoodheath Farm Access Bridge and the centreline of the M56 Eastbound Spur On-Slip, reference letter DD on the Special Roads Plan.

PART 2

OTHER TRUNK ROADS

In the administrative area of Cheshire East Council —

1. A road constructed on a route, comprising the new A556 Trunk Road, between point A on sheet 2 of the engineering drawings and sections, being a point on the existing M6 Junction 19 roundabout and point B on sheet 7 of the engineering drawings and sections, being a point 250 metres north of a point forming the intersect of the centre line of the

existing A556 Chester Road Bridge with the centreline of the M56 motorway, for a distance of approximately 6556 metres in a northerly direction.

2. A road constructed on a route, comprising the new Bowdon Roundabout Link Road, the circulatory carriageway of the new M56 J7/8 South Roundabout and the new A556 Southbound Merge Interchange Link, between point C on sheet 7 of the engineering drawings and sections, being a point on the existing Bowdon Roundabout highway boundary and point D on sheet 7 of the engineering drawings and sections, being a point on the existing A556 highway boundary, 201 metres north of a point forming the intersect of the centre line of the existing A556 Chester Road Bridge with the centreline of the M56 motorway, for a distance of approximately 691 metres in a southerly then south westerly direction.

PART 3

ROADS TO BE DE-TRUNKED

In the administrative area of Cheshire East Council —

The section of highway between point A on sheet 2 of the De-Trunking Plans, being a point 10 metres south of the junction between Old Hall Lane and the A556 Chester Road and point B on sheet 6 of the De-Trunking Plans, being a point 202 metres north of the junction between Millington Lane and the A556 Chester Road, for a distance of approximately 5003 metres in a northerly direction.

PART 4

ROADS SUBJECT TO 50 MPH SPEED LIMIT

1. The new A556 northbound carriageway continued into the new M56 Spur eastbound carriageway from a point 395 metres south of the southern abutment of Chester Road Bridge to a point 559 metres south east of the centre of Bowdon Roundabout, a distance of 1418 metres.
2. The new M56 Spur westbound carriageway continued into the new A556 southbound carriageway from a point 827 metres south east of the centre of Bowdon Roundabout to a point 395 metres south of the southern abutment of Chester Road Bridge, a distance of 1698 metres.
3. The new A556-A56 northbound off-slip from its junction with the new A556 and its junction with Bowdon Roundabout, a distance of 383 metres.
4. The new A556 southbound merge interchange link from its junction with the new M56 Junction 7/8 South Roundabout to its junction with the M56 westbound entry loop, a distance of 528 metres.

PART 5

ROADS SUBJECT TO 60 MPH SPEED LIMIT

1. The new A556 from its junction with M6 Junction 19 to a point 395 metres south of the southern abutment of Chester Road Bridge.

SCHEDULE 4

Article 11

PERMANENT STOPPING UP OF STREETS

PART 1

STREETS FOR WHICH A SUBSTITUTE IS TO BE PROVIDED

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Street to be stopped up</i> | <i>(3)</i> <i>Extent of stopping up</i> | <i>(4)</i> <i>New street to be substituted</i> |
|--|--|--|--|
| <i>Rights of Way and Access Plans – Sheet 2</i> | | | |
| In the administrative area of Cheshire East Council — | C610 Old Hall Lane | From a point 46 metres west of its junction with the existing A556 Chester Road, westwards to a point 20 metres east of the access to Over Tabley Hall Farm, a total distance of 182 metres. | Reference C – Rights of Way and Access Plans Sheet 2 = New bridleway from a point on the A556 Chester Road 13 metres south of its junction with C610 Old Hall Lane, generally westwards beneath the new trunk road, then northwards along the western boundary of the new trunk road, then westwards along the route of the stopped up C610 Old Hall Lane, to a new junction with the improved C610 Old Hall Lane, a total distance of 269 metres. |
| | A556 Chester Road | From a point 13 metres south of its junction with C610 Old Hall Lane, southwards for a distance of 45 metres. | Reference C – Rights of Way and Access Plans Sheet 2 (see above) and; Reference D – Rights of Way and Access Plans Sheet 2 = New cycleway from a point in the verge of the M6 Junction 19 southbound exit slip, 10 metres west of its junction with the M6 Junction 19 circulatory carriageway, northwards along the western boundary of the new trunk road for a distance of 113 metres to join new bridleway Reference C. |
| | Reference a – Rights of Way and Access Plans Sheet 2 = Access to property known as Over Tabley Hall, on the north of C610 Old Hall Lane, | The whole access | Reference 2 – Rights of Way and Access Plans Sheet 2 = New private means of access to Over Tabley Hall in the same location as stopped up |

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Street to be stopped up</i> | <i>(3)</i> <i>Extent of stopping up</i> | <i>(4)</i> <i>New street to be substituted</i> |
|---------------------------|--|--|--|
| | 245m west of its junction with A556 Chester Road. | | access Reference a, but realigned to the improved C610 Old Hall Lane |
| | Reference b – Rights of Way and Access Plans Sheet 2 = Access to property known as Over Tabley Hall Farm, on the north of C610 Old Hall Lane, 240m west of its junction with A556 Chester Road. | The whole access | Reference 3 – Rights of Way and Access Plans Sheet 2 = New private means of access to Over Tabley Hall Farm in the same location as stopped up access Reference b, but realigned to the improved C610 Old Hall Lane. |
| | Reference c – Rights of Way and Access Plans Sheet 2 = Access to field OS No. 0070 on the south of C610 Old Hall Lane, 102 metres west of its junction with A556 Chester Road | The whole access | Reference 12 – Rights of Way and Access Plans Sheet 2 = New private means of access to field OS No. 0070, on the south of the realigned C610 Old Hall Lane, 38 metres east of the access to Over Tabley Hall. |
| | Reference d – Rights of Way and Access Plans Sheet 2 = Access to field OS No. 1280 and field OS No. 1691, on the north of C610 Old Hall Lane, 64 metres west of its junction with A556 Chester Road. | The whole access | Reference 3 – Rights of Way and Access Plans Sheet 2 (see above) and; Reference 9 – Rights of Way and Access Plans Sheet 2 = New private means of access to field OS No. 1691 and field OS No. 1500, on the west of A556 Chester Road, 30 metres south of the access to St Paul’s Church, generally westwards, for a distance of 70 metres. |
| | Reference e – Rights of Way and Access Plans Sheet 2 = Access to property known as Tabley Parish Hall, on the north of C610 Old Hall Lane, 48 metres west of its junction with A556 Chester Road. | The whole access | Reference 6 – Rights of Way and Access Plans Sheet 2 = New private means of access to Tabley Parish Hall on the north of C610 Old Hall Lane, 45 metres west of its junction with A556 Chester Road. |
| | Reference f – Rights of Way and Access Plans Sheet 2 = Access to field OS No. 0070 on the south of C610 Old Hall Lane, 45 metres west of the junction of C610 Old Hall Lane with A556 Chester Road. | The whole access | Reference 12 – Rights of Way and Access Plans Sheet 2 = New private means of access to field OS No. 0070, on the south of the realigned C610 Old Hall Lane 38 metres east of the access to Over Tabley Hall. |

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Street to be stopped up</i> | <i>(3)</i> <i>Extent of stopping up</i> | <i>(4)</i> <i>New street to be substituted</i> |
|--|---|---|---|
| | Reference g – Rights of Way and Access Plans Sheet 2 = Access to the property known as Rose Cottage, on the north of C610 Old Hall Lane, 42 metres west of its junction with A556 Chester Road. | The whole access | Reference 7 – Rights of Way and Access Plans Sheet 2 = New private means of access to the property known as Rose Cottage on the north of C610 Old Hall Lane, 39 metres west of its junction with A556 Chester Road. |
| | Reference h – Rights of Way and Access Plans Sheet 2 = Access to field OS No. 3843 and field OS No. 3351, west of A556 Chester Road, 220 metres north of the access to Church Farm. | The whole access | Reference 10 – Rights of Way and Access Plans Sheet 2 = New private means of access to field OS No. 3437, on the south of Old Hall Lane (East), 128 metres west of the existing A556 Chester Road; and Reference 11 - Rights of way and Access Plans Sheet 2 = New private means of access to field OS No. 3351 & OS No. 3843 on the north of Old Hall Lane (East), 128m west of the Existing A556 Chester Road. |
| <i>Rights of Way and Access Plans – Sheet 3</i> | | | |
| In the administrative area of Cheshire East Council — | UW2127 Bentley Hurst Lane | From a point 304 metres north east of its junction with the eastern access to Bentley Hurst Farm, northeastwards for a distance of 69 metres. | Reference A – Rights of Way and Access Plans Sheet 3 = New highway from a point on the improved UW2127 Bentley Hurst Lane 206 metres northeast of its junction with the eastern access to Bentley Hurst Farm, north eastwards for a distance of 232 metres to connect to the improved UW2127 Bentley Hurst Lane east of the new trunk road; to include the improvement of the existing UW2127 Bentley Hurst Lane, from a point approximately 173 metres north east of its junction with the eastern access to Bentley Hurst Farm, north eastwards for a distance of 27 metres; and to include the improvement of the existing UW2127 Bentley Hurst Lane, from a |

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Street to be stopped up</i> | <i>(3)</i> <i>Extent of stopping up</i> | <i>(4)</i> <i>New street to be substituted</i> |
|--|--|---|--|
| | | | point approx 557 metres west of its junction with the A556 Chester Road, south westwards for a distance of 28 metres. |
| | Reference a – Rights of Way and Access Plans Sheet 3 = Access to field OS No. 0004, on the south of UW2127 Bentley Hurst Lane, 303 metres east of the junction of UW2127 Bentley Hurst Lane with the eastern access to Bentley Hurst Farm. | The whole access | Reference 2 – Rights of Way and Access Plans Sheet 3 = New private means of access to field OS No.0004 on the south of the improved UW2127 Bentley Hurst Lane, 193 metres east of its junction with the eastern access to Bentley Hurst Farm. |
| <i>Rights of Way and Access Plans – Sheet 4</i> | | | |
| In the administrative area of Cheshire East Council — | A50 | From a point 133 metres southeast of its junction with the eastern access to Hulme Barns Farm, south eastwards for a distance of 85 metres. | Reference A – Rights of Way and Access Plans Sheet 4 = New highway from a point on the improved A50, 74 metres south east of its junction with the western access to Hulme Barns Farm, south eastwards for a distance of 577 metres (including the roundabout circumference) to connect to the improved A50 south east of the new A556; to include the improvement of the existing A50 from a point 154 metres south east of its junction with UW2103 Hulse Heath Lane, south eastwards for a distance of 204 metres; and to include the improvement of the existing A50 from a point 134 metres south east of its junction with access to field OS No. 4523, north westwards for a distance of 201 metres. |

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Street to be stopped up</i> | <i>(3)</i> <i>Extent of stopping up</i> | <i>(4)</i> <i>New street to be substituted</i> |
|---------------------------|---|--|---|
| | Reference a – Rights of Way and Access Plans Sheet 4 = Access to the field OS No. 0045 on the south west of the A50, 290 metres south east of its junction with UW2103 Hulse Heath Lane. | The whole access | Reference 1 – Rights of Way and Access Plans Sheet 4 = New private means of access to the field OS No. 0045 on the south west of the A50, opposite the access to Hulme Barn Farm, 169m east of the Post Office’s eastern most access. |
| | Reference b – Rights of Way and Access Plans Sheet 4 = Western access to Hulme Barns Farm on the north east of the A50, 289 metres south east of its junction with UW2103 Hulse Heath Lane. | The whole access | Reference 2 – Rights of Way and Access Plans Sheet 4 = New private means of access to Hulme Barns Farm in the same location as stopped up access Reference b, but realigned to the improved A50. |
| | Reference d – Rights of Way and Access Plans Sheet 4 = Eastern access to Hulme Barns Farm on the north east of the A50, 441 metres south east of its junction with UW2103 Hulse Heath Lane. | The whole access | Reference 3 – Rights of Way and Access Plans Sheet 4 = New private means of access to Hulme Barns Farm in the same location as stopped up access Reference d, but realigned to the improved A50. |
| | Reference f – Rights of Way and Access Plans Sheet 4 = Access to the compound on the north of C113 Bucklow Hill Lane, 261 metres north east of its junction with the access to Hulme Barns Farm. | The whole access | Reference 4 – Rights of Way and Access Plans Sheet 4 = New private means of access to the compound, field OS No. 4619 and field OS No. 5000 at the end of the proposed C113 Bucklow Hill Lane north eastwards for a distance of 162 metres. |
| | Reference g – Rights of Way and Access Plans Sheet 4 = Access to the field OS No. 4619 on the north of C113 Bucklow Hill Lane, 290 metres north east of its junction with the access to Hulme Barns Farm. | The whole access | Reference 4 – Rights of Way and Access Plans Sheet 4 = New private means of access to the compound, field OS No. 4619 and field OS No. 5000 at the end of the proposed C113 Bucklow Hill Lane north eastwards for a distance of 184 metres. |
| | Reference h – Rights of Way and Access Plans Sheet 4 = Access to the field OS No. 5000 on the | The whole access | Reference 4 – Rights of Way and Access Plans Sheet 4 = New private means of access to the |

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Street to be stopped up</i> | <i>(3)</i> <i>Extent of stopping up</i> | <i>(4)</i> <i>New street to be substituted</i> |
|--|--|--|--|
| | south of C113 Bucklow Hill Lane, 290 metres north east of its junction with the access to Hulme Barns Farm. | | compound, field OS No. 4619 and field OS No. 5000 at the end of the proposed C113 Bucklow Hill Lane north eastwards for a distance of 184 metres, and Reference 2 – Rights of Way and Access Plans Sheet 5 = New private means of access to field OS No. 4619, field OS No. 6900 field OS No.5000 and telecommunications site on the east of the proposed new A556. |
| | Reference i – Rights of Way and Access Plans Sheet 4 = Access to field OS No. 4523 on the northeast of the A50, 450 metres south east of its junction with the eastern access to Hulme Barns Farm. | The whole access | Reference 5 – Rights of Way and Access Plans Sheet 4 = New private means of access to the field OS No. 4523 in the same location as stopped up access Reference i, but realigned to the improved A50. |
| | Reference j – Rights of Way and Access Plans Sheet 4 = Access to field OS No. 5600 on the east of the improved A50, 555 metres south east of its junction with the eastern access to Hulme Barns Farm. | The whole access | Reference 6 – Rights of Way and Access Plans Sheet 4 = New private means of access to field OS No. 5600 in the same location as stopped up access Reference j, but realigned to the improved A50. |
| <i>Rights of Way and Access Plans – Sheet 5</i> | | | |
| In the administrative area of Cheshire East Council — | C114 Chapel Lane | From a point 441 metres northwest of its junction with A556 Chester Road, north westwards for a distance of 69 metres. | Reference A – Rights of Way and Access Plans Sheet 5 = New highway from a point on the improved C114 Chapel Lane 443 metres northwest of its junction with A556 Chester Road, north westwards for a distance of 74 metres to connect to the improved C114 Chapel Lane; to include the improvement of the existing C114 Chapel Lane, from a point 108 metres southeast of its junction with UW2103 Hulse Heath Lane, south eastwards for a distance of 284 metres; and |

| <i>(1) Area</i> | <i>(2) Street to be stopped up</i> | <i>(3) Extent of stopping up</i> | <i>(4) New street to be substituted</i> |
|---------------------|--|--------------------------------------|--|
| | | | to include the improvement of the existing C114 Chapel Lane, from a point 305 metres north west of its junction with A556 Chester Road, north westwards for a distance of 139 metres. |
| | Reference a – Rights of Way and Access Plans Sheet 5 = Access to field OS No. 6877 on the north of C114 Chapel Lane, 651 metres north west of its junction with A556 Chester Road. | The whole access | Reference 1 – Rights of Way and Access Plans Sheet 5 = New private means of access to field OS no. 6877 on the north of C114 Chapel Lane, 698 metres north west of its junction with A556 Chester Road. |
| | Reference b – Rights of Way and Access Plans Sheet 5 = Access to field OS No. 4619 on the north of C113 Bucklow Hill Lane, 413 metres west of its junction with A556 Chester Road. | The whole access | Reference 2 – Rights of Way and Access Plans Sheet 5 = New private means of access to field OS No. 4619, field OS No. 6900, field OS No. 5000 and telecommunications site on the east of the proposed new A556; and Reference 7 – Rights of way and Access Plans Sheet 5 = New private means of access to field OS No. 9424, on the north of C113 Bucklow Hill Lane, 52m west of access to Maltkiln House. |
| | Reference d – Rights of Way and Access Plans Sheet 5 = Access to field OS No. 6900 on the south of C113 Bucklow Hill Lane, 368 metres west of its junction with A556 Chester Road. | The whole access | Reference 2 – Rights of Way and Access Plans Sheet 5 = New private means of access to field OS No. 4619, field OS No. 6900, field OS No. 5000 and telecommunications site on the east of the proposed new A556; and Reference 7 – Rights of way and Access Plans Sheet 5 = New private means of access to field OS No. 9424, on the north of C113 Bucklow Hill Lane, 52m west of access to Maltkiln House. |
| | Reference e – Rights of Way and Access Plans Sheet 5 = Access to the property known as Thornedge on the south of | The whole access | Reference 3 – Rights of Way and Access Plans Sheet 5 = New private means of access to the property known as |

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Street to be stopped up</i> | <i>(3)</i> <i>Extent of stopping up</i> | <i>(4)</i> <i>New street to be substituted</i> |
|---------------------------|--|--|--|
| | C114 Chapel Lane, 371 metres north west of its junction with A556 Chester Road. | | Thornedge on the south of the improved C114 Chapel Lane, in the same location as stopped up access Ref. e, but realigned to the improved C114 Chapel Lane |
| | Reference f – Rights of Way and Access Plans Sheet 5 = Access to field OS No. 9164 on the south of UW2104 Millington Hall Lane, 295 metres west of its junction with A556 Chester Road. | The whole access | Reference 6 – Rights of Way and Access Plans Sheet 5 = New private means of access between fields OS No. 9164 on the south of UW2104 Millington Hall Lane and field OS No. 1284 on the north of UW2104 Millington Hall Lane, 200 metres north west of the junction between UW2104 Millington Hall Lane and A556 Chester Road, northwards for a distance of 25 metres. |
| | Reference g – Rights of Way and Access Plans Sheet 5 = Access to field OS No. 0005 and field OS No. 1284, on the north of UW2104 Millington Hall Lane, 224 metres north west of its junction with A556 Chester Road. | The whole access | Reference 5 – Rights of Way and Access Plans Sheet 5 = New private means of access to field OS No. 0005 on the north of UW2104 Millington Hall Lane, 357 metres north west of its junction with A556 Chester Road and; Reference 6 – Rights of Way and Access Plans Sheet 5 (see above) |
| | Reference c – Rights of Way and Access Plans Sheet 5 = Access to field OS No. 5451 on the south of C114 Chapel Lane, 494 metres north west of its junction with A556 Chester Road. | The whole access | Reference 8 – Rights of way and Access Plans Sheet 5 = New private means of access to field OS No. 4263 & OS No. 5451 on south of C114 Chapel Lane, 86m east of junction with UW2103 Hulse Heath Lane; Reference 9 – Rights of way and Access Plans Sheet 5 = New private means of access to field OS No. 4263 & OS No. 5451 on south of C114 Chapel Lane, 185m east of junction with UW2103 Hulse Heath Lane; and Reference 10 – Rights of way and Access Plans |

| <i>(1)</i> Area | <i>(2)</i> Street to be stopped up | <i>(3)</i> Extent of stopping up | <i>(4)</i> New street to be substituted |
|--------------------|---------------------------------------|-------------------------------------|--|
| | | | Sheet 5 = New private means of access to field OS No. 7133, via private means of access (Reference 3) on south of C114 Chapel Lane, 120m west of Crescent Road |

Rights of Way and Access Plans – Sheet 6

| | | | |
|--|---------------------------|---|---|
| In the administrative area of Cheshire East Council — | Part of footpath MILL FP6 | From a point 13m west of its junction with MILL FP7, eastwards to its junction with MILL FP7. | Reference A – Rights of Way and Access Plans Sheet 6 = New footpath for MILL FP6 and MILL FP7, from a point 269 metres south of the access to Newhall Cottages, generally northwards for a distance of 571 metres. |
| | Part of footpath MILL FP7 | From a point 152 metres south of the junction of A556 Chester Road with UW2089 Cherry Tree Lane, generally westwards for a distance of 52 metres to its junction with MILL FP6, then generally in a north westerly direction for a distance of 63m. | Reference A – Rights of Way and Access Plans Sheet 6 (see above) |
| | C116 Millington Lane | From a point 40 metres northwest of its junction with the A556 Chester Road, north westwards for a distance of 60 metres. | Reference B – Rights of Way and Access Plans Sheet 6 = New highway from a point on the improved C116 Millington Lane, about 88 metres east of the access to Newhall Farm, generally eastwards for a distance of 162 metres, to connect to the improved C116 Millington Lane; to include the improvement of the existing C116 Millington Lane from a point 47 metres east of the access to Newhall Farm, eastwards for a distance of 46 metres; and to include the improvement of the existing C116 Millington Lane from its junction with the A556 Chester Road, westwards for a distance of 26 metres. |
| | A556 Chester Road | Eastern half width from a point 205 metres north of its junction with C116 Millington Lane, | Reference C – Rights of Way and Access Plans Sheet 6 = New highway from a point on the |

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Street to be stopped up</i> | <i>(3)</i> <i>Extent of stopping up</i> | <i>(4)</i> <i>New street to be substituted</i> |
|---------------------------|---|--|---|
| | | northwards for a distance of 524 metres, to its junction with UW2089 Cherry Tree Lane. | existing A556 Chester Road 205 metres north of its junction with C116 Millington Lane, northwards for a distance of 524 metres to connect to UW2089 Cherry Tree Lane; to include the improvement of the existing UW2089 Cherry Tree Lane at its junction with the A556 Chester Road, eastwards for a distance of 67 metres. |
| | Reference a – Rights of Way and Access Plans Sheet 6 = Access to field OS No. 4848, on the north of C116 Millington Lane, 160 metres west of its junction with A556 Chester Road. | The whole access | Reference 1 – Rights of Way and Access Plans Sheet 6 = New private means of access to field OS No. 4848, on the north of the improved C116 Millington Lane, 160 metres west of its junction with A556 Chester Road. |
| | Reference c – Rights of Way and Access Plans Sheet 6 = Access to Bucklow Manor Nursing Home, on the south of C116 Millington Lane, 46 metres west of its junction with A556 Chester Road. | The whole access | Reference 4 – Rights of Way and Access Plans Sheet 6 = New private means of access to Bucklow Manor Nursing Home, west of A556 Chester Road, 113 metres south of its junction with the improved C116 Millington Lane. |
| | Reference d – Rights of Way and Access Plans Sheet 6 = Access to Newhall Cottages on the west of A556 Chester Road 321 metres north of the junction of A556 Chester Road with C116 Millington Lane. | The whole access | Reference 3 – Rights of Way and Access Plans Sheet 6 = New private means of access to Newhall Cottages, Mereside Farm and fields OS No. 6173 and OS No. 6100, on the north of the improved C116 Millington Lane, 110 metres north west of its junction with A556 Chester Road, generally northwards for a total distance of 659 metres. |
| | Reference e – Rights of Way and Access Plans Sheet 6 = Access to field OS No. 6173, on the west of A556 Chester Road, 175 metres south of the junction of A556 Chester Road with UW2089 | The whole access | Reference 3 – Rights of Way and Access Plans Sheet 6 = New private means of access to Newhall Cottages, Mereside Farm and fields OS No. 6173 and OS No. 6100, on the north of the |

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Street to be stopped up</i> | <i>(3)</i> <i>Extent of stopping up</i> | <i>(4)</i> <i>New street to be substituted</i> |
|---------------------------|---|--|---|
| | Cherry Tree Lane. | | improved C116 Millington Lane, 110 metres north west of its junction with A556 Chester Road, generally northwards for a total distance of 659 metres. |
| | Reference f – Rights of Way and Access Plans Sheet 6 = Access to Mereside Farm on the west of A556 Chester Road, 79 metres south of the junction of A556 Chester Road with UW2089 Cherry Tree Lane. | The whole access | Reference 3 – Rights of Way and Access Plans Sheet 6 = New private means of access to Newhall Cottages, Mereside Farm and fields OS No. 6173 and OS No. 6100, on the north of the improved C116 Millington Lane, 110 metres north west of its junction with A556 Chester Road, generally northwards for a total distance of 659 metres. |
| | Reference g – Rights of Way and Access Plans Sheet 6 = Access to Mereside Farm on the west of A556 Chester Road, opposite the junction of A556 Chester Road with UW2089 Cherry Tree Lane. | The whole access | Reference 3 – Rights of Way and Access Plans Sheet 6 = New private means of access to Newhall Cottages, Mereside Farm and fields OS No. 6173 and OS No. 6100, on the north of the improved C116 Millington Lane, 110 metres north west of its junction with A556 Chester Road, generally northwards for a total distance of 659 metres. |

Rights of Way and Access Plans – Sheet 7

| | | | |
|--|-------------------|--|---|
| In the administrative area of Cheshire East Council — | Footpath ROS FP9 | From its junction with Yardwoodheath Lane, generally north eastwards for a distance of 552 metres to a point 18 metres southwest of Yarwoodheath Farm Access Bridge. | Reference C – Rights of Way and Access Plans Sheet 7 = New footpath from a point on the eastern boundary of Bowdon Roundabout Link 60 metres south of its junction with Bowdon Roundabout, generally south eastwards for a distance of 401 metres to join existing footpath ref. ROS FP9. |
| | Footpath ROS FP13 | From its junction with the A556 Chester Road, generally south eastwards for a distance of 744 metres to its junction with Tom Lane. | Reference D – Rights of Way and Access Plans Sheet 7 = New cycle track from the M56 J7/8 South Roundabout, southwards for a distance of 525 |

| <i>(1) Area</i> | <i>(2) Street to be stopped up</i> | <i>(3) Extent of stopping up</i> | <i>(4) New street to be substituted</i> |
|---------------------|--|--------------------------------------|--|
| | | | metres along the route of the re-aligned Yarwoodheath Lane, to the junction of Yarwoodheath Lane and Tom Lane. |
| | Reference a – Rights of Way and Access Plans Sheet 7 = Access to The Cheshire Lounge Public House on the western boundary of the A556 Chester Road, 46 metres north from the northern boundary of M56. | The whole access | Reference 1 – Rights of Way and Access Plans Sheet 7 = New private means of access for The Cheshire Lounge Public House and field OS No. 0643, on the south of A56 Lymm Road 172 metres west of its junction with Bowdon Roundabout, eastwards then southwards for a total distance of 707 metres. |
| | Reference b – Rights of Way and Access Plans Sheet 7 = Access to The Cheshire Lounge Public House on the western boundary of the A556 Chester Road, 68 metres north from the northern boundary of M56 | The whole access | Reference 1 – Rights of Way and Access Plans Sheet 7 (see above) |
| | Reference c – Rights of Way and Access Plans Sheet 7 = Access to field OS No. 0643, on the western boundary of the A556 Chester Road, 180 metres north from the northern boundary of M56. | The whole access | Reference 1 – Rights of Way and Access Plans Sheet 7 (see above) |
| | Reference d – Rights of Way and Access Plans Sheet 7 = Access to Yarwoodheath Lane and Yarwoodheath Farm from its junction with the A556 Chester Road. | The whole access | Reference 3 – Rights of Way and Access Plans Sheet 7 = New private means of access to Yarwoodheath Lane and Yarwoodheath Farm at the junction of the re-aligned Yarwoodheath Lane with M56 Junction 7/8 South Roundabout. |

PART 2

STREETS FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

| (1) <i>Area</i> | (2) <i>Street to be stopped up</i> | (3) <i>Extent of stopping up</i> |
|--|--|--|
| <i>Rights of Way and Access Plans – Sheet 4</i> | | |
| In the administrative area of Cheshire East Council — | C113 Bucklow Hill Lane | From a point 179 metres northeast of its junction with the access to Hulme Barns Farm, north eastwards for a distance of 183 metres. |
| | Reference c – Rights of Way and Access Plans Sheet 4 = Access to the field OS No. 2527 on the south west of the A50, 354 metres south east of its junction with UW2103 Hulse Heath Lane. | The whole access |
| | Reference e – Rights of Way and Access Plans Sheet 4 = Access to field OS No. 3746 on the north east of the A50, 481 metres south east of its junction with UW2103 Hulse Heath Lane. | The whole access |
| <i>Rights of Way and Access Plans – Sheet 5</i> | | |
| In the administrative area of Cheshire East Council — | C113 Bucklow Hill Lane | From a point 217 metres west of its junction with the A556 Chester Road, south westwards for a distance of 439 metres. |
| | UW2104 Millington Hall Lane | From a point 143 metres northwest of its junction with the A556 Chester Road, north westwards for a distance of 141 metres. |
| | Reference h – Rights of Way and Access Plans Sheet 5 = Access to field OS No. 2500, on the west of A556 Chester Road, 132 metres north of its junction with UW2104 Millington Hall Lane. | The whole access |
| <i>Rights of Way and Access Plans – Sheet 6</i> | | |
| In the administrative area of Cheshire East Council — | Reference b – Rights of Way and Access Plans Sheet 6 = Access to field OS No. 3930 on the south of C116 Millington Lane, 100 metres west of its junction with A556 Chester Road. | The whole access |
| <i>Rights of Way and Access Plans – Sheet 7</i> | | |

| <i>(1)</i> <i>Area</i> | <i>(2)</i> <i>Street to be stopped up</i> | <i>(3)</i> <i>Extent of stopping up</i> |
|--|--|--|
| In the administrative area of Cheshire East Council — | A556 Chester Road | Part of western width of the A556 Chester Road from the northern boundary of M56, northwards for a distance of 223 metres. |
| | M56 to A556 Spur | Part of southern width of the M56 to A556 Spur from a point 32 metres east of Bowdon roundabout, south eastwards for a distance of 330 metres. |

SCHEDULE 5

Article 20

LAND IN WHICH ONLY NEW RIGHTS ETC., MAY BE ACQUIRED

| <i>(1)</i> <i>Plot Reference Number</i> <i>shown on Land Plans</i> | <i>(2)</i> <i>Purpose for which rights over land may be acquired</i> |
|--|---|
| Land Plans - Sheet 2 | |
| 2/1b | New right for the construction, inspection and maintenance of a new highway drainage outfall pipe and headwall to Tabley Brook for the benefit of the Secretary of State for Transport. |
| 2/1i | New rights for the construction, inspection and maintenance of, and related rights for working spaces and access to, a new buried mains gas pipeline and equipment for the benefit of National Grid Plc and new ducting and equipment for Geo Networks Limited. |
| 2/2h | New right for the construction, inspection and maintenance of an unnamed watercourse diversion for the benefit of the Secretary of State for Transport. |
| 2/2i | New rights for the construction, inspection and maintenance of, and related rights for working spaces and access to, a new buried mains gas pipeline and equipment for the benefit of National Grid Plc and new ducting and equipment for Geo Networks Limited. |
| 2/4e | New rights for the construction, inspection and maintenance of, and related rights for working spaces and access to, a new buried mains gas pipeline and equipment for the benefit of National Grid Plc and new ducting and equipment for Geo Networks Limited. |
| 2/4h | New rights for the construction, inspection and maintenance of, and related rights for working spaces and access to, a new buried mains gas pipeline and equipment for the benefit of National Grid Plc and new ducting and equipment for Geo Networks Limited. |
| 2/8b | New right for the construction, inspection and maintenance of an unnamed watercourse diversion for the benefit of the Secretary of State for Transport. |
| 2/9c | New right for the construction, inspection and maintenance of the new Tabley Parish Hall retaining wall for the benefit of the Secretary of State for Transport. |
| Land Plans - Sheet 3 | |
| 3/1c | New right for the construction, inspection and maintenance of Tabley Brook watercourse diversion for the benefit of the Secretary of State for Transport. |
| 3/1e | New right for the construction, inspection and maintenance of Tabley Brook watercourse diversion for the benefit of the Secretary of State for Transport. |
| 3/1h | New right for the construction, inspection and maintenance of the new Green / Accommodation overbridge and access track for the benefit of the Secretary of State for Transport. |
| 3/1i | New right for the construction, inspection and maintenance of the new Green / Accommodation overbridge access track for the benefit of the Secretary of State for Transport. |
| 3/1m | New right for the construction, inspection and maintenance of the new Green / Accommodation overbridge and access track for the benefit of the Secretary of State for Transport. |

| <i>(1)</i> <i>Plot Reference Number shown on Land Plans</i> | <i>(2)</i> <i>Purpose for which rights over land may be acquired</i> |
|--|--|
| 3/2b | New right for the construction, inspection and maintenance of Tabley Brook watercourse diversion for the benefit of the Secretary of State for Transport. |
| 3/2d | New right for the construction, inspection and maintenance of Tabley Brook watercourse diversion for the benefit of the Secretary of State for Transport. |
| 3/2l | New right for the construction, inspection and maintenance of the new Green / Accommodation overbridge access track for the benefit of the Secretary of State for Transport. |
| 3/2m | New right for the construction, inspection and maintenance of a new ditch for the diversion of an unnamed watercourse to Tabley Brook for the benefit of the Secretary of State for Transport. |
| Land Plans - Sheet 5 | |
| 5/1c | New right for the construction, inspection and maintenance of a new buried multi-product pipeline and equipment for the benefit of Mainline Pipelines Limited. |
| 5/1i | New right for the construction, inspection and maintenance of a new buried multi-product pipeline and equipment for the benefit of Mainline Pipelines Limited. |
| 5/3b | New right for the construction, inspection and maintenance of a new buried multi-product pipeline and equipment for the benefit of Mainline Pipelines Limited. |
| 5/4b | New right for the construction, inspection and maintenance of a new buried multi-product pipeline and equipment for the benefit of Mainline Pipelines Limited. |
| Land Plans - Sheet 6 | |
| 6/1k, 6/1o, 6/1u and 6/1z | New rights for creation of a public right of way and private rights of way and for it to be laid out and maintained for the benefit of Cheshire East Council and the Secretary of State for Transport, and restrictions on the existing landowners not to interfere with the public right of way, its laying out, structural integrity, use and maintenance |
| 6/1m and 6/1v | New rights for the creation of a public right of way and private rights of way and for it to be laid out and maintained for the benefit of Cheshire East Council and the Secretary of State for Transport, a new right for the construction, inspection and maintenance of a buried pipeline and equipment for the benefit of United Utilities Water plc, and restrictions on the existing landowners not to interfere with the public right of way, its laying out, structural integrity, use and maintenance |
| 6/1n | New right for the construction, inspection and maintenance of a new buried water pipeline and equipment for the benefit of United Utilities Water Plc. |
| 6/1r | New right for the construction, inspection and maintenance of a new buried water pipeline and equipment for the benefit of United Utilities Water Plc. |
| 6/1x | New right for the construction, inspection and maintenance of a new buried water pipeline and equipment for the benefit of United Utilities Water Plc. |
| 6/3b | New right for the construction, inspection, maintenance and protection of a new engineered earthworks slope for the benefit of the Secretary of State for Transport. |
| 6/6a | New right for the construction, inspection and maintenance of the new Cherry Tree Lane retaining wall for the benefit of Cheshire East Council. |

| <i>(1)</i> <i>Plot Reference Number shown on Land Plans</i> | <i>(2)</i> <i>Purpose for which rights over land may be acquired</i> |
|--|---|
| Land Plans - Sheet 7 | |
| 7/4m, 7/4p, 7/4q, 7/4r, 7/4s, 7/4t, 7/4u, 7/4v, 7/4w, 7/4x, 7/4y, 7/4z, 7/4aa, and 7/4ab | New rights for the creation of a public right of way and for it and associated drainage to be laid out and maintained for the benefit of Cheshire East Council and the Secretary of State for Transport, and restrictions on the existing landowners not to interfere with the public right of way, its laying out, structural integrity, use and maintenance |
| 7/4ag | New right for the construction, inspection and maintenance of a new highway drainage outfall pipe, headwall and overflow channel/pipe to the River Bollin for the benefit of the Secretary of State for Transport. |
| 7/4ak | New right for the construction, inspection and maintenance of a new retaining wall and construction, inspection and maintenance of a new culvert and highway drainage outfall to Birkin Brook for the benefit of the Secretary of State for Transport. |
| 7/4al | New right for the construction, inspection and maintenance of a new culvert and highway drainage outfall to Birkin Brook for the benefit of the Secretary of State for Transport. |
| 7/4an | New right for the construction, inspection and maintenance of a new retaining wall for the benefit of the Secretary of State for Transport. |
| 7/6a | New right for the construction, inspection and maintenance of a new highway drainage outfall pipe, headwall and overflow channel/pipe to the River Bollin for the benefit of the Secretary of State for Transport. |
| 7/6d | New right for the construction, inspection and maintenance of a new retaining wall for the benefit of the Secretary of State for Transport. |

MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS

Compensation enactments

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land shall apply, with the necessary modifications as respects compensation, in the case of a compulsory acquisition under this Order of a right by the creation of a new right as they apply as respects compensation on the compulsory purchase of land and interests in land.

2.—(1) Without prejudice to the generality of paragraph 1, the Land Compensation Act 1973(a) has effect subject to the modifications set out in sub-paragraphs (2) and (3).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 of the 1965 Act as substituted by paragraph 4—

- (a) for the words “land is acquired or taken” there shall be substituted the words “a right or restrictive covenant over land is purchased from or imposed on”; and
- (b) for the words “acquired or taken from him” there shall be substituted the words “over which the right is exercisable or the restrictive covenant enforceable”.

(3) In section 58(1) (determination of material detriment where part of house etc. proposed for compulsory acquisition), as it applies to determinations under section 8 of the 1965 Act as substituted by paragraph 5—

- (a) for the word “part” in paragraphs (a) and (b) there shall be substituted the words “a right over or restrictive covenant affecting land consisting”;
- (b) for the word “severance” there shall be substituted the words “right or restrictive covenant over or affecting the whole of the house, building or manufactory or of the house and the park or garden”;
- (c) for the words “part proposed” there shall be substituted the words “right or restrictive covenant proposed”; and
- (d) for the words “part is” there shall be substituted the words “right or restrictive covenant is”.

Application of the 1965 Act

3.—(1) The 1965 Act shall have effect with the modifications necessary to make it apply to the compulsory acquisition under this Order of a right by the creation of a new right, or to the imposition under this Order of a restrictive covenant, as it applies to the compulsory acquisition under this Order of land, so that, in appropriate contexts, references in that Act to land are read (according to the requirements of the particular context) as referring to, or as including references to—

- (a) the right acquired or to be acquired; or
- (b) the land over which the right is or is to be exercisable.

(2) Without prejudice to the generality of sub-paragraph (1), Part 1 of the 1965 Act shall apply in relation to the compulsory acquisition under this Order of a right by the creation of a new right with the modifications specified in the following provisions of this Schedule.

(a) 1973 c. 26.

4. For section 7 of the 1965 Act (measure of compensation) there shall be substituted the following section—

“7. In assessing the compensation to be paid by the acquiring authority under this Act, regard shall be had not only to the extent (if any) to which the value of the land over which the right is to be acquired or the restrictive covenant is to be imposed is depreciated by the acquisition of the right or the imposition of the covenant but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”.

5. For section 8 of the 1965 Act (provisions as to divided land) there shall be substituted the following section—

“8.—(1) Where in consequence of the service on a person under section 5 of this Act of a notice to treat in respect of a right over land consisting of a house, building or manufactory or of a park or garden belonging to a house (“the relevant land”)—

- (a) a question of disputed compensation in respect of the purchase of the right or the imposition of the restrictive covenant would apart from this section fall to be determined by the Upper Tribunal (“the tribunal”); and
- (b) before the tribunal has determined that question the tribunal is satisfied that the person has an interest in the whole of the relevant land and is able and willing to sell that land and—
 - (i) where that land consists of a house, building or manufactory, that the right cannot be purchased or the restrictive covenant imposed without material detriment to that land; or
 - (ii) where that land consists of such a park or garden, that the right cannot be purchased or the restrictive covenant imposed without seriously affecting the amenity or convenience of the house to which that land belongs,

the A556 (Knutsford to Bowdon) Development Consent Order 201[](a) (“the Order”), in relation to that person, ceases to authorise the purchase of the right and is deemed to authorise the purchase of that person’s interest in the whole of the relevant land including, where the land consists of such a park or garden, the house to which it belongs, and the notice is deemed to have been served in respect of that interest on such date as the tribunal directs.

(2) Any question as to the extent of the land in which the Order is deemed to authorise the purchase of an interest by virtue of subsection (1) of this section is to be determined by the tribunal.

(3) Where in consequence of a determination of the tribunal that it is satisfied as mentioned in subsection (1) of this section the Order is deemed by virtue of that subsection to authorise the purchase of an interest in land, the acquiring authority may, at any time within the period of 6 weeks beginning with the date of the determination, withdraw the notice to treat in consequence of which the determination was made; but nothing in this subsection prejudices any other power of the authority to withdraw the notice.”.

6. The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

- (a) section 9(4) (failure by owners to convey);
- (b) paragraph 10(3) of Schedule 1 (owners under incapacity);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

(a) S.I. 201[]/ []

are modified so as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired or the restrictive covenant which is to be imposed is vested absolutely in the acquiring authority.

7. Section 11 of the 1965 Act (powers of entry) is modified so as to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant (which is deemed for this purpose to have been created on the date of service of the notice); and sections 12 (penalty for unauthorised entry) and 13 (entry on warrant in the event of obstruction) of the 1965 Act are modified correspondingly.

8. Section 20 of the 1965 Act (protection for interests of tenants at will, etc.) applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right or the enforcement of the restrictive covenant in question.

9. Section 22 of the 1965 Act (interests omitted from purchase) is modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

SCHEDULE 7

Article 26

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

| (1) <i>Location</i> | (2) <i>Plot Reference Number(s) shown on Land Plans</i> | (3) <i>Purpose for which temporary possession may be taken</i> | (4) <i>Relevant part of the authorised development</i> |
|--|--|---|---|
| <i>Land Plans – Sheet 1</i> | | | |
| In the administrative area of Cheshire East Council — | 1/1a, 1/1b & 1/2 | Required to enable the improvement of the M6 southbound carriageway between M6 Junction 19 and Knutsford Services. This would include localised pavement widening within the highway boundary, provision of a new southbound merge layout from M6 junction 19 and other associated highway works. | Work No.3 |
| <i>Land Plans – Sheet 2</i> | | | |
| In the administrative area of Cheshire East Council — | 2/1f, 2/2f, 2/4c, 2/4f and 2/4j | Required to provide working space for the new A556 Trunk Road, top soil storage areas and material storage. | Work No. 1 and Work No. 5 |
| | 2/1j, 2/11 and 2/4k | Required to provide working space for the gas main diversion, top soil storage areas and material storage | Work No. 5 |
| | 2/2d and 2/4a | Required to provide a temporary drainage and attenuation facility. | All works |
| | 2/2b, 2/2g and 2/8e | Required to enable the construction of new private means of access. | Work No. 1 |
| | 2/2j, 2/6f, 2/7c, 2/8f, 2/8g and 2/8h | Required to enable the construction of new private means of access | Work No. 1 and Work No. 4 |
| | 2/3b, 2/3c, 2/5b (part), 2/10a and 2/10b (part) | Required to enable the improvements to M6 J19, part of the de-trunking of the existing A556 Trunk Road and the stopping up of the existing A556 Trunk Road at its junction with M6 Junction 19 to enable the construction of a new non-motorised user link. | Work No. 1 |
| | 2/3d, 2/5b (part), 2/5c, 2/10b (part) and 2/10d | Required to enable works associated with the de-trunking of the existing A556 Trunk Road, and the subsequent improvement. To generally include the reduction of current road cross section to single carriageway, the modification of adjoining side road junctions, the construction of a new non-motorised user facility and the construction of bunding between the single carriageway road and non-motorised user facility. | Work No. 4 |

| <i>(1)</i> <i>Location</i> | <i>(2)</i> <i>Plot Reference Number(s) shown on Land Plans</i> | <i>(3)</i> <i>Purpose for which temporary possession may be taken</i> | <i>(4)</i> <i>Relevant part of the authorised development</i> |
|-------------------------------|---|---|--|
| | 2/4l | Required to enable the construction of new private means of access. | Work No. 4(d) |
| | 2/4m | Required to provide working space for the new A556 Trunk Road and for works associated with the re-alignment of an existing mains gas pipeline | Work No. 1 and Work No. 5 |
| | 2/8d | Required as part of the works associated with the de-trunking of the A556 to include material storage. | Work No. 4 |
| | 2/1h, 2/2e, 2/4d and 2/4g | Required to provide working space for the new A556 Trunk Road and for works associated with the re-alignment of an existing mains gas pipeline. | Work No. 5 |

Land Plans – Sheet 3

| | | | |
|--|--------------------------------|---|----------------------------|
| In the administrative area of Cheshire East Council — | 3/1a (part), 3/1n and 3/2o | Required to provide working space, top soil storage areas and material storage. | Work No. 1 |
| | 3/1a (part) | Required to provide a temporary drainage and attenuation facility. | Work No. 1 |
| | 3/1d | Required as a structure laydown area for the construction of the new Green / Accommodation Overbridge. | Work No. 1(q), (r) and (s) |
| | 3/2e, 3/2g, 3/q, 3/2r and 3/2s | Required to enable the construction of a new private means of access. | Work No. 1 |
| | 3/2p and 3/7 | Required to enable the construction of new private means of access | Work No. 4 |
| | 3/3c, 3/3d, 3/4, 3/5 and 3/6 | Required to enable part of the works associated with the de-trunking of the existing A556 Trunk Road, and the subsequent improvement. To generally include the reduction of current road cross section to single carriageway, the modification of adjoining side road junctions, the construction of a new non-motorised user facility, the construction of bunding between the single carriageway road and non-motorised user facility and the improvement of the Mere Crossroads junction with the A50. | Work No. 4 |

Land Plans – Sheet 4

| | | | |
|--|----------------------|---|------------|
| In the administrative area of Cheshire East Council — | 4/7e, 4/7f and 4/7g | Required to enable the construction of new private means of access | Work No. 4 |
| | 4/4l | Required to provide working space, top soil storage areas and material storage. | Work No. 1 |
| | 4/4e, 4/4j, and 4/4m | Required to provide working space, top soil storage areas and material storage. | All works |

| <i>(1)</i> <i>Location</i> | <i>(2)</i> <i>Plot Reference Number(s) shown on Land Plans</i> | <i>(3)</i> <i>Purpose for which temporary possession may be taken</i> | <i>(4)</i> <i>Relevant part of the authorised development</i> |
|-------------------------------|---|---|--|
| | 4/4i | Required for the provision of a site compound, including but not limited to site offices, welfare facilities, parking for workers' private vehicles and works vehicles, storage of plant, material and top soil and the treatment of site-generated waste. | All works |
| | 4/2d, 4/2l, 4/4a, 4/4b, 4/4o, 4/4r and 4/7a | Required to enable the construction of new private means of access. | Work No. 1 |
| | 4/1d and 4/9 | Required to enable part of the works associated with the de-trunking of the existing A556 Trunk Road, and the subsequent improvement. To generally include the reduction of current road cross section to single carriageway, the modification of adjoining side road junctions, the construction of a new non-motorised user facility, the construction of bunding between the single carriageway road and non-motorised user facility and alterations to the A50. | Work No. 4 |

Land Plans – Sheet 5

| | | | |
|--|---|---|---------------------------|
| In the administrative area of Cheshire East Council — | 5/1e | Required to provide working space, top soil storage areas and material storage. | Work No. 1 and Work No. 6 |
| | 5/1j | Required as a structure laydown area for the construction of the new Chapel Lane Overbridge. | Work No. 1(x) and (y) |
| | 5/1p | Required to enable the construction of new private means of access | Work No. 1 and Work No. 4 |
| | 5/3j, 5/3m, 5/3n, 5/3o and 5/3p | Required to enable the construction of new private means of access. | Work No. 1 |
| | 5/2e, 5/2f, 5/2h, 5/2i and 5/6a | Required to enable part of the works associated with the de-trunking of the existing A556 Trunk Road, and the subsequent improvement. To generally include the reduction of current road cross section to single carriageway, the modification of adjoining side road junctions, the construction of a new non-motorised user facility and the construction of bunding between the single carriageway road and non-motorised user facility. | Work No. 4 |
| 5/1b, 5/1d, 5/1h, 5/3a, 5/3c and 5/4a | Required to provide working space for the new A556 Trunk Road and for works associated with the re-alignment of an existing multi-product pipeline. | Work No. 6 | |

Land Plans – Sheet 6

| <i>(1)</i> <i>Location</i> | <i>(2)</i> <i>Plot Reference Number(s) shown on Land Plans</i> | <i>(3)</i> <i>Purpose for which temporary possession may be taken</i> | <i>(4)</i> <i>Relevant part of the authorised development</i> |
|--|---|---|--|
| In the administrative area of Cheshire East Council — | 6/1c and 6/1d | Required to provide working space, top soil storage areas and material storage. | Work No. 1 and Work No. 4 |
| | 6/1a, 6/1aa and 6/3d | Required to enable the construction of new private means of access. | Work No. 1 |
| | 6/3e | Required to enable the construction of a new temporary private means of access. | Work No. 1 |
| | 6/6b | Required to provide working space to construct a new retaining wall. | Work No. 1(ii) |
| | 6/1f | Required as a structure laydown area for the construction of the new Millington Lane Overbridge. | Work No. 1(ff) and Work No. 7 |
| | 6/2c and 6/4a | Required to enable part of the works associated with the de-trunking of the existing A556 Trunk Road, and the subsequent improvement. To generally include the reduction of current road cross section to single carriageway, the modification of adjoining side road junctions, the construction of a new non-motorised user facility and the construction of bunding between the single carriageway road and non-motorised user facility. | Work No. 4 |
| <i>Land Plans – Sheet 7</i> | | | |
| In the administrative area of Cheshire East Council — | 7/1a | Required to provide working space, top soil storage areas and material storage. | Work No. 1 and Work No. 7 |
| | 7/1b, 7/4c, 7/4g, 7/4h, 7/4i, 7/4k, 7/4l, 7/4n and 7/4ah | Required to provide working space, top soil storage areas and material storage | Work No. 1 |
| | 7/1d, 7/1h and 7/1l | Required to provide working space, top soil storage areas and material storage | All works |
| | 7/1e | Required for the provision of a site compound, including but not limited to site offices, welfare facilities, parking for workers' private vehicles and works vehicles, storage of plant, material and top soil and the treatment of site-generated waste. | All works |

| <i>(1)</i> <i>Location</i> | <i>(2)</i> <i>Plot Reference Number(s) shown on Land Plans</i> | <i>(3)</i> <i>Purpose for which temporary possession may be taken</i> | <i>(4)</i> <i>Relevant part of the authorised development</i> |
|-------------------------------|---|---|--|
| | 7/4j, 7/4ac, 7/4ad and 7/4ae | Required to enable the construction of new private means of access. | Work No. 1 |
| | 7/4f | Required as a structure laydown area for the construction of the new Bowdon Roundabout Link Overbridge. | Work No. 1(mm) |
| | 7/2a, 7/2d, 7/2e and 7/3b | Required to enable the improvement of the M56 westbound carriageway and merge from the A556, in the vicinity of the existing Chester Road Bridge. This would include relining of the carriageway and temporary traffic management and temporary alterations to the M56. | Work No. 1 |
| | 7/2k | Required to enable the improvement of the M56 eastbound diverge at Junction 7/8. This would include relining of the carriageway. | Work No. 1 |

PROTECTIVE PROVISIONS

PART 1

FOR THE PROTECTION OF ELECTRICITY, GAS, OIL, WATER AND
SEWERAGE UNDERTAKERS

1. For the protection of the undertakers referred to in this part of this Schedule the following provisions shall, unless otherwise agreed in writing between the Secretary of State and the undertaker concerned, have effect.

2. In this Part of this Schedule—

“alternative apparatus” means alternative apparatus adequate to enable the undertaker in question to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means—

- (a) in the case of an electricity undertaker, electric lines or electrical plant (as defined in the Electricity Act 1989(a)), belonging to or maintained by that undertaker;
- (b) in the case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by a gas transporter within the meaning of Part 1 of the Gas Act 1986 for the purposes of gas supply;
- (c) in the case of a water undertaker, mains, pipes or other apparatus belonging to or maintained by that undertaker for the purposes of water supply; and
- (d) in the case of a sewerage undertaker—
 - (i) any drain or works vested in the undertaker under the Water Industry Act 1991(b); and
 - (ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) of that Act or an agreement to adopt made under section 104 of that Act,

and includes a sludge main, disposal main (within the meaning of section 219 of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works,

- (e) in the case of Mainline Pipelines Limited, any oil apparatus,

and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

“functions” includes powers and duties;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over or upon land;

“oil apparatus” means any pipeline, apparatus and works as described in section 65(2) Pipelines Act 1962 and all protective wrappings, sleeves and slabs, together with ancillary cables and markers; and such legal interest, and benefit of property rights and covenants as are vested in Mainline Pipelines Limited in respect of such items;

(a) 1989 c. 29.

(b) 1991 c. 56.

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed;

“undertaker” means—

- (f) any licence holder within the meaning of Part 1 of the Electricity Act 1989;
 - (g) a gas transporter within the meaning of Part 1 of the Gas Act 1986(a);
 - (h) a water undertaker within the meaning of the Water Industry Act 1991; and
 - (i) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991,
 - (j) Mainline Pipelines Limited and its successors in title and function,
- for the area of the authorised development, and in relation to any apparatus, means the undertaker to whom it belongs or by whom it is maintained.

On street apparatus

3. This part of this Schedule does not apply to apparatus in respect of which the relations between the Secretary of State and the undertaker are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus in stopped up streets

4. —(1) Where any street is stopped up under article 11 (permanent stopping up of streets), any undertaker whose apparatus is in the street shall have the same powers and rights in respect of that apparatus as it enjoyed immediately before the stopping up and the Secretary of State will grant to the undertaker legal easements reasonably satisfactory to the undertaker in respect of such apparatus and access to it, but nothing in this paragraph shall affect any right of the Secretary of State or of the specified undertaker to require the removal of that apparatus under paragraph 7 or the power of the Secretary of State to carry out works under paragraph 9.

(2) Notwithstanding the temporary stopping up or diversion of any highway under the powers of article 12 (temporary stopping up of streets), an undertaker shall be at liberty at all times to take all necessary access across any such stopped up highway and/or to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway.

Protective works to buildings

5. The Secretary of State, in the case of the powers conferred by article 16 (protective work to buildings), shall so exercise those powers as not to obstruct or render less convenient the access to any apparatus.

Acquisition of land

6. Regardless of any provision in this Order or anything shown on the land plans, the Secretary of State shall not acquire any apparatus otherwise than by agreement.

Removal of apparatus

7.—(1) If, in the exercise of the powers conferred by this Order, the Secretary of State acquires any interest in any land in which any apparatus is placed or over which access to any apparatus is enjoyed or requires that the undertaker’s apparatus is relocated or diverted, that apparatus shall not be removed under this part of this Schedule and any right of an undertaker to maintain that apparatus in that land and to gain access to it shall not be extinguished until alternative apparatus

(a) 1986 c. 44. A new section 7 was substituted by section 5 of the Gas Act 1995 (c.45), and was further amended by section 76 of the Utilities Act 2000 (c. 27).

has been constructed and is in operation, and access to it has been provided, to the reasonable satisfaction of the undertaker in question in accordance with sub-paragraphs (2) to (7).

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the Secretary of State requires the removal of any apparatus placed in that land, he shall give to the undertaker in question 56 days' written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order an undertaker reasonably needs to remove any of its apparatus) the Secretary of State shall, subject to sub-paragraph (3), afford to the undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the Secretary of State and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the Secretary of State, or the Secretary of State is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed,

- (a) the undertaker in question (but not Mainline Pipelines Limited) shall, on receipt of a written notice to that effect from the Secretary of State, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed; and
- (b) the Secretary of State shall afford to and, if necessary, acquire for the benefit of Mainline Pipelines Limited the necessary facilities and rights (equivalent to those currently enjoyed by Mainline Pipelines Limited) for the construction, maintenance and use of the alternative apparatus and access to it.

(4) Any alternative apparatus to be constructed in land of the Secretary of State under this part of this Schedule shall be constructed in such manner and in such line or situation as may be agreed between the undertaker in question and the Secretary of State or in default of agreement settled by arbitration in accordance with article 36 (arbitration).

(5) The undertaker in question shall, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 36, and after the grant to the undertaker of any such facilities and rights as are referred to in sub-paragraph (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the Secretary of State to be removed under the provisions of this part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if the Secretary of State gives notice in writing to the undertaker in question that he desires himself to execute any work, or part of any work in connection with the construction or removal of apparatus in any land of the Secretary of State, that work, instead of being executed by the undertaker, shall be executed by the Secretary of State without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the undertaker.

(7) Nothing in sub-paragraph (6) shall authorise the Secretary of State to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within—

- (a) 300 millimetres of apparatus other than oil apparatus; and
- (b) 3000 millimetres of oil apparatus.

(8) Sub-paragraphs (6) and (7) shall apply to Mainline Pipelines Limited and its apparatus only if it fails to comply with its obligations under sub-paragraph (5).

Facilities and rights for alternative apparatus

8.—(1) Where, in accordance with the provisions of this part of this Schedule, the Secretary of State affords to an undertaker facilities and rights for the construction and maintenance in land of the Secretary of State of alternative apparatus in substitution for apparatus to be removed, those facilities and rights shall be granted upon such terms and conditions as may be agreed between the

Secretary of State and the undertaker in question or in default of agreement settled by arbitration in accordance with article 36 (arbitration).

(2) If the facilities and rights to be afforded by the Secretary of State in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to the undertaker in question than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator shall make such provision for the payment of compensation by the Secretary of State to that undertaker as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus

9.—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus the removal of which has not been required by the Secretary of State under paragraph 7(2), the Secretary of State shall submit to the undertaker in question a plan of the works to be executed.

(2) Those works shall be executed only in accordance with the plan submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the undertaker shall be entitled to watch and inspect the execution of those works.

(3) Any requirements made by an undertaker under sub-paragraph (2) shall be made within a period of 21 days beginning with the date on which a plan under sub-paragraph (1) are submitted to it.

(4) If an undertaker in accordance with sub-paragraph (3) and in consequence of the works proposed by the Secretary of State, reasonably requires the removal of any apparatus and gives written notice to the Secretary of State of that requirement, paragraphs 1 to 3 and 6 to 8 shall apply as if the removal of the apparatus had been required by the Secretary of State under paragraph 7(2).

(5) Nothing in this paragraph shall preclude the Secretary of State from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan instead of the plan previously submitted, and having done so the provisions of this paragraph shall apply to and in respect of the new plan.

(6) The Secretary of State shall not be required to comply with sub-paragraph (1) in a case of emergency but in that case it shall give to the undertaker in question notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable subsequently and shall comply with sub-paragraph (3) in so far as is reasonably practicable in the circumstances.

(7) In relation to works which will or may be situated on, over, under or within 15 metres measured in any direction of any oil apparatus, or (wherever situated) impose any load directly upon any oil apparatus or involve embankment works within 15 metres of any oil apparatus, the plan to be submitted to the undertaker under sub-paragraph (1) shall be detailed including a material statement and describing—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal;
- (d) the position of all oil apparatus; and
- (e) by way of detailed drawings, every alteration proposed to be made to such apparatus.

(8) In relation to works which will or may be situated on, over, under or within 30 metres measured in any direction of any electricity apparatus, or involve embankment works within 30

metres of any electricity apparatus, the plan to be submitted to the undertaker under sub-paragraph (1) shall be detailed including a material statement and describing—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal;
- (d) the position of all electricity apparatus; and
- (e) by way of detailed drawings, every alteration proposed to be made to such apparatus.

Expenses and costs

10.—(1) Subject to the following provisions of this paragraph, the Secretary of State shall repay to an undertaker all expenses reasonably incurred by that undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in paragraph 7(2), including any costs reasonably incurred in connection with the acquisition of rights under paragraph 7(3), and in watching and inspecting the execution of works under paragraph 9(2) and in making reasonable requirements under paragraph 9(3).

(2) There shall be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Schedule, that value being calculated after removal.

(3) If in accordance with the provisions of this part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the Secretary of State or, in default of agreement, is not determined by arbitration in accordance with article 36 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the undertaker in question by virtue of sub-paragraph (1) shall be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus shall not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and
- (b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole shall be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to an undertaker in respect of works by virtue of sub-paragraph (1) shall, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

11.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of the authorised development or any such works referred to in paragraphs 5 or 7(2), or 9(1), or by reason of any subsidence resulting from such development or works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property

of an undertaker, or there is any interruption in any service provided or of any access to any apparatus, or in the supply of any goods, by any undertaker, the Secretary of State shall—

- (a) bear and pay the cost reasonably incurred by that undertaker in making good such damage or restoring the supply; and
- (b) make reasonable compensation to that undertaker for any other expenses, loss, damages, penalty or costs incurred by the undertaker,

by reason or in consequence of any such damage or interruption.

(2) The fact that any act or thing may have been done by an undertaker on behalf of the Secretary of State or in accordance with a plan approved by an undertaker or in accordance with any requirement of an undertaker or under its supervision shall not, subject to sub-paragraph (3), excuse the Secretary of State from liability under the provisions of sub-paragraph (1).

(3) Nothing in sub-paragraph (1) shall impose any liability on the Secretary of State with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an undertaker, its officers, servants, contractors or agents.

(4) An undertaker shall give the Secretary of State reasonable notice of any such claim or demand and no settlement or compromise shall be made without the consent of the Secretary of State and, if he withholds such consent, he shall have the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

Cooperation

12. Where in consequence of the proposed construction of any of the authorised development, the Secretary of State or an undertaker requires the removal of apparatus under paragraph 7(2) or an undertaker makes requirements for the protection or alteration of apparatus under paragraph 9, the Secretary of State shall use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of the undertaker's undertaking and each undertaker shall use its best endeavours to co-operate with the Secretary of State for that purpose

13. Nothing in this Part of this Schedule shall affect the provisions of any enactment or agreement regulating the relations between the Secretary of State and an undertaker in respect of any apparatus laid or erected in land belonging to the Secretary of State on the date on which this Order is made.

PART 2

FOR THE PROTECTION OF OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

14. For the protection of any operator, the following provisions shall, unless otherwise agreed in writing between the Secretary of State and the operator, have effect.

15. In this part of this Schedule—

“the 2003 Act” means the Communications Act 2003(a);

“conduit system” has the same meaning as in the electronic communications code and references to providing a conduit system shall be construed in accordance with paragraph 1(3A) of that code;

(a) 2003 c.21.

“electronic communications apparatus” has the same meaning as in the electronic communications code;

“the electronic communications code” has the same meaning as in Chapter 1 of Part 2 of the 2003 Act^(a);

“electronic communications code network” means—

- (a) so much of an electronic communications network or conduit system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 of the 2003 Act; and
- (b) an electronic communications network which the Secretary of State is providing or proposing to provide;

“electronic communications code operator” means a person in whose case the electronic communications code is applied by a direction under section 106 of the 2003 Act; and

“operator” means the operator of an electronic communications code network.

16. The exercise of the powers of article 27 (statutory undertakers) are subject to paragraph 23 of Schedule 2 to the Telecommunication Act 1984^(b) (undertaker’s works).

17.—(1) Subject to sub-paragraphs (2) to (4), if as the result of the authorised development or their construction, or of any subsidence resulting from any of those works—

- (a) any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works, or other property of an operator); or
- (b) there is any interruption in the supply of the service provided by an operator,

the Secretary of State shall bear and pay the cost reasonably incurred by the operator in making good such damage or restoring the supply and make reasonable compensation to that operator for any other expenses, loss, damages, penalty or costs incurred by it, by reason, or in consequence of, any such damage or interruption.

(2) Nothing in sub-paragraph (1) shall impose any liability on the Secretary of State with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of an operator, its officers, servants, contractors or agents.

(3) The operator must give the Secretary of State reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand shall be made without the consent of the Secretary of State which, if it withholds such consent, shall have the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(4) Any difference arising between the Secretary of State and the operator under this Part of this Schedule shall be referred to and settled by arbitration under article 36 (arbitration).

(5) This Part of this Schedule shall not apply to—

- (a) any apparatus in respect of which the relations between the Secretary of State and an operator are regulated by the provisions of Part 3 of the 1991 Act; or
- (b) any damages, or any interruptions, caused by electro-magnetic interference arising from the construction or use of the authorised development.

(6) Nothing in this Part of this Schedule shall affect the provisions of any enactment or agreement regulating the relations between the Secretary of State and an operator in respect of any apparatus laid or erected in land belonging to the Secretary of State on the date on which this Order is made.

(a) See section 106.

(b) 1984 c. 12.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises the Secretary of State to construct a dual carriageway between the M6 and M56 to be known as the A556 and carry out all associated works.

The Order would permit the Secretary of State to acquire, compulsorily or by agreement, land and rights in land and to use land for this purpose.

The Order also makes provision in connection with the maintenance of the new section of highway.

A copy of the plans, engineering drawings and sections and the book of reference [and environmental statement] mentioned in this Order and certified in accordance with article 34 of this Order (certification of plans, etc.) may be inspected free of charge during working hours at [].

STATUTORY INSTRUMENTS

201[] No.

INFRASTRUCTURE PLANNING

The A556 (Knutsford to Bowdon Improvement) Development
Consent Order 201[]

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