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Subject: A303 Sparkford to Ilchester Dualling - response to Secretary of State for Transport's questions
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Dear Michelle and Dean

Please find attached the Applicant's response to the Secretary of State for Transport's questions.

If you have any further questions, please feel free to get in touch.

Kind regards

Elliot

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A303 Sparkford to Ilchester Dualling Scheme TR010036

9.43 Responses to questions raised by the Secretary of State for Transport

Planning Act 2008

November 2019

Volume 9.0



Infrastructure Planning

Planning Act 2008

A303 Sparkford to Ilchester Dualling Scheme

Development Consent Order 201[X]

Responses to questions raised by the Secretary of State for Transport

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Table of Contents

1	Introduction	4
2	Responses to questions from the Secretary of State for Transport	5
2.1	Temporary Possession (TP) and Compulsory Acquisition (CA)	5
2.2	Birdstrike	7
2.3	Non-Motorised Users (NMUs)	9
2.4	Local Transport	11
2.5	Effects of de-trunking the road on the local community	12
2.6	Noise	15
Appendix A	Noise figures	22

1 Introduction

- 1.1.1 This document details the Applicant's responses to the Secretary of State for Transport's questions raised on 05 November 2019.

2 Responses to questions from the Secretary of State for Transport

2.1 Temporary Possession (TP) and Compulsory Acquisition (CA)

2.1.1 The Secretary of State for Transport raised the following question in relation to TP and CA:

2.1.2 *The Secretary of State notes the written submission made by Somerset County Council ("SCC") on 10 June 2019 to the Examination regarding the Department of Transport Circular 2/97 which address questions in relation to the preparation of orders for the compulsory purchase of land for highways and car parks. The Secretary of State, in line with the provisions contained in paragraph 72 of that Circular, would like to invite the Applicant to provide further evidence of what consideration has been given in relation to acquiring the full title to the plots of land numbered 27 (Downhead turning head), 61 (Camel Hill Turning head), 62 (Traits lane turning head), 63 (Gason Lane turning head) and 64 (Camel Hill Services turning head) required for the turning heads. If no consideration was given to this matter what was the rational or reason underlying this approach. Would the Applicant also provide details of what, if any, contact or approach was made to the SCC on this matter.*

2.1.3 The Applicant's response is detailed below.

2.1.4 Consideration of full acquisition was undertaken. Each plot included in the lands plans was individually considered by the Applicant in preparing the application. In considering the turning heads, the Applicant sought to balance the need to provide these facilities and the rights of landowners. Regard was also had to consistency with other forms of highway and rights of way to be created by the proposed DCO. The Applicant submitted a full and detailed explanation of its position on compulsory acquisition of turning heads at Deadline 8 (REP8-032).

2.1.5 In line with the guidance on use of compulsory acquisition powers in DCOs (Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land, Ministry of Housing, Communities & Local Government, September 2013), the Applicant has sought to minimise the interference with private rights and interests. The acquisition of rights is a lesser interference than acquisition of full ownership. The acquisition of rights only has therefore been preferred where it is possible in accordance with the guidance that compulsory powers should seek to cause the minimum level of interference which is necessary to deliver the scheme.

2.1.6 A highway is a right of the public over land. It does not carry with it any right of the public to any further interference in the subsoil of the land over which it runs. On the facts of this case, it was thought to be disproportionate to permanently acquire the identified plots for minor additions to longstanding highway which will become turning heads and where it is possible and practical for other rights to subsist. Permanent acquisition of land was thought to be proportionate for the remainder of the new or altered carriageway for the

scheme in the circumstances, as using other rights (such as installing and maintaining utilities) would not be compatible with the use as part of the strategic road network. Access to subsoil rights under the dual carriageway would be restricted for safety and operational reasons and such rights should therefore be removed.

- 2.1.7 Somerset County Council's submission notes that it must own the subsoil of local highways is inconsistent with reality in the locality of the proposed development. In order to minimise interference with the owners' rights, acquiring only highway rights over the turning heads matches the position of the existing (public, local authority maintained) roads which the turning head adjoin. In those cases, the subsoil of the local highway does not vest in Somerset County Council as local highway authority. To acquire the freehold of these areas would create a difference between these small pieces of turning head and the local highway which they connect with. The Applicant, on these facts, does not consider that the level of interference caused by obtaining the freehold is justified where that will not match the situation of ownership of the subsoil of the highway in to which these areas connect.
- 2.1.8 The Applicant has set out in Table 2.1 the ownership (in so far as it has been able to establish it after ongoing diligent enquiry) of the existing highways into which these turning heads will connect.

Table 2.1: Ownership of the existing highways

Work	Plot(s)	Comments
27 (Downhead turning head)	4/1c	Plot 4/4b includes a strip running alongside the adopted highway in which utilities will be diverted and, at the southern end, a turning head is to be formed where the road will dead end to the north of the realigned A303 dual carriageway. The adjoining local highway to plot 4/4b is plot 4/1c. As noted in the Book of Reference, plot 4/1c has unknown and presumed owners of the subsoil, only the highway interest and not the subsoil is vested in Somerset County Council.
61 (Camel Hill Quarry Turning head)	5/3j	Plot 5/3j is a plot purely to provide a turning head alongside an area of the existing A303 carriageway which will be detrunked and reclassified as local road. The plot currently forms an access junction with and the verge of the A303, and the highways interest in the plot belongs to Highways England. The plot is therefore already subject to highways right. The subsoil ownership is unknown but presumed as being Highways England and the adjoining landowner.
62 (Traits lane turning head)	7/1c	Plot 7/1c adjoins the existing local highway, Traits Lane. So far as the Applicant can establish, Somerset County Council does not own the subsoil to Traits Lane at this location. The subsoil ownership is unknown but presumed as being the adjoining landowner.
63 (Gason Lane turning head)	7/7d	Plot 7/7d adjoins the existing local highway Gason Lane. So far as the Applicant can establish, Somerset County Council does not own the subsoil to Gason Lane at this location. Plot 7/7a which is the area of Gason Lane immediately to the northwest of the proposed turning head, is listed in the Book of Reference as being owned by Somerset County Council as to the highway interest only, with the subsoil presumed as the Ministry of Defence and Motor Fuel Limited.

Work	Plot(s)	Comments
64 (Camel Hill Services turning head)	7/8c	Plot 7/8c is a plot purely to provide a turning head alongside an area of the existing A303 carriageway which will be detrunked and reclassified as local road. Part of the plot currently forms part of the A303, and the highways interest in the plot belongs to Highways England. The plot is therefore already subject to highways rights. The remainder of the plot is owned by Motor Fuel Limited (who also own the subsoil to local highway in plot 7/5a), who have not objected to these proposals.

2.1.9 Somerset County Council declined to continue to participate in technical working groups to consider the detail of the application at around the time when the Application was being finalised for submission. Somerset County Council noted but declined to comment on a question on compulsory acquisition of rights in the first written questions (REP2-050, question 1.13.11). At Deadline 3, Somerset County Council stated only that “This issue will be discussed with HE further” (REP3-014, line 27). Somerset County Council expressed a concern over the approach adopted to the turning heads in discussion with the Applicant at this time. The Applicant did not accept the points made. To seek to resolve this difference of opinion pragmatically, however, the Applicant sought at Deadline 4 a change which would have included changing the acquisition of these plots to freehold acquisition. That change request, however, was rejected by the Panel (PD-013a) on the basis that it considered the change comprised additional land in terms of the regulations. There was insufficient time to take it forward in the light of that decision. The Applicant proposed the change only in an attempt to address comments made, not as a change considered to be required by the Applicant and was therefore content to proceed with the examination without this change when it was not accepted by the Examining Authority.

2.1.10 In summary, the Applicant’s approach is clearly legally sound; for further information please refer to the full legal submission made in REP8-032). It is simply a policy point as to whether on these facts the DCO 2013 Circular advice to minimise interference should be followed or the earlier Circular 2/97 advice should be followed. The Applicant took a specific view on these plots. All of the landowners affected were aware of the approach proposed and did not object. The compensation for highway dedication and outright acquisition is likely to be very similar if not identical. There is no prejudice to the landowners on these facts and there is no prejudice to Somerset County Council given that there will be dedicated public highway with the same sub-soil position as the immediately adjacent existing local highway. The Applicant considers it has adopted a reasonable and proportionate approach.

2.2 Birdstrike

2.2.1 The Secretary of State for Transport raised the following question in relation to birdstrikes:

2.2.2 *The Secretary of State notes in representations received on 19 October 2018 that the MOD is concerned that the proposed ponds at Royal Naval Air Station Yeovilton would potentially increase the risk of birdstrike to military*

aircraft operating in the area. The Applicant in consultation with Ministry of Defence("MOD")/Defence Infrastructure Organisation as necessary is invited to provide further evidence and representations namely on what further consideration might be given to addressing the concerns of the MOD.

- 2.2.3 The Applicant's response is detailed below.
- 2.2.4 The Applicant and the DIO have been in contact to discuss the parties' responses to this question and the DIO has helpfully advised of the scope of its intended response. The Applicant understands that the DIO is seeking the addition of a Bird Hazard Management Plan (BHMP) to the Construction Environmental Management Plan (CEMP) under draft requirement 3 of the dDCO.
- 2.2.5 The Applicant appreciates the DIO's concerns but submits that the suggestion made to add a BHMP to the DCO is unnecessary, and, if added in the terms suggested by the DIO, would impose an unreasonable burden on the Applicant with which it could not comply. A BHMP does not form part of the outline plans considered during examination, and the Applicant is not aware of any point which would be secured in such a plan which is not already secured in the existing draft requirements. The plans were considered in detail in the examination and align with the Environmental Statement and the outline plans to be certified (for example the Outline EMP). The Applicant is already progressing detailed design and the development of the various plans which have to be discharged under the draft requirements. Adding a new, undefined plan creates an unnecessary risk of delay to commencement of works and the delivery plan for the project.
- 2.2.6 The measures for reducing bird strike which have been discussed are essentially matters of detailed design, including: breaking up wet areas, which would be covered in both detailed design and the drainage strategy, or; reed planting, which would be covered in the landscaping design and landscaping and ecological management plan. The Applicant is unclear how duplicating such provisions would assist and is concerned that this duplication (which has not been discussed in the examination) could prove confusing to other consultees.
- 2.2.7 The Applicant entirely accepts landscaping and planting must be maintained to reduce the risk of attracting and supporting bird species to the drainage ponds. This is however already secured by the dDCO. The provision and detail of landscaping elements require to be approved under draft requirements 4 (LEMP) and 6 (Landscaping). Towards the end of the construction period the HEMP will be produced in accordance with draft requirement 3 which carries forward the maintenance regime from the construction phase under the CEMP to operation. Ongoing maintenance levels are therefore secured through the approval of the CEMP, LEMP and landscaping requirements and carried through into the HEMP. The Applicant therefore does not agree that the addition of a separate maintenance plan just for selected elements with which the DIO has concerns can be necessary, and instead submits that the BHMP does not meets the tests for imposition of planning conditions with which requirements must comply.

- 2.2.8 The Applicant submits that making provision for appropriately qualified and certified bird management operatives to disperse birds when required by RNAS Yeovilton is unreasonable. The Applicant is happy to continue working closely with the DIO to agree detailed design proposals which do not attract birds to the vicinity or increase bird density in the vicinity. It cannot however take responsibility for all birds in any part of the vicinity or be expected to agree to obligations to 'disperse' birds when required by another party. Highways England does not have the personnel or funding for such activities, and it cannot enter on land outwith its ownership to disperse birds. It is not reasonable to expect the Applicant to do any more than ensure that its project does not create an increased risk over the present situation. This suggestion serves no proper planning purpose, it not reasonable or necessary, and cannot be demonstrated to be directly related in scale and kind to the development. Such an obligation accordingly cannot be imposed.
- 2.2.9 There was no discussion of a BHMP requirement, that is now proposed, during the examination and no party has had a chance to make any representation on its purpose, scope and contents (which are not defined) contrary to the front-loaded approach of the DCO regime. For that reason, and also on the basis that all of the information which could be set out in such a plan is already required elsewhere, the Applicant objects to the addition of a BHMP to the dDCO.

2.3 Non-Motorised Users (NMUs)

- 2.3.1 The Secretary of State for Transport raised the following question in relation to NMUs:
- 2.3.2 *The Secretary of State requests an update from the Applicant regarding the provision of a west bound route for NMUs, as suggested by SCC. In particular, the Secretary of State requests an update from the Applicant regarding the possibility of upgrading the Higher Farm Lane Bridge.*
- 2.3.3 *The Secretary of State requests information on whether the Applicant has continued its efforts to secure the provision of an alternative route for NMUs to replace the route currently provided at Traits Lane and Gason Lane and to provide an update on any progress made regarding this matter. If no further efforts have been made by the Applicant then the Secretary of State would wish to understand the rationale for adopting such an approach.*
- 2.3.4 *If the Applicant has any further information that would assist the Secretary of State in considering the impact of the Proposed Development on NMUs, it would be helpful if they could provide that information.*
- 2.3.5 The Applicant's response is detailed below.
- 2.3.6 The Applicant notes that there are two areas where west bound NMU provision was discussed during the Examination, and it is not entirely clear which areas the question relates to. This response accordingly addresses both.
- 2.3.7 The most eastern area is between the Eastmead Lane on the northern side of the current A303 and the unconnected PRow some distance to the south of

the current A303. As the Applicant has set out in REP3-006 Topic Paper: Right of Way Y30-28 (Eastmead Lane) there is currently no Right of Way connection over the existing A303 between the southern section of Eastmead Lane and the existing local road on the other side of the A303. Therefore, the Applicant should not be expected to remedy this missing link as part of its DCO scheme.

- 2.3.8 As stated in the Applicant's response to the Examining Authority's Third Written Question 3.10.23 (REP6a-002), a westerly connection in this area (as advocated by Somerset County Council) is not required mitigation for the DCO scheme and does not form part of the current design. As such, the Applicant has not had any further discussions with Somerset County Council in relation to this.
- 2.3.9 Separately from and outside of the DCO application, as part of Highways England Designated Funds, funds were secured to complete a feasibility study in relation to the potential to upgrade Higher Farm Lane Overbridge. This was done to consider whether the route, which while not needed for the DCO scheme, could be a potential Public Right of Way network improvement and provide an enhancement. The feasibility study has now been completed, assessing the benefits of a possible upgrade to the bridge in the future. Any additional work associated with this bridge would need to apply for further Highways England Designated Funds and would remain separate from the scheme.
- 2.3.10 The second area of westbound NMU provision which was discussed was whether access and maintenance tracks to the south of the new A303 alignment could be extended and linked to form a NMU route between the closed Podimore slip road (where it could connect to the local highway network) and local highway to the west along the side of the verge and drainage ponds. While the Applicant does not agree that such a route is required, it did instruct its technical advisors to assess if it could be provided. Technical assessment determined that there is not enough width to provide an NMU route in this area due to the need for retaining walls and structures which would be created. It is not possible to accommodate this within the Order limits.
- 2.3.11 As detailed in the Applicant's response to the Examining Authority's Second Written Question 2.7.6 (REP5-025), between Traits Lane and Gason Lane the Applicant originally proposed a bridleway through the Ministry of Defence (MOD) signalling station, but this was not acceptable to the MOD who are the landholder. The alternative route considered was dismissed as it was longer, included a steep gradient, would interfere with a sensitive land use, was opposed by the landowner and would therefore have to be compulsorily acquired. The Applicant did not consider that was appropriate given that the MOD land alternative is more convenient for walkers and could be secured by agreement. As such a footpath has been agreed with the MOD. As an alternative, cyclists and horse riders (who are less sensitive than pedestrians to small increases in journey length) will be able to travel down Traits Lane to Blackwell Road and then along Blackwell Road to Gason Lane. Traits Lane is proposed to become a no-through road, so traffic will only be using Traits

Lane to access local businesses and properties. As this was deemed an acceptable approach to the Applicant, no further discussions with the MOD in relation to this have taken place.

2.4 Local Transport

- 2.4.1 The Secretary of State for Transport raised the following question in relation to local transport:
- 2.4.2 *The Secretary of State notes that the Transport Report dated July 2018 (APP-150) submitted by the Applicant to the Examination does not assess the significance of the increased traffic on the local transport network. The Secretary of State therefore requests that the Applicant provide an assessment of the impact of the proposed development on traffic conditions for the local population and any potential mitigations needed to address these impacts.*
- 2.4.3 *The Secretary of State also invites the Applicant to provide further evidence that the proposed development would not lead to congestion levels which would exceed pre-development levels at the beginning and end of the school day at Hazlegrove Junctions. If there are increased congestion levels has the Applicant considered what mitigation levels might be put in place to alleviate the congestion.*
- 2.4.4 The Applicant's response is detailed below.
- 2.4.5 Chapter 7 of the Transport Report (APP-150) describes the traffic impacts on the local transport network. Specifically, Section 7.1 of the Transport Report describes the traffic flow impacts and Section 7.2 presents the operational appraisal of junctions with the traffic flow changes. Whilst much of the local network will experience a reduction in traffic, the report identifies two locations in the villages of West Camel and Sparkford where traffic flows increase with the proposed development. The operational assessment shows that junctions in West Camel and Sparkford would operate well within desirable capacity limits so the increase in traffic will not cause traffic congestion.
- 2.4.6 The increases in traffic were also assessed for their impact on safety (in the ComMA report, APP-151), noise impacts (APP-048) and air quality impacts (APP-042); a summary of these assessments was also set out in the Applicant's response to the Local Impact Report (REP3-003). There were no recorded accidents on the roads through West Camel or Sparkford over a five-year period and thus there were no accident implications on the road themselves, although accidents were recorded at West Camel crossroads (south of the village) and further recent occurrences led to this being addressed by Somerset County Council. Air quality and noise impacts in West Camel and Sparkford were both considered to be not significant.
- 2.4.7 In summary, a full assessment of the impact of the proposed development on traffic conditions for the local population was carried out and presented in the Examination. No significant adverse effects were identified for increases in traffic in these villages and as a consequence there was no requirement to assess mitigation measures.

- 2.4.8 In relation to the second part of the question from the Secretary of State on local transport, the traffic movements at the school access would be lower than those at the nearby junction with the eastbound on-slip. The Transport Report (APP-150) provides the values for Ratio of Flow to Capacity (RFC) for junctions on the scheme in tables 7.1 to 7.3. Across the three time periods and two forecast years the RFCs vary between 0.34 and 0.62, well below the desirable threshold of 0.85 showing that the Eastbound on-slip junction is well within capacity. As the traffic flows entering the school are estimated to be less than traffic into the eastbound on-slip, it follows that it is not considered that there will be congestion at this school entrance and therefore mitigation measures have not been considered.
- 2.4.9 Camel Hill Link is essentially a cul-de-sac at its western end as it provides access only to a handful of properties at Camel Hill Farm and Vale Farm. At its junction with the school access, therefore, the only traffic travelling westwards along Camel Hill Link would be traffic heading towards the School or traffic heading towards Camel Hill Farm / Vale Farm. The amount of traffic heading towards Camel Hill Farm and Vale Farm is likely to be very light and so, should there be any issues in capacity of the school access junction that might be created by short-lived 'platoons' of vehicles travelling in the opposite direction, the resulting queue will not have any significant impact upon other traffic streams.

2.5 Effects of de-trunking the road on the local community

- 2.5.1 The Secretary of State for Transport raised the following question in relation to de-trunking:
- 2.5.2 *The Secretary of State notes that the SCC in their deadline 4 submissions were concerned that the de-trunked section of the A303 could be subject to anti-social behaviour and that the financial burden of dealing with such effects would have to be borne by them. The Secretary of State would therefore like to invite the Applicant to provide any further evidence on measures that might be adopted to mitigate the potential effects of anti-social behaviour.*
- 2.5.3 *The Secretary of State would also like to invite the Applicant to provide details of what additional mitigation measures could be put in place to mitigate the adverse impact on businesses on the detrunked section of the A303.*
- 2.5.4 The Applicant's response is detailed below.
- 2.5.5 Detailed responses to Somerset County Council's concerns were provided in the Applicant's Deadline 6 Report (REP6-007) at paragraphs 1.2.3 – 1.2.11, and in its Statement of Final Position (REP8-024) (paragraphs 5.3.15 – 5.3.17 and 5.5.1 – 5.5.5) which was submitted at Deadline 8.
- 2.5.6 Anti-social behaviour is controlled through other means including criminal law, and as such it is not appropriate or necessary for the matter to be addressed through the DCO. Planning decisions should be made on the basis that other regulatory regimes operate effectively.
- 2.5.7 The Applicant has no statutory duty or role in the monitoring of antisocial behaviour. Those powers, particularly in relation to illegal gypsy and traveller

encampments, have been given by Parliament to Somerset County Council and the Police. As it is a matter outside the Applicant's remit, no provisions have been made in the scheme to monitor incidents of crime and anti-social behaviour in the detrunked section of the A303. This area will form part of the local highway network, the responsibility for which will sit with Somerset County Council, as local highway authority. Furthermore, it is also the role of the Police to monitor incidents of crime and anti-social behaviour and take necessary action.

- 2.5.8 In its response to the panel's third Written Question 3.6.5 (REP6a-003), the Applicant provided statistics on the incidence of crime and anti-social behaviour in the vicinity of the service station. These figures showed that, throughout 2018, there were a total of 19 records of criminal activity at the service station, all of which were connected with the use of the service station, and only 2 of which related to anti-social behaviour.
- 2.5.9 In addition, the submission made by the District Council at Deadline 7 (REP7-051) shows only one location on the relevant part of the A303 affected (at Queen Camel) and clearly demonstrates that any problem in the District is concentrated in the area to the south east of the scheme and particularly in the area between the A303 and A30 south-east of Yeovil, and not in the vicinity of the scheme
- 2.5.10 At no point in the Examination has Somerset County Council attempted to quantify the risk of anti-social behaviour or to confirm the anticipated financial burden that will be placed upon it. As Somerset County Council noted in its Deadline 4 submission, "*....there is an unquantified risk that this length of highway will attract an antisocial use that may lead to significant financial exposure for the County Council in perpetuity.*" The Applicant submits that the Council has produced no evidence for the conjecture that anti-social behaviour will occur and has not provided any record of illegal gypsy encampments in this location where there are already areas of unused ground near the highway which could be used as encampments. The Council has provided nothing more than anecdotal evidence of problems with gypsy travellers in the area some years previously.
- 2.5.11 In light of the lack of any evidence from Somerset County Council that anti-social behaviour will occur, the Applicant does not consider it reasonable to request that it should mitigate these potential (and unproven) effects that, in any event, are outside of the Applicant's remit or control. The Applicant is not liable for mitigating the anti-social or illegal behaviour of others. Somerset County Council was invited by the Applicant to suggest design measures to address its concerns over anti-social behaviour that the Applicant could consider. However, no design measures were put forward by Somerset County Council; they simply requested a commuted sum but were unable to quantify the amount. The Applicant entirely understands Somerset County Council's position that as a public authority its resources are limited and constrained, however, the Applicant notes that it is also funded through public funds, must account for the use of these and should not be required to use its public funds to redress funding constraints elsewhere in the public sector.

- 2.5.12 The Applicant also agreed to investigate design measures to ensure that this road is not used at excessive speed as part of the detailed design process for this detrunked section. This discussion arose in direct response to the concerns raised by the County Council and a request for funding for measures, however they have been unable to suggest any measures they would like to have included in the design. The Applicant is prepared to continue these discussions with Somerset County Council as the detailed design progresses.
- 2.5.13 Somerset County Council's submissions that this road should remain part of the strategic road network or become a private road are entirely inappropriate. The strategic road network in England is made up of motorways, trunk roads and the most significant A-class roads. The purpose of the strategic road network is to move large volumes of traffic safely and efficiently, not to provide localised access. This road, once de-trunked, would serve a diner business, a filling station business, a consented plot for a coffee shop business and access to land; it is clearly a local highway. The Applicant's position on this is set out in detail in REP6-007 at paragraph 1.2.6 on. The Applicant considers that the private road option would be detrimental to the existing businesses as it would transfer liability for a road, which is required to be open to use by the public in order for these businesses to thrive, to a private road which these businesses then have to maintain. It would be unreasonable that these businesses, while paying taxes and rates, would not benefit from the current provision of access to a publicly maintainable highway.
- 2.5.14 The detrunked section of road will become part of the local highway network with a purpose of providing access to private property, two operational businesses and one consented business use site. These businesses will continue to be accessed via the local road network and remain open and accessible to the public. The continued use of the road to access operational businesses should ensure that there are limited opportunities for anti-social behaviour to occur. The businesses will continue to benefit from a direct access from the local highway network and as such will continue to trade. No additional mitigation measures are therefore considered necessary.
- 2.5.15 In summary:
- The Applicant reiterates that it is happy to discuss any design measures which could be incorporated to address potential anti-social behaviour with Somerset County Council before detailed design is finalised for approval;
 - Somerset County Council has not put forward any design measures which could be investigated to address its un-evidenced concerns;
 - The Applicant will not provide a contingency fund as requested by Somerset County Council as it is not necessary to make the development acceptable in planning terms nor is it directly related to the development, and as such would not meet the tests set by Reg. 122 of the Community Infrastructure Levy Regulations 2010 and cannot and should not be imposed.
 - The Applicant cannot be held liable for the behaviour of others. It is not reasonable, proportionate or appropriate to expect the Applicant to

meet the costs of dealing with others' anti-social behaviour or to underwrite the un-evidenced potential future costs of the local highway authority in undertaking its statutory role in managing this area of highway.

- The existing businesses on this section of detrunked road will continue to be served by a direct access from the local highway network and will therefore remain operational. No additional mitigation measures are therefore required.

2.6 Noise

2.6.1 The Secretary of State for Transport raised the following question in relation to noise:

2.6.2 *The Secretary of State invites the Applicant to provide further evidence that residential receptors, in particular, the consented residential development at Long Hazel Park and Sparkford High Street, would not be subject to a Significant Observed Adverse Effect Level ("SOAEL") in accordance with the Noise Policy Statement for England, including details of any mitigation measures necessary to achieve this.*

2.6.3 The Applicant's response is detailed below.

2.6.4 The aims of the Noise Policy Statement for England (NPSE)¹ are: *"through the effective management and control of environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development:*

- *avoid significant adverse impacts on health and quality of life;*
- *mitigate and minimise adverse impacts on health and quality of life; and*
- *where possible, contribute to the improvement of health and quality of life."*

2.6.5 The key phrase *"significant adverse"* that is used within the NPSE aims is discussed in the Explanatory Note within the NPSE¹ in which SOAEL is defined as *"the level above which significant adverse effects on health and quality of life occur. It is not possible to have a single objective noise-based measure that defines SOAEL that is applicable to all sources of noise in all situations. Consequently, the SOAEL is likely to be different for different noise sources, for different receptors and at different times."*

2.6.6 NPSE thus defines SOAEL as the level at which significant adverse effects arise and does not assign a particular value to this.

2.6.7 The criteria for significance for operational noise were set out in Chapter 11 Noise and Vibration of the Environmental Statement (APP-048, paragraphs 11.4.36 and 11.4.37). A noise impact was considered to be potentially significant if

¹ Department for Environment, Food and Rural Affairs (2010) The Noise Policy Statement for England [online] available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/69533/pb13750-noise-policy.pdf (last accessed November 2019).

- The noise increase was non-negligible (that is 1dB or more in the short term or 3dB or more in the long term) for a receptor exposed to noise above SOAEL, or
- The noise increase in the opening year was moderate or major.

2.6.8 In all cases where a potentially significant adverse effect was indicated, professional judgement was used to determine if a significant adverse effect would be likely to arise. This included consideration of the sources of noise, the causes of change in noise levels, the magnitude of the impact in the opening year, the classification of the impact in the long-term, and the noise level in the opening year relative to the lowest observable adverse effect level (LOAEL) and SOAEL.

2.6.9 These criteria involve the impact magnitude classifications (APP-048, Table 11.8) in accordance with DMRB HD213/11² as detailed in Table 2.2 below.

Table 2.2 DMRB Classification of Magnitude of Noise Impacts

Classification of impact	Short-term increase [dB]	Long-term increase [dB]
No change	0	0
Negligible	0.1 to 0.9	0.1 to 2.9
Minor	1.0 to 2.9	3.0 to 4.9
Moderate	3.0 to 4.9	5.0 to 9.9
Major	5.0 +	10.0 +

2.6.10 Values for SOAEL were set out in Chapter 11 Noise and Vibration of the Environmental Statement (APP-048, paragraphs 11.4.26 and 11.4.27) as 68dB L_{10,18h} at the façade for the daytime and 55dB L_{night,outside} at night.

2.6.11 There is thus scope for confusion here between SOAEL as defined by NPSE as the level at which significant adverse effects arise, and SOAEL as used in the Environmental Statement which is only one element in the determination of significance and where other elements such as the noise increase, the nature of the noise source, and long-term impact were also factors. For the avoidance of doubt the invitation from the Secretary of State is interpreted as: further evidence should be provided that the consented residential development at Long Hazel Park and Sparkford High Street would not be subject to a significant adverse effect due to noise. In this response the term SOAEL is hereafter given the same meaning as in the Environmental Statement, that is a level of 68dB L_{10,18h} at the façade for the daytime and 55dB L_{night,outside} at night.

2.6.12 REP2-011 reported noise levels at all residential receptors using an Ordnance Survey (OS) database of receptor locations (Table 2.1 on page 460 of 492). This did not include all the proposed residential lodge locations of the consented development at Long Hazel Park as these are not in the OS database. However, the daytime levels at these locations were reported in REP5-025 (Table C.1 on page 35 of 47).

2.6.13 Figure A.1 (Appendix A) shows the locations of the residential receptors on Sparkford High Street identified using the same receptor identification as in

² Highways England (2011) Design Manual for Roads and Bridges Volume 11 Section 2 Part 7 HD213/11 Noise and Vibration.

REP2-011. Figure A.2 (Appendix A) shows the locations of the proposed residential lodge locations of the consented development at Long Hazel Park using the same receptor identification as in REP5-025. Table 2.3 shows the day and night-time noise levels for the Sparkford High Street receptors and the noise increases in the short-term and long-term and Table 2.4 shows the day and night-time noise levels for the residential lodge locations together with the noise increases in the short-term and long-term.

2.6.14 In these tables the noise levels are shown as calculated using the Calculation of Road Traffic Noise³ for the opening year (2023) with and without the scheme and for a 'design' year (2038) with the scheme. The noise levels without the scheme are identified as DM (do-minimum) and the noise levels with the scheme are identified as DS (do-something). The opening year is identified as OY and the design year is identified as DY. These are combined so that DSOY are noise levels with the scheme in the opening year, and DMOY are noise levels without the scheme in the opening year, and DSDY are noise levels with the Scheme in the design year that is 15 years after the opening year.

2.6.15 The tables also show the short-term noise increase in the opening year with the Scheme as DSOY – DMOY and the long-term noise increase with the Scheme DSDY – DMOY.

Table 2.3: Sparkford High Street Receptor Noise Levels

Receptor	DMO Y Day LA10 18 hr façade e [dB]	DSOY Day LA10 18 hr façade e [dB]	DSDY Day LA10 18 hr façade e [dB]	DMO Y Night Lnigh t [dB]	DSOY Night Lnigh t [dB]	DSDY Night Lnigh t [dB]	DSOY - DMO Y Day	DSOY - DMO Y Night	DSDY - DMO Y Day	DSDY - DMO Y Night
							Short term increase [dB]		Long term increase [dB]	
R13	52.7	53.7	54.2	41.4	42.3	42.8	1.0	0.9	1.5	1.4
R15	65.2	66.2	66.6	52.7	53.6	53.9	1.0	0.9	1.4	1.2
R24	65.2	66.2	66.6	52.7	53.6	53.9	1.0	0.9	1.4	1.2
R90	69.8	70.9	71.3	56.8	57.8	58.2	1.1	1.0	1.5	1.4
R92	65.2	66.2	66.6	52.7	53.6	53.9	1.0	0.9	1.4	1.2
R101	65.2	66.2	66.6	52.7	53.6	53.9	1.0	0.9	1.4	1.2
R141	69.8	70.9	71.3	56.8	57.8	58.2	1.1	1.0	1.5	1.4
R177	69.8	70.9	71.3	56.8	57.8	58.2	1.1	1.0	1.5	1.4
R274	69.8	70.9	71.3	56.8	57.8	58.2	1.1	1.0	1.5	1.4
R282	65.6	66.6	67.1	53.0	53.9	54.4	1.0	0.9	1.5	1.4
R286	69.7	70.8	71.2	56.7	57.7	58.1	1.1	1.0	1.5	1.4
R303	68.7	69.8	70.2	55.8	56.8	57.2	1.1	1.0	1.5	1.4
R311	59.8	60.8	61.2	47.8	48.7	49.1	1.0	0.9	1.4	1.3
R341	64.9	66.0	66.4	52.4	53.4	53.7	1.1	1.0	1.5	1.3
R358	69.7	70.8	71.2	56.7	57.7	58.1	1.1	1.0	1.5	1.4
R419	69.5	70.6	71.0	56.5	57.5	57.9	1.1	1.0	1.5	1.4
R421	67.8	68.9	69.3	55.0	56.0	56.4	1.1	1.0	1.5	1.4
R433	67.1	68.2	68.6	54.4	55.4	55.7	1.1	1.0	1.5	1.3

³ Department of Transport (1988) Calculation of Road Traffic Noise

Receptor	DMO Y Day LA10 18 hr façade [dB]	DSOY Day LA10 18 hr façade [dB]	DSDY Day LA10 18 hr façade [dB]	DMO Y Night Lnigh t [dB]	DSOY Night Lnigh t [dB]	DSDY Night Lnigh t [dB]	DSOY - DMO Y Day	DSOY - DMO Y Night	DSDY - DMO Y Day	DSDY - DMO Y Night
							Short term increase [dB]		Long term increase [dB]	
R460	65.1	66.2	66.6	52.6	53.6	53.9	1.1	1.0	1.5	1.3
R461	69.7	70.8	71.2	56.7	57.7	58.1	1.1	1.0	1.5	1.4
R465	67.4	68.5	68.9	54.6	55.6	56.0	1.1	1.0	1.5	1.4
R474	60.7	61.6	62.1	48.6	49.4	49.9	0.9	0.8	1.4	1.3
R478	66.9	68.0	68.3	54.2	55.2	55.5	1.1	1.0	1.4	1.3
R483	69.7	70.8	71.2	56.7	57.7	58.1	1.1	1.0	1.5	1.4
R491	67.2	68.3	68.7	54.5	55.5	55.8	1.1	1.0	1.5	1.3
R496	69.4	70.5	70.9	56.4	57.4	57.8	1.1	1.0	1.5	1.4
R517	67.3	68.5	68.8	54.6	55.6	55.9	1.2	1.0	1.5	1.3
R524	67.5	68.5	69.0	54.7	55.6	56.1	1.0	0.9	1.5	1.4
R526	59.8	60.8	61.2	47.8	48.7	49.1	1.0	0.9	1.4	1.3
R550	67.3	68.4	68.8	54.6	55.5	55.9	1.1	0.9	1.5	1.3
R557	60.7	61.6	62.1	48.6	49.4	49.9	0.9	0.8	1.4	1.3
R573	69.8	70.9	71.3	56.8	57.8	58.2	1.1	1.0	1.5	1.4
R578	62.7	63.7	64.1	50.4	51.3	51.7	1.0	0.9	1.4	1.3
R580	58.0	58.8	59.4	46.2	46.9	47.4	0.8	0.7	1.4	1.2
R605	69.0	70.0	70.4	56.1	57.0	57.3	1.0	0.9	1.4	1.2
R606	68.8	69.9	70.3	55.9	56.9	57.3	1.1	1.0	1.5	1.4
R607	68.9	70.0	70.4	56.0	57.0	57.3	1.1	1.0	1.5	1.3
R608	68.9	70.0	70.4	56.0	57.0	57.3	1.1	1.0	1.5	1.3
R609	68.0	69.0	69.5	55.2	56.1	56.5	1.0	0.9	1.5	1.3
R610	68.0	69.0	69.5	55.2	56.1	56.5	1.0	0.9	1.5	1.3
R611	68.7	69.7	70.1	55.8	56.7	57.1	1.0	0.9	1.4	1.3
R612	68.7	69.7	70.2	55.8	56.7	57.2	1.0	0.9	1.5	1.4
R618	67.9	68.9	69.4	55.1	56.0	56.4	1.0	0.9	1.5	1.3
R619	67.6	68.7	69.0	54.8	55.8	56.1	1.1	1.0	1.4	1.3

Table 2.4: Long Hazel Park consented development receptor locations

Receptor	DMO Y Day LA10 18 hr free-field [dB]	DSO Y Day LA10 18 hr free-field [dB]	DSD Y Day LA10 18 hr free-field [dB]	DMO Y Night Lnigh t [dB]	DSOY Night Lnigh t [dB]	DSDY Night Lnigh t [dB]	DSOY - DMOY Day	DSOY - DMOY Night	DSDY - DMO Y Day	DSDY - DMO Y Night
							Short term increase [dB]		Long term increase [dB]	
Resi Lodge 1	59.9	62.4	63.5	50.1	52.4	53.4	2.5	2.3	3.6	3.3
Resi Lodge 2	58.8	60.8	61.9	49.2	51.0	51.9	2.0	1.8	3.1	2.7
Resi Lodge 3	59.4	61.3	62.4	49.7	51.4	52.4	1.9	1.7	3.0	2.7
Resi Lodge 4	59.3	61.2	62.3	49.6	51.3	52.3	1.9	1.7	3.0	2.7
Resi Lodge 5	59.3	61.3	62.4	49.6	51.4	52.4	2.0	1.8	3.1	2.8
Resi Lodge 6	59.1	61.3	62.4	49.4	51.4	52.4	2.2	2.0	3.3	3.0
Propose d Resi Lodge 1	57.6	59.8	60.9	48.1	50.1	51.0	2.2	2.0	3.3	2.9
Propose d Resi Lodge 2	56.5	58.7	59.8	47.1	49.1	50.1	2.2	2.0	3.3	3.0
Propose d Resi Lodge 3	55.3	57.9	58.9	46.0	48.3	49.2	2.6	2.3	3.6	3.2
Propose d Resi Lodge 4	54.7	55.5	56.4	45.5	46.2	47.0	0.8	0.7	1.7	1.5
Propose d Resi Lodge 5	55.2	57.1	57.9	45.9	47.6	48.3	1.9	1.7	2.7	2.4
Propose d Resi Lodge 6	54.9	55.7	56.5	45.6	46.4	47.1	0.8	0.8	1.6	1.5
Propose d Resi Lodge 7	54.9	56.0	56.9	45.6	46.6	47.4	1.1	1.0	2.0	1.8
Propose d Resi Lodge 8	55.0	56.3	57.2	45.7	46.9	47.7	1.3	1.2	2.2	2.0
Propose d Resi Lodge 9	54.6	56.0	56.9	45.4	46.6	47.4	1.4	1.2	2.3	2.0
Propose d Resi	55.9	58.2	59.2	46.5	48.6	49.5	2.3	2.1	3.3	3.0

Receptor	DMO Y Day LA10 18 hr free-field [dB]	DSO Y Day LA10 18 hr free-field [dB]	DSD Y Day LA10 18 hr free-field [dB]	DMO Y Night Lnigh t [dB]	DSOY Night Lnigh t [dB]	DSDY Night Lnigh t [dB]	DSOY - DMOY Day	DSOY - DMOY Night	DSDY - DMO Y Day	DSDY - DMO Y Night
							Short term increase [dB]		Long term increase [dB]	
Lodge 10										
Proposed Resi Lodge 11	57.0	59.1	60.1	47.5	49.4	50.3	2.1	1.9	3.1	2.8
Proposed Resi Lodge 12	56.1	58.2	59.3	46.7	48.6	49.6	2.1	1.9	3.2	2.9
Proposed Resi Lodge 13	57.3	59.2	60.3	47.8	49.5	50.5	1.9	1.7	3.0	2.7
Proposed Resi Lodge 14	56.2	58.2	59.3	46.8	48.6	49.6	2.0	1.8	3.1	2.8
Proposed Resi Lodge 15	57.3	59.1	60.2	47.8	49.4	50.4	1.8	1.6	2.9	2.6

2.6.16 Table 2.3 shows that none of the Sparkford High Street receptors that are exposed above SOAEL are subject to increases of more than 1.2dB in the short-term and 1.5dB in the long-term in the daytime and 1.0dB in the short-term and 1.4dB in the long-term at night. Chapter 11 of the Environmental Statement (APP-48) noted that the greatest short-term increase is towards the bottom end of the minor increase classification band which is 1.0 to 2.9dB for the short-term. No major changes in acoustic character are expected as the noise increase is due to projected increased flow of vehicles in Sparkford High Street, the long-term increase is negligible (0.1dB to 2.9dB) and so the assessment outcome was that this would not be a significant adverse effect.

2.6.17 Table 2.4 shows that none of the receptors in the Long Hazel Park development are exposed above SOAEL. Note that free-field values are given in the table because the lodge façades that would reflect sound are not yet built. However, façade levels for all LA10,18hr values would be 2.5dB higher than the values shown for the daytime (night-time values are free-field by definition). The increases in the short-term (due to the scheme in the opening year) are negligible or minor (0.1dB to 2.9dB) and the increases in the long-term (fifteen years from opening) are also negligible or minor (0.1dB to 4.9dB). Although noise levels are relatively high for residential development,

the scheme does not introduce a significant adverse effect using the criteria set out in Chapter 11 of the Environmental Statement (APP-048).

- 2.6.18 It follows that receptors in Sparkford High Street and in the Long Hazel Park development would not be subject to significant adverse effects defined as SOAEL in the NPSE with the scheme design, and as such mitigation measures are not deemed as required.

Appendix A Noise figures

Figure A.1 Sparkford High Street receptors

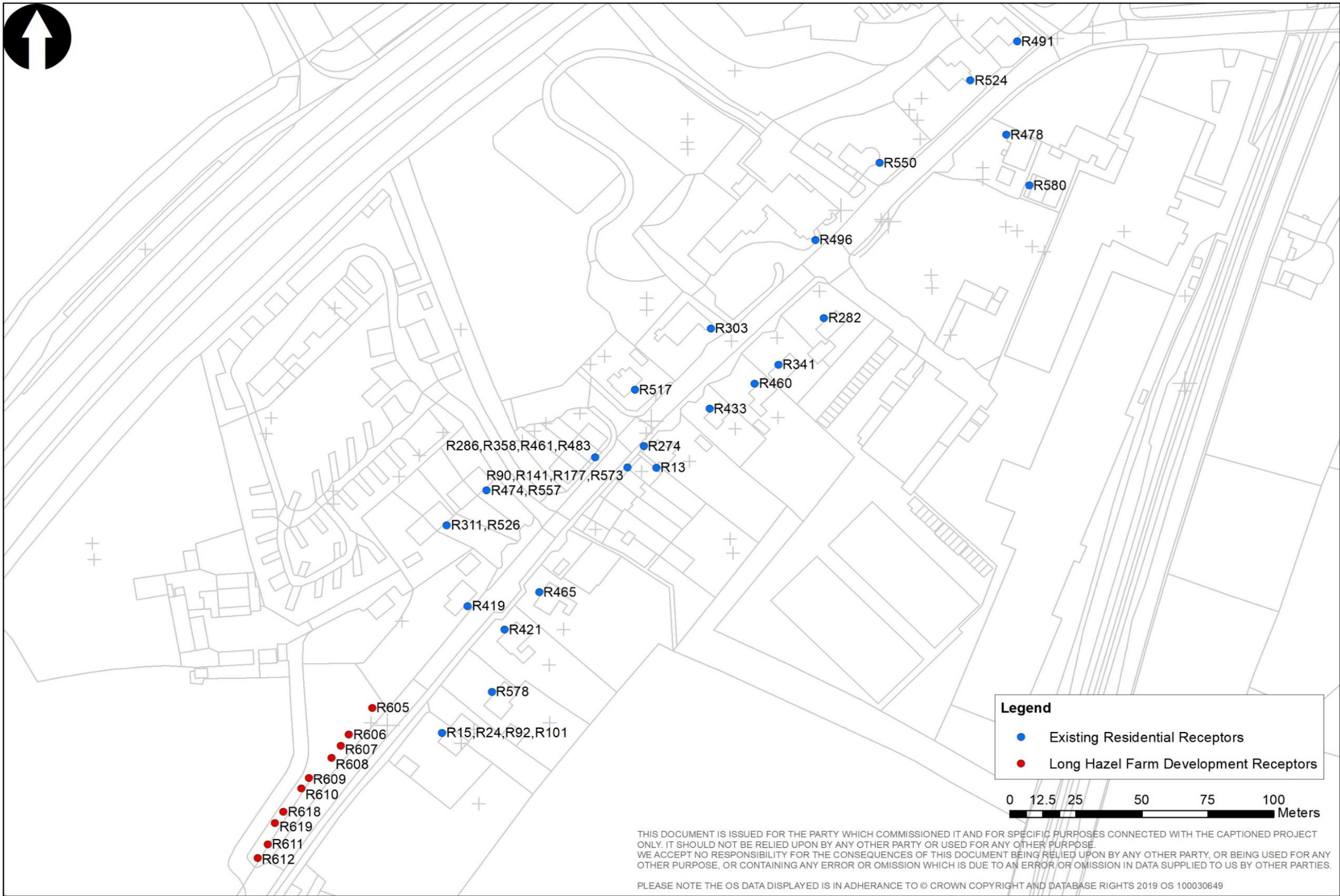


Figure A.2 Long Hazel Park Receptors

