



The Planning Inspectorate
Yr Arolygiaeth Gynllunio

The Planning Act 2008

A303 Sparkford to Ilchester Dualling

Examining Authority's Report
of Findings and Conclusions
and

Recommendation to the Secretary of State for
Transport

Examining Authority

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12 September 2019

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OVERVIEW

File Ref: TR010036

The application, dated 27 July 2018, was made under section 37 of the Planning Act 2008 and was received in full by The Planning Inspectorate on 27 July 2018.

The Applicant is Highways England.

The Application was accepted for Examination on 23 August 2018.

The Examination of the Application began on 12 December 2018 and was completed on 12 June 2019.

The Proposed Development comprises a continuous dual carriageway on the A303 linking the Podimore Roundabout and the Sparkford Bypass. The Proposed Development would involve the removal of at-grade junctions and direct accesses.

Summary of Recommendation:

The Examining Authority recommends that the Secretary of State should withhold consent. If however the Secretary of State decides to give consent, then the Examining Authority recommends that the Order should be in the form attached.

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**ERRATA SHEET – A303 Sparkford to Ilchester Dualling - Ref.
TR010036**

**Examining Authority's Report of Findings and
Conclusions and Recommendation to the Secretary of
State for Transport, dated 12 September 2019**

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

Page No.	Paragraph	Error	Correction
iv	Heading 14	Extra space between the word "THE" and "CASE".	Delete space.
iv	Heading 15	Extra space between the word "ACQUISITION" and "AND".	Delete space.
v	Heading 17	Extra space between the word "FINDINGS" and "AND".	Delete space.
v	In Table 2 in the List of Tables	Extra space between the word "Assets" and the full stop.	Delete space.
14	1.8.2	Missing word in first bullet point.	Is the word "to" missing between "relation and flood".
15	1.9.1	Missing space.	Add a space between Chapter 11 and considers at the top of the page.
15	1.9.2	Extra word.	Delete the word "Events" after Examination in Appendix A.
26	3.1.3	In third bullet point insert the word "or" after the word "of".	Insert the word "or" after the word "of".
27	3.2.4	Delete the word "in" in the first line. Delete the letter "t" at the end of "PA2008".	Delete the word "in" in the first line and delete the letter "t" after "PA2008".
40	4.1.10	Missing letter in second sentence.	Inset the letter "A" after the "X" and before the apostrophe.
54	5.3.39	Incorrect capital letter in second line.	Replace the capital "W" in Work with "w".
56	5.3.53	Missing letter in first sentence.	Insert the letter "a" after "is" and before "dwelling".

Page No.	Paragraph	Error	Correction
56	5.3.54	Missing letter in penultimate sentence.	Insert the letter "a" after "be" and before "moderate".
58	5.3.64	Missing letter in the last sentence.	Insert the letter "a" after the word "be" and before "non- designated".
61	5.5.8	Missing comma in first sentence.	Insert comma after the word "Furthermore".
71	5.7.39	Extra full stop in first sentence.	Delete the full stop after the word "moderate".
74	5.8.2	Duplication of words in second sentence.	Remove the words "that the" after the word "ensuring".
88	6.8.4	Incorrect plural in the first sentence.	Replace "were" with "it was" after the word "although".
90	7.2.8	Missing word in the last sentence.	Insert the word "be" after the word "should" and before the word "replaced".
103	7.3.89	Additional word in the first sentence.	Delete the word "the" after "either".
142	9.7.15	Missing word in the last sentence.	Insert the word "in" after the word "be".
142	9.8.1	Extra words at the end of bullet point 2.	Remove the words "the effect" after the word "avoid" at the end of the sentence.
148	10.3.24	Extra words towards the end of the sentence. Missing full stop at end of paragraph.	Remove the words "to the" before the word "RPG". Insert full stop at end.
158	10.4.48	There is a missing letter in the first line.	Replace the "t" after the word "planting" with "to".
169	10.5.55	Missing word in the first sentence.	Insert the word "to" after the word "submitted"
169	10.5.56	Incorrect word in second line.	Replace the word "and" with "an" after the word alternative.
169	10.5.59	Extra words in the last sentence.	Remove the words "were asked" after the word "questions".
177	10.5.107	Spelling of "Yeoviiton" is wrong.	Replace with "Yeovilton".
178	10.5.119	Missing full stop at the end of the sentence.	Insert full stop at the end.
209	14.3.2	Duplication of words in the second sentence.	Remove the words "that the" after the word "ensuring".
210	14.3.9	Extra words in the first sentence.	Remove the words "re of" in the first line.

Page No.	Paragraph	Error	Correction
214	14.3.37	Missing full stop at the end of the last sentence.	Insert full stop at the end.
217	14.4.1	Missing word in the third sentence.	Insert the word “and” after the word “Applicant”.
219	14.4.14	Missing comma in the last sentence.	Insert comma after the word “balance”.
226	15.5.10	Missing word in the first sentence.	Insert “to” after the word “DCOs”.
241	15.9.36	Missing word in the second sentence.	Insert the word “of” after the word “use”.
249	16.2.1	Missing word before the word follows.	Replace the “a” with “as”.
263	16.6.18	Incorrect word in third line.	Replace the word “is” with “its”.
263	16.6.19	Missing letter in word in second sentence.	Replace the word “is” with the word “its”.
272	16.6.70	The word “RECOMMENDED” should be in lower case.	Change the word “RECOMMENDED” to lower case.
278	16.6.104	Missing full stop at the end of the paragraph.	Insert full stop at the end.
Appendix D	Schedule 9	In Part 4 there are 5 spelling mistakes. “Staturtory”, “Regulaions”, “Signficant”, “Envirionmental”, “Writen” and “Insvestigation”.	Please replace with “Statutory”, “Regulations”, “Significant”, “Environmental”, “Written” and “Investigation”.

1. INTRODUCTION

1.1. INTRODUCTION TO THE EXAMINATION

- 1.1.1. The Application for the dualling of the A303 between Sparkford and Ilchester (the Proposed Development) TR010036 was submitted by Highways England (the Applicant¹) to the Planning Inspectorate (the Inspectorate) on 27 July 2018 under section (s) 31 of the Planning Act 2008 (PA2008) and accepted for Examination under section 55 of the PA2008 on 23 August 2018 [PD-001].
- 1.1.2. The Proposed Development would provide a continuous dual carriageway on the A303 linking the Podimore Roundabout and the Sparkford Bypass. The Proposed Development would involve the removal of at-grade junctions and direct accesses. Any new junctions would be constructed to grade separated standards, or to compact grade separated standards depending upon anticipated traffic flows.
- 1.1.3. The location of the Proposed Development is shown in the Location and Scheme Layout Plan [APP-004] and Land Plans [APP-005], and the final updated versions of the Land Plans were received at Deadline (D) 7 [REP7-002]. The site lies within the administrative county of Somerset and the district of South Somerset and is wholly in England.
- 1.1.4. The legislative tests for whether the Proposed Development is a Nationally Significant Infrastructure Project (NSIP) were considered by the Secretary of State (SoS) for the Ministry of Housing, Communities and Local Government (MHCLG) in its decision to accept the Application for Examination in accordance with s55 of PA2008 [PD-001].
- 1.1.5. On this basis, the SoS for MHCLG agreed with the Applicant's view stated in the application form [APP-003] that the proposed development is an NSIP as it would be an alteration to the strategic highway network where the speed limit is expected to be 50mph or greater. It is wholly in England and by Highways England (HE) – a strategic highways authority. During operation the site would use approximately 62 hectares (ha) of land (and thus exceeds 12.5 ha), and so requires development consent in accordance with s31 of PA2008. The Proposed Development therefore meets the definition of an NSIP set out in ss14(1), 22(1)(b), 22(3)(a), (b) and (c) and 22(4)(b) and of PA2008.

¹ In general terms Highways England will be referred to as "The Applicant". However, when there is reference to Highways England in its role as strategic highways company this will be abbreviated to "HE".

1.2. APPOINTMENT OF THE EXAMINING AUTHORITY

- 1.2.1. On 8 October 2018, Lesley Coffey and Robert Jackson were appointed as the Examining Authority (ExA) for the Application under ss 64 and 65 of PA2008 [PD-004].

1.3. THE PERSONS INVOLVED IN THE EXAMINATION

- 1.3.1. The persons involved in the Examination were:
- Persons who were entitled to be Interested Parties (IPs) because they had made a relevant representation (RR) or were a statutory party who requested to become an IP.
 - Affected Persons (APs) who were affected by a Compulsory Acquisition (CA) and/or Temporary Possession (TP) proposal made as part of the Application and objected to it at any stage in the Examination.
 - Other Persons (OPs), who were invited to participate in the Examination by the ExA because they were either affected by it in some other relevant way, or because they had particular expertise or evidence that the ExA considered to be necessary to inform the Examination.

1.4. THE EXAMINATION AND PROCEDURAL DECISIONS

- 1.4.1. The Examination began on 12 December 2018 and concluded on 12 June 2019.
- 1.4.2. The principal components of and events around the Examination are summarised below. A fuller description, timescales and dates can be found in Appendix A.

The Preliminary Meeting

- 1.4.3. On 14 November 2018, the ExA wrote to all IPs, Statutory Parties and OPs under Rule 6 of the Infrastructure Planning (Examination Procedure) Rules 2010 (EPR) (The Rule 6 Letter) inviting them to the Preliminary Meeting (PM) and to an Open Floor Hearing (OFH) [PD-006], outlining:
- The arrangements and Agenda for the PM;
 - Notification of the OFH referred to above;
 - The Agenda for that Hearing;
 - An Initial Assessment of the Principal Issues;
 - The draft Examination Timetable;
 - Availability of RRs and Application documents; and
 - The ExA's procedural decisions.
- 1.4.4. As newspaper publication deadlines would have required the OFH to be otherwise postponed, the ExA took a procedural decision on 19 November 2018 to direct the Applicant to carry out its duty under Rule 13(c) of the EPR no later than 22 November 2018 [PD-007]. This

meant there was 19 days' notice before the date fixed for the commencement of the OFH in respect of the notice published in a local newspaper. The site notices and other public notices were published 21 days before the date fixed for the OFH; the period set out in Rule 13(6)(c).

- 1.4.5. The PM took place on 12 December 2018 at the offices of South Somerset District Council (SSDC) in Yeovil. An audio recording [EV-001] and a note of the meeting [EV-002] were published on the Inspectorate's National Infrastructure website².
- 1.4.6. The ExA's procedural decisions and the Examination Timetable took full account of matters raised at the PM. They were provided in the Rule 8 Letter [PD-008], dated 21 December 2018.

Key Procedural Decisions

- 1.4.7. The procedural decisions set out in the Rule 8 Letter related to matters that were confined to the procedure of the Examination and did not bear on the ExA's consideration of the planning merits of the Proposed Development. Further, they were generally complied with by the Applicant and relevant IPs. The decisions are set out in the Rule 8 Letter [PD-008] and so there is no need to reiterate them here.
- 1.4.8. On 18 February 2019 the Applicant made a request for material changes to the Application [OD-014]. These are described in more detail below (paragraphs 2.3.3 to 2.3.8) but in short form were to:
- Amend the layout, siting and size of the main construction compound, adding and removing land from the Application site;
 - Provision of an alternative access and removing the access to Blackwell Farm, again adding and removing land from the Application site;
 - A minor enlargement to a plot at Gason Lane;
 - Reduction in size of two plots to be used as a secondary construction compound;
 - Alteration of a landowner status.
- 1.4.9. The ExA wrote to the Applicant on 7 March 2019 and 11 March 2019 [PD-010] and [PD-011] requesting further information and clarification on the proposed changes. The Applicant submitted responses on 8 March 2019 and 12 March 2019 [OD-017] and [OD-018] which led to the ExA accepting these changes into the Examination by letter dated 12 March 2019 [PD-012]. These changes involved additional land and therefore the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (as amended) (the CA Regulations) were engaged. The ExA therefore made a

²

<https://infrastructure.planninginspectorate.gov.uk/projects/South%20West/A303-Sparkford-to-Ilchester-Dualling/>

procedural decision, issued on 24 April 2019 [PD-017] and as a consequence, the overall Examination timetable was amended, and a further set of Hearings was held in May 2019.

- 1.4.10. On 8 March 2019 the Applicant requested a non-material change [REP4-043], [REP4-044], [REP4-045] and [REP4-046]. A letter from the Applicant dated 13 March 2019 [AS-027], sought to compulsorily acquire a number of plots where previously it proposed to acquire rights only. The ExA [PD-013a] advised that it considered that this change would involve “additional land” for the purposes of the CA Regulations and therefore this could not be considered as a non-material change. The Applicant, by email dated 20 March 2019 [AS-029] advised that it would not be submitting a further request in respect of this land. Consequently, no further action was taken on this request.
- 1.4.11. On 11 April 2019 the Defence Infrastructure Organisation (DIO) wrote on behalf of the Ministry of Defence (MoD) to the Applicant [AS-028] to grant consent for Crown Land under s135(1) of the PA2008 for the inclusion of two plots of land (plots 7/5a and 7/6a) in the draft Development Consent Order (DCO) for the Proposed Development. It also confirmed, if the Order is made, that HE would be permitted to use the Crown land to carry out Works authorised by the DCO, namely a footpath between Gason Lane and Traits Lane (Footpath AZ-BA-BE-CE) set out in Part 11 of Schedule 3 of the dDCO [REP8-004]).
- 1.4.12. Following this, on 30 April 2019, the Applicant made a further request [REP6-014] for a non-material amendment to the Application. Again, this will be discussed below (paragraph 2.3.8), but in short form proposed:
- Relocation of Pond 5 and associated Works;
 - Relocation of the access to Hazlegrove House;
 - Deletion of a turning head near Podimore; and
 - The deletion of an alternative proposed right of way to the south of the Crown land referred to above.
- 1.4.13. On 9 May 2019 the ExA wrote to the Applicant [PD-019] making a procedural decision to confirm that these changes were non-material and would be accepted as part of the Application. This letter regarding the design changes to the Application also varied the Examination timetable to allow for comments on these changes.

Site Inspections

- 1.4.14. To ensure that the ExA has an adequate understanding of the Proposed Development within its site and surroundings and its physical and spatial effects the ExA held the both Unaccompanied Site Inspections (USI) and an Accompanied Site Inspection (ASI). There latter took place where an inspection must be made on land requiring consent to access, there are safety or other technical considerations and/or there are requests made to accompany an inspection.

1.4.15. The ExA held the following USIs:

- USI1, 17 October 2018, to gain a general understanding of the application site in its context of the existing road, settlements and properties affected by the proposal [EV-005];
- USI2, 20 February 2019, to gain a greater understanding of the Application site, and in particular its relationship with public rights of way (PRoWs) [EV-006];
- USI3, 22 May 2019, to look at particular locations in light of the evidence received to date [EV-040].

A note explaining the route taken and locations visited for each USI can be found in the Examination Library under the above references.

1.4.16. The ExA held a single ASI:

- ASI1, 19 February 2019, to view private land, including the Hazlegrove House Registered Park and Garden (RPG), Long Hazel Park and Sparkford Hall. The Applicant provided an Accompanied Site Inspection Information Pack that includes the itinerary [REP4-047].

1.4.17. The ExA has had regard to the information and impressions obtained during its site inspections in all relevant sections of this Report.

Hearing Processes

1.4.18. The ExA held a number of Hearings to ensure the thorough Examination of the issues raised by the Application.

1.4.19. Two sets of Issue Specific Hearings (ISHs) under s91 of PA2008 were held. The first set between 26 February 2019 and 1 March 2019 (inclusive) at the Haynes Motor Museum, Sparkford, a short distance to the northeast of the Application site. The second set, which included those Hearings associated with the accepted change, were held on 14 and 15 May 2019, and 23 May 2019, at Yeovil Town Football Club, Yeovil, approximately 7 miles to the southwest of the Application site.

1.4.20. ISHs were held on the subject matter of the dDCO on:

- ISH4, 1 March 2019, [EV-006d];
- ISH6, 15 May 2019, [EV-023];
- ISH7, 23 May 2019 [EV-031];

1.4.21. ISHs were held on various subject matters as follows:

- ISH1, 26 February 2019, Traffic and Transport; Socio-Economic Effects on Surrounding Communities (including effects on local businesses, public, footpaths, bridleways and other non-motorised users), [EV-006a];
- ISH2, 27 February 2019, Archaeology and Cultural Heritage, Landscape and Visual Effects, Biodiversity, Ecology and Natural Environment, and Flooding/Drainage Strategy, [EV-006b];

- ISH3, 28 February 2019, Noise, Vibration and Air Quality, [EV-006c];
- ISH5, 14 May 2019, Traffic and Transport; Socio-Economic Effects on Surrounding Communities (including effects on local businesses, public, footpaths, bridleways and other non-motorised users), Archaeology and Cultural Heritage, Landscape and Visual Effects, Biodiversity, Ecology and Natural Environment, and Flooding/Drainage Strategy; Noise, Vibration and Air Quality [EV-022].

- 1.4.22. A CAH was held under s92 of PA2008 at Haynes Motor Museum, Sparkford on 28 February 2019 [EV-006e].
- 1.4.23. All persons affected by CA and/or TP proposals (APs) were provided with an opportunity to be heard. The ExA also used these Hearings to examine the Applicant's case for CA and TP in the round.
- 1.4.24. OFHs were held under s93 of PA2008 as follows:
- OFH1, 12 December 2019 at the offices of SSDC [PD-006];
 - OFH2, during the evening of 27 February 2019, at Haynes Motor Museum, Sparkford [EV-006f];
 - OFH3, 15 May 2019 at Yeovil Town Football Club, Yeovil [EV-024]
- 1.4.25. All IPs were provided with an opportunity to be heard on any important and relevant subject matter that they wished to raise.
- 1.4.26. Furthermore, an OFH [EV-030], a CAH [EV-028], and an ISH [EV-029] were held on 23 May 2019 at Yeovil Town Football Club, Yeovil in respect of the accepted change pursuant to Regulations 14, 15 and 16 of the CA Regulations³.
- 1.4.27. Hearing Action Points were also prepared following each Hearing [EV-007], [EV-032], [EV-033] and [EV-039].
- 1.4.28. The following table sets out a summary of all the Hearings, Dates Held and relevant Examination Library (EL) References.

Table 1: Hearing references, date and EL References

Hearing Ref	Date Held	EL Reference
OFH1	12 December 2018	Recording [EV-004]
OFH2	27 February 2019	Agenda [EV-006f] Recording [EV-014]
OFH3	15 May 2019	Agenda [EV-024] Recording [EV-026]

³ These three Hearings were not given specific event references and are thus referred to as "Material Change" events.

Hearing Ref	Date Held	EL Reference
Material Change OFH	23 May 2019	Agenda [EV-030] Recording [EV-034]
ISH1	26 February 2019	Agenda [EV-006a] Recording [EV-008] to [EV011] Action Points [EV-007]
ISH2	27 February 2019	Agenda [EV-006b] Recording [EV012] and [EV013] Action Points [EV-007]
ISH3	28 February 2019	Agenda [EV-006c] Recording [EV-015] and [EV-016] Action Points [EV-007]
ISH4	1 March 2019	Agenda [EV-006d] Recording [EV-019] to [EV-021] Action Points [EV-007]
ISH5	14 May 2019	Agenda [EV-022] Recording [EV-025] Action Points [EV-032]
ISH6	15 May 2019	Agenda [EV-023] Recording [EV-027] Action Points [EV-033]
ISH7	23 May 2019	Agenda [EV-031] Recording [EV-037] and [EV-038] Action Points [EV-039]
Material Change ISH	23 May 2019	Agenda [EV-029] Recording [EV-036]
CAH1	28 February 2019	Agenda [EV-006e] Recording [EV-017] and [EV-018] Action Points [EV-007]
Material Change CAH	23 May 2019	Agenda [EV-028] Recording [EV-035]

Written Processes

- 1.4.29. Examination under PA2008 is primarily a written process, in which the ExA has regard to written material forming the Application and arising from the Examination. All of this material is recorded in the Examination Library (Appendix B) and published on the Inspectorate's National Infrastructure website. Individual document references to the Examination Library in this Report are enclosed in square brackets []. Hyperlinks from the index to the original document held online can be found in Appendix B. For this reason, this Report does not contain

extensive summaries of all documents and representations, although full regard has been had to them in the ExA's conclusions. The ExA has considered all important and relevant matters arising from them.

- 1.4.30. Key written sources are set out further below.

Relevant Representations

- 1.4.31. Forty-one RRs were received by the Inspectorate [RR-001] to [RR-041] in response to the original Application. All makers of RRs received the Rule 6 Letter and were provided with an opportunity to become involved in the Examination as IPs.
- 1.4.32. Following the decision to accept into the Examination the material change a further opportunity was given for RRs to be made and three were received [RR-042], [RR-043] and [RR-044].
- 1.4.33. All RRs have been fully considered by the ExA. The issues that they raise are considered in the various Chapters of this Report in respect of the matters raised.

Written Representations and Other Examination Documents

- 1.4.34. The Applicant and IPs and Other Persons were provided with opportunities to:
- Make written representations (WRs) (D2);
 - Comment on WRs made by the Applicant and other IPs (D3, D4, D5, D6, D7 and D8);
 - Summarise their oral submissions at Hearings in writing (D4 and D7);
 - Make other written submissions requested or accepted by the ExA (D3, D4, D5, D6, D7, D8 and the close of the Examination); and
 - Comment on documents issued for consultation by the ExA including a Report on Implications for European Sites (RIES) [PD-015] published on 16 April 2019 by D7.
- 1.4.35. All WRs and other Examination documents have been fully considered by the ExA. The issues that they raise are considered in the various Chapters of this Report in respect of the matters raised.

Local Impact Report

- 1.4.36. A Local Impact Report (LIR) is a report made by a relevant local authority giving details of the likely impact of the Proposed Development on the authority's area (or any part of that area) that has been invited and submitted to the ExA under s60 PA2008. One LIR was received by the ExA jointly from Somerset County Council (SCC) [REP2-049] and

SSDC [REP2-019]⁴. The LIR has been taken fully into account by the ExA in all relevant Chapters of this Report.

- 1.4.37. Although submitted as a joint LIR the two councils, generally split responsibilities between them on the basis of the 'normal' split for two-tier authorities. Thus SCC dealt with traffic and economics, engineering, and minerals and waste, and SSDC dealt with air quality, noise and vibration, cultural heritage, landscape, biodiversity and people and communities, although there was some overlap where both made representations on a topic area. This Report has been drafted on the basis of this split referring to the Council which made representation rather than 'the Councils' jointly.

Statements of Common Ground

- 1.4.38. A Statement of Common Ground (SoCG) is a statement agreed between the Applicant and one or more IPs, recording matters that are agreed or not agreed between them.
- 1.4.39. By the end of the Examination, the following bodies had concluded SoCGs with the Applicant:
- SCC and SSDC, [REP8-010];
 - Somerset Drainage Board Consortium (the Consortium), [REP5-018];
 - DIO, [REP8-011];
 - Environment Agency (EA), [REP5-014];
 - Church Commissioners for England (CCfE), [REP8-012];
 - Historic England, [REP8-009];
 - Natural England (NE), [REP5-015];
 - Sky, [REP8-013];
 - Southern Power Distribution, [REP8-014];
 - Virgin Media, [REP8-015];
 - Openreach, [REP6-004];
 - Wessex Water, [REP7-021];
 - Mr and Mrs Walton, [AS-042];
- 1.4.40. The SoCGs referred to above have been taken fully into account by the ExA in all relevant Chapters of this Report.
- 1.4.41. In the Rule 8 letter [PD-008] the ExA requested that a SoCG be completed between the Applicant and the West Camel, Queen Camel and Sparkford Parish Councils (the PCs) to deal with the following matters:
- Retention of the A303 as a local road.
 - Traffic management arrangements during and post construction.
 - Traffic calming proposals.

⁴ The two versions of the LIR are identical. To simplify the referencing, other than in this paragraph the LIR is referenced as [REP2-019] throughout this Report.

- Effect on communities and businesses.

1.4.42. Pursuant to this a draft SoCG was submitted [REP2-010], which included some matters at that point of time. However, in its D8 submission [REP8-035] the PCs indicated that they were not prepared to sign the SoCG as they "*do not believe that The Applicant has entered into the process with any intent to indeed 'reach common ground'*". They also consider as regards consultation that "*The Applicant has merely paid 'lip service' and demonstrated little regard to the suggestions being made.*" Full details are set out in the letter. In light of this the ExA has given no weight to this draft SoCG.

Written Questions

1.4.43. The ExA asked three rounds of written questions.

- First written questions (ExQ1) [PD-009] and procedural decisions were set out with the Rule 8 letter [PD-008], dated 20 December 2018.
- Further written questions (ExQ2) [PD-014] were issued on 22 March 2019.
- Additional written questions (ExQ3) [PD-018] were issued on 25 April 2019.

1.4.44. Originally it had been anticipated that there were likely to be two rounds of written questions. However, and unfortunately, the Applicant was unable to provide all the information requested in the first round of questions in line with the original deadline (D2). This meant that the ExA was unable to complete its second round of questions as had been set out in the original timetable. Rather than delay those questions that could be asked, the ExA made a procedural decision to issue a third round of questions.

1.4.45. The following requests for further information and comments under Rule 17 of the EPR were issued on:

- 7 March 2019 and 11 March 2019 [PD-010 and PD-011] to clarify the nature of the material change request;
- 4 June 2019 [PD-020] to clarify certain information from the Applicant, Mr Bryan Norman and the DIO;
- On 7 June 2019 [PD-021] to seek from the Applicant, information to correct and clarify certain matters in respect of the Statement of Reasons (SoRs);
- On 11 June 2019 [PD-022] to seek clarification from the Applicant on legal citations given by the Applicant in its submission document [REP8-023] and the points relied upon;
- On 12 June 2019 [PD-023] to seek clarification from the Applicant of the status of an area of land in respect of a proposed right of way;
- On 12 June 2019 [PD-024] to seek clarification from the DIO in relation to certain ponds.

- 1.4.46. All responses to the ExAs written questions have been fully considered and taken into account in all relevant Chapters of this Report.

Requests to Join and Leave the Examination

- 1.4.47. There were three requests to join the Examination by persons who were not already IPs at or after the PM. The first was from Peninsula Transport – the Sub-Regional Transport Body for the South West Peninsula. This was allowed and the WRs can be found at [AS-024].
- 1.4.48. During the Examination, further representations from parties who had not previously been included as IPs were received from the West Camel Community Steering Group and Mrs Joy Whittington. The ExA accepted these representations on the basis of fairness. The West Camel Community Steering Groups representation can be found at [REP4-040] and those from Mrs Whittington at [REP4-032], [REP5-030] and [REP7-054].
- 1.4.49. One letter was received from Southern Electric Power Distribution plc [OD-021] to formally record the settlement of their issues and the withdrawal of their representations.

1.5. ENVIRONMENTAL IMPACT ASSESSMENT

- 1.5.1. The Proposed Development is development for which an Environmental Impact Assessment (EIA) is required (EIA development).
- 1.5.2. In November 2017, the Applicant submitted a Scoping Report to the SoS under Regulation 8 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (as amended) (the EIA Regulations) in order to request an opinion about the scope of the Environmental Statement (ES) to be prepared (a Scoping Opinion)⁵. It follows that the Applicant is deemed to have notified the SoS under Regulation 8(1)(b) of the EIA Regulations that it proposes to provide an ES in respect of the Project.
- 1.5.3. In January 2018 the Inspectorate provided a Scoping Opinion [APP-054]. Therefore, in accordance with Regulation 6(2)(a) of the EIA Regulations, the Proposed Development was determined to be EIA development, and the Application was accompanied by an ES [APP-038] to [APP-146] including a Non-Technical Summary.
- 1.5.4. On 22 October 2018 the Applicant provided the Inspectorate with certificates confirming that s56 and s59 of PA2008 and Regulation 17 of the EIA Regulations had been complied with [OD-003].

⁵ Highways England: [A303 Sparkford to Ilchester Dualling Environmental Impact Assessment Scoping Report](#)

- 1.5.5. During the course of the Examination the Applicant provided a "Guide to the Application", the final version of which was submitted at D8 [REP8-020]. This includes the progress of the Volume 6 Environmental Impact Assessment Information documents. It includes the statement *"Please note that an Addendum to the Environmental Statement was produced to assess the proposed material change. The Environmental Statement Addendum details the changes to the assessment, and should be read alongside the original Environmental Statement"*.
- 1.5.6. In this part of the document a significant number of documents which formed part of the original ES are marked as "Superseded". From this it could be implied that the document in question no longer forms part of the ES, having been "replaced" by the relevant part of the ES Addendum. However, if that were to be the case then significant parts of the environmental effects of the Proposed Development would not have been assessed within part of the ES extant at the end of the Examination.
- 1.5.7. An example of this would Chapter 6 – Cultural Heritage [APP-043] being superseded allegedly replaced by the ES Addendum [OD-010]⁶. However, in looking at Table 1.1 *"Summary of the changes made to the 2018 ES"* of the ES Addendum [OD-010] for the entry for [APP-043] against the entry *"Summary of changes included in the ES Addendum, where required"* is stated:
- "Changes are as follows:*
- *Assessment study area*
 - *Number of receptors Changes to the overall significance of effects have been reported."*
- 1.5.8. It could, therefore, reasonably be concluded that Chapter 6 of the ES [APP-043] was not superseded but only amended.
- 1.5.9. Consequently, the ExA has proceeded in this Report on the basis that the ES Addendum has only amended the originally submitted ES insofar as it reports changes to an assessment. If there is no change the assessments in the originally submitted ES remain and to that extent the relevant document remains extant.
- 1.5.10. 'The Guide to the Application' [REP8-020] also refers to a Document Reference 6.2, but none of the title pages refer to this number, with those documents referred to in this section all have a reference number of 6.3. This latter reference number, 6.3, has therefore been used to reference the relevant documents.

⁶ In the Guide to the Application [REP8-020] the ES Addendum is referred to as [OD-0110] when the reference in the Examination Library is [OD-010].

- 1.5.11. The ExA concludes that 'the Guide to the Application' is of limited value given the number of errors referred to above.
- 1.5.12. Consideration is given to the adequacy of the ES and matters arising from it in Chapters 5 to 12 of this Report.

1.6. HABITATS REGULATIONS ASSESSMENT

- 1.6.1. The Proposed Development is a development for which a Habitats Regulations Assessment (HRA) Report has been provided [APP-147].
- 1.6.2. Consideration is given to the adequacy of the HRA Report, associated information and evidence and the matters arising from it in Chapter 13 of this Report.

1.7. UNDERTAKINGS, OBLIGATIONS AND AGREEMENTS

- 1.7.1. By the end of the Examination, there were no matters subject to any separate undertakings, obligations and/or agreements.
- 1.7.2. However, SCC in its D8 submission [REP8-026] considered that two matters needed to be resolved by an agreement pursuant to s278 of the Highways Act 1980 (as amended). These are:
- The installation of no through road signs at the southern limits of Traits Lane and Gason Lane; and,
 - A Traffic Regulation Order legalising the required speed limit to 50mph along the existing B3151 carriageway.
- 1.7.3. These are addressed in this Report as bearing on the DCO.

1.8. OTHER CONSENTS

- 1.8.1. The Consents and Agreements Position Statement [APP-019] submitted with the Application identified the following consents that must be obtained, in addition to Development Consent under PA2008. These are recorded below.
- Badger Licence (Protection of Badgers Act 1992)
 - Great Crested Newt Licence (Wildlife and Countryside Act 1981, The Conservation of Habitats and Species Regulations 2017)
 - Exemptions for operations such as import of waste for use in construction and crushing of aerosols to minimise hazardous waste (Pollution Prevention and Control Act 1999, Environmental Permitting (England and Wales) Regulations 2010)
 - Section 61 Consent (Control of Pollution Act 1974)
 - Waste Carrier Licence (Environmental Protection Act 1990)
 - Waste Disposal Licence (Environmental Protection Act 1990)
- 1.8.2. As part of the discussions between the applicant and EA, the Applicant agreed to apply separately for two consents which it originally intended to be included within the DCO. This is referenced in the comments from

the EA in its representations to D5 [REP5-028] and the relevant provisions were deleted from the dDCO submitted at that deadline [REP5-005]/[REP5-006]. These are:

- Environmental Permit in relation flood risk or water discharge (Environmental Permitting (England and Wales) Regulations 2016)
- Water Abstraction Licence (Water Resources Act 1991)

- 1.8.3. In relation to the outstanding consents recorded above in paragraph 1.8.1, the ExA has considered the available information bearing on these and, without prejudice to the exercise of discretion by future decision-makers, has concluded that insofar as these consents are concerned there are no apparent impediments to the implementation of the Proposed Development, should the SoS grant the DCO.
- 1.8.4. The SoCG with the EA [REP5-014] recorded that the EA was content with the Protective Provisions (PPs) contained in the dDCO.
- 1.8.5. The SoCG with NE [REP5-015] includes at Appendix A two 'letters of no impediment' in respect of the Badger Licence and Great Crested Newt Licence.
- 1.8.6. In its representations SCC indicated that it believed that it should be the approving body for matters that affect the local highway network. The Applicant strongly objected to this and this dispute is discussed in Chapter 16. However, the Applicant did include draft Protective Provisions into the dDCO in the favour of SCC as local highway authority in respect of both vehicular and non-vehicular highways. The precise terms of these are also in dispute and are also discussed in Chapter 16. In this Report, therefore, references to approving bodies have not been included in references to Requirements in Chapters 5 to 12.

1.9. STRUCTURE OF THIS REPORT

- 1.9.1. The structure of this report is as follows:

- **Chapter 1** introduces the reader to the Application, the processes used to carry out the Examination and make this Report.
- **Chapter 2** describes the site and its surrounds, the Proposed Development, its planning history and that of related projects.
- **Chapter 3** records the legal and policy context for the SoS' decision.
- **Chapter 4** sets out the planning issues that arose from the Application and during the Examination and introduces the planning issues. It records the issues raised by the PCs in terms of an 'alternative' scheme.
- **Chapter 5** considers Archaeology and Cultural Heritage.
- **Chapter 6** deals with Air Quality and Emissions.
- **Chapter 7** considers the effects on Biodiversity, Ecology and the Natural Environment.
- **Chapter 8** considers Noise and Vibration.
- **Chapter 9** considers Landscape and Visual Effects.
- **Chapter 10** considers Traffic and Transport.

- **Chapter 11** considers the Socio-Economic Effects on Surrounding Communities.
- **Chapter 12** addresses the Water Environment.
- **Chapter 13** considers effects on European Sites and HRA.
- **Chapter 14** sets out the balance of planning considerations arising from Chapters 4 to 13, in the light of the factual, legal and policy information in Chapters 1 to 3.
- **Chapter 15** sets out the ExA's examination of CA and TP proposals.
- **Chapter 16** considers the implications of the matters arising from the preceding Chapters for the DCO.
- **Chapter 17** summarises all relevant considerations and sets out the ExA's recommendation to the SoS.

1.9.2. This report is supported by the following Appendices:

- **Appendix A** – the Examination Events.
- **Appendix B** – the Examination Library.
- **Appendix C** – List of Abbreviations.
- **Appendix D** – List of Errors and Omissions to Preferred DCO
- **Appendix E** – The Recommended DCO if the SoS is minded to grant development consent

1.9.3. As can be seen in the Heading the ExA is recommending that the DCO is not made. In the event that the SoS does not agree with this recommendation the ExA has set out in Appendix E a recommended DCO. However, for the reasons explained in this Report the SoS would need to satisfy themselves on the issues relating to CA and TP of land.

2. THE PROPOSAL AND THE SITE

2.1. THE APPLICATION AS MADE

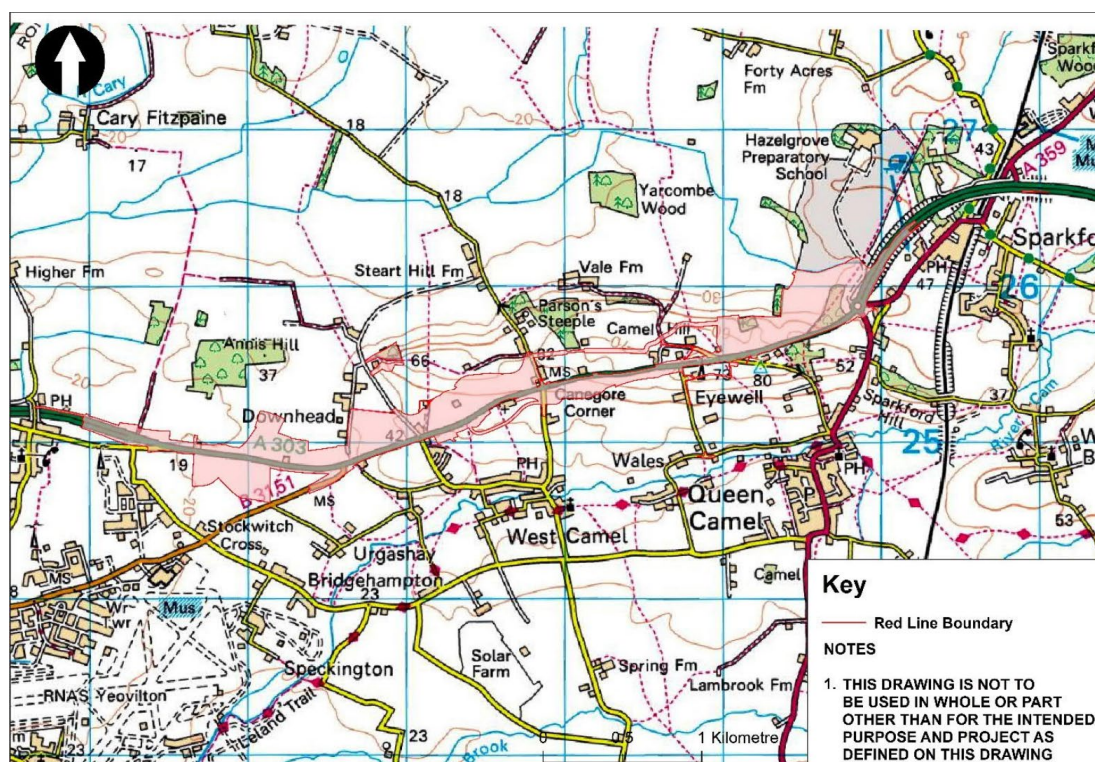
- 2.1.1. The Applicant submitted an application under s37 of the PA2008 for an order granting development consent for what was described as “the A303 Sparkford to Ilchester Dualling Scheme” [APP-001], [APP-002] and [APP-003]. The Applicant is appointed by the Secretary of State for Transport (SoST) as the Strategic Highway Company for England. It is responsible for operating, maintaining and improving motorways and major A roads in England on behalf of the SoST.
- 2.1.2. Chapter 2 of the ES [APP-039] provides a full description of the Proposed Development, which in summary terms comprises:
- The provision of 5.6 kilometres (km) of new dual carriageway, including parking laybys;
 - New junctions at Camel Cross, Downhead, and Hazlegrove;
 - The retention of parts of the existing A303 single carriageway as local access roads;
 - The closure and provision of a number of local roads;
 - The closure of and creation of a number of PRowS, including paved verges alongside local roads;
 - A new overbridge between Downhead and Canegore Corner (Stear Hill Overbridge);
 - A new underbridge at Hazlegrove (Hazlegrove Junction Underbridge);
 - The provision of road lighting, markings, traffic signs, and road restraint systems;
 - Earthworks in order to establish the road foundation (including cuttings and embankments) and also to provide visual screening and noise attenuation;
 - The provision of drainage systems to drain the proposed carriageways and adjacent land;
 - The provision of noise attenuation fencing;
 - Boundary treatments such as boundary fencing, hedgerow planting and perimeter drainage ditches;
 - Technology installations including emergency roadside telephones (ERTs) and traffic monitoring installations;
 - Diversionary and protection Works to public utilities including telephone, fibre-optics, electricity, water supply and drainage;
 - The environmental design including planting and areas allocated for ecological mitigation.
- 2.1.3. The General Arrangement Plan in the Non-Technical Summary to the ES, revised following the material change [OD-009], sets out a general overview of the Proposed Development.

2.2. THE PROPOSED DEVELOPMENT SITE AND SETTING

- 2.2.1. The Application site consists, predominantly, of the existing highway land of the A303 single carriageway road between a section of dual

carriageway to the east of the Podimore Roundabout and a section of dual carriageway to the east of the Hazlegrove⁷ Roundabout, together with additional land to the north and south. The land enclosed by the red line boundary of the Proposed Development is approximately 110ha. This is referred to as "the Application site". The proposal is to provide a continuous dual carriageway linking the existing dual carriageways at the Podimore Bypass and the Sparkford Bypass. A Location Plan can be seen in Figure 1.

Figure 1: Application site Location Plan⁸



2.2.2. One of the main features of this section of the A303 is that it traverses the length of Camel Hill. The existing carriageway at the western extent of the Application site is at approximately 16m Above Ordnance Datum (AOD) with the road rising steadily to the top of Camel Hill at approximately 74m AOD before falling, relatively steeply when compared to the approach from the west, to Hazlegrove roundabout at

⁷ The traffic signs for the roundabout, as seen on the front cover of the Applicant's submission documents, entitle it as "Hazlegrove" roundabout. However, the vast majority of the documentation has spelt it "Hazlegrove". The statutory listings issued by Historic England for the House and Registered Park or Garden use both spellings. At the PM it was confirmed by the representative of the Queen Camel Parish Council as the "host" parish council of the main house, to unanimous agreement, that the correct spelling is "Hazlegrove" and this has therefore been used throughout this Report.

⁸ Taken from Environmental Statement Non-Technical Summary (Revision B) [OD 009]

approximately 45m AOD, with the eastern extent of the Application site being at this same level.

- 2.2.3. There are no major towns in the near vicinity of the Proposed Development with Yeovil being located some 7 miles to the southwest and Wincanton a similar distance to the east. There are three villages to the south and east of the Proposed Development; West Camel, Queen Camel and Sparkford. The hamlet of Wales lies between West Camel and Queen Camel. West Camel and Queen Camel lie to the south of Camel Hill towards the bottom of its southern slope with the River Cary running east to west through them. Sparkford lies to the east of the Application site. To the southwest of the Application site lies Royal Naval Air Station (RNAS) Yeovilton with its runways, taxiways and associated infrastructure and buildings.
- 2.2.4. There are a few dwellings outside the villages and hamlet. There are small groupings at Camel Hill and Downhead (both also include farm buildings), a group adjacent to the existing A303 consisting of a bakery and (disused) Methodist Chapel and another dwelling to the west of Canegore Corner, and further dwellings at Camel Cross.
- 2.2.5. There are two sets of roadside services in the vicinity. One, Sparkford Services, just off the Hazlegrove roundabout on the northern section of the A359, with a petrol filling station and fast food restaurant. A second set, Camel Hill Services, having direct access from the south side of the existing A303 located between Hazlegrove roundabout and the top of Camel Hill with a petrol filling station and restaurant. A further restaurant lies close to the junction of the A303 with the B3151.
- 2.2.6. Part of the Application site towards the eastern end falls within the Hazlegrove House RPG. This is described and discussed further below in Chapter 5. The existing RPG has already been severed by the Sparkford bypass element of the existing A303. There are two Scheduled Monuments (SMs) in the vicinity. Camel Hill SM and Downhead Medieval Village SM; the latter forming part of the Application site. There are various listed buildings within the vicinity of the Proposed Development and two conservation areas within 1km of the Application site at West Camel and Queen Camel.
- 2.2.7. Apart from the A303, the main roads in the area are the A37 Bristol to Dorchester road, which travels north/south from the Podimore roundabout, the A359 which runs north/south between Castle Cary and Yeovil through Sparkford and Queen Camel and intersects with the A303 at the Hazlegrove roundabout. The B3151 has a junction with the A303 at Camel Cross and provides a link with the village of Podimore and RNAS Yeovilton to the west.
- 2.2.8. There are a number of local roads that intersect with the A303. From the west there is a crossroads at Plowage with a cul-de-sac to Downhead to the north and Plowage Lane to West Camel to the south. A further crossroads at Conegore Corner accessing the village of Babcary some 4km (by road) to the north and to West Camel via Howell Hill to the

south. At the top of Camel Hill is a junction to Traits Lane to the south, and a short distance to the east is a diagonal crossroads with Camel Hill Farm, to the north, and Gason Lane to the south. There are a number of PRoWs that intersect with the A303 along its length.

- 2.2.9. Towards the top of Camel Hill, on the south side adjacent to the existing A303, is a MoD facility.
- 2.2.10. The Proposed Development is described in detail in Chapter 2 of the ES [APP-039] in paragraphs 2.5.7 to 2.5.180. It would follow the existing corridor of the A303 reasonably closely, and the Applicant considers it to be an online solution although deliberately aligned to the side (mostly the north) of the existing route to allow for re-use of the existing carriageway for local access, avoid property or facilitate construction. At maximum off-set, the route is typically 100m from the existing A303. All the existing junctions and private accesses along the existing A303 would be closed with access to and from the proposed A303 by link roads associated with three junctions.
- 2.2.11. In terms of levels, from the western end the profile of the proposed carriageway would be flat in line with the existing topography. The road would then rise, initially at a 1.7% gradient until the Downhead junction, then increasing in gradient to 4%. The new A303 would be in a cutting through this section, typically 8.5m deep although up to 10m at its maximum depth. This would enable the Steart Hill Overbridge to cross over the proposed dual carriageway at the same level as the existing ground. The cutting would cease in the approximate location of Canegore Corner.
- 2.2.12. The proposed road would then emerge to follow, approximately, the existing ground level to the summit of Camel Hill. It would then descend at an approximately 3% gradient and would sweep round to the north of the existing A303 alignment to join the existing A303 approximately 600m east of Hazlegrove roundabout. This would involve the creation of an embankment up to 12m in height as the existing ground level falls away more steeply to the north than that on the line of the existing A303.
- 2.2.13. There would be three junctions with the proposed main carriageway of the A303 although two would be 'left-in left-out' in a single direction of travel. Firstly, a new junction with the westbound carriageway only in the approximate position of the existing junction with the B3151 at Camel Cross, being a compact 'left in-left out' junction.
- 2.2.14. Second, there would be a junction at Downhead approximately halfway between the existing two crossroads at Plowage and Canegore Corner, providing access to/from the eastbound carriageway only, again being a compact 'left in-left out' junction. This would service the Steart Hill Overbridge over the main carriageway to a local road on the south on the line of the existing A303.

- 2.2.15. Third, there would be a new junction at Hazlegrove which would connect to the existing Hazlegrove roundabout to both east and west. The eastbound off slip would be located a short distance to the east of the top of Camel Hill and would connect to a proposed new local roundabout. There would be a link road, via an underbridge, to the Hazlegrove roundabout. Access to the eastbound A303 from Hazlegrove roundabout would be via a local road to the underbridge to a T-junction and then on a slip road. Westbound the proposal would involve an off-slip along the approximate line of the existing A303 to the Hazlegrove roundabout, and an on-slip from this roundabout to the main carriageway.
- 2.2.16. Two parking lay-bys would be provided, one for each carriageway. For the eastbound carriageway this would be approximately 1.2km east of the tie-in to the Podimore bypass. For the westbound carriageway this would be 250m east of Cangore Corner. In each case parking would be restricted to a maximum of two hours.
- 2.2.17. The existing A303 would provide a parallel link local road on the south side between the junction with the B3151 and the new bridge, and then would continue to link to West Camel via Howell Hill. To the north would be new local roads to Downhead and Steart Hill. There would be a new local road to the north of the proposed A303 from the eastbound off-slip new roundabout. This local road would also provide a new access to Hazlegrove House (Hazlegrove School) across the RPG; Hazlegrove House is currently served by a separate arm of the Hazlegrove roundabout. A modified existing A303 would also be retained as a cul-de-sac from Hazlegrove roundabout to Camel Hill Services.
- 2.2.18. The main A303 carriageway would not be lit. No local roads are proposed to be lit except for the existing Hazlegrove Roundabout and its approaches (this roundabout is currently lit).
- 2.2.19. Ten existing footpaths would be severed by the Works. These are clustered at the western and eastern ends of the Application site and the locations are shown in Figures 2.9 and 2.10 of Chapter 2 of the ES [APP-039]. Alternative, replacement, non-motorised user (NMU) routes would be created shown illustratively in Figures 2.11 and 2.12 of Chapter 2 of the ES [APP-039]. These would be a mixture of footpaths and bridleways which are differentiated by colour on the final Rights of Way and Access Plans submitted at D8 [REP8-001]. A signed cycle route is also proposed, illustrated at Figure 2.13 of Chapter 2 of the ES [APP-039].
- 2.2.20. Where existing properties have private accesses to the existing A303, and that road is being maintained as a local road, then these accesses are to be retained. Various field accesses, and accesses to a number of individual dwellings would be closed and alternative accesses, either from new local roads or parallel tracks connecting to those local roads would be provided.
- 2.2.21. Under the original Application there was to have been an alternative access to Blackwell Farm from Blackwell Road between Queen Camel and

Wales. This was removed as part of the accepted change and the alternative access arrangements are described below.

- 2.2.22. One farm building adjacent to the A303 approximately 850m to the east of Podimore would be demolished.
- 2.2.23. The site lies in the catchments of two rivers, the River Cam to the south and the River Cary to the north. A series of drainage ponds would be constructed; four at the western end and two at the eastern end. The western four would be in close proximity to the proposed carriageway, and the fifth and sixth would be in the RPG some distance from the line of the proposed road as the ground level falls to the north. An existing pond within the RPG would be retained and utilised. The drainage system is designed so that it would only release water at mean annual maximum flow (or QBar) rates.
- 2.2.24. There would be a series of bunds and acoustic barriers along the length of the road; the locations shown illustratively in Figure 2.20 of Chapter 2 the ES [APP-039]. All but one would be to the north of the proposed A303.
- 2.2.25. Two areas of the Downhead Medieval Village SM would be used for ecological reptile mitigation including the provision of a hibernacula for great crested newts (GCNs). There would also be mitigation Works for other protected species, including a badger tunnel under the proposed A303, which will be discussed below in Chapter 7.
- 2.2.26. Signage would be provided for the Proposed Development as well as advanced direction signs. The Applicant states ([APP-039] paragraph 2.5.133) that there would be off-site 'No through road' signs at the southern ends of Traits Lane and Gason Lane and local 'finger signage' in the vicinity of West Camel, although the discussions at the Hearings indicated that this was not secured. As discussed below (paragraphs 16.6.125 to 16.6.140 of this Report) there is a dispute over this. The central barrier would be a continuous rigid (concrete) barrier throughout the entire length of the central reservation. Emergency Roadside Telephones (one in each lay-by), Automated Number Plate Recognition cameras and Traffic Monitoring Units would also be installed.
- 2.2.27. Apart from the main corridor of the proposed A303 and local roads, the Proposed Development includes an area, predominantly to the north, to provide for a haul road. Construction works would also include a temporary "Bailey bridge" across the existing A303 a short way to the west of the proposed Steart Hill Overbridge.
- 2.2.28. Under the original proposals there were to be two main construction compounds, one between the A303 and B3151 and a second to the west of Traits Lane close to its junction with the A303. This was amended as part of the accepted material change. The alternative arrangements will be explained below. However, the Application continues to propose a soils store in the RPG.

- 2.2.29. The lateral limits of deviation would be the extent of the land to be acquired permanently. Vertically, there would be a 1m (plus or minus) limit of deviation. However, in respect of the Camel Hill link (Work 81), the Hazlegrove junction Eastbound On-Slip (Work 85) and the construction of the Hazlegrove School access (Work 92) the vertical limits of deviation would be 1m upwards and 5m downwards to allow for ground conditions.

2.3. THE APPLICATION AS EXAMINED

- 2.3.1. Prior to the opening of the Examination, in response to Section 51 advice issued by the Inspectorate following acceptance of the Application [PD-002], the Applicant made several changes to the Application. These are detailed in an email dated 15 November 2018 [AS-002]. These changes updated the SoRs [AS-009/AS-010], Book of Reference (BoR) [AS-011] Works Plans [AS-004], Rights of Way and Access Plans [AS-005], and General Arrangement Plans [AS-006].
- 2.3.2. As set out above in paragraph 1.4.8, following the opening of the Examination the Application was amended on two occasions. The application as incorporating those changes was the application as finally examined and is reported upon.
- 2.3.3. The first, material, change was principally occasioned by information received from the MoD who stated that it sought to use the site originally proposed for the main site compound between the junction of the A303 and the B3151 for additional landing lights for RNAS Yeovilton. This led to the Applicant revising its construction strategy. Instead it proposed a main large compound on the two fields immediately to the west of the original compound site to replace the originally proposed landing light site and another compound site to the west of Traits Lane.
- 2.3.4. The proposal also sought, as a response to a RR [RR-039], to delete the proposed alternative access to Blackwell Farm from Blackwell Road. Instead, it was sought to alter the junction of Blackwell Road with Traits Lane by improving width and sight lines. This involved proposals to compulsorily acquire additional land on either side of this junction for both CA and TP.
- 2.3.5. Next, this change sought to make an amendment to Plot 7/8b shown on Sheet 7 of the Land Plans [AS-004] to ensure its southern extent aligned fully with the northern verge of Gason Lane.
- 2.3.6. Finally, this change sought to correctly note the access rights held by the school, Hazlegrove School, which would be affected with by the DCO.
- 2.3.7. These changes were the subject of consultation, outlined above.
- 2.3.8. The second set of changes were to:
- Relocate the larger proposed pond in the RPG (Pond 5) to the south and west;

- Move the access track to Hazlegrove School approximately 20m to the north to avoid felling a veteran tree and to provide additional planting between the realigned pond and the access track;
- Delete the proposed turning head at Podimore, and reduce the nature of the right to be taken so that it would be only for TP; and
- Delete the more southerly of the two proposed rights of way between Traits Lane and Gason Lane in light of the Crown land consent issued by the MoD.

2.3.9. These changes were not the subject of formal consultation as all were minor and did not materially affect those outside the Application site, or would result in a greater effect on those whose land rights were proposed to be affected. However, IPs were given the opportunity to make further representations on these changes for D7 and also to address them at the May 2019 Hearings.

2.3.10. In light of the written questions, WRs and discussions at the Hearings the Applicant amended the dDCO on numerous occasions. These were principally to seek to address concerns by IPs in relation to various matters, the PPs, to ensure clarity and to respond to comments by the ExA. The final dDCO was submitted at D8 [REP8-004] and is discussed further below in Chapter 16.

2.4. RELEVANT PLANNING HISTORY

2.4.1. As set out in the section on scheme history of the ES on the Assessment of Alternatives [APP-040] dualling of the A303 between Sparkford and Ilchester was first investigated in the early 1990s. The preferred option reached public inquiry in 1996 and orders were prepared, but the scheme was not progressed any further. A review of the previous work was carried out in 2003 and the scheme recommended by the Planning Inspector in 1996 was taken to public consultation at that time. However, just prior to orders being published, the scheme was not progressed any further due to funding.

2.4.2. The previous Orders made in 1996 are:

- The A303 Trunk Road (Sparkford To Ilchester Improvement and Slip Roads) (Detrunking) Order 1996 SI 1996 No 1190 (the Detrunking Order);
- The A303 Trunk Road (Sparkford to Ilchester Improvement and Slip Roads) Order 1996 SI 1996 No 1191 (the Improvement Order); and
- The A303 Trunk Road (Sparkford to Ilchester Improvement and Slip Roads) (Side Roads) Order 1996 (the Side Roads Order).

2.4.3. Copies of the first two Orders can be found on the legislation.gov.uk website and at Appendix D to the Applicant's Responses to the ExA's Further Written Questions [REP5-025]. The third, with associated plans, can be found in Appendix 5 to SCC's D7 submission [REP7-040].

2.4.4. This proposal was similar to the current proposal in that it was through the same corridor. However, it involved a different arrangement to the

junctions and proposed a parallel local road to the south of the to be improved A303 for the entire length between the B3151 and the Hazlegrove roundabout.

- 2.4.5. The dDCO makes provision (Part 10 of Schedule 3) for the revocation of the Detrunking Order and the Improvement Order as far as they are in force and within the Order limits. It also makes provision for the revocation of the Side Roads Order as far as it is in force and within the Order limits, with the exception of a bridleway. This is in effect Bridleway A from the Side Road Order.
- 2.4.6. Three other Orders are proposed to be partially revoked by the dDCO. These are:
- The London-Penzance Trunk Road (A303) Tintinhull to West of Sparkford (Prohibition of Waiting) (Clearways) Order 1978 between the junction of the A303 and the A359 (Hazlegrove Roundabout) and the junction of the A303 and the B3151 (Camel Cross);
 - The A303 Trunk Road (Sparkford to Podimore) (50 miles per hour speed limit) Order 1999 as shown as a dashed line on sheets 1, 2, 3 and 4 of the Traffic Regulation Measures Plan [REP7-007]; and
 - The County Council of Somerset (Bridgehampton and West Camel) (Weight Restriction) Order 2007 to be revoked from the junction of Howell Hill and the existing A303 at Canegore Corner and point AG shown on Sheet 3 of the Traffic Regulatory Measures Plans [REP7-007].

2.5. OTHER STRATEGIC PROJECTS AND PROPOSALS

- 2.5.1. The main alternative strategic routes for traffic are via the M4 and M5 from London to the southwest or via the A35 and A31 along the coast from the southeast to the southwest. Railway lines are the main lines between London Waterloo and Exeter St Davids, and London Paddington and Exeter St Davids via Westbury. There is also a local line between Weymouth and Bristol Temple Meads via Yeovil and Castle Cary which is located a short way to the east of the Application site and goes through Sparkford, although there is no station or stop.
- 2.5.2. At the time of preparing this Report two other proposals have been announced by HE for the A303, A30 and A358 corridor. The first is the A303 Amesbury to Berwick Down proposal (also known as the A303 Stonehenge proposal). This is currently the subject of Examination as a NSIP under the PA2008. The 6 months period for the completion of that Examination is on 2 October 2019. The other is the A358 Taunton to Southfields scheme. This latter scheme is currently under consideration and is not the subject of an application.

- 2.5.3. The Applicant has made it clear (in oral representation⁹ at ISH1 that the Proposed Development should be considered independently of these other schemes on the basis that any effects would not be material to the east of Mere (at the eastern end of the dual carriageway of which the Hazlegrove roundabout forms the western extent). Paragraph 10.9.7 of the Combined Modelling and Appraisal Report [APP-151] states in referring to the A303 Stonehenge and A358 Taunton schemes "*these two locations are a significant distance away from A303 Sparkford scheme. Therefore, poor journey time validation at these more remote locations will have a very small impact on economic appraisal*".
- 2.5.4. These two schemes were also assessed in Chapter 14 of the ES Combined and Cumulative Effects [APP-051] in Table 14.6 where it was concluded that there was no significant combined effect. No party to the Examination disputed this, although one RR from Friends of the Earth [RR-035] considered that it was misleading to consider the Proposed Development in this way as though the other elements of the overall strategy for the A303, A30, A358 corridor did not exist.
- 2.5.5. In Chapter 14 of the ES Combined and Cumulative Effects [APP-051] the Applicant looked at other development proposals. On the 'cut-off' date of 14 April 2018 utilised by the Applicant two schemes were taken forward for further evaluation. These are at the Haynes Publishing site in Sparkford, where outline planning permission for a mixed-use redevelopment (residential/commercial) together with associated works and access ways has been granted, and for a proposed solar farm at an unidentified site approximately 900m south of the Application site which had been submitted for planning permission.
- 2.5.6. The Applicant also submitted a Cumulative Effects Assessment Technical Note [REP6-010] in response to the ExA's ExQ2 2.9.1 of the Examining Authority's Second Written Question. This sought to address developments granted consent after 14 April 2018 in respect of their potential effects in Sparkford.
- 2.5.7. SSDC provided a list of housing and employment development in Sparkford post the cut-off date provided by the Applicant [REP4-037]. The Applicant also provided a Land Use and Economic Development Topic Paper [REP5-024]. None of the schemes were seen to have a significant bearing on the consideration of the Proposed Development.

⁹ This can be heard from 1:45:00 to 1:46:15 in the recording of this session [EV-010].

3. LEGAL AND POLICY CONTEXT

3.1. THE PLANNING ACT 2008

- 3.1.1. The development is highway-related development falling within in s22 of the Planning Act 2008(the PA2008), consequently the National Policy Statement for National Networks (NNNPS) has effect, and s104 of the PA2008 is engaged.
- 3.1.2. Section 104(2) of PA2008 sets out the matters to which the Secretary of State (SoS) must have regard in deciding an application to which it relates. In summary, the matters set out include:
- any relevant NPSs;
 - any Local Impact Report (LIR);
 - any matters prescribed in relation to development of the description to which the application relates; and
 - any other matters the SoS considers are both important and relevant to the decision.
- 3.1.3. Section 104(3) of PA2008 requires that the SoS must decide an application for development consent in accordance with any relevant NPS, except to the extent that the SoS is satisfied that:
- doing so would lead to the United Kingdom (UK) being in breach of any of its international obligations;
 - doing so would lead to the SoS being in breach of any duty imposed on him by or under any enactment;
 - doing so would be unlawful by virtue of under any enactment;
 - the adverse impact of the proposed development would outweigh its benefits; or
 - any condition prescribed for deciding an application otherwise than with an NPS is met.

3.2. NATIONAL POLICY STATEMENT

- 3.2.1. The NNNPS has been designated as the NPS for roads for which the SOS for Transport (SoST) is the Highway Authority.
- 3.2.2. The NNNPS provides planning guidance for promoters of nationally significant infrastructure projects on the road and rail networks and forms the basis for the examination by the ExA and decisions by the SoST. The SoST will use the NNNPS as the primary basis for making decisions on development consent applications for national networks nationally significant infrastructure projects in England.
- 3.2.3. The NNNPS (Paragraph 3.1) states that the need for development of the national networks, and the Government's policy for addressing that need, must be seen in the context of the Government's wider policies on economic performance, environment, safety, technology, sustainable transport and accessibility, as well as journey reliability and the

experience of road/rail users. The Government has therefore concluded that at a strategic level there is a compelling need for the development of the national road network.

- 3.2.4. The NNNPS states that subject to the detailed policies and protections in within it, and the legal constraints set out in the PA2008t, there is a presumption in favour of granting development consent for national networks NSIPs that fall within the need for infrastructure established in the NNNPS.
- 3.2.5. The NNNPS (Page 9) states that the Government will deliver national networks that meet the country's long-term needs; supporting a prosperous and competitive economy and improving the overall quality of life, as part of a wider transport system. This means:
- Networks with the capacity and connectivity and resilience to support national and local economic activity and facilitate growth and create jobs;
 - Networks which support and improve journey quality, reliability and safety;
 - Networks which support the delivery of environmental goals and the move to a low carbon economy; and
 - Networks which join up our communities and link effectively to each other.
- 3.2.6. The NNNPS provides guidance and imposes requirements on matters such as good scheme design, as well as the treatment of environmental impacts. It also provides planning guidance for such projects and is the basis for the examination by the ExA and decisions by the SoS. It covers a range of topics and these matters are addressed in detail in Chapters 5 to 13 of this Report

3.3. EUROPEAN LAW AND RELATED UK REGULATIONS

Leaving the European Union

- 3.3.1. The UK is, at the time of writing, a member of the European Union (EU). However, the UK is due to leave on or before 31 October 2019 (Exit Day).
- 3.3.2. The European Union (Withdrawal) Act 2018 (EUWA2018) converts EU law into UK law, and preserves laws made in the UK which implement EU obligations.
- 3.3.3. The full body of case law developed in the EU courts and the UK courts up to Exit Day will continue to be binding on UK courts, in relation to retained EU law.
- 3.3.4. This report has been drafted on the basis that relevant law identified below is in force. In any other circumstances it will be a matter for the SoS to satisfy themselves on the relevant considerations and any impact on their decision.

Habitats Directive (Council Directive 92/43/EEC) and Birds Directive (Council Directive 2009/147/EC)

- 3.3.5. The Habitats Directive (together with Council Directive 2009/147/EC on the conservation of wild birds (the Birds Directive)) forms the cornerstone of Europe's nature conservation policy. It is built around two pillars: the Natura 2000 network of protected sites and a strict system of species protection. The Habitats Directive protects over 1000 animals and plant species and over 200 habitats types (for example: species types of forests; meadow; wetland etc) which are of European importance. It requires designation of such areas as Special Areas of Conservation (SAC's).
- 3.3.6. The Birds Directive is a comprehensive scheme of protection for all wild bird species naturally occurring in the European Union and places great emphasis on the protection of habitats for endangered as well as migratory species. The most suitable territories for these species are classified as Special Protection Areas (SPAs) and along with SACs are an integral part of the Natura 2000 network. The Ramsar Convention protects wetlands of international importance especially as waterfowl habitat.
- 3.3.7. The relevance of these directive to the Proposed Development is addressed in Chapter 13 of this Report.

The Water Framework Directive (WFD)

- 3.3.8. Directive 2000/60/EC establishes a framework for Community action in the field of water policy (the Water Framework Directive) includes objectives such as preventing and reducing pollution, environmental protection, improving aquatic ecosystems and mitigating the effects of floods. It provides for the production of river basin management plans to provide for the sustainable management of rivers.
- 3.3.9. The WFD is transposed into law in England and Wales by the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017. The WFD is relevant to the application as there are potential impact pathways between the proposed scheme and water dependent protected areas/designated sites, including Sites of Special Scientific Interest (SSSIs) (which are Ramsar and Special Protection Areas) and local wildlife sites. These are assessed in the Water Framework Directive Screening and Scoping Assessment [APP-058].

The Ambient Air Quality and Cleaner Air for Europe Directive (AQD)

- 3.3.10. Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on Ambient Air Quality and Cleaner Air For Europe came into force on 11 June 2008. It sets limit values (LV) for compliance and

establishes control actions where the limit values are exceeded for ambient air quality with respect to sulphur dioxide (SO₂), nitrogen dioxide (NO₂), and mono-nitrogen oxides (NO_x), particulate matter (PM₁₀¹⁰ and PM_{2.5}¹¹), lead, benzene and carbon monoxide. The Air Quality Standards Regulations 2010 gives statutory effect to the AQD.

- 3.3.11. The UK Air Quality Strategy establishes the UK framework for air quality improvements¹², together with a long-term vision for improving air quality in the UK. It offers options to reduce the risk to health and the environment from air pollution. Individual plans prepared beneath its framework provide more detailed actions to address LV exceedances for individual pollutants.
- 3.3.12. As a consequence of decisions taken over a number of years to broadly promote the growth of diesel vehicles as a proportion of national fleets, combined with the divergence between the regulatory and real environment outcomes in the testing of emissions from diesel vehicles, a number of European countries, including the UK, now experience issues with the achievement of NO₂ LV compliance. ClientEarth has brought various proceedings against the UK government for breaching the AQD. Successive judgements by the Supreme Court¹³ have ordered the SoS for Environment, Food and Rural Affairs (SoSEFRA) to prepare new air quality plans to achieve NO₂ LV compliance as soon as possible.
- 3.3.13. A revised draft 'Air Quality Plan for NO₂ in response to this litigation was published by Department for Environment Food and Rural Affairs (Defra) on 26 July 2017 (AQP 2017)¹⁴. However, a High Court Order¹⁵ was made on 21 February 2018 (Client Earth No 3) providing that whilst the AQP2017 remains in force, it and its supporting zone plans are unlawful because they do not contain measures sufficient to ensure substantive compliance with the AQD in 45 local authority areas. Nor do they include the information necessary to demonstrate compliance with Schedule 8 of the Air Quality Standards Regulations 2010 in respect of these 45 local authority areas.

On 14 January 2019 the 'Clean Air Strategy 2019' was published set out how all sources of air pollution would be tackled, and action plans

¹⁰ Where the particulate matter is 10 micrometres or less in diameter

¹¹ Where the particulate matter is 2.5 micrometres or less in diameter

¹² The Air Quality Strategy for England, Scotland, Wales and Northern Ireland (Defra, 2007)

¹³ R oao ClientEarth v SoS EFRA, SoST and Welsh Ministers (ClientEarth No 1) and R oao ClientEarth v SoS EFRA, SoST and Welsh Ministers (ClientEarth No 2)

¹⁴ Air quality plan for nitrogen dioxide (NO₂) in the UK, Defra (2017)

¹⁵ R oao ClientEarth v SoS EFRA, SoST and Welsh Ministers (ClientEarth No 3)

undertaken at the local authority areas continue to be produced in accordance with the plan. This report has considered any relevant AQ local matters.

3.4. OTHER RELEVANT LEGAL PROVISIONS

United Nations Environment Programme (UNEP) Convention on Biological Diversity 1992

- 3.4.1. The UK government ratified the Convention in June 1994. Responsibility for the UK contribution to the convention lies with the Defra who promote the integration of biodiversity into policies, projects and programmes within the Government and beyond.
- 3.4.2. As required by Regulation 7 of the Infrastructure Planning (Decisions) Regulations 2010 (the Decisions Regulations), the UNEP Convention on Biological Diversity 1992 has been taken into account in consideration of the likely impacts of the proposed development and appropriate objectives and mechanisms for mitigation and compensation. The UK EIA and Transboundary Assessment process is referred to below satisfy with regard to impacts on biodiversity the requirements of Article 4 of the Convention (Impact Assessment and Minimising Adverse Impacts).
- 3.4.3. This is of relevance to the biodiversity and ecological considerations and the landscape and visual impact which are discussed in Chapter 9 of this Report.

The Wildlife and Countryside Act 1981

- 3.4.4. The Wildlife and Countryside Act 1981 (WCA) is the primary legislation which protects animals, plants and certain habitats in the UK. It provides for the notification and confirmation of SSSIs. In England the sites are identified for their flora, fauna, geological or physiographical interest by Natural England' (NE). The WCA contains measures for the protection and management of SSSIs.
- 3.4.5. The Act is relevant to the application in view of the sites and species identified in the Environmental Statement. Relevant considerations are discussed in Chapter 7 of this Report.

Natural Environment and Rural Communities Act 2006

- 3.4.6. The Natural Environment and Rural Communities Act 2006 (NERCA) makes provisions for bodies concerned with the natural environment and rural communities in connection with wildlife sites and SSSIs. It includes a duty that every public body must, in exercising its functions, have regard so far as its consistent with the proper exercise of those functions, to the conservation of biodiversity (the biodiversity duty). In complying with the biodiversity duty regard must be had to the UNEP Convention on

Biological Diversity of 1992. The Act also requires that the SoS must publish a list of the living organisms and types of habitat which in the SoS's opinion are of principle importance for conserving biodiversity. The ExA has had regard to the NERCA and biodiversity duty in all relevant sections of this Report.

- 3.4.7. The effects on landscape and visual impacts, as well as the effects on rights of way and the ease of movement for NMUs are considered in Chapters 9 and 10 of this Report.

The Protection of Badgers Act (1992)

- 3.4.8. The Protection of Badgers Act 1992 proscribes offences relating to badgers, including interfering with badger setts, together with exceptions and licences and enforcement and penalties. The implications of the Proposed Development for badgers are provided in ES Chapter 8 [APP-045] and the Confidential Badger Technical Report [APP-144] which has been withheld from publication on the Inspectorate's National Infrastructure website. The implications of the Protection of Badgers Act (1992) is discussed at Chapter 7 of this Report.

The Hedgerow Regulations 1997

- 3.4.9. The Hedgerow Regulations 1997 protect 'important' hedgerows with licencing and enforcement and penalties. The effect of the Proposed Development on hedgerows is discussed in Chapter 8 of the ES [APP-045] with a Hedgerow Technical Report being provided [APP-076]. The implications of the Proposed Development on hedgerows is discussed at Chapter 7 of this Report.

The Public Sector Equality Duty (PSED)

- 3.4.10. The Equalities Act 2010 established a duty, (the PSED), to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share the protected characteristics and persons who do not. The PSED is applicable to the ExA in the conduct of this Examination and reporting, and to the SoST in decision making.
- 3.4.11. The implications of the Proposed Development for the PSED are considered at Chapter 15 of this Report.

Climate Change

- 3.4.12. The Climate Change Act 2008 establishes statutory climate change projections and carbon budgets, where relevant these have been taken into account in Chapter 6 of this Report. After the close of the

Examination on 27 June 2019 Parliament approved a change to section 1(1) of the CCA which now states¹⁶:

"It is the duty of the Secretary of State to ensure that the net UK carbon account for the year 2050 is at least 100% lower than the 1990 baseline."

- 3.4.13. It is a matter for the SoS to consider any impact on the change of this target to any proposed DCO.

The Infrastructure Planning (Decisions) Regulations 2010

- 3.4.14. The Regulations prescribe a list of matters to which the SoS under s103 of the PA2008 must have regard to when taking decisions on applications for NSIPs.
- 3.4.15. Regulation 3 of the Decisions Regulations requires, 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. A similar duty applies to scheduled monuments.

3.5. MADE DEVELOPMENT CONSENT ORDERS

- 3.5.1. The Applicant made reference to a number of precedents in made Orders and related approvals. References were made in the final version of the Explanatory Memorandum.
- 3.5.2. The following made orders were specifically referred to and have been taken into account:
- The A14 Cambridge to Huntingdon Improvement Scheme Development Consent Order 2016
 - The M20 Junction 10 Development Consent Order 2017
 - The Silvertown Tunnel Order 2018

3.6. TRANSBOUNDARY EFFECTS

- 3.6.1. Under Regulation 32 of the EIA Regulations the Inspectorate on behalf of the SoS has concluded that the Proposed Development is unlikely to have a significant effect, either alone or cumulatively, on the environment in another European Economic Area State.

¹⁶ http://www.legislation.gov.uk/ukxi/2019/1056/pdfs/ukxi_20191056_en.pdf

- 3.6.2. In reaching this conclusion the Inspectorate has identified and considered the likely impacts of the Proposed Development including consideration of potential pathways and the extent, magnitude, probability, duration, frequency and reversibility of the impacts. The Inspectorate considers that the likelihood of transboundary effects resulting from the Proposed Development is so low that it does not warrant the issue of a detailed transboundary screening.
- 3.6.3. The Inspectorate has taken into account information contained in the Applicant's Scoping Report titled the 'A303 Sparkford to Ilchester Dualling Environmental Impact Assessment' dated November 2017 and has had regard to the location of the proposed development, its characteristics and the environmental importance of the receiving environment.
- 3.6.4. The Regulation 24 duty is an ongoing duty, and on that basis, the ExA has considered whether any facts have emerged to change the screening conclusions, up to the point of the closure of the Examination. No mechanisms whereby any conceivable transboundary effects could occur emerged.
- 3.6.5. The ExA is satisfied with regards to Regulation 7 of the Decisions Regulations that there are no outstanding transboundary issues that would prevent the Order from being made.
- 3.6.6. The SoS's duty under Regulation 32 of the 2017 EIA Regulations continues throughout the application process.

3.7. GOVERNMENT TRANSPORT POLICY

The National Infrastructure Delivery Plan (NIDP)

- 3.7.1. The NIDP updates and replaces the National Infrastructure Plan, and outlines details of £483 billion of investment in over 600 infrastructure projects and programmes, spread across the UK to 2020-21 and beyond.
- 3.7.2. The NIDP sets out what will be built and where, focusing specifically on nearly £300 billion of infrastructure that will be delivered over the 5 year period to 2020-21. It sets out how the Government is investing over £15 billion to support HE in transforming the Strategic Road Network (SRN), with over 100 major schemes completed by, or in construction, by the end of 2020-21. The first of these, Road Period 1, runs from 2015 to 2020. The goals and objectives of Road Period 1 are detailed within the Road Investment Strategy (RIS). In response to this, a number of strategic delivery plans have been published and these detail how this funding will be invested in accordance with the NIDP and the RIS.

Road Investment Strategy (2015-2020) (RIS1)

- 3.7.3. The RIS1 was published in December 2014 and outlines a long-term programme for UK motorways and major roads with the funding needed to plan ahead. It includes the A303 Sparkford to Ilchester dualling scheme as a 'fully committed project'. The RIS1 comprises:
- A long-term vision for England's motorways and major roads, outlining how the government will create smooth, smart and sustainable roads;
 - A multi-year investment plan that will be used to improve the network and create better roads for users; and
 - High-level objectives for the first roads period 2015 to 2020.
- 3.7.4. The 'Strategic Vision' sets out the Government's aim for Highways England, namely:
- "To make the network safer and improve user satisfaction, while smoothing traffic flow and¹⁷encouraging economic growth. We want to see [Highways England] delivering better environmental outcomes and helping cyclists, walkers and other vulnerable users of the network at the same...time as achieving real efficiency and keeping the network in good condition".*
- 3.7.5. It also states that the SRN is vital to British businesses and to local and national economies, but that capacity problems leading to increased congestion have become a major issue. It recognises that the SRN has a good safety record and provides the lifeline for the logistics of everyday life, such as next day delivery and supermarket supply, but that congestion is having a major effect on reliability
- 3.7.6. The Strategic Vision further acknowledges that the SRN links people, places and different transport modes, but that busy roads can generate noise and sever access in towns and villages, impeding cyclists and walkers. It also explains that, moving forward, the SRN needs to be designed and constructed to the highest environmental standards, with low noise road surfacing to be used where possible.
- 3.7.7. A feasibility study of the Proposed Development is included within the Strategic Vision. This states that the A303/A30/A358 corridor is a 'vital connection between the south west and London and the south east'.
- 3.7.8. As part of the improvement works to this corridor, at the time of publishing, the Department for Transport (DfT) intended to proceed with 3 major projects worth £2 billion, including the A303 Sparkford to Ilchester dualling. These include the A303 Stonehenge scheme

¹⁷ RSI1 p9

(Amesbury to Berwick Down) and the A303/A358 Taunton to Southfields scheme.

3.8. OTHER RELEVANT POLICY STATEMENTS

Noise Policy Statement for England (2010) (NPSE)

- 3.8.1. NSPE seeks to clarify the underlying principles and aims in existing policy documents, legislation and guidance that relate to noise. It applies to all forms of noise including environmental noise, neighbour noise and neighbourhood noise.
- 3.8.2. The Government's Noise Policy Vision is to promote good health and a good quality of life through the effective management of noise within the context of Government policy on sustainable development.

WHO Guidelines for Community Noise 1999 and WHO Night-time Noise Guidelines for Europe 2009

- 3.8.3. The WHO Guidelines for Community Noise (CNG) provide guidance on suitable internal and external noise levels, for steady sound in and around residential properties. The WHO Night-time Noise Guidelines for Europe (NNG) provides additional guidance on night-time noise and recommends noise levels based on effects on health.

WHO Environmental Noise Guidelines for the European Region (2018) (ENG)

- 3.8.4. Environmental Noise Guidelines (ENG) for the European Region 2018, updates and supersedes the CNG (apart from the indoor guideline values and any other values not covered by the new guidance e.g. industrial noise and shopping areas, which remain valid) and complements the NNG.
- 3.8.5. The ENG acknowledges that noise is an important public health issue and can have negative impacts on human health and well-being. The ENG are based on the growing understanding of these health impacts of exposure to environmental noise. The main purpose of the guidelines is to provide recommendations for protecting human health from exposure to environmental noise originating from various sources including transportation (road traffic, railway and aircraft) noise. They provide robust public health advice underpinned by evidence, which is essential to drive policy action that will protect communities from the adverse effects of noise.

3.9. THE NATIONAL PLANNING POLICY FRAMEWORK AND PLANNING PRACTICE GUIDANCE

- 3.9.1. The National Planning Policy Framework (the Framework) (February 2019) and its accompanying Planning Practice Guidance (PPG) set out

the Government's planning policies for England and how these are expected to be applied. It provides a framework within which locally-prepared plans for housing and other development can be produced. Framework paragraph 5 makes clear that it does not contain specific policies for nationally significant infrastructure projects. These are determined in accordance with the decision-making framework in the PA2008 and relevant national policy statements for major infrastructure, as well as any other matters that are relevant (which may include the National Planning Policy Framework).

- 3.9.2. The NNNPS (paragraphs 1.17 to 1.20) describe the relationship between the Framework and the NNNPS. Together these paragraphs confirm that the overall strategic aims of the Framework and the NNNPS are consistent, however, the two have differing but equally important roles to play. It states that the Framework is likely to be an important and relevant consideration in decisions on NSIPs, but only to the extent that it is relevant to that project.
- 3.9.3. Paragraph 3.3 of the NNNPS states that the Government expects applicants to avoid and mitigate environmental and social impacts in line with the principles set out in the Framework and the Government's planning guidance.
- 3.9.4. The NNNPS was published in December 2014 and was consistent with the Framework 2012. The Framework was revised in July 2018 and more recently in February 2019. The NNNPS does not reflect these changes. Where relevant they have been considered within the relevant Chapters of this Report.
- 3.9.5. The ES submitted with the application assessed the application against the policies within the Framework 2012. In response to the ExQ11.0.1 the Applicant submitted 'A Review of the National Planning Policy Framework 2018 against the Environmental Statement (January 2019)' within [REP2-005]. The February 2019 changes are mainly concerned with matters in relation to local housing need and delivery, as well as an update to development requiring a Habitats Regulation Assessment.
- 3.9.6. The changes in relation to housing matters are not relevant to the Proposed Development. The changes in relation to the presumption in favour of sustainable development in paragraph 177 of the Framework regarding the need for Appropriate Assessment do not alter the ExA's consideration of this scheme as the Proposed Development would not, for the reasons explored below in Chapter 13, trigger the need for an Appropriate Assessment.
- 3.9.7. The PPG provides additional information to assist in the operation of the planning system. Insofar as the categories therein are relevant to the Proposed Development, they will be material. However, they should have less weight than either the NNNPS or the Framework.
- 3.9.8. The PPG was revised on 21 and 23 July 2019 following the closure of the Examination. The Report considers the matter in respect of the latest

version of this guidance at the time of reporting. This means that the ExA was unable to seek the views of the parties as to how, if at all, the changes affected the consideration of this matter and the SoS may wish seek the view of the parties in relation to these changes.

3.10. LOCAL IMPACT REPORTS

- 3.10.1. SCC and SSDC submitted a joint Local Impact Report (LIR) [REP2-019]. The Report addresses the following issues:
- Traffic and Transport including detailed design, impact on West Camel and Sparkford villages, pressures on the local and strategic road network around Podimore Roundabout, de-trunking, details for the management of traffic during construction, and maintenance.
 - Public Rights of Way
 - Drainage
 - Geology, Assets and Waste
 - Archaeology and Cultural Heritage
 - Air Quality and Emissions
 - Biodiversity, Ecology and Natural Environment
 - Noise and Vibration
 - Landscape and Visual Effects
 - Socio Economic Effects on Surrounding Communities
- 3.10.2. The LIR identifies and balances a range of positive, neutral and negative impacts arising from the Proposed Development. It concludes that the extent of agreement reached between the SCC, SSDC and the Applicant on the impacts of the Proposed Development is set out in the Draft SoCG submitted on the same day as this LIR. At the time at which the LIR was submitted SCC and SSDC remained very concerned that a range of adverse individual and cumulative impacts identified by the Applicant and/or SCC and SSDC in their respective assessments will not be mitigated adequately or at all. The latest position between the Councils and the Applicant is set out in the SoCG [REP8-010].
- 3.10.3. The LIR seeks to identify where further information and proposals are needed, to ensure that the adverse local impacts of the proposed development are adequately mitigated. It states that through on-going engagement with the Applicant, the SCC and SSDC have proposed ways in which adverse local impacts from the dualling of the A303 between Sparkford and Ilchester can be satisfactorily mitigated by various mechanisms, such as planning obligations and requirements (including written approval of detailed mitigation measures).
- 3.10.4. The LIR submits that if the Joint Council's mitigation proposals, if delivered in their entirety, would ensure that necessary and proportionate mitigation is secured to address the impacts of the proposed development during construction and operation.
- 3.10.5. Where relevant considerations arising from the LIR are identified they are dealt with in the specific Chapter or Section of this Report.

3.11. THE DEVELOPMENT PLAN

- 3.11.1. The Proposed Development is wholly located in the SSDC area, within the county of Somerset. The local development plan for the area consists of the South Somerset Local Plan¹⁸ (the Local Plan), the Somerset Minerals Plan¹⁹ and the Somerset Waste Core Strategy²⁰.
- 3.11.2. The Applicant's assessment of the development plan policies most relevant to the Proposed Development are set out in the Case for the Scheme [APP-149].
- 3.11.3. SCC and SSDC undertook a similar exercise as part of their Joint LIR [REP2-019].
- 3.11.4. The policies most relevant to this application are:
- Policy EQ1: Addressing Climate Change in South Somerset
 - Policy EQ3: Historic Environment
 - Policy EQ4: Biodiversity
 - Policy EQ5: Green Infrastructure
 - Policy EQ6: Woodlands and Forests
 - Policy EQ7: Pollution Control
- 3.11.5. Paragraphs 1.3 and 5.173 of the NNNPS refer to the status of development plans in the decision-making process. The ExA has taken account of these in making our recommendations to the SoS.

¹⁸ South Somerset Local Plan 2006-2028 (adopted March 2015)

¹⁹ Somerset Minerals Plan (2015)

²⁰ Somerset Waste Core Strategy (2013)

4. THE PLANNING ISSUES

4.1. MAIN ISSUES IN THE EXAMINATION

- 4.1.1. This is an application in respect of which there was a substantial level of local support to the principal of the development. Those objections that did arise related largely to matters of suggestions of alternative approaches that the Applicant could have considered or detail in mitigation. There were no over-arching representations suggesting that the Proposed Development was fundamentally inappropriate in policy terms or that development consent should be refused. The support was also echoed outside the local community by bodies such as Devon County Council [AS-023] and Peninsula Transport [AS-024].
- 4.1.2. The ExA's initial assessment of principal issues for the Examination, as required by s88 of the PA2008 and Rule 5 of the Infrastructure Planning (Examination Procedure Rules) 2010 was made prior to the PM which was held on 12 December 2018 and within 21 days of the day after receipt of the s58 certificate of compliance [OD-003] under the PA2008 provided by the Applicant. The issues identified in that initial assessment were:
- Archaeology and Cultural Heritage;
 - Air Quality and Emissions;
 - Biodiversity, Ecology and Natural Environment;
 - Noise and Vibration;
 - Landscape and Visual Effects;
 - Socio-Economic Effects on surrounding Communities;
 - Traffic and Transport;
 - Flooding/Drainage Strategy;
 - Draft DCO; and
 - CA and/or TP/Rights over land.
- 4.1.3. The initial assessment of principal issues set out in the Rule 6 letter [PD-006] included a number of sub-headings, setting out areas in more detail. These were discussed at the PM and are set out in ExA's note of the PM [EV-002]. On the basis that the topics set out above were a general list and not exhaustive the parties at the PM considered it generally appropriate, although the representative of the Friends of the Earth took the view that the effect of the whole A303/A30/A358 corridor should be the subject of a Strategic Environmental Assessment(SEA).
- 4.1.4. This is a matter of law for the SoS. However, to inform the SoS the ExA takes the view that whether or not the NNNPS should have been the subject of a SEA it is now too late to revisit that decision. The absence of an SEA would therefore not be material to this decision. This does not, however, mean that the environmental effects of this Proposed Development or its combined or in combination effects should not be considered as appropriate.
- 4.1.5. A significant number of RRs, including those from the three Parish Councils, considered that the proposed highway layout, particularly at

the eastern end and its junctions with the Hazlegrove roundabout was overly complicated and would increase travel distances. To this end the Parish Councils' commissioned consulting engineers to produce what they saw as 'alternative' proposals which were submitted, and clarified, during the Examination²¹. This matter is examined under the Consideration of Alternatives section of this Chapter below.

- 4.1.6. The IPs were also of the view that the Proposed Development was not as robust as it could be in that it does not provide for a parallel local road along the whole length. This matter is considered in Chapter 10 (Traffic and Transport),
- 4.1.7. An issue also arose in relation to the potential for bird-strike and flights to and from RNAS Yeovilton. This matter is discussed in Chapter 10.
- 4.1.8. Furthermore, there was also concerns raised about the Applicant's Approach to CA and TP, particularly in relation to designation of parts of these areas of privately owned land as highway. This matter is discussed in Chapter 15.
- 4.1.9. The ExA has considered the principal issues that it identified in the Rule 6 letter as well as the additional matters raised by IPs in the PM. The ExA's detailed findings and conclusions on all the relevant and important matters are set out in Chapters 5 to 12 of this report, except for matters relating to Habitats Regulations Assessment, CA and the dDCO, which are respectively contained in Chapters 13, 15 and 16. All representations, even if not explicitly mentioned, have been fully considered in reaching the conclusions set out.
- 4.1.10. A number of issues were raised in written representations (WRs), nearly all of which fell within the categories of issues identified in the Ex's initial assessment of principal issues, with traffic and transport (including effect on non-motorised users, and on local communities), effects on heritage assets and their settings and biodiversity being the most frequently mentioned matters.
- 4.1.11. The need for the development was questioned by a few IPs, for example, Mr Cliff Baker [RR-022] stated that the development would have little effect and would have unacceptable consequential effects on the local community in terms of highway safety. While the ExA is considering the case for the Proposed Development as submitted for Examination, the need for the dualling of this part of the A303 is not a matter for Examination in line with Section 2 of the NNNPS.
- 4.1.12. The ExA has taken into account the matters raised in its consideration of the Applicant's Case for the Scheme [APP-149].

²¹ The drawings from the engineers can be found at the end of [REP2-027], with further information at [REP3-008], [REP4-024], [REP6-025] and [REP7-053].

- 4.1.13. There was some criticism of the Applicant's pre-application consultation process. There were a few IPs, particularly the Parish Councils and those associated with them such as Mr Bryan Norman, saying that they felt that the consultation had not been effective. This was because they felt the Applicant had not addressed what they considered to be legitimate concerns and had failed to engage constructively. These criticisms were principally about the nature of the design of the proposal rather than the principle of the development and consequently are considered below in Chapter 10.

4.2. ISSUES ARISING IN LOCAL IMPACT REPORT

- 4.2.1. A single Joint Local Impact Report (LIR) was submitted by SCC and SSDC [REP2-019] at D2.
- 4.2.2. Most of the principal matters raised in the submitted LIR coincided with the ExA's initial assessment of principal issues.
- 4.2.3. The main issues were as follows:
- Archaeology and cultural heritage;
 - Layout, including the methodology by which the detailed design should be approved;
 - Post construction handover and maintenance;
 - Traffic and other effects on local communities;
 - Effect on those using the non-motorised user network, including ensuring appropriate provision for routes currently subject to applications for reclassification;
 - Flooding/drainage;
 - Bio-diversity, ecology and natural environment; and
 - Landscape and visual effects.
- 4.2.4. The ExA has had full regard to the matters identified in the LIRs and these were further explored and considered during the course of the Examination.
- 4.2.5. Chapters 5 to 12 of this report comprises the Ex's detailed consideration of each of the subject matters identified above in relation to the proposed development. The ExA's findings and conclusions are based on the relevant legal and policy framework, plus consideration of issues arising from the LIRs, written submissions and those made orally at the Hearings, as required by s104 PA2008.
- 4.2.6. Conformity with the NNNPS and other material policy is assessed in the relevant Chapters of this Report.

4.3. CONSIDERATION OF ALTERNATIVES

- 4.3.1. The NNNPS requires Applicants to comply with all legal requirements and any policy requirements set out in this NPS on the assessment of alternatives.

- 4.3.2. Of the 13 potential route options were identified initially, four options were shortlisted for further assessment. Option 1 and Option 2 were subsequently subject to further environmental, economic, and technical assessment. The results of these assessments, along with the outcomes of the consultation informed the identification of the preferred route. A Preferred Route Announcement was made in October 2017 by the SoST.
- 4.3.3. Paragraph 3.5.12 of the ES Chapter 3 [APP-040] sets out the Applicant's reasons for selecting the preferred route. Section 5 of the Consultation Report [APP-023] sets out an analysis of responses received. The issues raised include:
- A proposal to retain a section of the existing A303 as a local road running in parallel to the upgraded A303;
 - Requests to amend the layout of the proposed junctions at Camel Cross, Downhead and Hazlegrove, in particular to address the proximity of junctions to the upgraded A303
 - A desire for traffic calming measures on local roads in West Camel, Queen Camel and Podimore;
 - Calls to ensure appropriate long-term provision for non-motorised users;
 - An emphasis on the need to minimise where possible severance impacts throughout the scheme, both for wildlife and local communities
 - A desire for on-going community engagement throughout the planning and development process.
- 4.3.4. Table 5.8 of the report also sets out the design changes made as a consequence of the responses received, whilst paragraph 5.3.5 outlines the significant comments that did not result in design changes.
- 4.3.5. A number of IPs put forward alternative suggestions as to how the Proposed Development could be modified to address the concerns of the local community [RR-007], [RR-015], [RR-014], [RR-017], [RR-019], [RR-023], [RR-024]. Many of these comments relate to the provision of a parallel road and changes to the layout at Hazlegrove junction.
- 4.3.6. Queen Camel, West Camel and Sparkford PCs, together with Mr Bryan Norman submitted considerable additional material to show how their concerns with the layout proposed could be addressed. These submissions included drawings prepared by Fairhurst Consulting and Civil Engineers showing an alternative layout for the Hazlegrove Junction [REP2-025], and additional traffic surveys [REP8-41] and [REP8-042].
- 4.3.7. The alternative arrangements put forward by the PC represent a "*high level reviews of the alternative scheme to ensure compliance with the standards set out in the Design Manual for Roads and Bridges*" [REP3-008]. For this reason, it has not been subject to any EIA. Although the alternative scheme has been described by the Applicant as 'inchoate' the ExA understands that it has similarities with the previous scheme for the dualling of this stretch of the A303. Moreover, it would be unreasonable to expect IPs to produce a fully assessed scheme to

illustrate what they believe to be a viable alternative to the scheme which is the subject of this Examination.

- 4.3.8. The PC scheme shows an alternative arrangement at Hazlegrove junction and includes provision for a parallel road. The PCs believe that the junction arrangement would be more compact than that proposed, avoid traffic congestion at the peak traffic times for Hazlegrove School, and substantially reduce the distance travelled by motorists.
- 4.3.9. The benefits of a parallel road are discussed at Chapter 10. The Applicant's position is that such a road cannot be accommodated due to a 'pinch point' between the MoD land and Camel Hill Transmitter Station Local Wildlife Site. In order to accommodate the Fairhurst scheme it would be necessary to acquire a strip of MoD land as shown on the plan at the end of [REP2-027]. The Applicant considers the uncertainty as to whether this land could be acquired would risk the delivery of the Proposed Development.
- 4.3.10. In response to questions from the ExA at ISH1 the Applicant agreed to provide information regarding its discussions with the MoD in relation to this matter at D4. The Applicant's response [REP4-018] failed to provide this information. The Applicant's response [REP5-025] to a further request ExQ2 2.7.2 also failed to provide the information sought. The ExA issued a further written question ExQ3 3.0.10 seeking the same information, the Applicant responded by outlining the nature of discussions with the MoD, but failed to submit the documents requested.
- 4.3.11. The area of land required is small and given the potential benefits of a parallel road the SoS may wish to satisfy themselves as to whether this land could be acquired.
- 4.3.12. The Examination also considered whether there was scope to for flexibility in terms of the width of the parallel road. To this end the Parish Councils submitted an additional letter and plan [REP6-025].
- 4.3.13. In response to questions from the ExA the Applicant stated that the more flexible standards within Manual for Streets 2 (MfS2) could not be used in this location. The Applicant provided a detailed response to this matter at D7 Action Point 4 [D7-027]. The Applicant's response is based on the assumption that a parallel road would have a speed limit of 50 or 60 miles per hour. It is unclear whether this would be a reasonable speed for such a road, or whether local circumstances would suggest that a lower speed limit would be more appropriate. Section 1.3 of MfS2 outlines the scope of its advice and explains that the principles can be applied widely to improve the quality of highways and are not limited to low speed or lightly trafficked routes. Paragraph 1.3.2 states: *"It is clear from Table 1.1 that most MfS advice can be applied to a highway regardless of speed limit. It is therefore recommended that as a starting point for any scheme affecting non-trunk roads, designers should start with MfS."*

- 4.3.14. Consequently, on the basis of the evidence submitted to the Examination the ExA is not persuaded that with a more flexible approach in terms of design and speed that a parallel road could not be achieved.
- 4.3.15. The Applicant also suggested that cost was a factor in not providing a parallel road, but evidence from IPs suggest (see for example [REP2-027] submitted by Mr Norman) that is not the case due to savings made elsewhere.

Conclusion on Consideration of Alternatives

- 4.3.16. The ExA concludes on this matter as follows:
- As set out above, the Proposed Development has been subject to an Options Appraisal in accordance with NNNPS paragraph 4.27.
 - Consultation with the local community was based on two options that had been subject to the Applicant's sifting procedure.
 - Whilst supporting the scheme in principle, the local community strongly support the retention of the old A303 as a parallel local road and revisions to the Hazlegrove Junction.
 - On the basis of the information submitted to the Examination, the ExA is not persuaded that it is not possible to achieve a parallel road.
 - The SoS may wish to satisfy themselves as to whether area of MoD land required to provide a parallel road could be acquired.
 - Whilst the alternative layout submitted by the Parish Councils does not represent a fully developed scheme, it is unfortunate that the Applicant did not have more regard to it.

4.4. ENVIRONMENTAL IMPACT ASSESSMENT

- 4.4.1. As recorded in Section 1.5 of this Report and for the reasons set out there the Application is EIA development. The documents which comprise the ES and the various addenda to that are set out in the Examination Library set out at Appendix B of this Report. It also records the environmental management documents proposed to be used by the Applicant, secured through the DCO, to secure the construction and operation of the Proposed Development within the worst-case parameters (the Rochdale envelope) assessed in the ES.
- 4.4.2. When the Applicant submitted the proposed material changes for consideration (at D4) it also submitted a number of additional documents [OD-010], [OD-011] and [OD-012] to update the ES to take account of these changes.
- 4.4.3. As the proposed material change was the subject of publicity in line with the relevant legislation as set out above. This gave any person entitled to be notified of the changes to make representations upon those changes.
- 4.4.4. Unfortunately, there were a significant number of errors of a typographic nature in the original ES. This led to the Applicant submitting a list of proposed changes in response to the Written Questions [REP2-004] and a Table of Errata at D6 [REP6-006]. The ExA is satisfied that as these

alterations are of a typographic nature no person was disadvantaged by these only being the subject of consultation with those who had been involved in the Examination.

4.5. HABITATS REGULATIONS ASSESMENT

- 4.5.1. The application was accompanied by a Report [APP-147] entitled "*Habitats Regulations Assessment of No Significant Effects Report*". This identifies an area of search and five relevant European Sites, Mells Valley SAC, North Somerset and Mendip Bat SAC, Bracket's Coppice SAC, Somerset Levels and Moors SPA and Somerset Levels and Moors Ramsar), but it concludes that there are no likely significant effects on those sites or their qualifying features from the Proposed Development or in combination with other plans or projects (see Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations)).
- 4.5.2. The Applicant submitted a draft SoCG with Natural England [APP-157]. NE agreed with the conclusions of the Applicant in respect of the five European sites. However, NE expressed concern regarding potential in-combination impacts from the Proposed Development with A303 Stonehenge and A358 Dualling development on Salisbury Plain SAC.
- 4.5.3. A final and signed SoCG between the Applicant and NE was submitted at D5 (5 April 2019). This SoCG confirmed that NE were now in agreement with the Applicant regarding potential impacts on Salisbury Plain SAC.
- 4.5.4. The ExA issued a Report on the Implications for European Sites [PD-015] on 16 April 2019. This is discussed further below in Chapter 13. Consequently, the consideration and conclusions on HRA are dealt with in that Chapter.

5. ARCHAEOLOGY AND CULTURAL HERITAGE

5.1. INTRODUCTION

5.1.1. This Chapter considers the effect of the Proposed Development on archaeology and cultural heritage. In particular it deals with:

- Archaeology including Scheduled Monuments;
- The Hazlegrove House RPG;
- Listed buildings;
- Conservation Areas;
- Non-designated heritage assets.

5.2. POLICY

NNNPS

5.2.1. NNNPS paragraphs 5.128 to 5.142 identify the historic environment decision-making considerations to be taken into account by the SoS.

5.2.2. Paragraph 5.130 states *"the SoS should take into account the desirability of sustaining and, where appropriate, enhancing the significance of heritage assets, the contribution of their settings and the positive contribution that their conservation can make to sustainable communities – including their economic vitality. The SoS should also take into account the desirability of new development making a positive contribution to the character and local distinctiveness of the historic environment"*.

5.2.3. Paragraph 5.131 states that when considering the impact of a proposed development on the significance of a designated heritage asset, the SoS should give great weight to the asset's conservation. The more important the asset, the greater the weight should be. It continues to state *"significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Given that heritage assets are irreplaceable, harm or loss affecting any designated heritage asset should require clear and convincing justification. Substantial harm to or loss of a Grade II Listed Building or a Grade II Registered Park or Garden should be exceptional. Substantial harm to or loss of designated assets of the highest significance, including World Heritage Sites, Scheduled Monuments, Grade I and II* Listed Buildings, Registered Battlefields, and Grade I and II* Registered Parks and Gardens should be wholly exceptional"*.

5.2.4. Paragraph 5.132 states *"any harmful impact on the significance of a designated heritage asset should be weighed against the public benefit of development, recognising that the greater the harm to the significance of the heritage asset, the greater the justification that will be needed for any loss"*.

- 5.2.5. Paragraphs 5.133 and 5.134 deal with the approaches that should be undertaken depending on the level of harm. The former paragraph states *"where substantial harm or total loss of significance of a designated heritage asset, the SoS should refuse consent unless it can be demonstrated that the substantial harm or loss of significance is necessary in order to deliver substantial public benefits that outweigh that loss or harm"*, or four specific criteria collectively apply. The latter paragraph states *"where the proposed development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use"*.
- 5.2.6. There is no guidance in the NNNPS as to how significance is defined or how the level of harm to significance should be judged. As noted above (Section 3.9), the Framework is likely to be an important and relevant consideration in decisions on NSIPs, but only to the extent that it is relevant to that project.

Framework and PPG

- 5.2.7. The Glossary to the Framework defines significance for heritage policy as *"The value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting"*.
- 5.2.8. The PPG states²² *"Whether a proposal causes substantial harm will be a judgment for the decision taker, having regard to the circumstances of the case and the policy in the ... Framework. In general terms, substantial harm is a high test, so it may not arise in many cases. For example, in determining whether works to a listed building constitute substantial harm, an important consideration would be whether the adverse impact seriously affects a key element of its special architectural or historic interest."*
- 5.2.9. As these matters relate to the consideration on significance, the ExA considers that these are an appropriate way in which to consider the heritage aspects of the Proposed Development.
- 5.2.10. The Framework sets out a similar approach to the NNNPS seeking, in paragraph 184, to ensure that heritage assets are conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life for existing and future generations.

Local Plan

- 5.2.11. The Local Plan includes Policy EQ3: Historic Environment which indicates that heritage assets will be conserved and where appropriate enhanced

²² Reference ID: 18a-017-20140306

for their historic significance and important contribution to local distinctiveness, character and sense of place. New development should safeguard or where appropriate enhance the significance, character, setting and local distinctiveness of heritage assets.

5.3. THE APPLICANT'S CASE

5.3.1. ES Chapter 6 [APP-043] addresses Cultural Heritage with the assessment and the guidance presented in the Design Manual for Roads and Bridges (DMRB) Volume 11, Section 3 Part 2 Cultural Heritage.

5.3.2. Two appendices to the Chapter were also submitted providing a Cultural Heritage Desk Based Assessment (DBA) [APP-067] and a separate Hazlegrove House RPG Statement of Significance [APP-068]. During the Examination further documents were submitted which will be referred to in this section.

General Approach

5.3.3. At the pre-application stage the Applicant consulted with a number of organisations including SSDC, Historic England (given the acronym HBMCE²³) and the Gardens Trust.

5.3.4. The Applicant established a study area of 1km, although three known heritage assets in the wider landscape have been included in the assessment where potential for an impact was identified, namely Glastonbury Tor, Cadbury Castle, and St Michael's Hill at Montacute.

5.3.5. Initially, the Applicant undertook a high-level scoping exercise to exclude from detailed assessment heritage assets which were clearly not going to be impacted by the Proposed Development. It also grouped related heritage assets by proximity and/or historical relationships which would then be subject to a single assessment. This list was agreed with stakeholders. The scoped list can be found in Appendix B of the Cultural Heritage DBA [APP-067]. This also concluded that there would be no likely significant effects for the three assets referred to in the previous paragraph and further detailed work was therefore not pursued.

5.3.6. From this the Applicant established a list of heritage assets where a significant effect was identified. These are shown on Figure 6.1 Heritage Assets with the Potential for Likely Significant Effects [APP-116]. This list was reconsidered in the light of the RRs and LIR [REP2-019].

5.3.7. The Applicant has identified in paragraph 6.8.2 of [APP-043] temporary construction impacts on heritage assets may arise from construction

²³ To distinguish it from "HE" for Highways England. The acronym is from Historic England's official title of the "Historic Buildings and Monuments Commission for England".

noise, traffic and lighting impeding heritage views and the tranquil setting of the heritage assets.

- 5.3.8. During the operational phase the following impacts from the relocation of the route of the A303, particularly in relation to the Hazlegrove RPG and Hazlegrove House, the interruption of key historic views, the potential permanent loss of archaeology and effect the setting of heritage assets more generally. These are set out by the Applicant in more detail in paragraph 6.8.3 of [APP-043].

Archaeology including Scheduled Monuments

- 5.3.9. The Applicant has identified that there is evidence of human settlement in the area from the Bronze Age, although there is evidence to suggest people were using this landscape significantly earlier. There are Iron Age settlements to the south west of Camel Hill Farm and south east of Podimore. There are also records of burials on Camel Hill.
- 5.3.10. There is one SM on the Application site, Downhead Medieval Village, and another immediately adjacent to it at Camel Hill.
- 5.3.11. The Applicant considers that the A303 corridor is likely to have been in existence since at least the Roman period. The SM at Camel Hill, which lies 15m north of the Application site, is thought to have been a roadside settlement with three substantial stone buildings. There is evidence for Roman occupation near Podimore, partially within RNAS Yeovilton, and the remains of a Roman Villa have been discovered to the immediate west of Queen Camel.
- 5.3.12. While remains from the early medieval period are limited, it is clear that the area was occupied, potentially using existing buildings and sites. The existing settlements at Podimore, West Camel, and Queen Camel date from the medieval period. There is evidence of a shrunken medieval village at Podimore, which extends north beyond the existing village and is bisected by the existing A303 route. As noted above, there is also a deserted medieval settlement at Downhead.
- 5.3.13. Additional archaeological investigations, including a Geophysical Survey Report prior to trenching, were undertaken during the autumn of 2018, and early in 2019 to support the accepted material change. These were submitted after the original submission of the application at D2 [REP2-005] and at D6 [REP6-009] respectively.
- 5.3.14. The archaeological surveys found evidence of activity from Late Iron Age to Late Romano-British period in the field to the south and southeast of the Camel Hill SM on the south side of the A303, and also from the medieval period close to the Downhead Medieval SM.
- 5.3.15. Pottery was found ranging from the late Bronze Age to the post medieval period on the site of the accepted change construction compound. Full details can be found in the Main Compound Full Archaeological Evaluation Report [REP6-009].

- 5.3.16. In the ES an assessment for the potential list of unknown archaeology from various eras was made (paragraph 2.5.1 of the Cultural Heritage Desk Based Assessment [APP-067]) along with an assessment of the potential effects. In light of the archaeological investigations the Applicant considered, in response to ExQ1 1.1.21 at [REP2-004], that no changes to the overall conclusions of the cultural heritage assessment, included within Chapter 6 Cultural Heritage [APP-043] of the ES were necessary, in respect of the original Application site. In respect of the accepted material change sites the Applicant, in response to ExQ2 2.1.1 at [REP5-025], confirmed "*The conclusions of the assessment have not been altered as the impact to unknown archaeological remains still remains a significant adverse effect*".
- 5.3.17. During the Examination, following representations from HBMCE (see paragraph 6.1.3(n) of [REP2-039]), the Applicant agreed to prepare photomontages in the vicinity of the Camel Hill SM. These, for existing, Year 1 and Year 15, were submitted at D5 [REP5-025]. The same submission also provided enlarged drawings detailing the proximity of the Camel Hill SM to the outer extent of the limits of deviation of the Proposed Development.

The Hazlegrove House and RPG

- 5.3.18. The Application was supported by a Hazlegrove House Registered Park and Garden Statement of Significance [APP-068] which helped inform heritage stakeholders of the impact of the proposed A303 Sparkford to Ilchester Dualling Scheme on the Grade II listed Hazlegrove House RPG. The Statement also considered the effect on the listed buildings within that RPG which are:
- The Grade II* Triumphal Arch located on Sparkford High Street
 - The Grade II Hazlegrove House
 - The Grade II Gateway and wing walls
- 5.3.19. The Applicant assessment divides the RPG into three main sections, Hazlegrove House with the formal gardens, the northern parkland and the southern parkland.
- 5.3.20. It should be noted that when the existing Sparkford bypass element of the A303 was constructed it severed the RPG into two sections leaving the Triumphal Arch separate from the unaffected area of the RPG.
- 5.3.21. Evidence from the Somerset Historic Environment Record (paragraph 8.1.2 of [APP-068]) suggests that "*Hazel Grove' originated as a medieval village with surrounding agricultural land, with remnants of medieval to post-medieval ridge and furrow evident across the parkland landscape. Sir Walter Mildmay acquired the land from the Crown between 1556-1558, and the estate remained within the Mildmay family until it was divided and sold in the early 20th century. Originally, a Tudor house was constructed on the estate, however in the 18th century substantial modifications to the house, constructing the surviving south facing façade to Hazlegrove House. The surrounding landscape was formed of pasture*

and arable enclosures until the 19th century, when a number of the field boundaries were removed to open up the landscape to form parkland”.

- 5.3.22. There is no evidence to indicate that the parkland was ever positively planned or formed part of an overall landscaping strategy. In response to a request from HBMCE set out in the draft SoCG provided as [REP2-008] the Applicant submitted a Chronology of Hazlegrove House RPG [REP5-022] (the Chronology) showing on a plan when the various sections were incorporated into the same ownership as the House. Both the Applicant and HBMCE agree that the total extent of the parkland was as envisaged by Paulet St John Mildmay in the period 1808 to 1858. The extent of the ownership at this time is shown on the plan included within the Chronology. Additional land was then added to the parkland on an ‘as and when’ basis when it became available.
- 5.3.23. The southern edge of the RPG extends to Camel Hill which forms the end of a vista from the front of the main formal area around Hazlegrove House. This vista can be seen in its current form in the base for the photomontages prepared for this Examination in response to the engagement with HBMCE (Appendix C to the Applicant’s D4 Supporting Information [REP4-018]). Conversely the main façade of Hazlegrove House can be seen from Camel Hill Services.
- 5.3.24. The southern parkland area would be the most affected by the Proposed Development. The evidential value of the southern parkland is derived from the retained planting and form, which is representative of an 18th century park. The Applicant considers that this area of the park retains its predominantly late 19th century character as open parkland used for pasture. There are a number of surviving specimen trees. There are remnants of ridge and furrow visible in the parkland, particularly the area used for pasture.
- 5.3.25. The Triumphal Arch dates from the late 17th century and lies approximately 120m to the south-east of the eastern end of the Proposed Development at Sparkford. All parties agreed, and the ExA concurs, that the Proposed Development would not affect the arch nor its setting and therefore its significance would not be affected.
- 5.3.26. Hazlegrove House is located in the northern part of the RPG within the formal gardens. It is currently used as a private preparatory school. Little alteration has been made to the main façade of Hazlegrove House since the 18th century. This façade forms the main frontage of the school. Remnants of the former 16th century Tudor building survive including a porch providing evidence for the original orientation and entrance to the house from the north. Prior to the remodelling in the 16th century a secondary approach was to the east of the house along what is now Hazlegrove Lane (footpath WN 23/38).
- 5.3.27. During World War 2, Hazlegrove House was used as a convalescent home for injured servicemen, which the Applicant considers further adds to the historical value of the house.

- 5.3.28. The setting of the listed buildings has already been adversely affected by the installation of sports pitches, a car park, and modern school and residential buildings.
- 5.3.29. The Applicant considers it an exemplar of a typical country house estate. The views and vistas associated with approaches to the house are of particular significance. The driveways and main approaches to the house were designed to provide visitors with a square-on view of the southern façade. The driveway continues to provide the key view of the house when approaching. This is emphasised by the Gateway and Wing Walls, themselves listed Grade II, which are on the southern edge of the formal gardens.
- 5.3.30. The Proposed Development would permanently affect some 13.7ha of the RPG which represents approximately 14% of the total area of the RPG; during construction this would be 20.25ha or approximately 26% of the total area of the RPG. The permanent loss can be seen in the figure submitted by the Applicant in response to ExQ2 2.1.6 at [REP5-025] and the temporary loss figure is cited on page 30 of the Applicant's Environmental Statement Table of Errata [REP8-016]. Part of the RPG has already been lost by the existing line of the A303, both through the Works to create the road and through separation from the main body of the RPG. This can most easily be seen in the plan attached to the Chronology [REP5-022]. The two figures (14% and 26%) would be in addition to that already lost.
- 5.3.31. In response to SSDC's view set out in the LIR (Ref BH18 of [REP2-019]) that the whole of the RPG should be the subject of a Conservation Management Plan the Applicant (paragraph 1.7.5 of [REP3-003]) considers that this is not justified as it would not be related in scale and kind to the effects of the development.
- 5.3.32. The ExA queried whether a Conservation Management Plan should relate only to that part of the RPG the Applicant would (subject to CA) own. In response, the Applicant indicated (paragraph 2.4.4 of the Applicant's Written Submissions of Oral Case at Second Round of Hearings [REP7-028]) it recognises the need to properly manage its assets and has committed to undertake a Conservation Management Plan for all those parts of the RPG within its control, but this is not included within the DCO. This will, so the Applicant asserts, enable the whole of the RPG to be included within the Conservation Management Plan rather than only the direct mitigation for the effects to the RPG cause by Proposed Development. The Applicant stated at the ISH it has prepared a memorandum of understanding and shared this with SSDC, demonstrating their commitment to undertaking a Conservation Management Plan. The ExA however notes that no such memorandum, either draft or completed, has been submitted to the Examination.

Listed Buildings

Listed milestone

- 5.3.33. A Grade II listed milestone used to sit adjacent to the A303 near to Canegore Corner (site 4 on the Environmental Constraints Plan within the Outline Environmental Management Plan (the OEMP) [APP-148]) and within the Application site. It was last seen in November 2018 but had disappeared by 31 January 2019 (see email exchange in response to Action 17 of the ISH2 [REP5-033]). This marked the former Martock to Sparkford Turnpike Road (itself a non-designated heritage asset considered later in this Chapter).
- 5.3.34. The OEMP submitted with the Application [APP-148] proposed that the milestone would be recorded, removed, safely stored, restored and reinstated following an agreed methodology with South West Heritage Trust and SSDC.
- 5.3.35. SSDC has confirmed [REP5-033], in response to Action 17 of the ISH2 [EV-007], that it considers that the loss of the milestone to be a Police matter.
- 5.3.36. The OEMP submitted at D7 [REP7-020] makes similar provisions (CH4) should the milestone be recovered. If it is not recovered during Works, consultation will be undertaken with SSDC and HBMCE regarding potential mitigation. This will focus on the significance of the milestone through its function and context as a marker of the former turnpike route. Mitigation could include a record of the milestone from existing material and site survey, a replica milestone, or a modern interpretation of the milestone.

Eyewell House and associated buildings

- 5.3.37. In addition to Eyewell House there are a range of outbuildings attached to the north of Eyewell House and an east boundary wall and gateway about 15m east of Eyewell House are also listed as Grade II in their own rights. However, these listed buildings add little to the overall setting of Eyewell House and all can reasonably be considered together.
- 5.3.38. Eyewell House is located on the west side of Traits Lane towards the top of Camel Hill. It is a Grade II listed building constructed between 1924 and 1925. The principal elevation faces south, overlooking the valley, away from the A303. The Applicant submits (paragraph 4.6.8 of the DBA [APP-067]) *"as such views towards the A303 are secondary and have a limited contribution to its setting"*. The Applicant also states *"views from the south looking north towards Eyewell House ... have the house set against a background of trees and farmland which contribute to the value of the heritage asset"*.
- 5.3.39. Originally, one of the construction compounds was located within 30m of Eyewell House and its associated buildings. However, following the accepted material change to the Application this has been relocated

reducing the construction effects of the Proposed Development. Notwithstanding this, construction Work would still take place in close proximity to Eyewell House and its associated buildings to the north. Once operational the new A303 would be in a similar relationship as at present to Eyewell House and its associated buildings, albeit that it would be a dual carriageway rather than a single carriageway road with a higher speed limit.

The Eyewell

- 5.3.40. The Eyewell is a well cistern in the roadside bank located on the west side of the junction of Traits Lane and Blackwell Road. It is a Grade II listed building which would be affected by the proposed alterations to this junction. The Applicant has concluded (Table 4.2 of [OD-010]) there would be significant adverse effects during the construction period from the loss of green roadside verge.

Listed milestone on B3151

- 5.3.41. This milestone is outside the Application site but could be accidentally damaged if it is not identified and protected. In light of the representation of SSDC to this effect the milestone has been added to CH-13 of Table 3.1 in the OEMP [REP7-020] to ensure its protection.

Other listed buildings

- 5.3.42. The Applicant has identified (paragraph 4.6.2 of [APP-067]) there are 36 listed buildings in the Queen Camel Conservation Area (QCCA) (with eight lying outside the 1km study area) and 12 within the West Camel Conservation Area (WCCA).
- 5.3.43. The effects of the Proposed Development on these assets would be as those on the two conservation areas and these are therefore discussed below.

Conservation Areas

- 5.3.44. There are no direct effects on the QCCA or the WCCA. However, the proximity to both to the Application site would give rise to indirect effects from increases in traffic. These are primarily discussed in Chapter 8 on Noise and Vibration, in Chapter 10 on Traffic and Transport and Chapter 11 on Socio-Economic Effects.

West Camel Conservation Area (WCCA)

- 5.3.45. It is acknowledged by the Applicant (paragraph 7.1.4 in the Transport Report [APP-150]) that there would be an increase in traffic in the WCCA from those using the new Camel Cross and Downhead junctions, particularly from those travelling to and from the south. This would be from traffic travelling along Parsonage Road, Fore Street and Plowage Lane between West Camel Road, which is seen by the Applicant as a

parallel road to the A303 (point 1.4.4 in the Deadline 6 Report [REP6-007]) and the new junctions.

- 5.3.46. The Applicant describes West Camel as *"a nucleated settlement focused around the junction of Back Street and Parsonage Road. It sits over 600m from the A303, and around 20m lower in the landscape. Development in the area is characterised by domestic 2 storey properties in local limestone with red pantiled roofs"*. The Applicant contends the topography and planting mean that views towards the A303 are limited and do not significantly contribute to the significance of the WCCA (paragraph 4.7.3 of [APP-067]).
- 5.3.47. During construction a Traffic Management Plan, currently in draft within the OEMP [REP7-020], would be secured to ensure that construction traffic associated with the Proposed Development would divert away from the WCCA on the way to/from the Application site.
- 5.3.48. The Applicant's position is that any changes to the traffic levels through the WCCA would not be sufficient to affect the overall character or appearance of the WCCA.

Queen Camel Conservation Area (QCCA)

- 5.3.49. The Applicant notes (paragraph 4.7.2 of [APP-067]) *"Queen Camel is a linear settlement with buildings focused along the High Street. It currently sits over 800m from the A303, around 5m lower in the landscape. Development in the conservation area is characterised by domestic two storey properties constructed of local limestone with red pantiled roofs. Development fronting the High Street is relatively dense, with most properties fronting the road"*. The Applicant's appraisal in this paragraph considers that many properties sit back from the edge of the pavement, or have limited space between the road and the property giving the conservation area an enclosed, inward looking feel, with no significant views to the rural landscape beyond, including towards the A303.
- 5.3.50. The A359 runs through the QCCA which will be subject to changes to the volume of traffic caused by the Proposed Development at both construction and operation stages. During construction there are a number of weekends when the A303 would be closed. This would result in the primary diversion route being along the A359 through the QCCA. The Applicant considers that as these *"road closures traffic would be diverted through the eastern side of the conservation area. However, diversions would be for limited periods and avoid the majority of the asset"* (Table 7.2 of [APP-067] on pages 62 and 63).
- 5.3.51. The bridge across the river is a Grade II listed building. The Applicant has not assessed this in its own right, instead it is considered as part of the QCCA Group.

Non-designated heritage assets

- 5.3.52. The Applicant originally identified a single non-designated heritage asset (Pepper Hill Cottage) as part of Chapter 6 of the ES [APP-043]. SSDC also identified a number of additional non-designated heritage assets in the LIR [REP2-019] which the Applicant considered further in its response to the LIR [REP3-003]. These additional non-designated heritage assets are:

- Camel Hill Farm and Outlying Farmsteads
- W Sparrow Road Gullies
- Howell Hill Stone Boundary Wall
- Pre-Worboys 'Cross Roads' Warning Sign
- The Martock to Sparkford Turnpike Road
- Bakery

Pepper Hill Cottage

- 5.3.53. Pepper Hill Cottage is dwelling located a short distance north of the existing A303. It forms part of the group of buildings at Camel Hill Farm. As the Applicant states: *"The cottage is accessed from the existing A303 however, it is screened from the A303 to the south by trees and dense vegetation, which also forms a buffer between the building and the road, and it has a rural character, which forms its setting"* [APP-043] paragraph 6.7.23.
- 5.3.54. Following the Proposed Development, the Applicant indicates that *"Pepper Hill Cottage would sit 5m from a new local road (the Vale Farm link), approximately 50m closer than the current route of the A303. Much of the southern part of the setting of the property would be permanently removed, including the trees which provide the buffer"* Table 6.4. [APP-043]. This, the Applicant accepts [APP-067], would negatively impact views to the south from the asset and the ability to understand the heritage value of the asset as a rural house within an agricultural landscape as it would now appear as a road side dwelling. The Applicant acknowledges that there would be moderate adverse effect on the asset both during construction and during operation. The Applicant also accepts that due to the proximity to the new A303 these effects could not be effectively mitigated.

Camel Hill Farm and Outlying Farmsteads

- 5.3.55. As part of the LIR [REP2-019] SSDC expressed concern that if this farm was associated with Hazlegrove House then it should be considered as a non-designated heritage asset. From the research undertaken for the Statement of Significance [APP-068] it appears land owned by the Hazlegrove Estate has been tenanted by owners of Camel Hill Farm. However, there is no evidence of Camel Hill Farm being owned by or directly serving the Estate at Hazlegrove. Therefore, the Applicant considers that the heritage value of the Camel Hill Farm buildings is not considered to be of higher value than local, and the effects of the Proposed Development were not considered to be significant.

W Sparrow Road Gullies

- 5.3.56. Two 'W SPARROW LTD MARTOCK' stamped cast iron gullies survive at Camel Cross and a third was found during the ASI at the northern end of Howell Hill. These relate to the Martock to Sparkford Turnpike. Only one of the two initially identified gullies on the B3151 would be affected by the Proposed Development.
- 5.3.57. The Applicant has agreed that this gully would be removed and transferred to a museum or archive collection as part of the historical record in the Outline Heritage Written Scheme of Investigation (OHWSI) which was submitted as part of the Examination at D6 [REP6-003] at Mitigation reference BH4.

Howell Hill Stone Boundary Wall

- 5.3.58. A stone boundary wall exists on the east side of Howell Hill. This is a locally distinctive feature considered to be of heritage and landscape value. It is proposed that the northern 50m of the wall would be removed to accommodate the permanent Works. In addition, the middle 35m section would need to be removed temporarily to make way for the haulage route. This middle section of the wall would be reinstated along its existing line following completion of the earthworks. The southern 25m section will be retained *in situ*.
- 5.3.59. The need for this demolition is disputed by SSDC and this will be discussed below.

Pre-Worboys 'Cross Roads' Warning Sign

- 5.3.60. A pre-Worboys 'Cross Roads' highway warning sign survives outside of The Gables in Podimore.
- 5.3.61. The Applicant states that this was not assessed as an individual asset as it would not be physically impacted by the scheme but was considered in the ES as part of the Podimore Group of heritage assets. The Outline Traffic Management Plan (TMP) was submitted as part of the D7 submission [REP7-020] and includes mitigation measures to ensure that construction traffic will not be routed past the cross roads sign. This would ensure that this non-designated heritage asset was not affected by the Proposed Development.

The Martock to Sparkford Turnpike Road

- 5.3.62. The Martock to Sparkford Turnpike Road is over 10 miles long. The Proposed Development would "replace" approximately 3 miles of this length in the sense that the route of the Turnpike would be built over, although parts of the route, particularly what is now the B3151, would remain. The Applicant considers that the character and heritage value of the turnpike has been significantly altered with the introduction of modern surfacing and traffic. Although the Proposed Development

deviates from the turnpike route in some locations, the route will remain as local roads.

- 5.3.63. This assessment is disputed by SSDC and this is discussed below.

Bakery

- 5.3.64. A bakery has existed alongside the A303 for many years²⁴ to the west of Canegore Corner as part of a group of buildings with the Methodist Chapel. It is marked by two loaves of bread on a table outside the building which has become a local landmark. The Applicant and SSDC agree that the building should be considered to be non-designated heritage asset.
- 5.3.65. As part of the Proposed Development the existing A303 would be relocated a short distance to the north with the existing, modified, road becoming a local road. It is agreed between the Applicant and SSDC that this would have a moderate effect in cultural historic environment terms to the setting of the Bakery on the basis that the change in the nature of the road from strategic highway to local road would be significant.

Assessed Effects

- 5.3.66. Tables 6.4 and 6.5 of Chapter 6: Cultural Heritage [APP-043] set out the Applicant's view as to the assessed effects on such interests. Table 10.1 of the ES Addendum [OD-010] altered one of these, Eyewell House and its associated buildings and added another, The Eyewell.
- 5.3.67. The significant effects are recorded as follows (combining these three tables):

²⁴ The current proprietor, Mrs Whittington, indicates that this family business has been on this site for more than 100 years [REP4-032].

Table 2: Significance of Effects as identified by Applicant on Heritage Assets

Asset	Construction Effects		Operational Effects
	Temporary	Permanent	
Eyewell House and associated buildings	Slight adverse	Neutral	Slight adverse
Hazlegrove House and associated buildings	Moderate adverse	Moderate adverse	Moderate adverse
Hazlegrove House RPG	Large adverse	Large adverse	Moderate adverse
Listed Milestone	Moderate adverse	Slight adverse	N/A
Camel Hill SM	Moderate adverse	Moderate adverse	N/A
Pepper Hill Cottage	Moderate adverse	Moderate adverse	N/A
The Eyewell	Moderate adverse	Neutral	Neutral
Queen Camel Conservation Area	Slight adverse	Neutral	Slight adverse

5.3.68. There are a number of other assets which are agreed by SSDC and the Applicant (see final SocG between these parties [REP8-010]) to be affected. These are set out below.

- W Sparrow Road Gullies
- Howell Hill Stone Boundary Wall
- Pre-Worboys 'Cross Roads' Warning Sign
- The Martock to Sparkford Turnpike Road
- Bakery

5.4. THE DRAFT DCO AND REQUIREMENTS

5.4.1. Article 21 deals with protective Works to buildings should the Applicant consider them necessary or expedient.

- 5.4.2. Requirement (R) 3 seeks to secure a Construction Environmental Management Plan (CEMP) in accordance with the OEMP [REP7-020] which must then be followed throughout the construction phase. Following completion this would be converted into a Handover Environmental Management Plan (HEMP) to ensure proper maintenance thereafter. R3(2)(b) requires this to contain a record of all the sensitive cultural heritage features that have the potential to be affected by the construction of the Proposed Development. R3(2)(f) requires an Archaeological Written Scheme of Investigation to be followed.
- 5.4.3. R4 requires a Landscape and ecological management plan (LEMP) to be submitted, approved and followed. This includes a record of all the sensitive cultural heritage features that have the potential to be affected by the construction of the Proposed Development, incorporate the relevant measures detailed in the ES, and include information on the control measures required to mitigate and reduce potential impacts which reflect the mitigation measures included in the ES.
- 5.4.4. R6 and R7 require the approval, implementation and maintenance of a landscaping scheme which, of itself, is to be in accordance with the LEMP. The maintenance is for five years, after which for areas not subject to TP, maintenance would be in accordance with the HEMP secured under R3. Where this landscaping scheme relates to or includes any part of the RPG consultation must additionally be held with HBMCE and The Gardens Trust.
- 5.4.5. R13 requires the approval of detailed design and where protective Works under Article 21 to a listed building then, additionally, consultation on the relevant details must be held with HBMCE.

5.5. THE POSITION OF IPs

SSDC

- 5.5.1. The LIR [REP2-019] sets out the initial position of SSDC in respects of cultural heritage. The SoCG with the Councils [REP8-010] indicates where SSDC agreed with the Applicant's assessment and where they do not agree. As a result of this it can reasonably be concluded that SSDC has amended its position in light of additional information or a change in circumstance. This part of this Report will look primarily at those areas where there remains disagreement.
- 5.5.2. SSDC take the view that because there were Grade I and Grade II* listed buildings within the conservation areas this should increase the significance of those assets which had been considered under Group Assessments. It submits that the current assessment would be likely to underestimate the effects of the Proposed Development on the significance of the heritage assets.
- 5.5.3. SSDC considers that the Hazlegrove House RPG Statement of Significance [APP-068] fails to take account of the remnants of the lost

Hazlegrove Lane in the southeast field of the RPG (Peaked Copse) and the proposed landscape scheme does not retain this route or the extant features of the Lane. The Applicant indicates that this amounts to "*The 1795 driveway appears to be a north turn off the existing lane which led to Hazlegrove House*". However, SSDC considers that there is no discussion as to the function and history of this route which also acts as a boundary feature between the parishes of Sparkford and Queen Camel.

- 5.5.4. This point overlaps with the SSDC's view as to Bund 7, which would extend over part of Hazlegrove Lane and would have an environmental barrier (wooden fence) at the end. SSDC considers that this is important point in the RPG boundary because it aligns with the outward approach of the Hazlegrove drive and is thus particularly sensitive. An environmental barrier in this prominent position, so SSDC considers, would diminish the character and appearance of the RPG, particularly when the semi-mature planting proposed was not in leaf. SSDC therefore sought an extension to the length of Bund 7 so as to screen the barrier. However, the Applicant considers that this would interfere with drainage.
- 5.5.5. SSDC and the Applicant dispute the heritage value, magnitude of effect and significance of effects on the Martock to Sparkford Turnpike Road. SSDC suggests mitigation measures such as markers, information points or public art at intervals along the historic alignment of the Turnpike road (where it would no longer form the A303) to retain evidence of its historic route.
- 5.5.6. SSDC considers that the effects of the Proposed Development on the RPG as a whole would be significant due to a number of factors which it sets out in the SoCG [REP8-010]. These are:
- The loss of parkland, historic driveways, earthworks, copse, boundaries, veteran trees and other features in the southern end of the RPG.
 - The impact on the character and integrity of the whole RPG.
 - The impact on the setting of the RPG and its listed structures.
 - The mitigation measures.
 - The scale of loss in relation to the whole RPG.
 - The existing degradation in the southwest of the RPG.
 - The previous loss and truncation from the construction of the Sparkford bypass.
- 5.5.7. SSDC emphasises the point in the SoCG [REP8-010] that the Proposed Development would have a significant impact on the RPG. The Applicant considers "*whilst the introduction of woodland planting along the bunds will help to mitigate the visual impact of the road and traffic from the Park and House once mature, it will not reduce the visual encroachment and physical impact of the scheme on the character and setting of the park*".
- 5.5.8. Furthermore SSDC considers that Pond 5 of itself is harmful and further diminishes the area of the historic parkland, introducing an alien feature into the RPG.

- 5.5.9. SSDC is of the view that the long-term management of the RPG should be subject to a Conservation Management Plan for the whole of the RPG to ensure that it is managed as a coherent whole.
- 5.5.10. In respect of the Howell Hill Stone Boundary Wall SSDC considers that there is no reason for any of the wall to be lost. While the top 50m of the wall would be removed SSDC notes that the top of Howell Hill would be realigned to form a gentle bend. SSDC therefore considers that there is sufficient length to rebuild the full length of the wall on the new boundary of the highway, replacing the proposed fence.
- 5.5.11. SSDC is concerned that the Applicant's appraisals do not consider the effect of, in particular, diverted traffic during the construction stage on the Grade II listed bridge (the Camel Bridge) across the River Cam at Queen Camel from potential bridge strike or vibration (paragraph 3.10.1 of the LIR Cultural Heritage (Built Heritage Topic Paper) included in the LIR [REP2-019]).

HBMCE

- 5.5.12. The SoCG between HBMCE and the Applicant [REP8-009] sets out the areas of agreement between the parties. In particular they concur that the Proposed Development would have significant effects to the RPG that would result in less than substantial harm to the significance of the RPG. However, there are a number of points which are not agreed as follows.
- 5.5.13. In respect of the sense of arrival, HBMCE in the SoCG [REP8-009] *"acknowledges and welcomes the changes made to the access road as part of the non-material amendment, and consider this to be an improvement to the scheme originally submitted in terms of alignment and setting. However, we do not consider that the scheme is an improvement to the existing situation where the drive sweeps directly into the open grazed parkland. In the new scheme the drive will enter into an area (adjacent to Pond 5) that will be managed under a different regime to the open parkland, thus affecting the visual continuity on arrival. Also, as the final appearance of Pond 5 will not be determined until Detailed Design (grading, planting, culverts & associated head walls) it is difficult to fully ascertain its visual impact on the arrival experience."*
- 5.5.14. HBMCE does not consider that the mitigation measures and the Applicant's assessment for the RPG take sufficient account of the following:
- The impact of the attenuation basin (Pond 5), associated access road and fencing;
 - The level of screening the false cuttings will provide from all vehicles including Heavy Goods Vehicles (HGVs);
 - The impact of the 1:3 bunds Nos 5 - 7 on character and setting of the RPG;
 - The revised entrance and approach into the park and how this responds to the parkland topography and character

- 5.5.15. Further to this, HBMCE notes in the SoCG [REP8-009] that while the non-material accepted changes have improved matters, it considers that “*the bunds are significant introductions into the historically sensitive landscape, but the heights will not screen all vehicles including HGVs*” which is also an important consideration. The Applicant does not specifically address this point.

Parish Councils

- 5.5.16. The Parish Councils main contention is that the Proposed Development would have a significant effect on the RPG and their proposals would have less of an effect.
- 5.5.17. West Camel PC is, however, concerned about the effect of additional traffic through the WCCA and its effect on the character and appearance of that Area.
- 5.5.18. West Camel PC is also concerned about the changes to the junction of Traits Lane with Blackwell Road occasioned by the accepted material change and the effect on the setting of The Eyewell. The need for these Works was questioned if the Local Parallel Road were to be provided.

Other IPs

- 5.5.19. Ms Joy Whittington as owner of the Bakery has made representations [REP4-032], [REP5-030] and [REP7-054] about the effect of the Proposed Development. These representations concentrate on the effect on the Bakery as a business and beyond referencing that it has been located at this site for over 100 years but does not make reference to it being a non-heritage asset. Ms Whittington’s representations are considered in Chapter 11 of this Report.

5.6. PLANNING ISSUES

- 5.6.1. The main areas in dispute at the end of the Examination in respect of cultural heritage relate to:
- Although SSDC and HBMCE agreed with the Applicant that the Proposed Development would create less than substantial harm to the significance of Hazlegrove House, its associated buildings and the RPG as heritage assets, they had residual concerns about the effect on the RPG and whether the Proposed Development had mitigated the effects as far as is reasonably possible with particular reference being made to:
 - The sense of arrival within the RPG
 - Pond 5 and its environs
 - Bund 7 and the environmental barrier
 - The screening of traffic
 - Hazlegrove Lane
 - The need for a Conservation Management Plan

- Whether the assessments of the conservation areas were robust, with reference to the Group Assessments taking into account the listed buildings therein;
- Whether the assessments make appropriate provision for:
 - o The Martock to Sparkford Turnpike road
 - o Howell Hill Stone Boundary Wall

5.6.2. Further, although not in dispute, it is also appropriate to come to a conclusion on the effects on Camel Hill SM, Downhead Medieval Village SM, the QCCA and WCCA, and Camel Bridge.

5.7. ExA CONSIDERATIONS

RPG

- 5.7.1. Before considering the specific points in dispute set out above, it is worth standing back to consider the effect on the RPG as a whole. It should be initially noted that the land forming the RPG has already been significantly changed over time.
- 5.7.2. Historically, Hazlegrove House was not set in Parkland and was approached from the north, with only a secondary access from the south and east. Hazlegrove Lane effectively ceased to be used as an approach when the new, formal, driveway was formed in 1848 and Hazlegrove Lane only remains as a public footpath and historic marker of the boundary between Queen Camel and Sparkford parishes.
- 5.7.3. While nationally important as evidenced through its designation, there is no evidence to show that the Parkland was planned as a coherent whole. It was created as land became available to the owners of Hazlegrove House, and there is a degree of conjecture as to when this happened as can be seen by the overlapping timeframes from when land was incorporated into the parkland (see key to Chronology [REP5-022]).
- 5.7.4. The construction of the Sparkford bypass in the 1990s had a significant effect on the RPG by dividing into two physical sections and severing the Triumphal Arch entrance feature from the Parkland and its historical function. This has already had a notable effect on the significance of the heritage asset, and the Proposed Development does not seek, nor does it achieve, any mitigation for this past severance.
- 5.7.5. The Proposed Development will involve substantial earthworks in the southern part of the parkland. The landform here would be raised up to approximately 11m in height with a 1 in 3 embankment to the north. There would also be significant earthworks to create the on- and off-westbound slip roads, along with the local roads and the underbridge of the A303. The access to Hazlegrove House would be realigned across the parkland across a raised section of ground. This access would also provide entry to a track for the maintenance of Pond 5 which would also be constructed in this section. An existing pond is located close to where

the access road to Hazlegrove House would join with the existing alignment of this road. Additional planting would be provided in this section to extend existing areas of woodland within this although other areas of woodland would be lost.

Sense of Arrival

- 5.7.6. The current driveway to Hazlegrove House follows the alignment of the late-19th century driveway. The driveway in existence prior to that was diverted to the southeast corner of the RPG to incorporate the new grand entrance through the Triumphal Arch Gateway. However, when the Sparkford Bypass was constructed in the 1990s then this was diverted to the south to join directly to the Hazlegrove roundabout.
- 5.7.7. Although the alignment of the driveway would change, the point at which the main façade of Hazlegrove House would be fully appreciated would remain the same. Currently, and before the Sparkford bypass was constructed, the full appreciation of the main façade is only seen when the driveway aligns with the approach to the House; this would not change. The difference would be to that location from the point of departure from the public highway network.
- 5.7.8. It should be noted that long distance public views of Hazlegrove House from the A303 by Camel Hill Services would be lost due to the Proposed Development. This would adversely affect the sense of arrival from the public domain, in that, currently, a visitor from the west glimpses Hazlegrove House when using the A303 which then disappears from view, to reappear when re-joining the historic entrance considerably closer to the house.
- 5.7.9. Under the Proposed Development the point of departure from the public highway access would be further from the main House. From the junction with the proposed Camel Hill link the access would emerge from woodland, follow the new contour, and be located next to the northern base of the embankment creating the eastbound on-slip and an area of proposed woodland. To accommodate the levels there would be some small earthworks within the RPG.
- 5.7.10. The nature of the arrival to Hazlegrove House has changed on a number of occasions in the past. This would be a further change. Because of the increased distance of the local roads through the Proposed Development the House would be further from the nearest population at Sparkford, and while the sense of separation from that community would increase this would not significantly affect the appreciation of the significance of Hazlegrove House or its environs.
- 5.7.11. The earthworks necessary to create the Proposed Development would be substantial. As considered in the ES Chapter 7 on Landscape [APP-044] the existing topography in the southern part of the RPG falls steeply from south to north at the edge of Camel Hill. On the assumption that the overall route is through a corridor broadly in accordance with Option 1 (see Chapter 3 of the ES Assessment of Alternatives [APP-040]) then to

connect with the existing Sparkford bypass would inevitably result in significant earthworks. The maximum change in levels on the main carriageway is at chainage 5120m, just to the east of the proposed Hazlegrove junction underbridge, where proposed ground levels would be 11.295m above the existing situation. Bund 5, which is located further to the west, would result in the ground level being raised by some 12.655m at chainage 180m, approximately half way along its length. The precise details can be seen in the Engineering Sections [REP7-012]. These can be readily seen in the Landscape Cross-sections provided at Appendix D to the Applicant's Deadline 4 – Supporting Information [REP4-018] on of which is included as Figure 2.

Figure 2: North/South Section through Proposed Development to west of Hazlegrove Roundabout²⁵



- 5.7.12. Therefore, the new heights of roads/bunds in conjunction with the altered access road would adversely affect the sense of arrival which could not be mitigated.

Pond 5 and its environs

- 5.7.13. The Applicant has confirmed (paragraph 2.1.97 in Responses to Action Points for D7 [REP7-027]) that the permanent body of water within the proposed Pond 5 would be 4,600m². During a 1:1 year storm event the plan area of the water would be 8,700m² and during a 1:100 year storm event the plan area of the water would be 9,860m². A pond of this size does not reflect the nature of this Parkland and would cause harm to the historical and cultural significance of this part of the RPG. However, it would be located in the topographically lowest point. Therefore, without going outside the Application site, this location would be the most practical to drain this part of the Proposed Development.
- 5.7.14. It remains a moot point as to whether a pond could have been located outside the RPG by seeking to locate it on land which is currently outside the Application site. However, this would appear to the most sensible location within the Application site. The Applicant never explained why the pond was in this location other than it was at the lowest location in this part of the Application site. No explanation of not providing an alternative location outside the RPG was given other than it would involve additional land and therefore would not represent a minimum land take.

²⁵ Taken from Appendix D to D4 Supporting information [REP4 018]

- 5.7.15. No details of the boundary treatment to separate the environs of Pond 5 from the remaining parkland have been submitted. This matter would be considered as part of the detailed design. However, the General Arrangement drawings [REP8-002] show "*proposed fencing with gap/stile/gate*" around the southern and eastern perimeters of Pond 5. Regardless of the style of enclosure proposed, this fencing together with the pond would be likely to harm the otherwise open character of this part of the RPG.

Bund 7

- 5.7.16. Bund 7 would be located to the north of the Hazlegrove roundabout. The main dispute is over the appropriateness of an environmental barrier (wooden fence) between its two sections which the Applicant considers necessary to allow for drainage from the south as this is seen as a more man-made feature. The Applicant's contention is that this would be mitigated in the medium and longer term by planting with photomontages provided [APP-124]. There were no disputes with the photomontages.
- 5.7.17. The environmental barrier would undoubtedly have an adverse effect on the historical setting and thus significance of the RPG. In leaving Hazlegrove House it would be at the end of the historic driveway to the Triumphal Arch. In addition, at least in the short-term, it would be at the end of a short distance view at this point before turning onto the newly defined accessway. The use of semi-mature landscaping would ameliorate this to some degree but would not screen the barrier particularly in the winter months.
- 5.7.18. Whatever solution is proposed a barrier of some sort, be that a fence or bund, is necessary at this point between the carriageway and the RPG to mitigate the effects of the A303 on the RPG in both visual and auditory terms. In addition to the fence proposed a small section of woodland is also proposed within the RPG.
- 5.7.19. Paragraph 3.5.3 of the Applicant's Deadline 8 Report [REP8-022] indicates that a gap between the end of Bund 7 and the existing bund to the east is to allow exceedance flows into the RPG in the event of "*exceptionally high rainfall*" rather than, potentially, result in flooding of the carriageway. It is this gap that allows views of the environmental barrier.
- 5.7.20. Overall, the use of a fence adds to the harm in both visual terms and on the historical setting of the RPG so that it would adversely affect the significance of the RPG. The Proposed Development is not the minimum intervention necessary in the sense that Bund 7 could be extended, but this would have other adverse effects, namely flooding of the carriageway.

The screening of traffic

- 5.7.21. SSDC and HBMCE dispute that the bunds and false cuttings proposed by the Applicant are sufficient to mitigate the effects on the RPG from passing traffic in terms of height. This particularly relates to HGVs travelling along the main carriageway. The Applicant accepts that without mitigation planting HGVs could be seen over Bunds 5, 6 and 7 from within the RPG. Moreover, the parties agree that the growth rates for planting are reasonable for the area (SSDC response to ExQ3 3.5.2 given at [REP6a-008]).
- 5.7.22. The bunds would not completely screen the upper sides of HGVs from views within the RPG. The proposed bunds and planting would be unlikely to screen such views until towards the end of the 15 year period assessed within the ES. Therefore, the harm arising from this aspect of the Proposed Development would endure for a considerable period. Both SSDC and HBMCE are concerned that R7 only requires maintenance for 5 years. However, as noted above, longer term maintenance would be in accordance with the HEMP secured under R3 so as to ensure that planting would provide appropriate mitigation in the long-term.
- 5.7.23. The ExA acknowledges the Applicant's assertion that the proposed bund and landscaping would screen the Camel Hill Services from the southern edge of the formal gardens as seen in the three photomontages for the existing situation and years 1 and 15 (Appendix C to the Applicant's Deadline 4 – Supporting Information [REP4-018]). Notwithstanding this, the Camel Hill Services are approximately 600m from the viewpoint and thus this change would be in a medium distance view. Consequently, the ExA gives this change little weight as it would make little difference to the appreciation of the significance of the heritage asset from this point. Whilst it would be more significant within views from the southern end of the RPG, this would have little effect on the setting of Hazlegrove House and the Gateway and wing walls.
- 5.7.24. There is also a balance to struck between increasing the height of the bunds relative to the carriageway to screen HGVs, and a greater heritage and landscape effect from the ground area covered by the bund on the remaining RPG as this would have to increase proportionately to the increased height and the prominence of the bunds which are themselves and alien feature within the landscape.

Hazlegrove Lane

- 5.7.25. Hazlegrove Lane is the historic subsidiary access to Hazlegrove House and has been 'downgraded' over time by the creation of the main, formal, access across the parkland. It also marks the parish boundary between Queen Camel and Sparkford. SSDC's particular concern relates to the fact that part of the route would be removed by the construction of Bund 7 and would thus result in the partial loss of a heritage asset. The effect on the significance of this heritage asset has already been affected by previous decisions over time including the re-routing of the access drive to the building of the Triumphal Arch. Therefore, the effect of the

Proposed Development on Hazlegrove Lane can only be given relatively little weight.

- 5.7.26. In looking at this matter in the round, if the A303 is to be upgraded along this approximate corridor then this harm could not be avoided. As a non-designated heritage asset, as NNNPS paragraph 5.131 makes clear, the weight to be given to an asset's conservation will depend on the importance of the asset, and this would only be limited.

The need for a Conservation Management Plan

- 5.7.27. SSDC, and to a lesser extent, HBMCE both consider that the RPG should be subject to a CMP. SSDC considers that this should cover the whole of the RPG and HBMCE the area within the Application site. The Applicant accepts the need for a CMP for its landholdings in line with its ownership responsibilities but does not consider that this should be subject to a specific provision within the final DCO. It can thus be seen that there is agreement that a CMP is necessary; the dispute relates to how it is provisioned.
- 5.7.28. Currently the RPG is in a number of ownerships meaning that there is no coherent management strategy for the RPG.
- 5.7.29. NNNPS at paragraph 4.9 makes it clear that requirements should only be imposed that are necessary, relevant to planning, relevant to the development to be consented, enforceable, precise, and reasonable in all other respects.
- 5.7.30. Although the Applicant has statutory responsibilities to maintain land, this is not required to be in a manner that would ensure the significance of the RPG as a heritage asset. This is particularly the case for an RPG as RPGs do not have any statutory protection unlike listed buildings or conservation areas. It is therefore considered to ensure the significance of the RPG as a heritage asset in the long term a CMP is necessary.
- 5.7.31. Taking this into account, however desirable that a CMP for the whole of the RPG might be, the Proposed Development does not make this necessary. Whilst a CMP for the whole of the RPG might be desirable, the Proposed Development relates to a discrete area of the RPG. Consequently, to require a CMP for the whole RPG would not be proportionate or relevant to the development to be permitted.
- 5.7.32. R4 requires a LEMP which contains a record of all cultural heritage features and will thus include the RPG. In due course, the LEMP together with the CEMP would be converted to a HEMP. In accordance with R3(4) the authorised development must be operated and maintained in accordance with the HEMP and the HEMP would provide an appropriate mechanism going forward.
- 5.7.33. However, R4 does not require to be drawn up in consultation with the HBMCE and this could mean that the significance of the RPG would not be secured by the HEMP in an appropriate manner. It is therefore

recommended that R4 is amended to require HBMCE to be consulted in the drawing up of the LEMP where the LEMP relates to any part of the RPG.

Conclusion on effect on RPG

- 5.7.34. The Proposed Development would have a very significant adverse effect on the RPG. There would be a permanent loss of parkland, copse, boundary features, a veteran tree and the introduction of substantial man-made features in the southern end of the RPG. There would also be some sort of fence around the area of Pond 5 subdividing this otherwise open parkland area, which could have been avoided had this Pond and its surrounds been located outside the RPG. However, it must be acknowledged that the existing A303, including the Sparkford bypass, has already had a significant adverse effect on the RPG. Nevertheless, the Proposed Development would have a very significant effect on the overall character and integrity of the RPG.
- 5.7.35. There would be some mitigation through additional planting and bunds within the southern area of the RPG. These can be seen in the Environmental Masterplan [REP7-030]. By ensuring that the long-term management of that part of the RPG within the Application site was secured for the long-term through the proposed alteration to R4, this would mitigate the effects further. However, taken together this would lead to less than substantial harm to the RPG but would nevertheless be significant.
- 5.7.36. SSDC considers that this harm is at the upper level of such harm within this category, but the ExA notes there is no differentiation within this category of harm in the NNNPS, the Framework or the PPG. Consequently, the ExA only bases its consideration on the basis that the Proposed Development would result in less than substantial harm to the RPG.

Conservation Areas

- 5.7.37. SSDC is concerned that the assessments for the QCCA and WCCA do not take sufficient cognisance of the various listed buildings within them and thus under evaluate the effects on heritage assets. The Applicant considers that they were drawn up in a proportionate way (paragraph 1.7.43 of Responses to LIR, WRs and comments on responses to the Examining Authority's Written Questions [REP3-003]) in line with paragraph 5.127 of the NNNPS.
- 5.7.38. As noted above, the Proposed Development does not have any direct effects on the conservation areas and any effects would be indirect. These heritage assets, that is the conservation areas and the individual listed buildings within them, are also some distance from the Application site. The assessments in the ES were drawn up to separate out those heritage assets that were likely to experience different levels of significant effect.

- 5.7.39. The Applicant was also (ExQ1 1.1.9 [PD-009]) asked to ascertain whether or not in combination effects of 'less than moderate' would have a moderate. or greater effect. It responded [REP3-005] "*The in-combination effects have not changed the overall assessment of significant effects for the majority of assets*" but identified a number which did report in-combination effects. However, these assets also reported the same significant effect either a permanent construction effect or an effect during operation. Therefore, these conclusions did not change.
- 5.7.40. The ExA concludes below that in the event of the DCO being granted that traffic surveys should be undertaken to see whether any traffic mitigation is required in, in this context, West Camel alone as the quantum of traffic in Queen Camel is predicted to decrease. The ExA is satisfied that if such traffic mitigation is required then this could be delivered in a manner that would preserve the character and appearance of the WCCA and would thus comply with Regulation 3 of the Decisions Regulations.
- 5.7.41. Overall, taking into account the advice in the NNNPS, the ExA considers that the Applicant's overall approach to the effect of the Proposed Development in the conservation areas was proportionate and no changes are required to assess the Proposed Development in this regard.

The Martock to Sparkford Turnpike road

- 5.7.42. SSDC considers that the Applicant has underestimated the effects on this with the Applicant considering that, as the proposal would only affect 3 miles out of a 10 mile route the Proposed Development, it would not result in a significant effect.
- 5.7.43. The Martock to Sparkford Turnpike road marks a small part of the history of the road that is now the A303. As noted above (paragraph 5.3.11), a highway along this route was in existence since Roman times and the use as turnpike was only for a short period within this history.
- 5.7.44. The Proposed Development would affect approximately one-third of the route of the turnpike and while it would deviate from the turnpike route in some locations, the Applicant's contention that the route will remain as local roads is not completely accurate as there would be no parallel local road and consequently there would be junctions between the proposed local roads and where the turnpike was historically. The Applicant's assessment of a 'negligible effect' in Chapter 6 Cultural Heritage of the ES [APP-043] is therefore considered to be an underestimate.
- 5.7.45. SSDC seeks as mitigation information boards, or similar, to be located at intervals along the historic alignment, but this is considered to be disproportionate. Having said that, there would be two parking areas on either side of the Proposed Development and installing an information board in each of these to describe the heritage significance of the turnpike within the context of the history of the overall road would be necessary to provide sufficient mitigation for the loss of this section of the non-designated heritage asset. This could be achieved by an

additional Requirement and the ExA therefore recommends a change to the DCO to this effect and these information boards would also provide some mitigation for the missing listed milestone.

Howell Hill Stone Boundary Wall

- 5.7.46. This wall is located on the eastern side of Howell Hill and the northern section would need to be demolished to allow for the cutting for the proposed carriageway and the proposed right of way (a bridleway) to be created. The middle section would be required to allow for a haul road. The southern section would be retained.
- 5.7.47. Under the OHWSI for a level 2 building recording prior to demolition [REP6-003] would be undertaken.
- 5.7.48. The LIR [REP2-019] indicated that the wall was a locally distinctive feature of heritage and landscape value and SSDC indicated in the final SoCG with the Applicant [REP8-010] that it wished to see the section removed replaced and the boundary treatment as a wall than a fence as shown on the General Arrangement Plans [REP8-002].
- 5.7.49. The loss of the section of the wall is regrettable, however, the provision of a short section of wall on the south side of the A303 would be incongruous and the ExA considers that the Applicant's proposals in this area are reasonable and proportionate given the nature of the heritage asset. Notwithstanding this, due to the amount of demolition this would represent substantial harm to this non-designated heritage asset as it would effectively result in its loss.

Camel Hill SM

- 5.7.50. The Proposed Development would be in close proximity to the Camel Hill SM and would adversely affect it through proximity and the noise and disturbance from traffic in the area. There would be insufficient space to provide any mitigation that would have a material effect, principally because the proposed A303 would be at existing ground levels and with no space in which to provide mitigation.
- 5.7.51. The ExA concurs with the Applicant and HBMCE that the Proposed Development would have less than substantial harm to the heritage asset and to its setting on the basis that it does not physically affect the SM, although in very close proximity, and because of the existing situation with traffic already in very close proximity to the SM.

Downhead Medieval Village SM

- 5.7.52. The Downhead Medieval Village SM is located some short distance from the main route of the Proposed Development but is located within the Application site as it would be used for ecological mitigation. This mitigation is discussed in the Chapter 7 on Biodiversity, Ecology and Natural Environment.

- 5.7.53. This mitigation consists of the receiving site for the translocated GCNs. This would not involve any intervention into the SM and the proposed use is not incompatible with ensuring the conservation of the heritage asset. The ExA therefore is content that the proposal would not have any adverse effect on the significance of the heritage asset.

QCCA and WCCA

- 5.7.54. While there would be some increase in traffic through West Camel this would have no material effect on the overall character or appearance of the WCCA, so that this would be preserved.

Camel Bridge

- 5.7.55. The Applicant did not specifically assess the effects of the Proposed Development on the Grade II listed Camel Bridge, considering the effects more generally in the context of the QCCA. In response to ExQ1 1.1.33 the Applicant [REP2-004] confirmed that the 7.5 tonne weight limit on the A359 to the south of the existing A303 had been imposed for environmental reasons in order to prevent the use of the A359 and surrounding local roads by HGVs seeking an alternative route between Yeovil and the A303 to the A37.
- 5.7.56. The Applicant also notes that the bridge is subject to SCC's inspection and maintenance regime which includes general inspections which are scheduled to take place every 24 months. Based on the findings of the 2016 inspection and previous inspections the bridge has been assessed by SCC to have a loading capacity of 40 tonnes. This assessment means that the bridge is considered capable of carrying all road legal traffic in accordance with the Road Vehicles (Authorised Weight) Regulations 1998, and as such a structural weight limit is not required. Notwithstanding the weight limit, exceptions are permitted for vehicles seeking to gain access within the area covered by the weight limit.
- 5.7.57. There are currently measures to minimise the risk of bridge strike (priority traffic flow across the bridge). The ExA therefore concludes that the additional risk to the listed bridge from adverse effects from when traffic is diverted are extremely low and that the Proposed Development would therefore preserve the listed building or its setting or any features of special architectural or historic interest which it possesses in with Regulation 3 of the Decisions Regulations.

5.8. CONCLUSION ON ARCHAEOLOGY AND CULTURAL HERITAGE

- 5.8.1. The Proposed Development would have a very significant adverse effect on the RPG. There would be a permanent loss of parkland, copse, boundary features, a veteran tree and the introduction of substantial man-made features in the southern end of the RPG. There would also be some sort of fence around the area of Pond 5 subdividing this otherwise open parkland area, which could have been avoided had this Pond and its

surrounds been located outside the RPG. However, it must be acknowledged that the existing A303, including the Sparkford bypass, has already had a significant adverse effect on the RPG. Nevertheless, the Proposed Development would have a very significant effect on the overall character and integrity of the RPG.

- 5.8.2. There would be some mitigation through additional planting and bunds within the southern area of the RPG. By ensuring that the that the long-term management of that part of the RPG within the Application site was secured through the proposed alteration to R4, this would mitigate the effects further. However, taken together this would lead to less than substantial harm to the RPG but would nevertheless be significant. In line with paragraph 5.134 of the NNNPS this harm should be weighed against the public benefits of the proposals. There would also be less than substantial harm to Hazlegrove House and its associated nearby buildings although there would be no effect on the Triumphal Arch.
- 5.8.3. In respect of the LIR there was agreement as to the overall level of harm to the RPG, although SSDC considered that the effect could have been lessened by alternative designs. Within the constraint of the Application site, subject to the mitigation which would be secured by the recommended DCO, it is considered that this harm is at the lowest level that could be achieved.
- 5.8.4. There would be less than substantial harm to the Camel Hill SM and to its setting on the basis that it does not physically affect the SM, although in very close proximity, and because of the existing situation with traffic already it is in very close proximity to the SM. Again, in line with paragraph 5.134 of the NNNPS this harm should be weighed against the public benefits of the proposals.
- 5.8.5. Furthermore, there would be less than substantial harm to Eyewell House and its associated outbuildings both during the construction and operational stages.
- 5.8.6. In line with paragraph 5.131 of the NNNPS great weight should be given to conservation of designated heritage assets. In this regard the ExA gives great weight to the harms which, in line with paragraph 5.132 of the NNNPS, should be weighed against the benefits of development. This is done within Chapter 14.
- 5.8.7. The Proposed Development would preserve the character of the West Camel and Queen Camel conservation areas in line with Regulation 3 of the Decisions Regulations and this conclusion would also apply should additional, appropriate, traffic mitigation be introduced in line with the request in the LIR.
- 5.8.8. The LIR raised the issue of harm to the Martock to Sparkford Turnpike Road. This could be mitigated by the provision of additional information boards in the two proposed laybys through the proposed amendment to R12 of the DCO, and this would also provide some mitigation for the missing listed milestone.

- 5.8.9. The LIR also raised concerns over the Howell Hill Stone Boundary Wall which would be an effective total loss, but as this is a non-designated heritage asset this can only be given limited weight.
- 5.8.10. Taking all the relevant documents and policies into account the ExA concludes as follows:
- The Proposed Development would result in less than substantial harm to the significance of the Camel Hill SM both during construction and when operational;
 - The Proposed Development would result in less than substantial harm to the significance of the Hazlegrove House and its associated buildings and the Hazlegrove House RPG both during construction and when operational;
 - Although the environmental barrier could be screened further this would be at the expense of adverse effects on the proposed drainage system;
 - The Proposed Development would result in less than substantial harm to the significance of Eyewell House and its associated buildings both during construction and when operational;
 - Given that the Listed milestone on the B3151 has disappeared no further harm would result from the Proposed Development, but if recovered, following the Proposed Development, the relocation would result in less than substantial harm to the significance of that heritage asset;
 - In respect of Pepper Hill Cottage and the Martock to Sparkford Turnpike road as non-designated heritage assets the Proposed Development would represent less than substantial harm to the significance of those assets;
 - In respect of the Howell Hill Boundary Wall the Proposed Development would result in substantial harm to the significance of that asset.
 - The mitigation proposed is reasonable in all the circumstances but should be enhanced by amending the requirements in the dDCO as follows:
 - o Making the LEMP subject to consultation with the HBMCE where it relates to any part of the RPG; and
 - o Requiring the provision of information boards on the Martock to Sparkford Turnpike road in the two laybys.

6. AIR QUALITY AND EMISSIONS

6.1. INTRODUCTION

6.1.1. This Chapter deals with the effects of the Proposed Development on air quality. In particular, it deals with:

- Nitrogen Oxide (NO_x) and particulate emissions
- Construction emissions with a bearing on air quality including dust

6.1.2. This Chapter of the Report will also consider carbon emissions on the basis that, while it does not affect air quality of itself, it makes sense to include that element in this part of the Report.

6.2. POLICY

6.2.1. NNNPS paragraphs 5.3 to 5.15 deal with air quality and paragraphs 5.16 to 5.19 deal with carbon emissions. Paragraphs 5.81 to 5.89 deal with dust, odour, artificial light, smoke and steam.

Air Quality

NNNPS

6.2.2. Paragraph 5.3 of the NNNPS sets out *"increases in pollutants during construction or operation phases can result in the worsening of local air quality", and "increased emissions can contribute to adverse impacts on human health, on protected species and habitats"*.

6.2.3. Paragraph 5.7 of the NNNPS indicates that the ES should describe existing air quality levels, forecasts of air quality at the time of opening, assuming that the scheme is not built and taking account of the impact of the Proposed Development, and *"should describe any significant air quality effects, their mitigation and any residual effects, differentiating between the construction and operational phases, taking account of road traffic generated by the project"*.

6.2.4. For decision making, paragraph 5.10 of the NNNPS indicates that the SoS *"should consider air quality impacts over the wider area likely to be affected as well as in the near vicinity of the scheme"*. Account must be taken of air quality thresholds in domestic and European legislation.

6.2.5. Paragraph 5.12 of the NNNPS states the SoS *"must give air quality considerations substantial weight where, after taking into account mitigation, a project would lead to a significant air quality impact in relation to EIA and/or where they lead to a deterioration in air quality in a zone/agglomeration"*.

Framework

- 6.2.6. The Framework emphasises in paragraph 181 that planning decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas (AQMAs) and Clean Air Zones, and the cumulative impacts from individual sites in local areas.

Local Plan

- 6.2.7. Local Plan Policy EQ7: Pollution Control aims to avoid and minimise impacts on air quality due to new development and confirms that new development should not exacerbate air quality problems in existing and potential AQMAs. It goes on to state this should include consideration of the potential impacts of new developments and increased traffic levels on internationally designated nature conservation sites, and adopt mitigation measures to address these impacts.

Air Quality Plan

- 6.2.8. The Air Quality Plan for Nitrogen Dioxide in UK sets out to tackle roadside NO₂ concentrations within statutory limits within the shortest possible time. SSDC is not named among those local authorities who are named to undertake a limit assessment to consider the best options to achieve compliance with this limit value. However, the Air Quality Plan is relevant in that the Proposed Development should not contradict with the main aim of the Air Quality Plan which is to achieve compliance with the NO₂ limit values in the shortest time possible.

Carbon Emissions

NNNPS

- 6.2.9. The NNNPS notes in paragraph 5.16 that the impact of road development on aggregate levels of emissions is likely to be very small. The ES should describe an assessment of any likely significant climate factors and, for road projects, should provide evidence of the carbon impact of the project and an assessment against Government carbon budgets.
- 6.2.10. For decision making paragraph 5.18 of the NNNPS indicates the Government's overarching carbon reduction strategy *"includes a range of non-planning policies which will, subject to a very unlikely event occurring, ensure that any carbon increases from road development do not compromise overall carbon reduction commitments. Therefore, any increase in carbon emissions is not a reason to refuse development consent unless the increase in carbon emissions resulting from the proposed scheme are so significant that it would have a material impact on the ability of the Government to meet its carbon reduction targets"*.
- 6.2.11. Paragraph 5.19 of the NNNPS notes that evidence of appropriate mitigation measures in both design and construction should be

presented. The SoS “*will consider the effectiveness of such measures in order to ensure, in relation to design and construction, the carbon footprint is not unnecessarily high*”.

- 6.2.12. However, it should be noted that since the Examination closed the Climate Change Act 2008 (2050 Target Amendment) Order 2019 has come into effect. this has raised the legally binding framework to cut greenhouse gases from 80% to 100% of the ‘net UK carbon account’ (the amount of net UK emissions of targeted greenhouse gases for a period adjusted by the amount of carbon units credited or debited to the account) for the year 2050. The duty is now to ensure that the net UK carbon account is lower than the ‘1990 baseline’. The SoS may wish to satisfy themselves as to the effect of this change on their decision.

6.3. THE APPLICANT’S CASE

Air Quality

- 6.3.1. Chapter 5 of the ES [APP-042] addresses air quality. This is accompanied by four appendices dealing with SATURN²⁶ traffic data modelling developed for the Proposed Development [APP-063], local air quality monitoring [APP-064], model verification [APP-065] and modelled results [APP-066]. In addition, there are seven figures referenced in the Examination library.

General Approach

- 6.3.2. The assessment considers both construction and operational phase effects and has been prepared in accordance with:
- DMRB Volume 11 Section 3, Part 1 – Air Quality (HA207/07)
 - Interim Advice Notes (IANs):
 - 170/12 Updated air quality advice on the assessment of future NO_x and NO₂ projections for users of DMRB Volume 11, Section 3 Part 1 Air Quality,
 - 174/130 Update advice for evaluating significant local air quality effects for users of DMRB Volume 11, Section 3, Part 1 Air Quality,
 - 175/13 Updated advice on risk assessment related to compliance with the EU Directive on ambient air quality and on the projection of Scheme Air Quality Action Plans for user of DMRB Volume 11, Section 3, Part 1 Air Quality
 - 185/15 Updated traffic, air quality and noise advice on the assessment of link speeds and generation of vehicle data into ‘speed-bands’ for users of DMRB Volume 11, Section 3, Part 1, Air Quality.

²⁶ Simulation and Assignment of Traffic to Urban Road Networks – highway traffic assignment software

- 6.3.3. The overall assessment has been undertaken in two separate phases, constructional and operational. The Applicant scoped out effects from construction traffic from the air quality assessment as this is considered by the Applicant not to be significant (paragraph 5.4.3 of [APP-042], since, while there would traffic generated, this would not be expected to be at such a level that it would not exceed the criteria set out in DMRB Volume 11 Section 3, Part 1 – Air Quality.
- 6.3.4. The EIA Scoping Report [APP-054] included the need to assess NO_x concentrations at Stockton Wood and Down SSSI in Wiltshire on the basis of preliminary designs and traffic data. However, following updates to the traffic modelling, the resultant Affected Road Network²⁷ (ARN) is smaller and the Stockton Wood and Down SSSI is now no longer located within 200m of the ARN and thus the Applicant considers it is therefore not necessary to assess this site.
- 6.3.5. The assessment has considered three scenarios
- Base year (2016)
 - Do-Minimum scenario 2023 (opening year)
 - Do-Something scenario 2023
- 6.3.6. Base year air quality predictions have been used to verify the model against air quality monitoring data. While this has used 2015 traffic data there was a negligible change between 2015 and 2016 so the 2015 data was considered by the Applicant to be robust.
- 6.3.7. Vehicle emissions have been based on speed banding from IAN 185/15 and then updated following the publication of Defra's Emissions Factors Toolkit (EFT) v8.0. However, it was accepted at the ISHs that 'speed banding' is not very refined and may underestimated emissions.
- 6.3.8. Dispersal of emissions is most affected by meteorological conditions. Data was therefore taken from the meteorological station at RNAS Yeovilton approximately 1km from the Application site.
- 6.3.9. The Applicant has modelled road-traffic NO_x, which has been converted to annual mean NO₂ using the Defra 'NO_x to NO₂' calculator, assuming traffic mix 'all non-urban UK traffic'.
- 6.3.10. The closest Defra monitoring site is at Charlton Mackrell approximately 4km north of the Podimore roundabout. Background concentrations are relatively low across the study area and small differences in absolute concentrations between the Defra backgrounds and the monitored data can result in concentrations being underpredicted at receptors. Therefore, the Defra NO_x and NO₂ background concentrations applied to

²⁷ The ARN is shown in Figure 5.2 of ES [APP-110]

this assessment have been uplifted by around 20% to provide greater consistency with concentrations monitored at the Charlton Mackrell site.

- 6.3.11. The air quality objectives only apply in locations of relevant exposure. Consequently, 21 worst-case receptors were selected from 1,922 sensitive receptors within 200m of the ARN consisting of 20 residential receptors and a school. These were selected on the basis of professional judgement to determine where the highest pollutant concentrations would be likely to arise, and where the greatest effects would be expected to occur due to the Proposed Development. These locations are set out in Table 5.4 of Chapter 4 of the ES [APP-042] and shown in Figure 5.4 of the ES [APP-112]. They are predominantly along the A303 corridor, including some distance east and west of the Application site, with a number along the A359 around Sparkford and Queen Camel.
- 6.3.12. There are two SSSIs within 200m of the ARN at Charnage Down Chalk Pit SSSI and Whitesheet Hill SSSI with only the latter sensitive to NO_x and nitrogen deposition due to its characteristics.
- 6.3.13. Different study areas were utilised for the construction and operational phases since each would be likely to result in different emissions sources both from traffic, for construction and under diversion or speed restriction, and create dust.
- 6.3.14. Traffic modelling, discussed mainly elsewhere in Chapter 10, was used to identify changes in volumes which occur predominantly along the A303, but also on the A359 in High Street in Queen Camel where traffic is expected, by the Applicant, to decrease due to diversion onto the new road.
- 6.3.15. The nearest AQMA to the Application site is in Yeovil some 7km to the southwest which was declared in 2002. NO₂ exceedances were associated with the A30 and A37 but the whole town of Yeovil was declared an AQMA as *"a town wide action plan would be required to manage the local and through traffic"*. As PM₁₀ concentrations were well below short and long term objectives the AQMA was only declared for NO₂.
- 6.3.16. Specific air quality monitoring was undertaken over a six month period using NO₂ diffusion tube monitoring survey between January to June 2016 at 15 locations along the A303. These sites are shown in Figure 5.7 of the ES [APP-115]. The sites were selected as they were located near to sensitive residential receptors along the section of the A303 that would experience the greatest change as a result of the Proposed Development due to their proximity to the existing carriageway. These sites were also chosen to provide additional monitoring sites for the purpose of the air quality model verification.
- 6.3.17. The air quality monitoring survey concluded that NO₂ concentrations within the vicinity of the Proposed Development are well below the annual mean NO₂ air quality objective of 40µg/m³ as set out in Air Quality (England) Regulations 2000 (as amended) (the Air Quality Regulations). The greatest annual mean NO₂ concentration of 29.7µg/m³

was recorded at the Hawk House Bed and Breakfast monitoring site, adjacent to the existing A303 at Camel Cross. It is consequently concluded that air quality at all receptors within the study area currently meet the relevant NO₂ air quality objectives.

Construction effects

- 6.3.18. During the construction period the Applicant has identified as temporary potential effects from dust emissions arising from construction and air quality impacts from changes in the traffic.
- 6.3.19. To mitigate these effects, it is proposed that construction operations would be in accordance with the OEMP [REP7-020] secured through a CEMP. These are set out in Objective AQ1 and would include minimising the height and size of stockpiles, covering of materials and damping down, speed limits and turning off of engines when not in use.
- 6.3.20. According to the Applicant this would minimise construction dust effects so that they would be unlikely to result in significant effects at nearby sensitive receptors.
- 6.3.21. In regard to vehicle emissions there would be occasional temporary main carriageway closures leading to diversions. These are shown at Appendix B within the TMP in the OEMP [REP7-020]. Due to the proposition that the diversions would be for a limited time, either overnight for a few nights a year, or for whole weekends on two occasions over the two and a half years construction period, the Applicant considers that these measures would not have a significant effect on the annual mean NO₂ or PM₁₀ concentrations within the Yeovil AQMA or at nearby sensitive receptors.
- 6.3.22. In respect of temporary road closures on Steart Hill, Howell Hill, Plowage Lane, Downhead Lane and B3151 Yeovilton Road and permanently on Traits Lane and Gason Lane all of these have Annual Average Daily Traffic (AADT) of less than 2,000. As such, the Applicant asserts, closure (and subsequent vehicle diversions) would not result in any exceedances of air quality objectives. The Applicant explains, paragraph 5.10.5 of [APP-042] that this is because current annual mean NO₂ and PM₁₀ concentrations in the study area are well below the relevant objectives so the closures on these roads, temporary or permanent, would not result in significant effects.
- 6.3.23. A speed restriction of 40mph is proposed on parts of the A303 and on some side roads. Where the speed limit is currently 50mph, it is stated by the Applicant (paragraph 5.10.11 of [APP-042]), this restriction would not affect total emissions as both the existing 50mph and proposed 40mph are assigned the same emission rate. According to the Applicant the reduction from 70mph, on the existing dualled section of the A303 to the east of the Hazlegrove roundabout, to 40mph would reduce total emissions so there would be no significant effects.

Operational effects

- 6.3.24. Total NO₂ and PM₁₀ concentrations were predicted for the base year, opening year Do-Minimum and Do-Something scenarios. In addition, the total concentrations of NO₂ was predicted in all scenarios and at all worst case receptors.
- 6.3.25. Increases and decreases in NO₂ and PM₁₀ concentrations at modelled receptors have been identified due to changes in traffic characteristics on the ARN as well as in the distances between receptors and the main A303 carriageway.
- 6.3.26. Across all modelled receptors annual mean NO₂ concentrations are well below 40µg/m³ in both the Do-Minimum and Do-Something scenarios. The greatest Do-Something concentration is a predicted annual NO₂ concentration in 2023 of 28.1µg/m³. Defra's Technical Air Quality guidance (TG16) advises that exceedances of the 1 hour mean objective for NO₂ are only likely to occur where annual mean concentrations are 60µg/m³ or above. As all predicted mean concentrations of NO₂ are well below 60µg/m³, no exceedances of the 1 hour NO₂ objective are predicted by the Applicant.
- 6.3.27. For PM₁₀, Do-Minimum and Do-Something concentrations are also well below the 40µg/m³ maximum concentration set out in the Air Quality Regulations. The greatest Do-Something concentration has a predicted annual PM₁₀ concentration in 2023 of 15.0µg/m³. The greatest increase in PM₁₀ at a modelled receptor is 0.2µg/m³, which is considered imperceptible (resulting in a Do-Something concentration at this receptor of 12.7µg/m³). As modelled PM₁₀ concentrations at these worst case receptors are low and increases in PM₁₀ are imperceptible, the Applicant concludes (paragraph 5.10.18 of [APP-042] that there will be no significant PM₁₀ effects at sensitive receptors a result of the Proposed Development.
- 6.3.28. The change in annual mean NO₂ concentrations at receptors is primarily due to changes (increases or decreases) in traffic as assessed as AADT and the distance of the A303 carriageway from receptors. The Applicant considers that the Proposed Development does not have a major effect on the Speed Bands assumed in the assessment. The Applicant makes the point that the proposal would bypass the Hazlegrove Roundabout where there is heavy congestion in the Do-Minimum on the approaches.

Local Effects

- 6.3.29. The greatest increase in annual mean NO₂ concentrations in the opening year is predicted at Pepper Hill Cottage, north of the A303 and to the east of Camel Hill Farm where there is predicted to be an increase in annual mean NO₂ concentrations of 2.4µg/m³ between the Do-Minimum and Do-Something scenarios. However, this still only results in the Do-Something scenario with a concentration of 14.8µg/m³. This change is because the receptor would be located approximately 40m north of the new A303 carriageway, which is 20m closer to the main A303

carriageway than at present, although the Camel Hill link would be much closer this would carry a much lower level of traffic. The Applicant also expects there to be an increase in traffic flows of approximately 4,000 AADT on the A303 as a result of the Proposed Development.

- 6.3.30. The greatest improvement in annual NO₂ concentrations in the opening year is predicted at The Hollies at the junction of Plowage Lane and the A303 where there is predicted to be a decrease in annual NO₂ concentrations of 8.2µg/m³ between the Do-Minimum and Do-Something scenarios with a predicted Do-Something level at 12.2µg/m³. This receptor is located less than 10m from the edge of the existing A303, while in the Proposed Development scenario, the alignment for the proposed A303 is located approximately 80m away. In the Do-Something scenario, the adjoining road (the subject of Work 25 in the preferred DCO [REP8-004] and currently part of the A303) is expected to have traffic flows of less than 1,000 AADT upon opening as the majority of traffic on this road will re-route on to the proposed A303 when compared with 29,000 AADT in the Do-Minimum scenario, that being with the current A303 being retained.
- 6.3.31. Annual mean NO₂ concentrations at all modelled receptors within the extents of the Proposed Development are expected to be well below the annual objective as set in the Air Quality Regulations in both the Do-Minimum and Do-Something opening year scenarios. A maximum Do-Something concentration of 15.8µg/m³ is predicted at Crusty Cottage (near the Bakery) and The Firs, which are located 30m to 40m from a section of the proposed A303 alignment with traffic flows of approximately 33,000 AADT in the Do-Something opening year scenario. These have been identified as they are the 'worst case' scenarios.
- 6.3.32. Therefore the ExA is content that there would not be any unacceptable effects as regards air quality in the local area.

Effects on the wider area

- 6.3.33. The wider area includes the A303 away from the extents of the Proposed Development and along the A359 through Queen Camel. In these sections speed limits are not proposed to change so the Applicant contends that emission levels are only affected by changes in AADT.
- 6.3.34. The Applicant predicts, [APP-042] paragraph 5.10.27, that the greatest increase in annual NO₂ concentrations would be at Spring Lodge approximately 7km to the east along the A303. Here there would be an increase in annual NO₂ concentrations of 1.2µg/m³ between the Do-Minimum and Do-Something scenarios. This is because the receptor is located very close to (approximately 5m north of) the A303, where there is expected to be a 2,500 AADT increase in traffic flows as a result of the Proposed Development. The figures are likely to be higher on Fridays, weekends and summer months.
- 6.3.35. Conversely the Applicant predicts, [APP-042] paragraph 5.10.28, that the greatest reduction in annual NO₂ concentrations would be at The Witches

on the High Street, Queen Camel. Here it is predicted that there would be a decrease in annual NO₂ concentrations of 0.8µg/m³ between the Do-Minimum and Do-Something scenarios. This receptor is located less than 2m from the edge of the A359, which is expected to experience a decrease in traffic flows of approximately 1,000 ADT in the Do-Something scenario as a result of the Proposed Development.

- 6.3.36. Overall the Applicant considers, [APP-042] paragraph 5.10.29 "*Annual mean NO₂ concentrations at all modelled receptors in the wider study area are expected to be well below the annual objective in both the Do-Minimum and Do-Something opening year scenarios. ... a maximum Do-Something concentration of 28.1 µg/m³ is predicted*" at Bridge House Park near South Petherton some 13km to the southwest, which is approximately 6m from the edge of the A303 carriageway.
- 6.3.37. Looking regionally, due to the improved capacity and reduced congestion at pinch points on this section of the A303 as a result of the Proposed Development. The Applicant expects [APP-042] paragraph 5.10.36 there would be an increase in the number of vehicles using this route, resulting in an overall increase in regional NO_x, PM₁₀ and CO₂ emissions. However, the Applicant considers "*this increase will be minor in the context of national emissions*".

Ecological effects from changes in air quality

- 6.3.38. Whitesheet Hill SSSI is the only designated site affected by the Proposed Development. In the opening year, annual mean NO_x concentrations at this site at the closest point to the ARN is well below the annual mean NO_x objective (30µg/m³). The Applicant indicates "*this site is expected to experience an increase in NO_x of 0.1µg/m³ as a result of the Proposed Development as it is 150m away from a road expected to experience an increase in traffic flows of 1,700 AADT as a result of the Proposed Development*" (paragraph 5.10.31 [APP-042]). It is therefore concluded by the Applicant that any effect would be imperceptible.

Carbon emissions

- 6.3.39. ES Chapters 10 (Material Assets and Waste [APP-047]) and 13 (Climate [APP-050]) deal with matters related to carbon emissions. Chapter 13 is supported by an Appendix, a Carbon Assessment Report [APP-098].
- 6.3.40. The quantification of the Greenhouse Gas (GHG) emissions associated with the Proposed Development has been undertaken using a proprietary model. GHG emissions are classified as direct or indirect. Direct emissions arise from activities such as the use of energy or water in construction. Indirect emissions are those associated with the production of construction materials (including mining and processing of raw materials into construction products), known as the embodied carbon content of materials.
- 6.3.41. GHG reporting has been presented as mass of carbon dioxide equivalent (CO₂e). This, according to the Applicant (paragraph 1.2.5 [APP-098]) "*is a*

comparable measure that allows for the consideration of 6 key GHGs all expressed in terms of their equivalent global warming potential in mass of CO₂".

- 6.3.42. The model subdivided the elements of construction into its components to ascertain a total carbon emission. This was estimated at 10,414tCO₂e for the Proposed Development with the highway and structures the largest contributor.
- 6.3.43. The Applicant has assessed the Proposed Development against the UK carbon budgets, both for traded and non-traded emissions [APP-050] paragraph 13.10.8. Overall, the Proposed Development is estimated to cause *"an increase of 631,167tCO₂e in non-traded emissions and increase by 5,972tCO₂e in traded emissions over 60 years"*. This would be caused primarily by an increase in traffic volume and flow along the route. *"Maintenance work undertaken as part of the scheme would also increase carbon, but to a much lesser extent compared to the projected road transport emissions"*.

6.4. REQUIREMENTS

- 6.4.1. R3 seeks to secure a CEMP in accordance with the OEMP [REP7-020] which must then be followed throughout the construction phase. Following completion this would be converted into a HEMP to ensure proper maintenance thereafter. This includes the provision of a soil handling and management plan to minimise dust as set out above.

6.5. THE POSITION OF IPs

SSDC

- 6.5.1. SSDC commented on air quality matters and did not comment on carbon emissions.
- 6.5.2. The LIR [REP2-019] sets out the initial position of SSDC in respects of air quality. The SoCG with the Councils [REP8-010] indicated where SSDC agreed with the Applicant's assessment and where they did not agree. The SoCG demonstrated that there were no outstanding matters and all matters were agreed.
- 6.5.3. SSDC in the LIR [REP2-019] at Reference AQ1 (page 54) indicated it was content with the baseline information and modelling.
- 6.5.4. The one area where SSDC had particular concerns related to the air quality implications of increased traffic on Sparkford High Street and in West Camel. However, SSDC did accept that no receptor would result in a level of air quality worse than levels set out in the DMRB.

Natural England

- 6.5.5. NE commented on air quality matters but did not comment on carbon emissions.
- 6.5.6. NE's concerns related to possible air quality impacts on the Salisbury Plain SAC. These are discussed in full in Chapter 13 dealing with HRA. The conclusion there is that Proposed Development, either on its own or in combination with other plans and projects, is unlikely to have a significant effect on that site.

Environment Agency

- 6.5.7. The EA did not raise the issues of air quality or carbon emissions in its representations.

Other IPs

- 6.5.8. Public Health England indicated in its RR [RR-025] that it had considered the documentation accompanying the Application for development consent, and having reviewed the EIA, it did not wish to register an interest in the application on this occasion.
- 6.5.9. The PCs through Mr Norman made the point that scheme they put forward would involve less mileage and thus less GHG emissions as those travelling east on the A303 from the Hazlegrove roundabout would travel less far to get to the main carriageway. They estimated²⁸ [REP8-041] that this reduction would be in the order of 740,000 miles per annum equating to 190 tonnes of CO₂ per annum.

6.6. PLANNING ISSUES

- 6.6.1. The main issues in respect of air quality is whether the Proposed Development would result in unacceptable air quality effects and in relation to carbon emissions as to whether the estimates are reliable, or would the carbon emissions be so significant as to have a material impact on the ability of Government to meet its carbon reduction targets.

6.7. ExA CONSIDERATIONS

Air Quality

- 6.7.1. The ExA agrees with the Applicant that there would be an overall net worsening in local air quality within the study area even with taking into account the appropriate mitigation in the construction phase. However, the Proposed Development is unlikely to have a significant harmful effect

²⁸ The PCs original submission on this point [REP3-008] estimated higher figures, but Mr Norman acknowledged an error in this calculation.

on air quality, nor would it in result in the breach of any international or statutory obligations.

- 6.7.2. This is principally because air quality in the area at present is good as evidenced by the existing low NO_x and particulate levels. While the Proposed Development would be likely to increase the quantity of both pollutants in the area, the increase would not be significant, nor would it result in breaches of any threshold. As the Applicant has demonstrated, it is highly likely that there would be a significant gap or “headroom” between the resultant levels and those thresholds to ensure that air quality was maintained at an appropriate level throughout the implementation and operation of the Proposed Development.
- 6.7.3. As discussed in Chapter 10 on traffic and transport part of the justification for the Proposed Development is based on the peak weekend and summer traffic levels. These are materially different from the AADT figures used to predict the effect on air quality. However, given the existing NO_x and particulate levels the ExA considers that there would be sufficient ‘margin of error’ between the level at which the effects of the Proposed Development would become a concern as regards air quality.
- 6.7.4. The Application site is sufficiently distant from any AQMA to ensure that the Proposed Development would not have any detrimental effect on the AQMA.
- 6.7.5. During construction there would be the potential for dust to affect air quality, with particular impacts on residential receptors in relatively close proximity to the Works. However, with the implementation of appropriate management regimes including best practice methods, which would be secured by the CEMP and R3, this could be mitigated to an acceptable level.
- 6.7.6. The issue of air quality was considered as part of the Examination and was also considered in the LIR. In light of the all the evidence the ExA is satisfied that the relevant policy tests in NNNPS and LVs established in the AQD would be met.
- 6.7.7. Concerning Whitesheet SSSI, any increases in emissions would not be sufficient to adversely affect the reasons it was designated.

Carbon emissions

- 6.7.8. It is important to note the position taken in NNNPS, that in a context in which traffic related emissions are expected to continue to fall, there are only very limited circumstances in which a highway proposal will lead to material adverse change in CO₂ emissions, on a scale that bear on the achievement of the statutory carbon budget. This Proposed Development is not of sufficient scale to have such an effect. Its immediate carbon impact has been taken into account within the Benefit Cost Ratio and the Proposed Development is considered to be in accordance with the NNNPS.

6.8. CONCLUSIONS ON AIR QUALITY AND EMISSIONS

- 6.8.1. The construction phase will result in negative air quality effects, but these would be mitigated, and the mitigation is secured through the DCO.
- 6.8.2. There would be an overall net worsening in local air quality within the study area. However, the Proposed Development would not result in a new exceedance of the NO₂ or PM₁₀ annual mean air quality objectives. The Proposed Development would therefore be in accordance with the policies relating to air quality in the NNNPS. This factor is therefore neutral in the overall planning balance.
- 6.8.3. The Proposed Development is estimated to cause an increase of 631,167tCO₂e in non-traded emissions and increase by 5,972tCO₂e in traded emissions over 60 years. However, this Proposed Development would not be of sufficient scale to materially bear on the achievement of the statutory carbon budget. Its immediate carbon impact has been taken into account within the Benefit Cost Ratio and the Proposed development would be in accordance with the NNNPS and also would be neutral in the overall planning balance.
- 6.8.4. In terms of the LIR SSDC did not raise any particular concerns, although were concerned about increases in the level of traffic in Sparkford High Street and West Camel and potential air quality effects. In as far as the recommended DCO makes provision for surveys this would satisfactorily resolve this matter.
- 6.8.5. Taking all relevant documents and policies into account, the ExA concludes as follows:
- The construction phase will result in negative air quality effects, but these would be mitigated, and the mitigation is secured.
 - There would be an overall net worsening in local air quality within the study area. However, the Proposed Development would not result in a new exceedance of the NO₂ or PM₁₀ annual mean air quality objectives.
 - The Proposed Development is estimated to cause an increase of 631,167tCO₂e in non-traded emissions and increase by 5,972tCO₂e in traded emissions over 60 years.
 - The SoS may wish to satisfy themselves as to the impact of the revision to the 2050 CO₂ emissions target which was made after the close of the examination.

7. BIODIVERSITY, ECOLOGY AND NATURAL ENVIRONMENT

7.1. INTRODUCTION

7.1.1. This Chapter considers the effect of the Proposed Development on biodiversity, ecology and the natural environment. In particular it deals with:

- International/national (SSSIs) and local protected habitats (including designated Local Wildlife Sites (LWSs));
- Ancient woodlands and protected trees;
- Protected species; and
- Geological significance.

7.2. POLICY NNNPS

7.2.1. NNNPS at paragraph 5.25 indicates *"as a general principle, and subject to the specific policies below, development should avoid significant harm to biodiversity and geological conservation interests, including through mitigation and consideration of reasonable alternatives"*. The Applicant *"may also wish to make use of biodiversity offsetting in devising compensation proposals to counteract any impacts on biodiversity which cannot be avoided or mitigated. Where significant harm cannot be avoided or mitigated, as a last resort, appropriate compensation measures should be sought"*.

7.2.2. In taking decisions, paragraph 5.26 of the NNNPS indicates the SoS *"should ensure that appropriate weight is attached to designated sites of international, national and local importance, protected species, habitats and other species of principal importance for the conservation of biodiversity, and to biodiversity and geological interests within the wider environment"*.

7.2.3. Specifically, in relation to veteran trees, paragraph 5.32 of the NNNPS states the SoS *"should not grant development consent for any development that would result in the loss or deterioration of irreplaceable habitats including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the national need for and benefits of the development, in that location, clearly outweigh the loss. ... Where such trees would be affected by development proposals, the applicant should set out proposals for their conservation or, where their loss is unavoidable, the reasons for this"*.

7.2.4. As far as mitigation is concerned paragraph 5.36 of the NNNPS indicates *"applicants should include appropriate mitigation measures as an integral part of their proposed development"*.

Framework and PPG

- 7.2.5. The Framework emphasises (paragraph 170) that sites of ecological or geological value and soils should be protected and enhanced by, amongst other matters, net gains for biodiversity Paragraph 175 of the Framework notes that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or as a last resort compensated then planning permission should be refused. Similarly, development outside a SSSI which is likely to have an adverse effect on it should not formally be permitted, unless the benefits of the development in the location clearly outweigh both its likely impact on the features of the site that make it of special scientific interest and any broader impacts on the national network of SSSIs.
- 7.2.6. Paragraph 175 of the Framework goes on to state that development resulting in the loss of veteran trees should be refused unless there are wholly exceptional reasons and a suitable compensation strategy exists. Footnote 58 gives examples of wholly exceptional circumstances including NSIPs where the public benefit would clearly outweigh the loss or deterioration of habitat.
- 7.2.7. The updated PPG explains²⁹ biodiversity net gain as delivering measurable improvements by creating or enhancing habitats. The PPG also indicates³⁰ the Defra biodiversity metric can be used to demonstrate whether or not biodiversity net gain will be achieved. The PPG also states³¹ *"it is good practice to establish a detailed management plan to ensure appropriate management of the habitat in the long term"*.

Local Plan

- 7.2.8. The Local Plan contains Policies EQ4 and EQ6 which are material to biodiversity. Policy EQ4: Biodiversity requires development to protect biodiversity habitats and promote coherent ecological networks, maximise opportunities for restoration, enhancement and connection of natural habitats. Policy EQ6: Woodlands and Forests indicates that SSDC supports the South West Woodlands and Forestry Framework. It continues that *"woodland areas should be maintained at 2005 levels and expanded where possible to provide a buffer to core areas of woodlands"*. It continues to indicate that *"veteran trees should be protected against loss wherever possible"* and *"where secondary woodland is lost it should be replaced on at least the same scale"*.

²⁹ Reference ID: 8-022-20190721

³⁰ Reference ID: 8-025-20190721

³¹ Reference ID: 8-027-20190721

7.3. THE APPLICANT'S CASE

- 7.3.1. Chapter 8 of the ES [APP-045] addresses biodiversity issues with the assessment having been undertaken in accordance with the principles set out in Chapter 4 Environmental Assessment Methodology in Volume 6.1 [APP-041]. The approach for biodiversity follows the guidance presented in the DMRB Volume 11, Section 3 Part 4 Ecology and Nature Conservation and IAN 130/1018 to a detailed level.
- 7.3.2. As well as the main Chapters referred to in the previous paragraph various supplementary reports submitted as Appendices to the relevant Chapters were also submitted dealing with specific species.
- 7.3.3. Chapter 9 of the ES [APP-046] deals with Geology and Soils. The approach followed follows DMRB Volume 11 Section 3 Part 11 Geology and Soils. Appendices provide a Preliminary Sources Study report and Ground Investigations.

Biodiversity

General Approach

- 7.3.4. The ES sets out extents of Zone of Influence (ZoI) for sensitive receptors in Table 8.4 of Chapter 8 [APP-046].
- 7.3.5. The ES [APP-045] has reviewed the following potential impacts on biodiversity issues, in terms of their effect on individual habitats and species, as well as on habitats and species cumulatively and in-combination. These are set out in paragraphs 8.8.1 for construction impacts and paragraph 8.8.2 for operational impacts.
- 7.3.6. In summary, construction impacts are vegetation clearance leading to habitat loss with subsequent effect on species, direct mortality, changes in lighting levels, and noise and vibration. For the operational phase these are changes in air quality from vehicular emissions potential to result in habitat degradation, permanent habitat loss, with subsequent impacts on species, changes in lighting levels and noise and vibration.

Habitats

- 7.3.7. No European designated sites are present within 2km of the Proposed Development, but the following European designated sites, which are designated for bats, are located within 30km of the Proposed Development.
- Bracket's Coppice SAC is located approximately 17km south of the Proposed Development;
 - The Mells Valley SAC is located approximately 22km north of the Proposed Development;
 - North Somerset & Mendip Bats SAC is located approximately 29km north of the Proposed Development.

7.3.8. Changes to water levels and water quality could affect sites in hydrological connectivity with the Proposed Development and so, in addition, searches were undertaken for European sites where the Proposed Development crosses/is adjacent to, upstream of, or downstream of European sites. The following were identified as having hydrological connectivity to the Proposed Development:

- Somerset Levels and Moors SPA; and
- Somerset Levels and Moors Ramsar site.

Both are located 7.3km west of the Proposed Development.

7.3.9. The reasons for these designations can be found in paragraphs 8.7.3 and 8.7.4 of [APP-045]. The effects of the Proposed Development on European sites are discussed fully in Chapter 13.

Nationally designated sites

7.3.10. Sparkford Wood SSSI is located 1.2km northeast of the Proposed Development. It is designated due to the broadleaved semi-natural woodland which largely comprises penduculate oak *Quercus robur* together with locally common ash *Fraxinus excelsior* and an understory of hazel coppice *Corylus avellane*.

7.3.11. Furthermore, although further than 2km from the Application site, Whitesheet Hill SSSI is within 200m of the ARN. This has been designated for the presence of chalk grassland which supports many notable, and in some cases rare, species of flora, some of which may be sensitive to NO_x and nitrogen deposition.

Regionally important sites

7.3.12. There are a number of LWSs within 1km of the Application site, as follows:

- Hazlegrove Park LWS is within the Application site;
- Camel Hill Transmitter Site LWS is located adjacent to the Application site;
- Gason Lane Field LWS is located 30m south;
- Ridge Copse LWS is located 50m south;
- Downhead Manor Farm LWS is located 150m north;
- Parsons Steeple LWS is located 250m north;
- Lindsay House Quarry LWS is located 310m north;
- Cogberry Plantation LWS is located 350m north;
- Sparkford Hill Copse LWS is located 350m southeast;
- Annis Hill LWS is located 360m northwest;
- Vale Farm Field LWS is located 450m north;
- Bower Plantation LWS is located 760m north; and
- Yarcombe Wood LWS is located 960m north.

- 7.3.13. Various flora/faunal groups can be found in the Application site. These, together with their extents can be found in Table 6.1 of the ES Addendum [OD-010].

Veteran Trees

- 7.3.14. As amended the Proposed Development would result in the felling of one veteran tree within the Hazlegrove RPG. This tree was designated by the Somerset Veteran Tree Project (see response to ExA First Written Questions 1.3.6 at [REP2-004]). The tree is an oak tree, No 12, as identified in the Arboricultural Constraints Report [APP-069]. This tree is required to be removed to facilitate the embankment for the westbound on slip road from the Hazlegrove roundabout. The tree can be seen juxtaposed against the Proposed Development on the Tree Protection Plan (Sheet 4 of 4) in the Arboricultural Impact Assessment [APP-072].
- 7.3.15. Once felled it is indicated that the intact hulk of the veteran tree would be located in close proximity to a nearby veteran tree, woodland or parkland area as a habitat resource. This would be secured, initially, through the OEMP [REP7-020], reference B1.

Other protected trees

- 7.3.16. No trees within the Application site are protected by a Tree Preservation Order (TPO) or through being located within a conservation area. However, at D8 SSDC provided, without explanation, a copy of a TPO, dated 7 June 2019 entitled the South Somerset District (Sparkford No.1) Tree Preservation Order 2019 [REP8-034]. This affects an area of woodland to the south of the existing dual carriageway some distance to the east of the Hazlegrove roundabout. There is a gap between the area covered by the TPO and the Application site and consequently the TPO would not affect the consideration of the Proposed Development.

Hedgerows

- 7.3.17. Hedgerow surveys, undertaken from August to November 2017, identified the presence of 43 species rich hedgerows, of which 28 hedgerows qualify as 'important' under the Hedgerow Regulations 1997. These are identified in Appendix 8.3 to the ES [APP-076] Hedgerow Technical Report. Two hedgerows were not surveyed due to access constraints and hedgerow management.
- 7.3.18. The application as submitted proposed to remove approximately 10.6km of hedgerow, of which about 6km was identified as 'species-rich' and 4.6km as 'important' under the Hedgerow Regulations.
- 7.3.19. As a consequence of the accepted amendments, at the revised site construction compound two sections of species poor hedgerows, each 10m in length, would need to be removed and an additional 102m of species rich hedgerow would be lost for Works to facilitate access to Blackwell Farm.

- 7.3.20. Therefore, as finally examined (see table A5.2 of [OD-011]), the Proposed Development would result in a loss of approximately 10.58km of hedgerow. Of this approximate total, 2.8km would be a permanent loss and 7.78km would be a temporary loss to be reinstated following construction. The Environmental Masterplan (REP7-030] for the Proposed Development incorporates planting that would be mitigated for lost hedgerows.

Species

- 7.3.21. Phase 2 ecological surveys were undertaken in 2016, 2017 and 2018 to gather baseline data. Ten separate appendices to Chapter 6 of the ES have been provided detailing various species or types of species.

Badgers

- 7.3.22. Badgers are protected under the Protection of Badgers Act 1992. A confidential Badger Technical Report was submitted with the Application [APP-144]. This identified a number of badger setts within 500m of the Application site of which five have been classified as main setts. No main setts would require closure as a result of the Proposed Development. One annex sett, two subsidiary setts and three outlier setts would need to be permanently closed and three subsidiary setts would require temporary closure. This would require a licence from NE.
- 7.3.23. No badger setts were identified within 30m of the revised construction compound or the junction of Traits Lane with Blackwell Road, so there were no changes to the assessment occasioned by the accepted changes.
- 7.3.24. Badgers would be deterred from crossing the A303 by the installation of fencing along the highway boundary. A badger tunnel and associated badger fencing to direct badgers to the tunnel would be installed beneath the A303 where badgers have been recorded crossing the carriageway, to reduce the risk of badgers becoming road casualties. Landscape planting (as indicated on the Environmental Masterplan) would ensure that there would be no net loss of badger habitat.

Bats

- 7.3.25. Bats are protected under the WCA and under the Habitats Regulations. The Application was accompanied by a Bat Technical Report [APP-077].
- 7.3.26. Bat surveys were undertaken in 2017 and 2018. These identified the presence of 12 species of bat within 250m of the Application site. A total of 31 roosts were identified belonging to nine different species. *"The majority of these were small roosts belonging to common species of bat", although "notable finds included a dead lesser horseshoe bat within one roost (although this had likely been there for a long time), and a ... suspected maternity roost"* (paragraph 8.7.18 [APP-045]).
- 7.3.27. The Applicant identified *"numerous important commuting corridors, mainly to the north of the existing A303, with more limited numbers to*

the south” with “a potential important crossing point was identified south of Steart Wood, approximately 220 metres west of Canegore Corner, recorded as utilised by common and rare species of bat” (paragraph 8.7.19 [APP-045].

- 7.3.28. No trees or buildings with bat roosting potential were identified within proximity of the proposed main site compound and low levels of bat activity, comprising only common bat species, were recorded within this location. The hedgerow running north to south through the proposed compound would be subject to temporary habitat loss. However, this hedgerow was not found to be of value to foraging/commuting bats.
- 7.3.29. There would be a temporary loss of 102m of species-rich hedgerow to accommodate the proposed changes to access provision to Blackwell Farm. This area of hedgerow is closely managed, and the Applicant considers that it is likely to be of relatively low value to commuting bats. It would be reinstated once Works have been completed
- 7.3.30. The Applicant sets out (paragraph 8.9.10 of [APP-045] *“habitat creation and replacement would provide more foraging habitat within the landscape, and the planting of trees and hedgerows would provide connectivity for bats to commute between foraging grounds. ... Three attenuation ponds would be built as part of the scheme, and these would also provide foraging opportunities for bats”*. Some 60 bat boxes³² would be installed within suitable habitats adjacent to the Proposed Development, including boxes suitable for breeding and hibernation purposes. The full details of the proposed bat mitigation measures can be found in Reference B3 of the OEMP [REP7-020] and this requires annual monitoring of bat boxes and bat house and crossing point surveys at locations which were subject to severance, for 3 years post construction.
- 7.3.31. The Applicant proposes (paragraph 8.9.12 of [APP-056] *“a permanent bat hop over would be incorporated within the design”* of the Proposed Development *“where the new road is likely to sever important commuting routes”* in the approximate location of the existing crossing point.
- 7.3.32. The lighting design has sought to minimise potential impacts with directed luminaires and back plates to reduce spill. The lighting would comprise LED luminaires that would be less attractive to flying insects, so that bats are not attracted to forage on insects that can be attracted to traditional lighting, particularly ultraviolet spectrums.
- 7.3.33. The Applicant states (paragraph 8.9.12 of [APP-045] *“to reduce the impact of noise on sensitive foraging, commuting and roosting habitats, once established, the planting and earthworks is designed to act as natural acoustic barriers, between the road and these habitats. This*

³² This number was agreed with SSDC as part of the discussions and is fewer than the 220 set out in paragraph 8.9.12 of [APP-045].

would reduce the potential for roost abandonment, and also limit the degradation of habitat suitability for foraging, roosting and commuting use adjacent to the sites”.

Breeding birds

- 7.3.34. Breeding birds are protected under the WCA. Field surveys and subsequent mapping of species richness and abundance for breeding birds were undertaken by the Applicant across three visits during 2017.
- 7.3.35. The Applicant reports in the Breeding Bird Technical Report [APP-079] that a total of 47 species were recorded during the surveys, nine of which are listed in Section 41 of the NERCA. Two noteworthy species were confirmed to be breeding within the study area but outside the Application site, including the hobby *Falco subbuteo* (listed on Schedule 1 of the WCA 1981 as amended) and the song thrush *Turdus philomelos*. Both of these species are of county conservation importance.
- 7.3.36. The Applicant reports (paragraph 8.7.29 [APP-045] that “*The highest areas of species richness and abundance corresponded with hedgerow, scrub and woodland with notable areas at Parson’s Steeple, Steart Wood, Annis Hill, and Camel Hill*”.
- 7.3.37. In terms of notable species, a skylark *Alauda Arvensis* territory was recorded within the proposed main site compound location, although a territory for this species was also recorded in the adjacent field (the former main compound site), which would now not be affected by Works. Mistle thrush and skylark are Red List Birds of Conservation Concern (BOCC) and dunnoek is an Amber List BOCC. Dunnock and skylark are also listed under Section 41 of the NERCA. No notable species were recorded at the original or proposed Works areas for access to Blackwell Farm.
- 7.3.38. The Applicant considers habitat creation and replacement would provide a greater extent of habitat suitable for breeding birds. Furthermore, the planted habitats would be of a higher quality than the existing habitats available at baseline, and connectivity would be improved. The Applicant is also of the view that the three attenuation ponds would also provide new habitat for birds.
- 7.3.39. The Applicant states that “*Loss of suitable nesting bird habitat would be mitigated by replacement planting of hedgerows and woodland, and the installation of 100 bird boxes*”.

Barn owls (*Tyto alba*)

- 7.3.40. Barn owls are protected under the WCA. During 2017, surveys were undertaken in three stages to identify barn owl roost sites and habitat suitability.
- 7.3.41. The Applicant reports in the Barn Owl Technical Report [APP-078] that there were two occupied breeding sites and four active roost sites were

identified indicating that there is a maximum of four or five breeding pairs in the study area.

- 7.3.42. The proposed Works for access to Blackwell Farm would result in a reduced loss of 0.2ha, of Type 2 barn owl foraging habitat.
- 7.3.43. The Applicant states (paragraph 5.2.4 of [APP-078]) *"To potentially reduce the number of barn owls killed by vehicles, barn owls should be encouraged to fly over the road at a height of at least 3m. This would be achieved by planting continuous hedges and shrubs and trees"* greater than 3m high *"adjacent to the carriageway along both sides of the road as screening"*. This would encourage barn owls to fly up and over the passing vehicles.
- 7.3.44. Areas of rough species-rich grassland would be created away from the road verge to provide barn owls with foraging habitat. Thirteen additional nest boxes would be provided at least every 1km and would be installed where there is suitable roosting and foraging habitat. These would be placed no closer than 1km, ideally 3km, from the Proposed Development and in pairs within 500m of each other at a density of about 1 pair per km.
- 7.3.45. As barn owls are nocturnal, light emissions from the road would be minimised by using directed luminaires and back plates to reduce spill.

Common reptiles

- 7.3.46. Six reptile species are protected under the WCA and the Habitats Regulations. A habitat suitability assessment was undertaken, which identified all suitable reptile habitat within 100m of the Proposed Development. This is reported in the Reptile Technical Report [APP-080]. During this survey, 13 sites were identified as offering potential habitat for supporting common reptile species and as such further surveys were undertaken during 2017.
- 7.3.47. The Applicant reports (paragraph 8.7.32 [APP-045]) *"slow worms were identified across the majority of the areas surveyed, with both low and good populations found. One grass snake was found within an area of rough grassland adjacent to the A303. Common lizards and adders were not recorded in the surveyed areas"*.
- 7.3.48. The proposed main compound location would result in an increased land take of arable land. However, this habitat type is considered by the Applicant to be of negligible suitability for reptiles as a terrestrial habitat.
- 7.3.49. The environmental design includes the replacement of and creation of new habitats of value to reptiles, such as grassland, scrub, ponds, woodland glades and the provision of log and brash piles. A variety of habitats for all invertebrate species to use would be provided, including the provision of replacement scrub and hedgerows, the planting of wildflower grassland and the creation of log piles to be placed in a range of sunny and shady locations. Furthermore, once the vegetation along

the highways verge has established, this would provide a wildlife corridor which reptiles can utilise for basking, foraging and shelter.

Hazel dormouse (*Muscardinus avellanarius*)

- 7.3.50. Dormice are protected under the Wildlife and Countryside Act 1981 and the Habitats Regulations 2017.
- 7.3.51. A habitat suitability assessment was undertaken in March 2017 which is reported in the Dormouse Technical Report [APP-081]. This identified eight areas of dormouse habitat within 250m of the Application site as requiring a dormouse nest tube survey. Those nest tube surveys were carried out between April and November 2017. Surveys concluded the likely absence of dormice within 250m of the Application site (paragraph 3.3.1 of Hazel Dormouse Technical Appendix [APP-081]).
- 7.3.52. In light of the likely absence of dormice no specific mitigation is proposed.

Great crested newts (GCNs) (*Triturus cristatus*)

- 7.3.53. GCNs are protected under the WCA and the Habitats Regulations. Potential effects on this species are reported in the Great Crested Newt Technical Report [APP-082]. Following a desk study, surveys undertaken between March and May 2017 indicated that GCNs were present in 13 ponds and one ditch, but likely to be absent in the remainder of potential habitats identified in the desk study.
- 7.3.54. These were grouped into three meta-populations at Downhead, Yarcombe and Hazlegrove. A single pond south of the A303 was found with a GCN and this is over 500m from the other ponds. As only a single specimen was found on one occasion and the pond was dry in May; this pond is considered not to be a breeding pond.
- 7.3.55. The proposed site compound would require changes in temporary arable land take within 500m of the Downhead GCN population. However, the existing A303 provides a barrier to dispersal of GCN between the Downhead breeding ponds and the compound locations and therefore this population would be unaffected by the changes. The proposed site compound would require changes in temporary arable land take within 500m of a pond supporting GCN (although not a breeding pond). The area of arable land to be utilised for the Proposed Development within the 500m buffer of the pond would be similar. Intensively managed arable land provides very poor terrestrial habitat for GCN and therefore, these changes would not affect the assessment of impacts of the Proposed Development on GCN.
- 7.3.56. As mitigation for the effects of the Proposed Development no kerbs would be installed around the gully pots which are within 500m of the metapopulations at Downhead and Hazlegrove. It is stated (paragraph 8.9 [APP-045]) "*gully pots within 500m of the metapopulations would be*

fitted with Amphibian Gully Pot Ladders to allow a means of escape for any amphibians which become trapped”.

- 7.3.57. Furthermore, the Applicant states (paragraph 8.9.21 [APP-045] “to mitigate for the permanent loss of terrestrial habitat and 2 ephemeral ponds within 500m of GCN breeding ponds, habitat restoration and creation would be undertaken. The GCN mitigation strategy is proposed to ensure that there is sufficient terrestrial habitat to maintain the favourable conservation status of the affected GCN populations. ... To mitigate for the permanent habitat losses, the landscape design would enhance areas of retained and restored habitats. These habitats would be subject to a habitat management plan to ensure that they remain suitable for GCN in the long term” and would be secured through the HEMP.

Otter (*Lutra lutra*)

- 7.3.58. Otters are protected under the WCA and the Habitats Regulations. Following a desk study field otter surveys were undertaken in April and September 2017 at Dyke Brook and a tributary that feeds into Dyke Brook.
- 7.3.59. Otter field signs found along Dyke Brook, with the majority of activity identified to the west of Steart Bridge. To the west of Steart Bridge, five spraints were found, one secretion of anal jelly and footprints were also noted.
- 7.3.60. Neither accepted change would have an effect on otter populations.
- 7.3.61. No specific mitigation was provided for in the original ES however in light of the representations of SSDC the SoCG with SSDC [REP8-010] records that otter casualties along the extent of the Proposed Development will be monitored by the Highways England Operations Directorate. However, this is not secured in the dDCO.

Water vole (*Anguis fragilis*)

- 7.3.62. Water voles are protected under the Wildlife and Countryside Act 1981. Water voles presence was confirmed in the area of Dyke Brook to the north of the Application site, an area to the east of that connected by two ditches, and at Hazlegrove.
- 7.3.63. Neither accepted change would have an effect on water vole populations.
- 7.3.64. The first of these two areas are considered to be sufficiently distant from Works to be affected by the Proposed Development. At Hazlegrove a minimum of a 5m buffer from the top of the ditch would be created. This buffer would be temporarily fenced during construction to prevent any plant or operatives entering and disturbing the area.

Terrestrial invertebrates

- 7.3.65. Surveys undertaken in 2017 and 2018 indicated a low number of rare and scarce invertebrate species. However, certain notable species were identified:
- White-letter hairstreak *Satyrrium w-album* (UK BAP)
 - Soldierfly *Chorisops nagatomii* (Nationally Scarce)
 - Thick-headed fly *Leopoldius signatus* (Nationally Scarce)
 - Picture-winged fly *Acanthiophilus helianthi* (Nationally Scarce)
 - Mining bee *Lasioglossum pauxillum* (Nationally Scarce)
 - Brown Hairstreak *Thecla betulae* (UK BAP)
- 7.3.66. Of these the brown hairstreak butterfly was frequently recorded across and were present in 49% of the hedgerows surveyed, although there is no information as to whether there was a higher preponderance in 'important' hedgerows as defined under the Hedgerow Regulations.
- 7.3.67. To mitigate the loss of hedgerow affecting the brown hairstreak butterfly new hedgerows would be planted at an amount equivalent to hedgerow loss. The new hedgerows would incorporate native broadleaved trees with frequent or occasional blackthorn. Where possible, the new hedgerow planting would be undertaken prior to vegetation clearance to allow brown hairstreak to colonise new planting. The hedgerows would connect to existing hedgerows to retain the connectivity of the habitat and prevent habitat fragmentation.
- 7.3.68. Neither accepted change would have an effect on terrestrial invertebrate populations.

Aquatic Invertebrates

- 7.3.69. Surveys were carried out in May and September 2017 at five sites (two on Dyke Brook and three on tributaries to Dyke Brook). No protected, notable or rare macroinvertebrate species were identified. The macroinvertebrates present are common, and the community present is of low conservation value.
- 7.3.70. Neither accepted change would have an effect on aquatic invertebrate populations.
- 7.3.71. No specific mitigation is proposed.

Deer

- 7.3.72. SSDC raised concerns in the LIR [REP2-019] about the effect of the proposal on deer. Whilst deer are not considered of conservation concern, they should be considered on health and safety grounds. This issue was not considered in the ES.
- 7.3.73. In the SoCG with SSDC [REP8-010] it was noted that records did not indicate a 'hot spot' of deer casualties within the Application site. It was

also agreed that the Road Safety Audit team is reviewing the likely risk to Health and Safety of potential deer collisions and that the ES is not an appropriate place to report impacts to deer, as this species is not legally protected. As with other animals, deer casualties along the extent of the Proposed Development will be monitored by the Highways England Operations Directorate.

Geology

- 7.3.74. The area is dominated by the east-west ridge of Camel Hill formed by the resistant beds of the White Lias and the Blue Lias. Surrounding Camel Hill are the flat, low lying vales of Sparkford and Ilchester.
- 7.3.75. Ground investigations were undertaken when previous proposals for this area were being promoted in the period 1986 to 2004 and further investigations were undertaken for this Proposed Development (details in Ground Investigation Location Plan and Schedule of Investigations [APP-089]). There are no geologically designated SSSIs within the vicinity of the Proposed Development.
- 7.3.76. There is one Local Geological Site (LGS) within 250m of the Application site, known as Camel Hill Quarry East. Camel Hill Quarry East LGS is located adjacent to the south of the existing A303, immediately adjacent to the Application site.
- 7.3.77. There is an active building stone site to the west of Camel Hill Farm, to the immediate north of the proposed route. This comprises a 2.1ha site in the south-western corner of a 12.9ha field. The north of the site is to be crossed by one of the temporary haulage routes.
- 7.3.78. From approximate chainage 2,300m the Application site lies within an area designated for building stone safeguarding according to the Somerset Minerals Plan. It describes building stone as an important resource and a key part of the minerals sector in Somerset. Safeguarding Areas are areas of known specific minerals resources designated by the County Council, so they are not needlessly sterilised by non-mineral development.
- 7.3.79. Four historical quarries lie in proximity of the Application site. These are located to the south-west of Camel Hill Cottage, two are located immediately to the south of the Proposed Development alignment towards the western end, and there a fourth approximately 90m to the south of the Application site to the west of Sparkford roundabout. Only this last quarry has been used for landfilling purposes.
- 7.3.80. Two historical landfills are located within 250m of the Application site:
- Land Adjacent to Hazlegrove Park
 - Camel Hill Quarry
- 7.3.81. Further details of these sites can be found in paragraph 9.7.62 of ES Chapter 9 Geology and soils [APP-046].

- 7.3.82. Mitigation measures are set out in section 9.9 of the ES [APP-046]. In summary these include, the use of best practice measures, a site topsoil and subsoils strategy, cut and fill and appropriate excavations.
- 7.3.83. Likely effects of the Proposed Development are set out in Table 9.9 of the ES [APP-046]; subject to the mitigation proposed none are considered to be significant.
- 7.3.84. The Proposed Development alignment passes over an area of historical landfill to the far east, north of Hazlegrove Roundabout. Therefore, leachate and ground gas monitoring around the landfill is to be undertaken prior to, during and post construction to monitor any changes in surrounding groundwater quality and the gassing regime from the construction Works. This would be secured in the OEMP [REP7-020] (references GS1 to GS10).

Assessed Effects

- 7.3.85. Table 8.11 in the ES Chapter 8 Biodiversity [APP-045] sets out the assessed effects on these interests. The assessment of these effects was not affected by the accepted changes.
- 7.3.86. The Applicant has assessed the potential significant effects, which are all in the construction phase, as follows:
- Hedgerows - Removal of hedgerows to facilitate construction Works, loss of hedgerows to accommodate design – Construction - Moderate adverse.
 - Bats - Fragmentation of foraging and commuting routes, due to vegetation clearance, lighting and noise disturbance. Potential for disturbance, damage to or loss of bat roosts. Demolition of an existing building would result in the loss of a roost (currently not in use). European Protected Species licence not required – Construction – Moderate adverse.
 - Barn owls - Loss of foraging habitat. Loss of nesting sites. Direct mortality through vehicle collisions – Construction – Moderate adverse.
- 7.3.87. Table 9.9 in the ES Chapter 9 Geology and Soils [APP-046] sets out the assessed effects on such interests. None are assessed by the Applicant as significant. The assessment of these effects was not affected by the accepted changes.

Biodiversity metric

- 7.3.88. As part of the LIR [REP2-019] (reference B1) SSDC requested the Applicant use the Defra Biodiversity offsetting metric or Somerset's Habitats Evaluation Procedure to assist in ascertaining whether, overall, there would be a net gain or loss to biodiversity as a result of the Proposed Development. The Applicant initially resisted the use of a metric on the basis that NE had agreed it was not necessary ([REP-003]

paragraph 1.10.2) but following discussions between the parties they agreed to submit a metric (initially submitted at D4 [REP4-017]).

- 7.3.89. Rather than use either the of the two metrics identified by SSDC, the Applicant used HE's own metric which is based on the Defra metric. SSDC [REP5-033] confirmed in response to a question ExQ2 2.3.4 [PD-014] that it was satisfied with the approach undertaken and findings of the metric. NE in its response to this question [REP5-031] referred to the relevant SoCG [REP5-015] where it indicated that it had not scrutinised this in detail but made comment that certain matters might have been overly optimistic. The Applicant responded to this in the SoCG and NE confirmed that it had no matters it wished to take issue with.
- 7.3.90. The metric was updated throughout the Examination with a final version being submitted at D7 [REP7-023] to take account of the accepted changes. This indicated a net gain of 100.98 biodiversity units, or a 23% improvement, from the pre-construction situation.

7.4. REQUIREMENTS

- 7.4.1. R3 of the dDCO seeks to secure a CEMP in accordance with the OEMP [REP7-020] which must then be followed throughout the construction phase. Following completion this would be converted into HEMP to ensure proper maintenance thereafter.
- 7.4.2. R4 requires a LEMP to be submitted, approved and adhered to. This includes a record of all the sensitive environmental and cultural heritage features that have the potential to be affected by the construction of the Proposed Development. It also incorporates the relevant measures detailed in the ES, including information on the control measures required to mitigate and reduce potential impacts. These reflect the mitigation measures included in the ES.
- 7.4.3. R6 and R7 require the approval, implementation and maintenance of a landscaping scheme which, of itself, is to be in accordance with the LEMP. The maintenance period is five years, after which for areas not subject to TP, maintenance would be in accordance with the HEMP secured under R3.
- 7.4.4. R9 deals with a contamination risk assessment for controlled waters and for contaminated land.
- 7.4.5. R11 provides that the ecological effects of whole development are to be the subject of supervision by an appropriately qualified Ecological Clerk of Works. In the event that any protected or priority species which were not previously identified in the ES or nesting birds are found, the Ecological Clerk of Works is under a duty to ensure appropriate mitigation.

7.5. PLANNING ISSUES

- 7.5.1. The final SoCG with NE [REP5-015] signed on 5 April 2019 showed that following further clarification on the level of impact the Proposed Development would have on the Salisbury Plain SAC, NE now agreed with the Applicant's overall approach and did not raise significant matters of concern in relation to natural environment assets within its remit. This document also included two letters of no impediment in respect of potential applications for licences in respect of badgers and GCNs.
- 7.5.2. SSDC raised various matters of concern through the Examination in both its RR [RR-041] and the LIR [REP2-019]. These matters were discussed in the relevant ISHs (ISH2 and ISH5). The final SoCG with SCC and SSDC [REP8-010] dated 10 June 2019 showed there were no biodiversity matters which were not agreed.
- 7.5.3. No other parties to the Examination raised matters of significant concern in respect of biodiversity.

7.6. ExA CONSIDERATIONS

- 7.6.1. Having reviewed the ES, the ExA is satisfied that the Applicant has undertaken a thorough and rigorous characterisation of the natural environment and geological assets affected by the Proposed Development, both directly and indirectly. The significance of those assets and the significance of effects upon them have been consistently assessed and mitigation measures designed where necessary.
- 7.6.2. The effect on internationally designated sites in dealt with in Chapter 13.
- 7.6.3. In light of conclusions elsewhere in this Report on air quality there would be no significant adverse effects, either direct or indirect, on either the Sparkford Wood or Whitesheet Hill SSSIs.
- 7.6.4. There would be a number of significant effects in the construction phase on hedgerows (including 'important' hedgerows), bats and barn owls. These would be partially mitigated by the measures outlined in the OEMP, particularly through hedgerow protection, replacement planting and the provision of bat and bird boxes so that these effects would only be temporary during the construction period. The number of bat boxes was amended following representations by SSDC with a more targeted approach utilised. This is considered appropriate.
- 7.6.5. The mitigation for badgers, including the provision of a badger tunnel under the proposed A303, would ensure that there were no adverse effects on this species.
- 7.6.6. In Chapter 10 the ExA concludes that the Hazlegrove Underbridge should be lit at all times. The ExA is satisfied that using an appropriate lighting design it would be possible to ensure that this additional lighting had no material effect on species and habitats outside this area.

- 7.6.7. In light of the advice in NNNPS paragraphs 5.34 to 5.35 the effects have been minimised to ensure habitats and species are protected from the adverse effects of the Proposed Development with the Requirements cited above in this section delivering the necessary protection.
- 7.6.8. The loss of the veteran tree is considered to be acceptable on the basis that its loss is unavoidable given the proposed route of the A303; going around it would be impractical. Both SSDC and SCC confirmed at ISH2 that they considered that the overall landscaping proposals represented a suitable compensation strategy. Consequently, this element of the proposal complies with paragraph 175 c) of the Framework.
- 7.6.9. Following completion of the development there would be a significant positive effect as a result of the development on biodiversity as a whole as evidenced by the offsetting matrix. This would accord with the latest guidance in the PPG. It is noted that SSDC is satisfied with the approach and results. Although NE has indicated that the results may be overly optimistic, the ExA is satisfied that there is sufficient 'margin for error' in the assessed units to ensure that the overall effect is beneficial and should be given moderate weight.
- 7.6.10. In light of this the Proposed Development would accord with the United Nations Environmental Programme Convention on Biological Diversity of 1992 and thus also accord with Regulation 7 of the Decisions Regulations.
- 7.6.11. There would be no significant geological conservation effects.
- 7.6.12. Overall the Proposed Development is considered to be in accordance with the NNNPS in respect of its effects on biodiversity and ecological conservation and there were no outstanding matters which had been raised in the LIR that are not satisfactorily resolved through provisions in the recommended DCO.
- 7.6.13. However, as noted in Chapter 10 the ExA has concluded that changes are required due to the effect on the risks of birdstrike in connection with RNAS Yeovilton. Any redesign of the ponds and their immediate environs would be likely to have implications for the biodiversity, ecology and the natural environment that have not been assessed and the SoS would need to consider these.

7.7. CONCLUSIONS ON BIODIVERSITY, ECOLOGY AND THE NATURAL ENVIRONMENT

- 7.7.1. Taking all relevant documents and policies into account, the ExA concludes as follows:
- There are no effects on the two nearby nationally designated sites (Sparkford Wood or Whitesheet Hill SSSIs).
 - During construction there would be significant adverse effects on hedgerows (including 'important' hedgerows), bats and barn owls.

- Following completion of the Proposed Development there would be a significant positive effect as a result of the development on biodiversity as a whole.
- The Proposed Development, as submitted, would be in accordance with policy within the NNNPS aimed at protecting habitats and species and ensuring mitigation of impacts, and with the thrust of policies on these matters in the Local Plan.
- There may be implications from any alterations to mitigate the risks of birdstrike.
- There are no significant geological conservation effects.

8. NOISE AND VIBRATION

8.1. INTRODUCTION

8.1.1. This Chapter deals with the effects of the Proposed Development on receptors from noise and vibration. In particular it deals with:

- the Applicant's noise assessment;
- Construction and operational effects of noise; and
- Construction and operational vibration effects.

8.2. POLICY

NNNPS

8.2.1. Paragraph 4.8.1 of NNNPS states that:

"where the proposed project has likely significant environmental impacts that would have an effect on human beings, any environmental statement should identify and set out the assessment of any likely significant adverse health impacts."

8.2.2. The NNNPS identifies in paragraph 5.186 the potential consequences of excessive noise in terms of its potential effects *"on the quality of human life and health (e.g. owing to annoyance or sleep disturbance), use and enjoyment of areas of value (such as quiet places) and areas with high landscape quality"*. It confirms that Government policy is set out in the Noise Policy Statement for England (NPSE). In line with current legislation, references to "noise" in the NNNPS also apply to the impacts of vibration".

8.2.3. It states: *"Due regard must have been given to the relevant sections of the Noise Policy Statement for England, National Planning Policy Framework and the Government's associated planning guidance on noise."* (paragraph 5.193)

8.2.4. The NNNPS identifies the factors that should be included in a noise assessment. These include:

- Identification of noise sensitive premises and noise sensitive areas that may be affected;
- the characteristics of the existing noise environment;
- a prediction on how the noise environment will change with the proposed development;
- the potential noise impact elsewhere that is directly associated with the development, such as changes in road and rail traffic movements elsewhere on the national networks, should be considered as appropriate; and
- measures to be employed in mitigating the effects of noise. (paragraph 5.189).

- 8.2.5. The NNNPS advises that proposals should seek to optimise the layout "*to minimise noise emissions and, where possible, the use of landscaping, bunds or noise barriers should be used to reduce noise transmission*". It also requires projects to "*consider the need for the mitigation of impacts elsewhere on the road and rail networks that have been identified as arising from the development, according to Government policy*". (Paragraph 5.194)
- 8.2.6. Paragraph 5.197 of the NNNPS states that the ExA and SoS should consider mitigation measures and may wish to impose measures in addition to those which form part of the project application, together with requirements to ensure delivery of all mitigation measures. Paragraph 5.198 requires such measures to be proportionate and reasonable.
- 8.2.7. It is noted that for most national network projects the relevant Noise Insulation Regulations will apply.
- 8.2.8. Paragraph 5.195 of the NNNPS states the SoS should not grant development consent unless satisfied that the proposals will avoid significant adverse impacts on health and quality of life, mitigate and minimise other adverse impacts on health and quality of life, as well as contribute to improvements to health and quality of life through the effective management and control of noise.

Noise Policy Statement for England (NPSE)

- 8.2.9. The NPSE states that the Government's overall vision for noise is to promote good health and a good quality of life through the effective management of noise within the context of Government policy on sustainable development.
- 8.2.10. It sets out three aims. These are:
- 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
- 8.2.11. The NPSE recognises that noise exposure can impact on quality of life. It refers to emerging evidence that long-term exposure to some types of transport noise can additionally cause an increased risk of direct health effects. It states that the Government intends to keep research on the health effects of long-term exposure to noise under review.
- 8.2.12. The NPSE refers to the World Health Organisation (WHO) concepts for establishing noise effects – the NOEL (No Observed Effect Level) and the LOAEL (Lowest Observed Adverse Effect Level). The former is the level below which there is no detectable effect on health and quality of life due to the noise, whilst LOAEL is the level above which adverse effects on health and quality of life can be detected.

- 8.2.13. The NPSE adds the concept of SOAEL (Significant Observed Adverse Effect Level). This is the level above which significant adverse effects on health and quality of life occur.
- 8.2.14. Paragraph 2.22 states *"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. It is acknowledged that further research is required to increase our understanding of what may constitute a significant adverse impact on health and quality of life from noise. However not having specific SOAEL values in the NPSE provides the necessary policy flexibility until further evidence and suitable guidance is available."*
- 8.2.15. The second aim of the NPSE refers to the situation where the impact lies somewhere between LOAEL and the SOAEL. It requires that all reasonable steps should be taken to mitigate and minimise adverse effects on health and quality of life while also taking into account the guiding principles of sustainable development (paragraph 1.8).
- 8.2.16. The third aim seeks, where possible, positively to improve health and quality of life through the proactive management of noise while also taking into account the guiding principles of sustainable development, recognising that there will be opportunities for such measures to be taken and that they will deliver potential benefits to society. The protection of quiet places and quiet times as well as the enhancement of the acoustic environment will assist with delivering this aim.

The Framework and PPG

- 8.2.17. The Framework, in paragraph 170, notes that new and existing development should be prevented from contributing to, being put at an unacceptable risk from, or being adversely affected by unacceptable levels of noise pollution. Paragraph 180 states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution on health. In doing so decisions *"should mitigate and reduce to a minimum, potential adverse impacts resulting from new development, and avoid noise giving rise to significant adverse impacts on health and quality of life"*, referencing the NPSE.
- 8.2.18. The recently updated PPG provides further guidance in relation to the Government's approach to noise. It confirms that decision-making needs to take account of the acoustic environment and in doing so consider whether or not a significant adverse effect or an adverse effect is occurring or likely to occur, and whether a good standard of amenity can be achieved. It identifies various factors that may influence the acoustic environment.
- 8.2.19. It states that some types and levels of noise will cause a greater adverse effect at night than if they occur during the day this is because people tend to be more sensitive to noise at night as they are trying to sleep. it

also lists a number of factors that should be taken into account when considering the noise impacts of a proposed development, including whether any adverse internal effects can be completely removed by closing windows. It explains that where existing noise sensitive locations already experienced high noise levels, a development that is expected to cause even a small increase in the overall noise level may result in a significant adverse effect occurring even though little or no change in behaviour would be likely to occur.

- 8.2.20. It advises that where external amenity spaces are an intrinsic part of the overall design the acoustic environment of those spaces should be considered so that they can be enjoyed as intended.

The Local Plan

- 8.2.21. At the local level South Somerset Local Plan Policy EQ7: Pollution Control indicates that development, on its own or cumulatively, would result in noise pollution or harm to amenity, health or safety will only be permitted if the potential adverse effects would be mitigated to an acceptable level by other environmental controls, or by measures included in the proposals.

WHO Guidelines for Community Noise 1999 (CNG)³³

- 8.2.22. CNG provides guidance on suitable internal and external noise levels, for steady sound in and around residential properties. It recommends:
- 30dB LAeq in bedrooms, with <45dB LMax, over 8 hrs at night;
 - 35dB LAeq in living rooms over 16 hours in the day;
 - 50 to 55dB LAeq in gardens/outdoor living areas over 16 hours in the day; and
 - 45dB LAeq outside bedrooms with an open window over 8 hours at night.

WHO Night-time Noise Guidelines for Europe 2009 (NNG)

- 8.2.23. NNG provides additional guidance on night-time noise and recommends noise levels based on effects on health. Adverse effects are observed at 40-50dB, particularly among vulnerable groups. NNG describes levels above 55dB as *"increasingly dangerous for public health"*³⁴

³³ WHO Guidelines for Community Noise 1999 (CNG) Table 4.1

³⁴ WHO Night-time Noise Guidelines for Europe 2009 (NNG) Table 5.4

WHO Environmental Noise Guidelines for the European Region (ENG) 2018

- 8.2.24. ENG, was published after the Application was submitted, but before the Examination commenced. It updates and supersedes the CNG in so far as it relates to road traffic noise and complements the NNG. The guidelines are source specific and apply a 1dB increment scheme, whereas the CNG and NNG formulated or presented recommendations in 5dB steps.
- 8.2.25. They provide information on the exposure–response relationships between exposure to environmental noise from different noise sources and the proportion of people affected by certain health outcomes, as well as interventions that are considered efficient in reducing exposure to environmental noise and related health outcomes. The recommendations rely on the critical health outcomes.
- 8.2.26. ENG sets out the recommendations in terms of traffic noise. These are summarised in Section 3.1 as follows:
- "For average noise exposure, the GDG³⁵ (strongly recommends reducing noise levels produced by road traffic below 53 dB Lden, as road traffic noise above this level is associated with adverse health effects.*
- "For night noise exposure, the GDG strongly recommends reducing noise levels produced by road traffic during night time below 45 dB Lnight, as road traffic noise above this level is associated with adverse effects on sleep.*
- "To reduce health effects, the GDG strongly recommends that policy-makers implement suitable measures to reduce noise exposure from road traffic in the population exposed to levels above the guideline values for average and night noise exposure. For specific interventions, the GDG recommends reducing noise both at the source and on the route between the source and the affected population by changes in infrastructure."*
- 8.2.27. The ENG explains the rationale for the recommendations, including the impacts on health and potential interventions.

8.3. THE APPLICANT'S CASE

- 8.3.1. Chapter 11 of the ES [APP-048] deals with noise and vibration. This Chapter is supported by three Appendices which deal with the baseline [APP-090], construction activities and plant noise [APP-091] and a construction assessment for residential properties [APP-092]. There are also eight separate Figures [APP-128] to [APP-135] setting out various maps and showing various aspects of the consideration of noise.

³⁵ Guideline Development Group

- 8.3.2. An Addendum to the ES was submitted with the material change. The changes to the Proposed Development resulted in four additional residential receptors within the construction noise study area. The Addendum concluded that the proposed amendments would not result in any change to the overall assessment of the noise and vibration effects within Chapter 11 of the ES [OD-010].

Noise

- 8.3.3. The Framework and NPSE aim to avoid and mitigate significant adverse effects. The Applicant has assessed the noise effects of the Proposed Development using LOAEL and SOAEL as well as DMRB HD213/11.
- 8.3.4. The Applicant states that the LOAEL and SOAEL values for noise within the ES have been informed by WHO guidance, South Somerset Local Plan, and guidance from BS 5228-1 and BS 5228-2. [APP-048]
- 8.3.5. The Applicant submits that simply breaching the LOAEL and the SOAEL thresholds do not necessarily mean that a change in the noise environment is significant. It states that it is also necessary to consider the magnitude of the impact and whether the impact is temporary. Paragraph 11.4.30 of the ES [APP-048] states that the Applicant relies on professional judgment in addition to comparing noise levels
- 8.3.6. The Applicant submitted a noise and vibration update at D6 [REP6-011]. Amongst other matters this included an assessment on new residential receptors identified by SSDC at D4 [REP4-037].

Construction Noise

- 8.3.7. The LOAEL and SOAEL values used for the construction and operational periods are set out at tables 11.5 and 11.9 respectively [APP-048]. For the assessment of construction noise the Applicant has adopted the following criteria:
- *"A significant adverse effect is one for which total noise (pre-construction baseline noise plus construction noise) exceeds the pre-construction baseline noise by 5dB or more, and where SOAEL is exceeded for a period of 10 or more days of working in any 15 consecutive days or for a total number of days exceeding 40 in any 6 consecutive months.*
 - *An adverse effect is one for which total noise (pre-construction baseline noise plus construction noise) exceeds the pre-construction baseline noise by 5dB or more, and where LOAEL is exceeded."* ([APP-048] Paragraph 11.4.31)]
- 8.3.8. For the assessment of construction traffic from the scheme:
- *"A significant adverse effect is one in which noise levels increase by 1dB or more where SOAEL is exceeded*
 - *An adverse effect is one where noise levels increase by 1dB or more."* ([APP-048] Paragraph 11.4.32)

- 8.3.9. The Applicant states that the construction noise assessment is considered to be a worst-case scenario due to the assumptions that have been made about the number and type of plant and usage details. The construction noise levels do not take account of the noise reduction benefit of noise barrier, topography or existing screening between construction Works and nearby sensitive receptors. Where construction noise levels exceed SOAEL, an in-depth BS5228-1 assessment of construction noise was carried out to take account of the effect of barriers that shield receptors from construction activity ([APP-048] paragraphs 11.5.4-11.5.6).
- 8.3.10. The Applicant states that where there is the potential for significant effects additional mitigation measures will be employed and these will be secured by the CEMP.

Operational Noise

- 8.3.11. The Applicant's noise model is derived from the AADT and therefore does not include provision for variations in flow during the day or between seasons. It takes account of the cumulative effect of committed development with the potential to generate traffic ([APP-048] paragraph 11.5.2).
- 8.3.12. In response to questions from the ExA at ISH2 the Applicant submitted an assessment of the effect of the higher summer and weekend traffic flows [REP5-020].
- 8.3.13. The Applicant assessed the Proposed Development against DMRB HD213/11. This requires a range of comparisons between the Do Minimum and Do-Something scenarios. These comparisons inform the significance of the change in noise levels. The outcome of these comparisons is summarised at Figures 11.3 -11.8 [APP-130] to [APP-135] inclusive.
- 8.3.14. On this basis as a consequence of the Proposed Development, based on the Applicant's methodology, in the short term (up to 2023) 130 residential receptors would be subject to a minor increase in noise (1.0-2.9dB LA_{10, 18h}) and 10 residential receptors would be subject to a moderate noise increase (3.0-4.9dB LA_{10, 18h}) and one receptor would be subject to a major noise increase (10+dB LA_{10, 18h}) by comparison with the Do-Minimum scenario. In addition, 12 other sensitive receptors would be subject to minor increase ([REP6-011] Table 2.5).
- 8.3.15. The significance of changes in noise levels over the longer term (up to 2038) use different thresholds. Under this scenario 471 residential receptors would be subject to a negligible increase in noise (0.1-2.9dB LA_{10, 18h}), 25 residential receptors would be subject to a minor noise increase (3.0-4.9dB LA_{10, 18h}) in the daytime. One residential receptor will be subject to a moderate noise increase in the daytime (in excess of 5.0dB LA_{10, 18h}) ([APP-REP6-011] Table 2.6).
- 8.3.16. ES Chapter 11, [APP-048] paragraph 11.10.51 notes that Table 11.31 of that document shows that "*the change in nuisance level for the Do-*

Minimum scenario (comparison (1) in paragraph 11.10.33) is less than 10% for all receptors. However, for the Do-Something scenario (comparison (2)) there are 175 receptors where the nuisance increases by 10 to 20%, 124 where nuisance increases by 20 to 30% and 11 receptors where nuisance increases by 30 to 40%."

8.3.17. The Applicant considers that:

"A noise impact is considered to be potentially significant if:

- *The noise increase is non-negligible (that is 1dB or more in the short term or 3dB or more in the long term (see Table 11.8)) for a receptor exposed to noise above SOAEL, or*
- *The noise increase in the opening year is moderate or major".*
[APP-048 paragraph 11.4.36]

8.3.18. Where a potentially significant adverse effect is indicated the Applicant has used professional judgement to determine if a significant adverse effect is likely to arise.

8.3.19. The Applicant concludes that with the exception of The Spinney and Annis Hill Farm, the impact at all receptors is considered to be not significant. With the compensation in the form of secondary glazing at The Spinney and Annis Hill Farm, the Proposed Development will meet the operational noise aims of the NPSE and the Framework.

Vibration

8.3.20. The Applicant notes that construction levels of vibration can be difficult to predict due to the number of variables, but BS5228-2 *Code of practice for noise and vibration control on construction and open sites – Part 2: Vibration* provides guidance on the effect of vibration and the likelihood it will cause complaint or cosmetic damage to buildings. It is noted that vibration levels are predicted in terms of Peak Particle Velocity (PPV).

8.3.21. BS7385 *Evaluation and measurement for vibration in buildings. Guide to damage levels from groundborne vibration* provides guidance on the levels of vibration that would be necessary to cause structural damage to different types of buildings. The Standard indicates that transient PPVs of at least 15mm/s would be required to cause even cosmetic structural damage to residential buildings.

8.3.22. The Applicant notes that taken from BS5228 the LOAEL for vibration is 0.3mm/s where vibration might be just perceptible in residential environments, and the SOAEL is 1.0mm/s where vibration of this level in residential environments would cause complaint but can be tolerated if prior warning and explanation has been given to residents.

8.3.23. As with noise, since the specific plant to be used during construction is not known a list of construction activities and equipment has been prepared based on other road schemes and in consultation with a team

that has provided buildability advice in order to evaluate possible vibration.

- 8.3.24. Although the full extent of required piling is not known it is assumed that percussive piling would be used at all locations for structures and would operate for 70% of the working day for the duration of the structures phase.
- 8.3.25. Working hours are generally restricted by R3 to 07:00 hours to 18:00 hours on Mondays to Fridays and 07:00 hours to 13:00 hours on Saturdays, except for certain specified Works.
- 8.3.26. The Applicant indicates that where predicted SOAEL vibration levels would be exceeded various mitigation measures to be delivered in the CEMP would be employed, including using alternative piling methods and/or plant if practical, advisory letterbox drops to affected occupiers and monitoring and condition surveys.

Construction Vibration

- 8.3.27. Vibration levels have been predicted for Works to construct the overbridges at Downhead and Steart Hill and the underbridge at Hazlegrove. These have been assessed at various distances from the relevant Works. Vibration levels in excess of SOAEL have been predicted 50m from the Works, but this figure is not breached at 100m from the Works. Only one residential receptor is identified in the 50-100m zone for Works to construct the Downhead junction overbridge. This is the Hollies at the current junction of the A303 with Plowage Lane. This property would be 81m from the proposed overbridge.
- 8.3.28. The Applicant indicates that provided the proposed piling takes place for no more than 10 days of working in 15 consecutive days or 40 days in 6 months then it considers that there would be no significant effects from vibration.
- 8.3.29. For non-piling works the Applicant has utilised research from the Transport Research Laboratory. From this, based on the separation distances between the proposed Works and the receptors the Applicant concludes that the estimated vibration levels would not result in vibration levels at the receptors that would exceed SOAEL and therefore no significant adverse effects due to construction vibration arise.

Operational Vibration

- 8.3.30. During operation the main source of vibration would be from road traffic. DMRB Volume 11, Section 3, Part 7 Noise and Vibration (HD213/11) Paragraph A6.21 states that the relationship between the percentage of people bothered by largely airborne vibration is similar to that for noise nuisance except that the percentage of people bothered by vibration is lower at all exposure levels.

- 8.3.31. The Applicant (in Table 11.32 of Chapter 11 of the ES [APP 048]) shows the change in vibration nuisance calculated for receptors at exposure levels above 58dB LA_{10,18h}. This is because HD213/11 notes that, on average, traffic induced vibration is expected to affect a very small percentage of people at exposure levels below this level and that therefore, zero per cent should be assumed in these cases. This indicates that the change in nuisance level is less than 10% for all receptors for the Do-Minimum scenario but that for the Do-Something scenario 35 receptors have an increase in vibration nuisance between 10% and 20%, 59 receptors have an increase between 20% and 30% and two receptors have an increase between 30% and 40%. These are at Annis Hill Farm and The Spinney, both north of the A303.
- 8.3.32. In response to questions from the ExA (ExQ1 1.1.13 and 1.1.27) the Applicant [REP2-004] explained that PPV is a function of each vehicle pass-by and not a cumulative measure: increasing the number of vehicles would increase the number of measured events, but not the magnitude of any individual event and so the PPV would not change.
- 8.3.33. The Applicant also explained in response to a question from the ExA (ExQ1 1.4.9) [REP2-004] that Paragraph A5.26 of the DMRB HD 11 *"Significant ground-borne vibrations may be generated by irregularities in the road surface. Such vibrations are unlikely to be important when considering disturbance from new roads and an assessment will only be necessary in exceptional circumstances"*. As such there is very low risk that vibration from the new road could lead to significant adverse effects so no survey was carried out. Paragraph A5.26 also states that any *"irregularities causing ground-borne vibration can be rectified during maintenance work"*.

8.4. REQUIREMENTS

- 8.4.1. R3 requires a CEMP to be submitted and approved substantially in accordance with the CEMP section of the OEMP [REP8 007]. This requires that working hours are generally restricted by R3 to 07:00 hours to 18:00 hours on Mondays to Fridays and 07:00 hours to 13:00 hours on Saturdays, except for certain specified Works and to include a Noise and Vibration Monitoring Strategy.

8.5. THE POSITION OF IPs

SSDC

- 8.5.1. The LIR [REP2-019] sets out the initial position of SSDC in respects of noise and vibration. The SoCG with SCC and SSDCs [REP8-010] indicates where SSDC agreed with the Applicant's assessment and where they did not agree. As a result of this it can reasonably be concluded that SSDC has amended its position in light of additional information or a change in circumstance.

- 8.5.2. In this regard SSDC considered that baseline information and assessment methods used in respect of noise and vibration to be satisfactory, the assessment methods used are appropriate and the presentation of the results clearly demonstrate the likely effects the Proposed Development will have during construction and when in operation. No significant issues were raised in terms of noise and vibration.
- 8.5.3. SSDC has asked that piling is avoided at night in locations where it may have a noise or vibration impact during construction. The Applicant notes that Reference NV4 in the OEMP [REP7-020] requires an appropriate risk assessment to be undertaken to ensure adverse levels of noise and vibration are not experienced both on-site (for members of staff on-site) and at dwellings. Similarly, Reference NV3 requires that "*where vibration levels have been predicted to exceed SOAEL*" identified mitigation measures above are to be implemented.

OTHER IPs

Mr Paul Griffiths [REP2-036]

- 8.5.4. In order to provide enhancement, the Proposed Development should aim to provide a reduction in noise. The new road will impact on the local community for generations to come and the Proposed Development should include a target of a 50% reduction in road noise for the local Sparkford community and avoid unacceptable impact on the surrounding environment.
- 8.5.5. Mr Griffiths considers that the Applicant appears to question the WHO guidelines and tends to identify the night-time value as a precautionary, or interim target, but this is a WHO view for under-developed countries. The WHO guidelines were updated in October 2018, and whilst they could be viewed as aspirational, they are based on sound medical advice and provide reasonable targets
- 8.5.6. Due to the elevation of the road at Hazlegrove Junction there is effectively no effort to achieve noise reduction from bunds and/or cuttings to the south side around Sparkford. It should have an acoustic barrier mounted on the south side of the road, extending west and eastwards in order to protect the community from the unreasonably high noise from the road.
- 8.5.7. The assessment does not take account of the additional holiday and weekend traffic and the speed banding used is questionable.

Mr Walton Long Hazel Park [RR-011], [REP2-011], [REP3-007], [REP4-021], [REP6-027] and [REP8-038].

- 8.5.8. Mr Walton's submissions includes an Acoustic Report from Tegwyn Jones Associates and references the health impacts of excessive noise.
- 8.5.9. Planning permission was granted at appeal, to change the use of Long Hazel Holiday Park from a touring caravan site to a residential site for

mobile homes and residential lodges (APP/R3325/W/16/3144731). The permission was subject to conditions requiring the provision of noise mitigation measures which have been submitted to and approved by the local planning authority.

- 8.5.10. The lodges benefit from outside space and both potential purchasers and holiday makers are put off by the excessive noise. The effect of noise as a consequence of the Proposed Development could further impact on the business. Mr Walton also explained that noise from the existing road was a deterrent for some holidaymakers [REP6-027].
- 8.5.11. Following a comparison of the Applicant's noise values and those submitted by Mr Walton, it is agreed that the values are broadly the same. The current position is set out in the SoCG [AS-042].
- 8.5.12. Mr Walton remains concerned about the traffic noise within the outside amenity areas and submits that mitigation is required so that traffic noise at the amenity area for Lodge 2 needs to be lowered to below 55dBA Leq,16h.
- 8.5.13. Part of the existing caravan park was previously acquired under a compulsory purchase order to form the existing dual carriageway. Mr Walton states that since that time traffic volumes and noise have increased enormously. The measures put in place at the time by the DfT were limited and this issue should be addressed as part of the Proposed Development.

Mr James March Smith, Sparkford Hall [RR-027], [REP2-023], [REP2-024] and [REP4-031]

- 8.5.14. Mr March Smith's submissions included an Acoustic Report from Tegwyn Jones Associates and a joint note with the Applicant regarding the effect of wind on noise [REP4-031].
- 8.5.15. It is anticipated that the Proposed Development would result in both short and long-term adverse changes to noise levels. This includes the inevitable increased noise levels from construction Works and increased traffic noise when the new road is used. The Applicant calculated that current noise levels are equivalent to 56.2dBA Leq (18 hrs) and predict a 1.2dBA at the most exposed window, as a result of the changes. DMRB characterises this increase as "negligible".
- 8.5.16. When considering the impact of the Proposed Development inside 'habitable rooms', future traffic noise would exceed BS 8233, which recommends a daytime noise level for living rooms/bedrooms of 35dB LAeq, 16h.
- 8.5.17. The prevailing wind is from the south to the south west (the direction of the A303), and will increase the noise from traffic using the new road when heard at Sparkford. Traffic can usually be heard as it climbs Camel Hill, a mile away. The impact of the prevailing wind has largely been ignored in the Applicant's assessments of the impact of the Proposed

Development due to the fact that the CRTN (Calculation of Road Traffic Noise) makes no specific provision in which the effect of wind can be calculated.

- 8.5.18. Traffic passing over the change of the road surface from the existing to the low noise surface could give rise to a "startle effect". This change in harmony/pitch in the traffic noise will be noticeable particularly with certain wind conditions and will have an effect on the users of Sparkford Hall.

8.6. EXA CONSIDERATIONS

Noise

- 8.6.1. The Applicant's approach to the assessment of noise is to consider whether the increase in noise emissions is significant by reference to the extent of any increases in circumstances where the levels exceed SOAEL ([APP-048] Paragraphs 11.4.32 and 11.4.36). Where a potentially significant adverse effect is indicated, the Applicant used professional judgement to determine if a significant adverse effect was likely to arise.
- 8.6.2. This approach differs from that within the NNNPS and NPSE. NNNPS paragraph 5.195 aims to avoid significant adverse impacts on health and quality of life. It states that the SoS should not grant development consent unless satisfied that such effects will be avoided. SOAEL is the level above which significant adverse effects on health and quality of life can be observed. Therefore, whilst SOAEL is not a fixed value, exceeding it would give rise to a significant adverse effect. NPSE aims to ensure that noise levels do not exceed SOAEL and expects noise levels between LOAEL and SOAEL to be mitigated and minimised.
- 8.6.3. The ExA therefore finds that the Applicant's approach, whilst in accordance with DMRB does not reflect national policy within NNNPS or NPSE.

The Applicant's Assessment - Construction

- 8.6.4. As pointed out by NPSE, SOAEL is not a fixed value and will vary according to the source of the noise. The SOAEL values used by the Applicant for the assessment of construction noise are derived from *BS5228-1:2009 Code of Practice for Noise and Vibration Control on Construction and Open Sites*.
- 8.6.5. The proposed mitigation during the construction period is set out in the ES Chapters 2 and 11 [APP-039 and APP-048]. The mitigation measures include limiting the hours of work, the erection of temporary barriers, and the selection of quieter plant and equipment.
- 8.6.6. Appendix 11.3 Construction Assessment for Residential Properties [APP-092] provides a detailed assessment of the potential effects on residential receptors. This found that even with a temporary barrier in place there is a potential for a significant adverse effect as defined by

DMRB at 10 residential properties. In most cases the noise level at the affected properties would be between 75dB and 80dB, but there is a potential for it to be as high as 83dB. In a number of instances, the increase would be in excess of 8dB. The Applicant's updated assessment [REP6-011] identified a further receptor in Sparkford where there was potential for a significant adverse effect, but this would be mitigated by the provision of a noise barrier.

- 8.6.7. The detailed assessment of those parts of the construction operations that could potentially give rise to noise levels above SOAEL suggests that for the most part such operations would be short lived and that levels would only be exceeded for some aspects of the Works. The OEMP [REP7-020] outlines measures to minimise adverse effects on the local community during construction. These would be included within the CEMP.
- 8.6.8. The CEMP would impose restrictions on hours of work, and night-time works would only occur in the circumstances specified in the Construction Strategy at Chapter 2 section 2.6 of the ES [APP-039]. It would also take account of matters such as the type of machinery and the use of barriers to reduce the impact of noise on the surrounding environment.
- 8.6.9. The Addendum ES [OD-010] identified four additional properties that would be subject to noise impacts during the construction period. Due to the proximity of the proposed Works to these dwellings an assessment in accordance with BS5228-1:2009 is necessary in order to ensure that any adverse effects on these dwellings are minimised.
- 8.6.10. Construction noise is likely to exceed the Applicant's SOAEL threshold on occasions even with the proposed mitigation in place. Accordingly, the Proposed Development would conflict with NNNPS and NPSE, both of which seek to avoid SOAEL.
- 8.6.11. The measures outlined in the ES would be secured by the CEMP and the OEMP would assist with minimising these adverse effects. The mitigation measures need to be extended to include the 4 additional dwellings identified in the ES Addendum. Some of the potential effects would be short-lived. Having regard to the proposed mitigation measures, the ExA concludes that although a number of residential receptors would, during construction, experience noise levels in excess of SOAEL as assessed by the Applicant, the effect of the Proposed Development on these residential receptors is acceptable subject to the mitigation measures secured by the CEMP.

The Applicant's Assessment -Operational

- 8.6.12. The Applicant's SOAEL threshold for operational noise during the daytime is taken from the *Noise Insulation (Amendment) Regulations 1988*. This is the level at which noise insulation should be provided to properties rather than a level at which receptors experience a SOAEL as defined by NPSE.

- 8.6.13. The recommendations within the WHO ENG rely on critical health outcomes and strongly recommend that noise from road traffic should be reduced below 53dB Lden. It found that road traffic noise above this level is associated with adverse health effects. The Applicant's SOAEL threshold of 68dB LA10, 18 hr considerably exceeds this level, and the ExA does not consider the Applicant's threshold for daytime noise to be appropriate for the purposes of assessing SOAEL or the significance of any increases in noise.
- 8.6.14. For night time noise the Applicant has used the Interim Target Level of 55dB Lnight, outside from the WHO NNG. However, the interim targets are for countries where the NNG cannot be achieved in the short term for various reasons, and where policy-makers choose to adopt a stepwise approach. In other situations, it recommends a target of 40dB Lnight.
- 8.6.15. For night noise exposure ENG strongly recommend reducing noise levels produced by road traffic during night time below 45dB Lnight. Road traffic noise above this level is associated with adverse effects on sleep.
- 8.6.16. Whilst the ENG do not set thresholds for LOAEL and SOAEL, they provide guidance about the risk from different noise thresholds. Their purpose is to provide recommendations for protecting human health from exposure to environmental noise and to provide policy guidance to Member States. Furthermore, the recommendations are evidence based and are the levels above which there is evidence of adverse health effects and they are source specific.
- 8.6.17. The Applicant states that had the ENG been published before the application had been submitted the LOAEL and SOAEL values would have been unchanged ([REP2-004], Q1.4.1). The ENG provide a robust assessment of evidence of the effects of source specific noise on health. A strong recommendation, as in the case of the values outlined above, is based on the *"confidence that the desirable effects of adherence to the recommendation outweigh the undesirable consequences."* (Executive Summary)
- 8.6.18. The ExA therefore considers that the recommendations within the ENG provide a more robust assessment of SOAEL by comparison with the Noise Insulation Regulations figure used by the Applicant. The Noise Insulation Regulations have a different intent and do not accord with the findings of latest scientific research. The ENG figures would also accord with the principles of NPSE which advises of the Government's intention to keep research on the health effects of long-term exposure to noise under review.
- 8.6.19. Regardless of the SOAEL level used, the ExA does not agree with the Applicant's view that exceeding the SOAEL does not necessarily mean that the increase in noise is significant ([APP-048] paragraph 11.4.30), although it is accepted that within DMRB the significance of an increase in noise relates to the magnitude of the increase rather than a specific value. Where the predicted noise level lies between LOAEL and SOAEL the adverse effects of such noise need to be weighed against the benefits

of sustainable development. Any adverse effects on health and quality of life should be mitigated and minimised in accordance with NPSE paragraph 2.24. However, SOAEL is the level above which significant adverse effects on health and quality of life occur (NPSE paragraph 2.21). The NPSE is clear that such levels should not be exceeded. Exceeding this level is contrary to the first aim of the NPSE. Moreover, the PPG also explains that where levels are already high even a small increase in noise can be significant.

- 8.6.20. The Applicant's assessment is based on AADT. Traffic volumes are significantly higher at weekends and during the summer. In response to a request from the ExA the Applicant submitted a noise model using traffic data for summer peak weekends ([REP5-020] Action point 20)]. This measured both the short term and long-term impact at a number of receptors. Using the summer model, in the short term most receptors would experience an increase in noise in excess of 3dB which is classified as moderate by DMRB. In the long-term assessment a number of the receptors would experience a reduction in noise levels by comparison with the Annual Average Weekday Traffic (AAWT) figure. However, the submitted tables do not include any properties within Sparkford. The Applicant explains that this is because the short-term increase for these properties ranges from 2.0 to 2.2dB. and would therefore be categorised as minor under the DMRB methodology.
- 8.6.21. It is accepted that SOAEL is an average figure and therefore peaks and troughs would be evened out, nevertheless there is potential for noise levels at these properties to increase above SOAEL at these times. These are not isolated events as implied by the Applicant they occur on a weekly basis throughout the year, and more regularly during the summer periods. Should the values arising from their higher traffic volumes exceed SOAEL at residential receptors, in the absence of mitigation, there is a potential for noise during these times to adversely impact on health and quality of life within the surrounding community contrary to the policies within the NNNPS and NPSE.
- 8.6.22. The Applicant's noise and vibration update submitted at D6 [REP6-011] assessed the short-term noise implications of the Proposed Development on the additional planned development identified by SSDC. These developments do not include Long Hazel Park, which the Applicant has previously assessed as a business, however, the intended use of the site is for residential purposes. Long Hazel Park is situated adjacent to the rear of the Burrows and therefore any changes in the noise environment would be likely to be similar. Table 2.1 [REP6-011] assesses the changes in noise levels for these properties to be negligible or minor under DMRB.
- 8.6.23. A Minor adverse effect could include increases in noise levels up to 2.9dB LA_{10, 18h}, indeed, as discussed below, the increase at Long Hazel Park is predicted to be 2.5dB in the short term. Moreover, assessing the change in noise levels does not provide an indication as to whether residential receptors would be subject to a SOAEL.

- 8.6.24. During the operational period the long-term change in predicted noise levels in the vicinity of some of these proposed dwellings would be between 3dB and 5dB [APP-135]. Whilst it is acknowledged that this level of change is minor adverse under the Applicant's methodology, given the already high levels of noise in this location, this does not mean that there would not be a SOAEL. Therefore, it may be necessary to provide mitigation measures in addition to those required under the terms of the planning consent for these dwellings, particularly given that weekend and summer noise levels could be higher than suggested by the 's ES and if the ENG recommendations are taken into account.
- 8.6.25. The ExA considers that during the operational period the Proposed Development is likely to give rise to SOAEL in addition to those identified by the ES. The Proposed Development would therefore fail to accord with NNNPS paragraph 5.195. Consequently, mitigation in addition to that proposed within the Application is necessary. The effects of operational noise could be reduced through the extension of the low noise road surface, eastwards, and the provision of acoustic barriers.
- 8.6.26. In order to avoid noise arising from the Proposed Development giving rise to an adverse effect on health and the quality of life the ExA considers that R15 should be amended to require an assessment of the effect of the Proposed Development on these previously permitted but not yet implemented residential and other developments together with any necessary mitigation taking account of the recommendations of the WHO ENG. The mitigation proposed in relation to existing residential properties should also be reviewed for the same reason. Any necessary additional mitigation beyond that specified within the Application should be provided.
- 8.6.27. The failure to provide mitigation to bring the level of operational noise below an appropriate SOAEL would be contrary to the first aim of the NPSE and paragraphs 4.8.1 and 5.195 of the NNNPS. Moreover, national policy with NNNPS and NPSE require adverse effects on health and quality of life to be mitigated even if they fall below SOAEL.
- 8.6.28. The necessary mitigation measures may include the extension of the low road noise surface, beyond the point planned by the Applicant. This would require Works to the existing A303 for which the Applicant is responsible. It may also be necessary to provide noise attenuating fencing along the boundary to some of the existing and proposed residential properties that adjoin the A303. Such boundary treatment is unlikely to have implications for the ES.

Long Hazel Park

- 8.6.29. In the SoCG [AS-042] Mr Walton and the Applicant agree that the noise figures used are broadly the same, and the difference between them relates to the effect of such noise and whether noise mitigation is required.

- 8.6.30. Long Hazel Park is identified as location LT5 where the readings were 63dB LA10, 18hr dB and 56dB Lnight at the boundary and 59.3dB LA10 18 Hour at the receptor, which the ExA understands to be Mr & Mrs Walton's residence. The Applicant's model predicts that noise at this location would increase by 2.5dB in the short-term and 3.5dB in the long-term [REP2-042 page 3]. Appendices 11.3 to 11.9 show that the increase in noise is predicted to extend from the A303 towards the centre of the site and would give rise to an increase in noise over a large part of the site in excess of 3dB in the long term [APP-130], [APP-131], [APP-132], [APP-133], [APP-134], and [APP-135].
- 8.6.31. The permitted scheme at Long Hazel Park includes lodges closer to the A303 than the modelled receptor. It is likely that noise levels experienced by occupants of the part closest to the road would be subject to greater overall levels of noise. The present levels exceed WHO recommendations. Whilst Mr Walton's intention to use modern lodges with a good standard of insulation may bring the noise levels close to the ENG recommendation within the proposed dwellings, the level of external noise would remain high. Given the location of the external amenity spaces serving these lodges the ExA concludes that measures such as a low noise surface and noise attenuating boundary treatment are likely to be necessary to mitigate the effects of the Proposed Development and ensure satisfactory living conditions for future occupants. These measures would be encompassed by those referred to at 8.6.28 above. Such mitigation would be consistent with the aims of NPSE and NNNPS paragraph 194.

Sparkford Hall

- 8.6.32. The essential difference between Mr March Smith and the Applicant in relation to Sparkford Hall is the effect of wind on traffic noise. Mr March Smith considers that the wind effect would increase noise levels above those suggested by the Applicant's noise model. The parties agree that there are no reliable algorithms to calculate the impact of wind on traffic noise over distance.
- 8.6.33. It is suggested that mitigation be provided by the extension of the low noise road surface along the part of the A303 adjacent to Sparkford Hall. The extension of the earth bund adjacent to Sparkford Hall would provide a further opportunity for mitigation.
- 8.6.34. The Applicant predicts a long-term increase in traffic noise at Sparkford Hall of 1.3dBA. The ExA does not consider that this relatively small increase in noise justifies the mitigation measures sought by Mr March Smith. Notwithstanding this, the additional noise assessment and mitigation measures sought in relation to properties close to Sparkford High Street would be likely to be beneficial to Sparkford Hall.

Vibration

- 8.6.35. In respect of vibration only one property would be materially affected during construction from piling works alone. This property is some 81m from the proposed overbridge. Provided the Works were undertaken in accordance with the CEMP as secured by R3, including notification of when Works were to take place, then the vibration effects would not be significant.
- 8.6.36. Concerning vibration from road traffic, as the Applicant explained, and this is not in dispute, PPV levels are not cumulative in effect. While the number of events may increase, and this may have effects in relation to the noise environment, they would not affect the level of harm caused by vibration of itself. This would apply to all buildings including heritage assets.

8.7. CONCLUSIONS ON NOISE AND VIBRATION

- 8.7.1. Taking all the relevant documents and policies into account the ExA concludes as follows:
- The Applicant's approach to noise assessment is not consistent with NNNPS paragraphs 4.8.1, 5.193 and 5.195;
 - The Applicant's approach to noise assessment does not avoid a SOAEL on residential receptors in accordance with NPSE;
 - The Applicant's noise assessment does not take account of the WHO ENG recommendations;
 - Mitigation does not take account of the variations in traffic flow at evenings or weekends, even though these are frequent and regular occurrences.
 - It is likely that additional noise mitigation measures beyond those identified within the Application may be required in order to avoid significant adverse effects on health and the quality of life.
 - R15 should be amended to ensure that adequate noise mitigation measures are provided and to avoid a significant adverse effect on health.
- Subject to appropriate mitigation as secured in the CEMP the Proposed Development would not result in any significant effects through vibration.
- 8.7.2. The ExA considers that the failure to mitigate any increase in noise emissions above SOAEL, having regard to the ENG should be afforded substantial weight in the overall planning balance.

9. LANDSCAPE AND VISUAL EFFECTS

9.1. INTRODUCTION

9.1.1. This Chapter deals with the effects of the Proposed Development on the landscape and its visual effects. In particular it deals with:

- The effect on landscape character
- The effect on visual receptors

9.1.2. References to visual receptor numbers in this Chapter are taken from those locations identified on ES Figure 7.5 - Visual Receptor Plan [APP-121].

9.2. POLICY

NNNPS

9.2.1. NNNPS paragraphs 5.143 to 5.161 identify the landscape and visual impacts decision-making considerations for the SoS to take into account.

9.2.2. Paragraph 5.149 of the NNNPS notes *"landscape effects depend on the nature of the existing landscape likely to be affected and the nature of the effect likely to occur"*. It continues *"having regard to siting, operational and other relevant constraints, the aim should be to avoid or minimise harm to the landscape, providing reasonable mitigation where possible and appropriate"*.

9.2.3. The Application site lies outside any nationally designated landscapes and is sufficiently distant not to have any effect on such. Similarly, there was nothing in front of the Examination to indicate that this landscape was highly valued locally or protected by a local designation.

9.2.4. Paragraph 5.157 of the NNNPS states in taking decisions, the SoS *"should consider whether the project has been designed carefully, taking account of environmental effects on the landscape and siting, operational and other relevant constraints, to avoid adverse effects on landscape or to minimise harm to the landscape, including by reasonable mitigation"*.

9.2.5. As regards visual impact paragraph 5.158 of the NNNPS indicates the SoS *"will have to judge whether the visual effects on sensitive receptors, such as local residents, and other receptors, such as visitors to the local area, outweigh the benefits of the development"*.

9.2.6. Paragraphs 5.159 to 5.161 of the NNNPS deal with mitigation. It is particularly noted in the first of those paragraphs *"reducing the scale of a project or making changes to its operation can help to avoid or mitigate the visual and landscape effects of a proposed project. However, reducing the scale or otherwise amending the design or changing the operation of a proposed development may result in a significant operational constraint and reduction in function"*.

- 9.2.7. Further, adverse landscape and visual effects may be minimised through appropriate siting of infrastructure, design (including choice of materials), and landscaping schemes, depending on the size and type of the proposed project. Materials and designs for infrastructure should always be given careful consideration.

Framework

- 9.2.8. The Framework, in paragraph 170, indicates that planning decisions should contribute to and enhance the natural and local environment by, inter alia, recognising the intrinsic character and beauty of the countryside. Paragraph 127 seeks decisions that create places that are safe with a high standard of amenity for existing and future users.

Local Plan

- 9.2.9. The Local Plan includes Policy EQ5: Green Infrastructure which states that SSDC promotes the provision of green infrastructure throughout the district, based upon the enhancement of existing areas including public open space, accessible woodland, and river corridors, and by ensuring that development provides open spaces and green corridor links between new and existing green spaces.

9.3. THE APPLICANT'S CASE

- 9.3.1. Chapter 7 of the ES [APP-044] addresses impacts on the landscape. The landscape assessment has been produced in accordance with DMRB Volume 11, Section 3, Part 5: Landscape and Highways England (2010) and Interim Advice Note 135/10 *Landscape and Visual Effects Assessment* and has also been informed by Guidelines for Landscape and Visual Impact Assessment (GLVIA3) published by the Landscape Institute.
- 9.3.2. There are also a number of appendices and figures dealing with matters such as arboricultural issues, the visual baseline and photomontage methodology. During the Examination further documents were submitted which will be referred to in this section.

General Approach

- 9.3.3. As with general professional practice the Applicant has differentiated the effects on landscape character from those on visual receptors.
- 9.3.4. The Applicant established a landscape and visual baseline through a desk study and site survey informed by the Scoping Opinion, it was also informed by Landscape Character Assessments at the regional and local level. A Zone of Theoretical Visibility (ZTV) was created. This took into account survey points 4m above the Proposed Development to simulate the visual effects of construction plant or HGVs.

- 9.3.5. A number of key views were identified, and these were agreed with SSDC. Four of these were presented as photomontages for Years 1 and 15. The locations were chosen on the basis that these were those parts of the study area most likely to experience a significant change in the view in Year 1 and Year 15 or where the view represented a change in an enclosed landscape that would be opened up as a result of the Proposed Development. The photomontages can be seen at [APP-073]. Further photomontages were produced in response to RRs, but these relate predominantly to the effects on archaeology and cultural heritage and are discussed in the Chapter 5.
- 9.3.6. The landscape of the area is described in Chapter 7 of the ES [APP 044], as lying in the Yeovil Scarplands area in NE's National Landscape Character Area. Regionally it sits in Visual Character Region 7 - Central Plain Moors and River Basins, Area 3 Lower Lias Clay Vales, Rivers and Floodplains regional character area as defined in 'The Landscape of South Somerset'. Within the Character Region, the entirety of the Proposed Development sits within the Lower Lias Clay Vales, Rivers and Floodplain Landscape Character zone.
- 9.3.7. SSDC has published a Landscape of South Somerset assessment of landscape character. However, this is at a regional level which the Applicant considered to be not of a sufficient detail for the proper assessment of Proposed Development. It therefore described seven Local Character Areas (LCAs). These LCAs can be seen at Figure 7.4 Landscape Character Areas [APP-120]. Of these, five include the Application site and the remaining two (LCAs 4 and 5) are in close proximity.
- 9.3.8. These are, clockwise from the north:
- LCA1 – West Camel Hill
 - LCA2 – Hazlegrove
 - LCA3 – Sparkford
 - LCA4 – Weston Bampfylde
 - LCA5 – Queen Camel
 - LCA6 – West Camel and Wales
 - LCA7 – Yeovilton
- 9.3.9. The Applicant has identified the following temporary impacts on landscape character:
- The presence of construction plant, materials, machinery, construction compounds and the provision of construction lighting would potentially change the local landscape character for a temporary period.
 - The removal of vegetation, such as from woodland areas where it is required to facilitate the Works, which has the potential to alter the local landscape character within the study area.
- 9.3.10. The following permanent operational effects on landscape character are considered likely by the Applicant:

- Whether the introduction of highway features associated with the Proposed Development would be at odds with the wider landscape character.
- Whether there would be a loss of existing landscape features such as vegetation which would further impact upon the local landscape character.

9.3.11. In respect of visual effects, the Applicant considers temporary impacts to visual receptors during construction are likely to include:

- Clearance of vegetation during construction has the potential to directly alter the visual baseline for visual receptors as a result of the scheme for a temporary period.
- The removal of trees and screening vegetation may result in the opening up of views of the road to nearby visual receptors, including a number of residential properties and PRow users.
- Construction Works have the potential to alter elevated far reaching views, such as from Parrock Hill to the southeast, and from South and North Cadbury.
- Construction Works have the potential to alter views afforded by road users during construction.

9.3.12. Permanent operational visual impacts identified by the Applicant are:

- The removal of existing vegetation, the introduction of a dual carriageway, associated infrastructure, and passing traffic within a predominantly rural setting with sensitive visual receptors has the potential to change views.

9.3.13. Insofar as the original Application included consideration of the effects which have subsequently been deleted, this section of the Report will not consider these further. But conversely, those additional elements within the accepted changes will be assessed.

Landscape effects

Temporary effects

LCA1 – West Camel Hill

9.3.14. Construction would take place in the southern part of this LCA. This would involve the construction of the road itself in a cutting in the undulating landform around Downhead and on an embankment at Camel Hill. The construction of the Steart Hill Overbridge would result in notable vertical elements. There would be a loss of agricultural land to built development.

9.3.15. The Applicant notes (paragraph 7.10.2 of [APP-044]) that haulage routes between Downhead and Hazlegrove would extend further into the LCA and away from the context of the existing A303 corridor. These haulage routes, as well as site compounds, would appear at odds with the

surrounding landscape and would interrupt an abundantly open arable landscape.

- 9.3.16. The Applicant acknowledges in the same paragraph that removal of vegetation would occur through both the corridor of the main proposed development and the haul routes.

LCA2 – Hazlegrove

- 9.3.17. This LCA, while similar in extent to the RPG, does not include that part of the RPG to the east of the existing Sparkford bypass. It also extends further to the northwest and includes an additional field on the western side.
- 9.3.18. The Applicant acknowledges (paragraph 7.10.4 of [APP-044]) *"the construction works associated with the proposed Hazlegrove junction would sever the lower part of the LCA and remove the majority of the characteristic woodland copse. The proposed grade separated junction would create an artificial vertical feature at odds with the gently undulating land, during construction, plant, machinery and the bare slopes would introduce discordant features in the landscape. Night works are likely to be required in this section of the scheme and would present an increase in lighting in a predominantly unlit landscape"*.
- 9.3.19. The Applicant considers (paragraph 7.10.5 of [APP-044]) *"direct effects on the southern section of this LCA would reduce the quality of the parkland landscape and its tranquillity. The severance of the RPG and loss of the woodland copse to the south of the LCA would substantially alter the character of this landscape"*.

LCA3 -Sparkford

- 9.3.20. The Application site only includes a small portion of the LCA along its perimeter. According to the Applicant, due to the embankment on the south side of the existing A303 the proposal would have little effect on the LCA.

LCA4 – Weston Bampfylde

- 9.3.21. This LCA is located to the south and east of the Application site and, so the Applicant contends, would not be materially affected by the Proposed Development.

LCA5 – Queen Camel

- 9.3.22. Again, this LCA is does not include any part of the Application site. Consequently, the Applicant considers that there would be no effects during construction.

LCA6 – West Camel and Wales

- 9.3.23. The, revised, construction compound would fall partially within this LCA and partially within LCA7.
- 9.3.24. The Applicant notes (paragraph 7.10.9 of [APP-044]) the Proposed Development *"would be located predominantly within the rising land in the north of the LCA, where the dualling departs to the south of the existing A303 corridor. Although the majority of the dualling would be north of the LCA there would be expected to be indirect impacts from the Downhead Junction and dualling work in LCA1. The construction of new link roads at Howell Hill and Camel Cross would remove existing field boundaries and vegetation lining local roads to accommodate the scheme. The biggest impact on the LCA would be to the east of Howell Hill where earthworks would be required to the south of the existing A303"*.
- 9.3.25. The Applicant acknowledges (paragraph 7.10.10 of [APP-044]) *"haul routes and site compounds would appear at odds within the landscape context and their elevation would exacerbate the disruption, especially to tranquillity. Field boundaries would be disrupted where vegetation would be removed to allow for haul routes, fragmenting the field pattern characteristic of the area"*.
- 9.3.26. Because of the topography of the area, the effects would be experienced across much of the LCA during construction.

LCA7 – Yeovilton

- 9.3.27. In this section the Proposed Development would comprise widening of the existing A303 within an arable field and the provision of the main compound. The proposed main compound would have a direct effect on the LCA including the presence of the concrete bound granular material batching plan. This, the Applicant acknowledges, would be at odds with the surrounding landscape context (paragraph 5.10.4 of [OD-010]).

Operational effects

LCA1 – West Camel Hill

- 9.3.28. The applicant acknowledges (paragraph 7.10.22 of [APP-044]) *"the proposed Downhead junction would stand out within a landscape absent of large, raised structures. The impacts from the proposed signage ... would be kept within the context of the highway corridor and would make a small contribution to the impact of the scheme where the signage is not contained"*.
- 9.3.29. It is accepted by the Applicant in the same paragraph that proposed planting in Year 1 would have little mitigation effect. However, the Applicant contends that by Year 15 the road corridor would be enclosed by a linear belt of native woodland and hedgerows and that the proposed hedgerow and native tree and shrub planting *"would filter and screen the*

influence of the junction within the landscape, reducing its appearance and effect”.

LCA2 – Hazlegrove

- 9.3.30. The Applicant accepts (paragraph 7.10.24 of [APP-044]) that in Year 1 the native tree and shrub planting on the proposed Hazlegrove junction and the remaining embankments and slopes would offer very little landscape integration. Again, the Applicant contends that by Year 15 established planting *“would be integrated and separate the scheme from affecting the LCA”*.
- 9.3.31. It is noted that the only lighting proposed is to replace the existing lighting at the Hazlegrove roundabout, which is also in LCAs 3 and 4, and for the Hazlegrove Underbridge during daylight hours. The Applicant considers that this would have little effect on the LCA.
- 9.3.32. The Applicant acknowledges (paragraph 7.10.25 of [APP-044]) that notwithstanding the proposed planting to provide a heavily wooded area, the nature of the earthworks to create the Hazlegrove junction would dominate the area. Consequently, this part of the Application site within this LCA would no longer read as being connected to the rest of the LCA.

LCA3 – Sparkford

- 9.3.33. Due to the fact that the majority of the LCA would not be directly impacted by the Proposed Development the Applicant does not expect that characteristic elements of the LCA would be removed or changed as Works would be limited to the existing highways corridor and Hazlegrove Roundabout.

LCA4 – Weston Bampfylde

- 9.3.34. No direct effects are expected by the Applicant on this LCA.

LCA5 – Queen Camel

- 9.3.35. No effects are expected by the Applicant on this LCA.

LCA6 – West Camel and Wales

- 9.3.36. The Applicant acknowledges that proposed embankments and areas cleared during construction would appear greened as proposed seeding Works would have established in Year 1; however proposed planting Works would be whips within tubes. The introduction of embankments and false bunds however, *“would limit the influence of the realigned A303”* (paragraph 7.10.31 of [APP-044]), consequently, as elsewhere the Applicant considers that by Year 1 the mitigation planting will have little effect.
- 9.3.37. However, by Year 15 the Applicant in this referenced paragraph contends that areas of replacement and mitigation planting *“would have*

established to form a linear belt of shrubs and trees containing the A303 road network within a vegetated corridor. New proposed highways signage would be kept within the context of the existing highway corridor and would not be expected to have an increased impact on the LCA”.

LCA7 – Yeovilton

- 9.3.38. Where hedgerows would be removed during construction to accommodate temporary Works they would be reinstated. In Year 1 the Applicant expects these would resemble whips planted in tubes, however by Year 15 these would have established to restore field boundaries and their pattern. The Applicant expects that by Year 15 the proposed planting would have established and created a linear corridor of native trees and shrubs which would contain the A303 road network resulting in a negligible effect (paragraph 5.10.9 of [OD-010].

Visual effects

- 9.3.39. The Applicant identified a number of visual receptors in the baseline study including residential properties, PRoWs, Hazlegrove House RPG, and two long distance footpaths (the Celtic Way and the Leland Trail). The Applicant’s Assessment Methodology is set out in Section 7.4 of [APP-044].
- 9.3.40. As with other aspects of the ES the Applicant has only assessed high sensitivity receptors across the study area and takes the view that due to the high number of these receptors it is not necessary to assess the lower sensitivity receptors which would produce a lower significance of effect for the magnitude of impact. The Applicant’s visual receptor sensitivity to change evaluation criteria are set out in Table 7.3 of Chapter 7 of the ES Landscape [APP-044]. This sets out what the Applicant considers to be receptors of high sensitivity.
- 9.3.41. A total of 25 PRoW were assessed as part of the Proposed Development, six of which would experience significant adverse effects in Year 1 of operation. Of the nine³⁶ residential receptors having significant effects, five would experience moderate adverse effects (including one which is also representative of a PRoW) and the remaining four receptors would experience large adverse effects (two of these are also representative of PRoWs). All the residential receptors affected are within close proximity to the Proposed Development; typically 100m from the Works.

Temporary Effects

- 9.3.42. The largest impacts during the construction phase would be due to the removal of screening vegetation and the presence of construction plant

³⁶ This is eight identified in the original ES and an additional one from the addendum ES submitted with the what became the accepted material change. All numbers in this section are as a result of the accepted material change.

and machinery within the view. Due to the proximity of the Proposed Development, the erection of hoarding or screening fencing would not remove effects to a degree that would further reduce the significance of effect and may have adverse effects of their own.

Public Rights of Way

- 9.3.43. A total of five PRowS would be closed permanently as part of the Proposed Development, with a further four PRowS closed but provided with temporary or permanent substitute provisions. The PRowS to be permanently closed are located where the A303 would either be widened or where new junctions are introduced. Of the remaining PRowS and long distance footpaths remaining, the Applicant considers, following its Assessment Methodology, one would experience a Moderate Adverse effect, six would experience a Large Adverse effect during construction, with one receptor (Key View 38) experiencing a Very Large Adverse effect.

Permanent effects

Residential receptors

- 9.3.44. The Applicant accepts that in Year 1 there would be Moderate Adverse effects on two residential receptors (Wayne's Bar and Bistro bed and breakfast (No 9) and the View from Howell Hill representative of view from Canegore Farm residential receptor (No 19)) due to their close proximity to the Proposed Development and additional mitigation planting would have its own adverse effects. By Year 15, the Applicant asserts, mitigation planting, including plots of trees and shrubs and hedge planting, would mature and help to reduce the visual impact of the Proposed Development on residential receptors and integrate the Proposed Development in the wider environment

Public Rights of Way

- 9.3.45. Again, as mitigation planting would not have matured by Year 1 the Applicant accepts that there would be significant adverse effects for seven receptors. However, the Applicant considers that by Year 15 the magnitude of change would have reduced so that effects would not be significant due to the proposed planting regime.

Responses to concerns

- 9.3.46. In response to SSDC's concerns in Reference L3 of the LIR [REP2-019] that the effect of the environmental barrier on Bund 7 would be particularly harmful the Applicant responded in the SoCG with SSDC [REP8-010] by noting that this would be dealt with pursuant to the Requirements and the decision maker would be in full cognisance of the SSDC comments at that time.
- 9.3.47. Similarly, in respect of SSDC's concerns about the design of the bridges (Reference L6 of the LIR [REP2-019]), the Applicant has responded in the

SoCG with SSDC [REP8-010] by saying that this would be a matter of detailed design for later consideration if the DCO is granted.

Assessed effects

- 9.3.48. The landscape effects are set out in the following table which is a result of combining Table 7.11 in Chapter 7 Landscape of the ES [APP-044] with paragraphs 5.10.2 and 5.10.5 in the ES Addendum [OD-010].

Table 3: Summary of landscape effects during construction and operation

Significance of Effect	LCAs affected during Construction	LCAs affected during operation (Year 1)	LCAs affected during operation (Year 15)
Large Adverse	LCA2		
Moderate Adverse	LCA6	LCA2	
Slight Adverse	LCA1, LCA7	LCA6, LCA7	LCA1, LCA2
Negligible		LCA1	LCA6, LCA7
Neutral	LCA3, LCA4, LCA5	LCA3, LCA4, LCA5	LCA3, LCA4, LCA5

- 9.3.49. The visual effects are set out in the following table which is a result of combining Table 7.12 in ES Chapter 7 [APP-044], Tables 5.1 and 5.2 in the ES Addendum [OD-010], Table B.1 of the Applicant's Responses to the Examining Authority's Additional Written Questions [REP6a-002] and Table 2.1 of the Applicant's Responses to Action Points for D7 [REP7-027].

Table 4: Summary of visual effects during construction and operation

Significance of Effect	Nos of visual receptors affected during construction	Nos of visual receptors affected during operation (Year 1)	Nos of visual receptors affected during operation (Year 15)
Very large adverse	1		
Large adverse	8		
Moderate adverse	8	7	
Slight adverse	17	13	6
Negligible			
Neutral	11	24	26
Slight beneficial			13
N/A	2	1	2

9.4. REQUIREMENTS

- 9.4.1. R4 requires a LEMP to be submitted, approved and followed. This includes a record of all the sensitive environmental features that have the potential to be affected by the construction of the Proposed Development, incorporate the relevant measures detailed in the ES, and include information on the control measures required to mitigate and reduce potential impacts which reflect the mitigation measures included in the ES.
- 9.4.2. R6 and R7 require the approval, implementation and maintenance of a landscaping scheme which, of itself, is to be in accordance with the LEMP. The maintenance is for five years, after which for areas not subject to TP, maintenance would be in accordance with the HEMP secured under R3.
- 9.4.3. R13 requires the approval of detailed design including any necessary structures such as bridges. R16 requires highway lighting to be approved.

9.5. THE POSITION OF IPs

SSDC

- 9.5.1. The LIR [REP2-019] sets out the initial position of SSDC in respects of landscape and visual effects. The SoCG with the Councils [REP8-010] indicated where SSDC agreed with the Applicant's assessment and where they did not agree. As a result of this it can reasonably be concluded that SSDC has amended its position in light of additional information or a change in circumstance. This part of this Report will look primarily at those areas where there was disagreement.
- 9.5.2. SSDC is concerned about the effects from Visual Receptor 38 which is located on Hazlegrove Lane within the RPG³⁷ with particular reference to the environmental barrier (a wooden fence). It considers that this would be an inappropriate feature in this rural area and the mitigation landscaping, even if enhanced as shown on the updated Environmental Masterplan [REP7-030], would not mitigate this harmful effect.
- 9.5.3. SSDC is also concerned about the designs of the bridges on the basis that those shown are supported on abutments rather than slender piers. This introduces a new form of bridge design to the area with substantial elements of concrete facing panels.
- 9.5.4. It is also appropriate to confirm those areas where agreement has been reached between the parties following amendment or alteration during the Examination process.
- 9.5.5. SSDC was concerned about the loss of long distance views to the south from the PRow known as Slate Lane (Restricted Byway Y 27/10) (between Visual Receptors 14 and 17), which it described as "stunning", as this was not originally assessed by the Applicant. The ExA walked along this route as part of USI2 [EV-006]. An assessment was undertaken by the Applicant and submitted at Appendix E of the Deadline 4 Supporting Information [REP4-018].
- 9.5.6. Camel Hill as a whole creates a ridge and Slate Lane is close to the top of that ridge. There is a strong hedgerow along the south side of Slate Lane, but with field entrances which permit expansive views to the north and south. In the context of the Proposed Development it is the views to

³⁷ It should be noted that Visual Receptor 38 is a different location from the location of the photomontages submitted at [APP-124] identified as 'Proposed view looking southwest towards proposed Hazlegrove junction from PRow WN 23/38 (footpath) and Hazlegrove Register [sic] Park and Garden'. The photomontage location is a short distance to the north and is not identified on the Visual Receptor plan. Both locations were visited as part of the ASI [REP4-048].

the south that are of importance. Mitigation landscaping along the northern side of the proposed A303 could have the effect of restricting these long distance views.

- 9.5.7. In response to SSDC's concerns the Applicant submitted a Register of Environmental Actions and Commitments in the OEMP at D7 [REP7-020]³⁸. This includes (Row L5 Table 3.1): *"A review of the landscape design as part of the environmental masterplan to be undertaken to ensure the retention of long distance views from the PRow along Slate Lane looking south. It will be important to ensure that these long-distance views are designed whilst still ensuring that the landscape screening of views to the proposed Downhead Junction are retained. Consultation with South Somerset District Council's Landscape Architect to be undertaken as part of the detailed design when retaining these long-distance views is required"* as a commitment.
- 9.5.8. Following further consideration, SSDC notes that at this point the dualled carriageway would be in a cutting and this might allow for the belt of extensive screen planting between the cutting and Slate Lane to be redesigned (in terms of its extent and species mix for lower plant height) to maintain a gap in the planting without compromising the landscaping and screening of the A303.
- 9.5.9. In response to SSDC's concerns about the assessed effects at Visual Receptor 25 (Wales Bridge) that HGVs and vans would be visible on the horizon above the boundary hedge to the A303 the Applicant undertook a review which is set out within Appendix E of the Deadline 4 Supporting Information [REP4-018]. The Applicant maintained its position and SSDC was content with this reviewed analysis.
- 9.5.10. SSDC was concerned about the assessment of visual effects of the environmental barrier to the south of Visual Receptors 27 and 28 (Camel Hill Farm). In response the Applicant amended the Table 3.1 Register of Environmental Actions and Commitments in the OEMP [REP7-020]³⁹ at Row L5 which commits the Applicant to *"Investigate other means of screening the proposed A303 from Camel Hill farm that would be more in keeping with the rural character, such as a stone-faced bund. Consultation with South Somerset District Council's Landscape Architect to be undertaken as part of the detailed design when designing the visual screening in this location"*.
- 9.5.11. In response SSDC accepted that purpose of the barrier is supported. However, it considered that other means of screening that would be more in keeping with the rural character should be investigated, such as

³⁸ The reference in the SoCG between the Applicant and SSDC [REP8-010] on page 82 is incorrect.

³⁹ The reference in the SoCG between the Applicant and SSDC [REP8-010] on page 86 is incorrect.

a stone-faced bund. This is because the negative impact of a barrier on the rural character is not only important when experienced from the vicinity of Camel Hill Farm, but also for the perception of the area with travellers on the A303.

Natural England

- 9.5.12. The SoCG between the Applicant and NE [REP5-015] records agreement on all matters. In respect of landscape and visual effects it made no substantive comment other than noting that the proposal, through its landscaping, could enhance ecological connectivity.

Other IPs

- 9.5.13. The Parish Councils were of the view that the design resulted in a greater land-take than was necessary and thus would have a greater effect on the landscape and nearby visual receptors.
- 9.5.14. RRs from other IPs did not raise specific concerns, rather commenting that additional landscaping was supported.

9.6. PLANNING ISSUES

- 9.6.1. The main areas in dispute at the end of the Examination in respect of landscape and visual effects relate to:
- The appropriateness of the environmental barrier close to Visual Receptor 38
 - Bridge Design
- 9.6.2. It is also appropriate to look at the effect on landscape and visual effects, since although they are not in dispute these effects would be significant and should be properly taken into account.

9.7. EXA CONSIDERATIONS

Environmental Barrier in vicinity of Viewpoint 38

- 9.7.1. This topic is also discussed in relation to its effect on the RPG in the Chapter 5 of this Report on Archaeology and Cultural Heritage. To a large extent the landscaping issues are similar to those discussed there in that they relate to the appropriateness or otherwise of the barrier in this parkland landscape which forms, to a greater extent, an RPG.
- 9.7.2. The Applicant acknowledges that the construction of the Proposed Development would have a very large adverse effect on this receptor. Most of these effects would be to the south rather than to the east where the environmental barrier would be located. During operation there would be a slight adverse effect from glimpsed views of traffic and HGVs, proposed replacement lighting columns and a proposed sign all of which

would be seen over the proposed bunds and timber fence and thus intrude into the landscape.

9.7.3. As a structure the barrier would have an adverse effect on the landscape from Viewpoint 38. Notwithstanding the soft landscaping which would be introduced to the west and thus in front of the barrier the LCA this would be harmed to a greater extent than if the barrier were a planted bund. However, it is a small section and would only be seen from the PRow (Hazlegrove Lane, WN 23/12 and WN 23/38) along a relatively short section of this route. The proximity of the PRow means that the additional planting would not avoid the effects of the environmental barrier in the longer term.

9.7.4. It should also be noted that at this point the A303 at present is a dual carriageway. Looking towards where the environmental barrier would be is currently looking towards the existing dual carriageway behind a bund which already has a harmful effect. The A303, which already exists, would continue to erode the character of the area and any remaining sense of tranquillity. The change, in the view of the ExA, therefore would only be limited.

Bridge Design

9.7.5. There are two bridges proposed, the Steart Hill Overbridge and the Hazlegrove Underbridge. These are seen in ES Figure 2.5 - Steart Hill Overbridge and Hazlegrove Junction Underbridge General Arrangement [APP-104]. This drawing would not be a certified drawing pursuant to Article 43 of the dDCO and therefore the designs are not finalised.

9.7.6. As part of the discussions at the Examination relating to the nature of the Hazlegrove Underbridge and the separation of the bridleway and of the lighting within it, the Applicant submitted a number of alternative designs. These can be seen in the Applicant's Responses to the Examining Authority's Additional Written Questions ExQ3 3.6.7 [REP6a-002], and in Figures 2.1, 2.2 and 2.3 in the Applicant's Responses to Action Points for Deadline 7 [REP7-027] which show different configurations. While these relate to another aspect of the design it is clear that the design of this structure, at least, is not finalised.

9.7.7. The Applicant is aware of SSDC's concerns as to the current designs of both bridges. There is sufficient information at present to show that any design (including choice of materials) would be given careful consideration in line with NNNPS paragraph 5.160. The decision-maker would have the comments of SSDC on consultation when the final designs were submitted. The ExA is therefore satisfied that SSDC's concerns could be adequately addressed at the detailed design stage under R13.

Parish Councils

- 9.7.8. The PCs are of the view that the Proposed Development would have a greater effect on the landscape than their proposals, predominantly the landscape that forms the Hazlegrove RPG [RR-014]. The weight to be given to the PCs' proposals is discussed elsewhere.
- 9.7.9. While fully appreciating the two-dimensional nature of the drawing submitted by Mr Norman [REP7-053] it is clear that the carriageway proposals would extend less far into LCA2. However, it is not clear what the difference would be in ground coverage since without levels information it is not possible to be reasonably sure of the extent of supporting structures, be that through earth abutments or otherwise.

Other matters

- 9.7.10. All parties agree that the Proposed Development would have significant adverse effects to the landscape of the area and on visual receptors. These should not be underestimated. It should also be noted that there would be some slight beneficial effects for some receptors due to increased screening.
- 9.7.11. There would be effects during the construction period which would be unavoidable throughout the corridor. It is stated that the overall construction period would be around two and a half years, see paragraph 2.6.2 of ES Chapter 2 The Scheme [APP-039]. Because the Applicant has not been willing or able to specify the construction programme it must be assumed that these effects will be over the whole of the corridor for the whole of the period. Certainly, the main compound will likely be in use for the whole period. This would be a notable period rather than being of a transitory nature.
- 9.7.12. However well designed are the individual elements or the landscaping mitigation the Proposed Development would have a transformative effect. As is acknowledged by the Applicant, LCA2 Hazlegrove would be significantly affected on a permanent basis and the southern part of this LCA would no longer recognisably remain part of that LCA, and there also would be slight adverse effects to LCA1 West Camel Hill at the end of Year 15. Those using the PRoW network through the LCA would have a fundamentally different appreciation of the landscape, from a natural environment to a man-made one featuring bunds, steep slopes and with a greater effect from traffic on the A303.
- 9.7.13. During construction there would be significant effects on the LCA6 – West Camel and Wales and LCA7 – Yeovilton, but this would be mitigated in the longer term by planting once operational and when planting has matured.
- 9.7.14. Due to intervening landform the Proposed Development would not have a material effect on LCA3 Sparkford, LCA4 Weston Bampfylde or LCA5 Queen Camel.

- 9.7.15. As NNNPS paragraph 5.149 states the aim should be to avoid or minimise harm to the landscape, providing reasonable mitigation where possible and appropriate. The ExA concludes that due to the nature of the Proposed Development it would not be possible to avoid harm to either the landscape or visual receptors. Subject to detailed design within the parameters set by the outline documents the Proposed Development would minimise harm to the greatest extent possible given the uncertainties that are inevitable. The Proposed Development would therefore be in accordance with paragraph 5.149 of the NNNPS.
- 9.7.16. In respect of the LIR there were outstanding matters between the parties at the close of the Examination, particularly concerning the environmental barrier near to Viewpoint 38 and the design of structures. However, given the constraint of drainage the use of an environmental barrier is reasonable, and the design of structures could be satisfactorily resolved through the detailed design secured in the recommended DCO.

9.8. CONCLUSIONS ON LANDSCAPE AND VISUAL EFFECTS

- 9.8.1. Taking all the relevant documents and policies into account the ExA concludes as follows:
- The Proposed Development would have significant adverse effects on the landscape of the area and on visual receptors which it would not be possible to avoid; this would be both during construction and throughout the operational period even fifteen years after opening;
 - The proposed environmental barrier would harm the immediate landscape in the area close to Hazlegrove Lane, however this harm would be limited in visual corridor, and the proposed additional planting to the north would mitigate the effect (if not completely avoid) the effect over time;
 - The ExA considers that the Proposed Development would therefore be in accordance with paragraph 5.149 of the NNNPS, but notwithstanding that would be harmful to the landscape and visual receptors and the ExA considers that this should be given limited weight
 - The detailed design of the bridges give the opportunity to mitigate the harm;
 - Subject to detailed design, the mitigation would minimise harm to the greatest extent possible.

10. TRAFFIC AND TRANSPORT

10.1. INTRODUCTION

- 10.1.1. This Chapter considers the traffic and transport issues in relation to the Proposed Development.
- 10.1.2. There is a degree of overlap between some of the traffic and transport issues and the socio-economic implications of the Proposed Scheme, particularly in relation to provision for Non-Motorised Users (NMU's). These matters have been addressed in this Chapter, with the residual socio-economic matters addressed in the following Chapter.

10.2. POLICY

NNNPS

- 10.2.1. The NNNPS sets out the Government's vision and strategic objectives for National Networks. These include networks which support and improve journey quality, reliability and safety; as well as join up communities and link them to each other.
- 10.2.2. The Government is committed to bringing about a step change in walking and cycling across the country. It seeks to provide people with a choice of sustainable modes and to make door-to-door journeys by sustainable means an attractive and convenient option. It states that this is essential to reducing carbon emissions from transport. It expects applicants to use reasonable endeavours to address the needs of cyclists and pedestrians in the design of new schemes (paragraphs 3.15, 3.16, 3.17).
- 10.2.3. Paragraph 3.17 of the NNNPS is clear that the Government expects applicants to identify opportunities to invest in infrastructure in locations where the national road network severs communities and acts as a barrier to cycling and walking, by correcting historic problems, retrofitting the latest solutions.
- 10.2.4. Applicants should seek to deliver improvements that reduce community severance and improve accessibility and provide evidence that they have used reasonable endeavours to address any existing severance issues that act as a barrier to NMUs. The NNNPS states "*Where development would worsen accessibility such impacts should be mitigated so far as reasonably possible. There is a very strong expectation that impacts on accessibility for non-motorised users should be mitigated*" (paragraph 5.216).
- 10.2.5. The NNNPS states that applicants "*should undertake an objective assessment of the impact of the proposed development on safety*" and "*put in place arrangements for undertaking the road safety audit process*" (paragraphs 4.61 and 4.62).

- 10.2.6. Paragraph 4.64 of the NNNPS provides further advice on safety. It states *"Applicants will wish to show that they have taken all steps that are reasonably required to:*
- *minimise the risk of death and injury arising from their development;*
 - *contribute to an overall reduction in road casualties;*
 - *contribute to an overall reduction in the number of unplanned incidents; and*
 - *contribute to improvements in road safety for walkers and cyclists."*
- 10.2.7. The Proposed Development lies close to RNAS Yeovilton, one of the busiest military airfields in the UK. In terms of air safety the NNNPS advises that:
- It is essential that the safety of UK aerodromes, aircraft and airspace is not adversely affected by new national networks infrastructure (paragraph 5.47).
 - Where the proposed development may have an effect on civil or military aviation and/or other defence assets, an assessment of potential effects should be carried out (paragraph (5.55).
- 10.2.8. Paragraph 5.59 of the NNNPS states "When making such a judgement in the case of military aerodromes, the Secretary of State should have regard to interests of defence and national security".
- 10.2.9. Paragraphs 4.31.and 4.32 of the NNNPS address the design and resilience of schemes. They state *"Good design will also be one that sustains the improvements to operational efficiency for as many years as is practicable"* and *"The [SoS] needs to be satisfied that national networks infrastructure projects are sustainable and as aesthetically sensitive, durable, adaptable and resilient as they can reasonably be"*.
- 10.2.10. Paragraph 4.66 of the NNNPS states *"the SoS should not grant development consent unless satisfied that all reasonable steps have been taken and will be taken to:*
- *minimise the risk of road casualties arising from the scheme; and*
 - *contribute to an overall improvement in the safety of the Strategic Road Network."*

Framework

- 10.2.11. The policies within the Framework generally reflect the policies within the NNNPS, is so far as they encourage a high-quality environment for pedestrians, easy connections for cyclists and seek to facilitate social interaction between communities.
- 10.2.12. Section 12 addresses the need for good design. Paragraph 124 stresses that good design is a key aspect of sustainable development, together with effective engagement with communities, local planning authorities and other interests.

- 10.2.13. Paragraph 127 states that developments should:
- *"a) function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;" and*
 - *"f) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development".*

10.3. THE CASE FOR THE APPLICANT

Introduction

- 10.3.1. The background to the scheme is described in the Applicant's Case for the Scheme [APP-149].
- 10.3.2. The Applicant considers that the Proposed Scheme would provide a number of benefits to road users, businesses, the local community and tourists. These include:
- relieving traffic congestion on a vital link to the south-west;
 - providing more reliable journey times; improving safety and reducing driver stress;
 - providing safer local access for pedestrians, cyclists and other NMUs;
 - supporting the growth of the local economy and making the south-west more accessible for tourism and businesses; and
 - reducing pollution from queuing traffic, particularly during the busy summer months.
- 10.3.3. The objectives for the scheme are set out in the Case For the Scheme [APP-149]. They include increasing capacity, improving safety, reducing community severance, improving the connectivity of the south west and improving journey time reliability and resilience.

General Approach

- 10.3.4. Traffic and Transport issues are not addressed in a specific Chapter within the ES. The Applicant has addressed them within the ES in:
- Chapter 2: The Proposed Scheme [APP-039];
 - Environmental Statement Addendum Main Text;
 - Chapter 2 The Proposed Scheme [OD-0110];
 - Chapter 3 Assessment of Alternatives [APP-040]
 - Chapter 12 People and Communities [APP-049];
 - Environmental Statement Addendum Main Text;
 - Chapter 8 People and Communities [OD-0110];
 - The Case for the Scheme [APP-149];
 - The Transport Report [APP-150];
 - The Combined Modelling and Appraisal Report [APP-151];
 - The Road Safety Audit [APP-152];
 - Topic Paper: Right of Way Y 30-28 (Eastmead Lane) [REP3-006]; and
 - Topic Paper: Hazlegrove Junction Layout (within [REP2-005]).

The Applicant submitted further information in relation to these matters through its oral submissions at the ISHs and responses to the ExA's written questions.

Policy

- 10.3.5. The Applicant submits that the Proposed Development accords with the NNNPS, including the Government's vision and strategic objectives for the national networks. The Applicant's assessment of how the Proposed Development complies with the NNNPS objectives, including its technical assessment requirements, is provided in appendix 1 of the Case For the Scheme [APP-149].
- 10.3.6. The Applicant considers that the policies within the Framework support the need for the Proposed Development, as they emphasise the Government's requirement to facilitate economic growth and reduce congestion.
- 10.3.7. The Local Plan sets out the long-term vision and strategic context for managing and accommodating growth within South Somerset. Table 7.2 of The Case for the Scheme [APP-149] sets out the conformity of the Proposed Development with the key Local Plan policies.
- 10.3.8. Somerset's Future Transport Plan 2011-2026 sets out a long-term strategy for helping to deliver the transport priorities of the County. The Applicant refers to policies ECN1, SUS 4 and SUS 6. Together these aim to improve the most congested junctions and routes, encourage cycling facilities and maintain and improve the Rights of Way network.
- 10.3.9. The Applicant considers the scheme to be in general conformity with the Plan. It states "*whilst some journey times will increase for NMUs, removing at grade junctions will increase the safety element of these journeys, thereby encouraging greater use of the rights of way. A new right of way is proposed between Bridleway Y 30/28 and Footpath Y27/10 at Downhead, to allow for NMUs to safely travel between Podimore and Downhead.*" [APP-149] paragraphs 7.4.22- 7.4.28.
- 10.3.10. The Applicant considers that the proposal would be consistent with Somerset County Council Rights of Way Improvement Plan ([APP-149] paragraphs.4.44-7.4.47).
- 10.3.11. The Applicant concludes: "*By increasing capacity and removing many of the constraints associated with the existing single carriageway between Sparkford and Ilchester, the scheme meets many of the objectives contained in the transport and economic strategies for the area*". ([APP-149] paragraph 7.4.48).

Parallel Local Road

- 10.3.12. The potential for a parallel local road was reviewed in response to Statutory Consultation feedback. It would require the acquisition of an area of MoD land approximately 5m wide and 100m long. If it could not

be secured by agreement within the required timescale it would represent an unacceptable risk to the project [REP3-003].

- 10.3.13. The Applicant's final position was that the benefits of a parallel road would be at best marginal. Due to the obstacles associated with it was not worth the cost of the scheme. It would also be difficult to achieve the mandatory standards set out in DMRB [REP8-024].

Hazlegrove Junction

- 10.3.14. The Topic Paper [REP2-005] describes the evolution of the junction layout, at Hazlegrove roundabout, including the need to minimise impact at the RPG, and achieve a safe, high quality, grade separated junction.
- 10.3.15. The Applicants' criticism of the alternative arrangement put forward by the Parish Councils are summarised in Section 4.2 of its final position statement [REP8-024].

NMU Routes

- 10.3.16. The changes to NMU routes would include a number of new rights of way the diversion of some existing rights of way and the extinguishment of others. [APP-049 Paragraph 12.9.5].
- 10.3.17. The Applicant considers that due to the low number of NMUs counted in the 2016 NMU surveys [APP-093] a slight adverse effect is predicted during construction for NMUs.
- 10.3.18. Paragraphs 12.0.31 and 12.0.32 of the ES [APP-049] summarise the effect of the modifications on journey time:

"The scheme would require the permanent diversion of all at-grade crossings of the A303 between Hazlegrove and Podimore, to separate NMUs from traffic, and the diversion of several routes. This would result in major increases of greater than 500 metres for 6 journeys, minor increases of 0 – 250 metres for 1 journey and minor decreases of 0 – 250 metres for 3 journeys. A new overbridge to the east of Downhead over the A303 with adjoining NMU facilities, and a new underbridge beneath the A303, primarily for vehicle travellers, but with NMU facilities alongside this road would be provided as part, which would substantially improve safety for NMUs locally, and largely mitigate for any adverse effects relating to journey length increases.

"The scheme would provide a new non-motorised user route between Eastmead Lane just to the east of Podimore and Sparkford, which would also connect to Downhead. The provision of this route is considered to be a significant improvement to the NMU network and could result in increased usage of NMU routes". [APP-049]

- 10.3.19. The Applicant considers that overall, the scheme would have a Slight Beneficial effect on NMUs, when the new to be provided as part of the scheme are weighed in the balance. [APP-049] Table 12.23.

Hazlegrove Underbridge

- 10.3.20. The Proposed Development does not include provision for lighting the underbridge during the hours of darkness. The Applicant acknowledges that: *"The enclosed nature of the underbridge may introduce a brief reduction in comfort and attractiveness although there will be an otherwise high standard of comfort along the overall route. Similarly, the underbridge itself may not be attractive in itself, although it will fulfil the purpose of opening up new routes which are otherwise attractive and enjoyable for the user"*.
- 10.3.21. A cost-benefit analysis undertaken by the Applicant did not show a need for the underbridge to be lit. [REP5-025] question 2.6.6.
- 10.3.22. The Applicant submits that there is no justification for lighting the underbridge. It strongly objects to the inclusion of a Requirement for the underbridge to be lit at night-time. The Applicant states that an underbridge or underpass would not normally be illuminated at night where this is located on an otherwise unlit part of the network. [REP4-020] Paragraphs 2.3.9 to 2.3.10
- 10.3.23. In response to a request from the ExA the Applicant submitted a summary of its position in relation to lighting the underbridge for NMUs. The Applicant concludes: *"there is no justification for the provision of illuminance on the carriageway, that is not compliant with the requirements of BS5489, or that is inconsistent with guidance regarding differential lighting levels and glare given in HSG-38. There is no identified security risk that warrants the provision of a non-standard, sub-optimal lighting system at this location"* [REP7-027] paragraph 2.1.60.
- 10.3.24. The Applicant also states that any lighting within the underbridge may need to be extended beyond it and this could have consequences for the to the RPG and nocturnal protected species that may not have been assessed as part of the ES
- 10.3.25. The Applicant stated that even if the underbridge was solely used by NMUs it would not provide lighting to the underbridge [REP5-025].

Eastmead Lane

- 10.3.26. The Applicant's position in relation to this matter is set out in Topic Paper Right of Way Y 30/28 (Eastmead Lane) [REP3-006] and its Statement of Final Position [REP8-024].
- 10.3.27. The Applicant's view is that there is currently no right of way leading to the southern verge of the A303 and no existing option for NMUs to cross this part of the A303. Therefore, the Applicant should not be expected to remedy this missing link as part of its Proposed Development . Moreover, even if such a right of way did exist, an at-grade crossing of the A303

from north to south is considered unsafe and uncomfortable due to the width of the carriageway and speed of traffic.

- 10.3.28. The Applicant has considered the alternative route proposed by SCC, SSDC and SSBA [RR-040], [RR-041] and [RR-026] respectively. However, it considers that the impacts from the Proposed Development would be mitigated through the provision of a new west-east bridleway from the southern end of Eastmead Lane towards Downhead. Nevertheless, the Applicant is investigating whether funding could be made available for the upgrade of the Higher Farm Lane Bridge outside of the DCO process.

Safety

- 10.3.29. The Transport Report assesses the safety implications of the Proposed Development ([APP-150] Section 9). The Applicant submits that the scheme would provide safety benefits through shifting traffic flows from poorer quality links and junctions, to higher quality and therefore safer, links and junctions.

Journey time improvements/Capacity

- 10.3.30. The Transport Report ([APP-150] Section 7) modelled traffic flows in future years using the Do-Minimum scenario (without the scheme) and the Do-Something scenario (with the scheme) on the basis of Annual Average Daily Traffic (AADT). In the Do-Minimum scenario the AADT flows on the A303 carriageway are forecast to increase to 36,300 in 2038. This is approximately a 55% increase from 2015. With the scheme, the A303 traffic flows are expected to increase to 43,600 in 2038 (an 86% increase). The scheme is likely to cause some re-routing from the M4/M5 and A31/A35 routes to the A303 ([APP-150] paragraphs 7.1.2-7.1.3).
- 10.3.31. Under the Do-Minimum scenarios the B3151 - A303 junction will considerably exceed capacity by 2038. Under the Do-Something Scenario the Podimore Roundabout will exceed the desirable the Ratio to Flow Capacity (RFC) by 2038 to a limited extent ([APP-150] Tables 7.1-7.3). The Applicant anticipates that the higher summer traffic flows could be mitigated by adjusting the traffic signal timings at Podimore Roundabout.
- 10.3.32. With the Scheme there would be an increase in the RFC or Degree of Saturation (DoS) at Sparkford High Street – The Avenue and the West Camel Crossroads. This is because there would be no changes made to these junctions with the implementation of the Proposed Development and the higher flows mean a higher degree of saturation. Combined Modelling and Appraisal (COMMA) Report ([APP-151] Tables 12.16-12.18).
- 10.3.33. The A303 from Sparkford to Ilchester forms part of the journey time route from Ilminster to Mere. In the eastbound direction (direction A in Table 8.1 of the Transport Report [APP-150]), the average savings

provided by the Scheme compared to the DoMinimum scenario during the three weekday time periods would be 02:12 (mm:ss) in 2023 and 02:33 (mm:ss) in 2038. In the summer, the savings would be 05:14 (mm:ss) in 2023 and 03:58 (mm:ss) in 2038. In the westbound direction (direction B), the scheme would save an average of 01:32 (mm:ss) in 2023 and 02:16 (mm:ss) in 2038, while in the summer, the savings would be 03:17 (mm:ss) in 2023 and 04:00 (mm:ss) in 2038. These figures are set out in Tabular form below.

Table 5 Savings in journey times (minutes and seconds)

Direction		Average		Summer	
Year	2023	2038	2023	2038	
A – Ilminster to Mere (eastbound)	2:12	2:33	5:14	3:58	
B – Mere to Ilminster (westbound)	1:32	2:16	3:17	4:00	

- 10.3.34. Traffic management measures during construction could result in delays to journey time and lead to increased driver frustration. The presence of construction plant, road closures and diversions would also temporarily increase driver stress experienced by vehicle travellers (ES Chapter 12 [APP-049]).
- 10.3.35. The provision of a high quality free-flowing dual carriageway between Sparkford and Podimore and permanent speed limit increase would significantly reduce driver frustration, whilst the removal of at-grade NMU crossings would reduce the fear of potential accidents. Overall there would be a large beneficial effect on driver stress ([APP-049] Paragraph 12.10.39).

Local Traffic Impacts /Traffic Calming

- 10.3.36. The majority of the local road network would experience a decrease in traffic as a consequence of the scheme. The exceptions to this would be some roads in West Camel and Sparkford High Street where there would be 43% and 37% increases respectively. [APP-150] Transport Report paragraph 7.1.4
- 10.3.37. The Applicant does not believe traffic calming to be necessary because the scheme and the associated additional traffic would not cause any significant impacts in terms of the performance of the nearby junctions; air quality; noise levels; or the rate of accidents. [REP8-024] paragraph 5.4.8. The Applicant also submitted a detailed assessment of the need for traffic calming [REP8-024] Appendix 8. This was submitted at D8,

therefore neither the ExA, nor IPs had the opportunity to test this part of the Applicant's submission.

10.4. THE POSITION FOR IPs

SCC and SSDC

Traffic impacts on local communities

- 10.4.1. SCC considers that whilst the COMMA Report [APP-151] provides details of the predicted increases in traffic within Queen Camel, West Camel and Sparkford, the impacts of these increases have not been fully assessed. SCC submits that traffic-calming and other mitigation measures should be explored and considered by the ExA, and a mechanism established to secure such mitigation. In addition, SCC is concerned about the impact of large volumes of traffic, including HGVs, travelling through Queen Camel and other communities, where the roads are not designed for such a purpose. It requests that this matter is addressed in the Traffic Management Plan [REP2-019], T9 & T10, EC15, SoCG [REP8-010].

Podimore Roundabout

- 10.4.2. Table 12.18 of the COMMA Report [APP-151] suggests that the Podimore Roundabout is nearing capacity in the evening peak hour. A further assessment was carried out to establish the impact of the summer traffic on the junction. The results are set out in the Podimore Roundabout Summer LinSig Analysis Technical Note (HE551507-MMSJV-MTR-000-RP-TR-0035).
- 10.4.3. SCC considers that interim mitigation measures are necessary until such times as an upgrade as part of a wider scheme could be delivered. The Applicant in its response to Action Point 8 [REP7-027] has provided a note on the active management of Podimore Roundabout which SCC accepts [SoCG REP8-010].

NMUs

- 10.4.4. The surveys for assessing the usage of the PRow network did not cover full daylight hours, or weekend days, therefore the results of NMu surveys is not entirely representative of the actual use. [REP2-019, P1]
- 10.4.5. The Traffic Management Plan does not consider the off-road highway network. The need for temporary closure and temporary alternatives for those public rights of way that will be affected during the construction phase will need to be considered in full, alongside the temporary road closures.

Eastmead Lane

- 10.4.6. SCC considers that the Applicant's proposed mitigation, for stopping up the connection of Y 30/28 with the A303, whilst beneficial to the overall network, does not provide adequate mitigation. The proposed route is

about 5.2km in length. SCC's alternative route would involve a connecting bridleway and the upgrading of public footpath Y 30/UN to bridleway status. This would reduce the diversion to about 1.5km.

- 10.4.7. The adverse effect of this increase in journey length is not reflected in Table 12.23 of ES Chapter 12. This categorises the impact of the changes to this route as 'neutral' due to the low level of use ES Chapter 12 [APP-049].
- 10.4.8. NNNPS is clear that applicants are expected to take appropriate mitigation measures to address adverse effects on Public Rights of Way LIR [REP2-019] P4. SCC consider in order to mitigate for the loss of the Y 30/28 terminus the alternative route proposed should be provided by way of a planning obligation.
- 10.4.9. SCC considers the failure to provide a more convenient link is also highway safety issue. Some NMU's are likely to try and cross the A303 rather than undertake the 5.6 km alternative route proposed by the Applicant. [ISH5]

Traits Lane/Gason Lane

- 10.4.10. The impact of the non-material change for horse riders and cyclists is a significant diversion in excess of 2km, or over 4km for a 'there and back' ride, on single track roads with poor sight lines. Further discussions and negotiations with the MoD and other stakeholders should take place to secure the original intention, namely the provision of a bridleway between Traits Lane and Gason Lane.
- 10.4.11. SCC considers that if discussions with the MoD have not taken place before the close of the Examination, the MoD would still be able to dedicate higher rights at a later date. The recommendation by the ExA to the Secretary of State should bear this in mind [REP7-035].

Applications to amend the DMS

- 10.4.12. SCC has received two applications for upgrades/additions of public rights to the Definitive Map & Statement that are impacted upon by the development. These have not yet been investigated and SCC seeks a mechanism within the DCO to provide a detailed legally binding commitment of how these additional rights, if found to exist, will be appropriately mitigated [REP2-019] P6.

Detailed Design Matters/Layout Issues

- 10.4.13. SCC raised a number of detailed design matters. These are set out in the LIR at P9 and T1. Whilst SCC accepts that many of these matters relate to the detailed design of the Proposed Scheme, there is a difference between the parties in relation to the level of approval. This issue is discussed at Chapter 16. The SoCG sets out the position at the close of the Examination [REP8-010].

Traffic Management Plan

- 10.4.14. Details for the management of traffic during construction are not yet clear though the proposed formation of a Traffic Management Working Group in 2019 and the provisions of Articles 15, 16 and 19 of the dDCO and R11 are noted regarding implementation of temporary traffic regulatory measures and approval of the Traffic Management Plan. [REP8-10]
- 10.4.15. Until the Applicant submits detailed construction traffic management proposals, it is difficult to determine the effects. The Applicant has accepted that it would assist traffic flow if the A359 through Queen Camel were subject to traffic control in light of the number of narrow sections of carriageway with priority to oncoming traffic. The community could be significantly impacted by the diversion route, but no mitigation has been offered.
- 10.4.16. SSDC is concerned about the impacts of any diversionary routes on surrounding settlements, especially around Wales and West Camel, during the construction of the Proposed Development. Large volumes of traffic, including HGVs travelling through these communities, where the roads are not designed for such a purpose, creates significant concern. [REP2-019 T4, SoCG REP8-010]

Parish Councils & Mr Bryan Norman

General

- 10.4.17. Queen Camel, Sparkford and West Camel Parish Councils made submissions as to the impact of the Proposed Development on their individual Parishes, they also made a joint submission, supported by additional evidence from Mr Bryan Norman, in relation to traffic and transport matters. Where identical comments were made by more than one party not all references to these comments have been provided.
- 10.4.18. The PCs jointly submitted plans, prepared by Fairhurst Consulting and Civil Engineers, to show how their concerns with the current proposal could be addressed and an alternative arrangement for the Hazlegrove Junction [REP2-027 pages 59-61].
- 10.4.19. The PCs state: "*Fairhurst were appointed by the collective Parish Councils to provide general technical advice and prepare indicative drawings for their alternative scheme. The advice was focused on providing high level reviews of the alternative scheme to ensure compliance with the standards set out in the Design Manual for Roads and Bridges*". [REP3-008]
- 10.4.20. The submitted plans do not represent a fully worked up scheme, but they were prepared by a professional consulting and civil engineering practice using the Parish Councils' limited funds. Although the Applicant referred to these plans as a 'sketch layout', the ExA considers that they are more properly described as indicative drawings.

- 10.4.21. The PCs support the principle of the scheme and agree that it could potentially be of great benefit to their communities, South Somerset and the wider South West. Notwithstanding this, they submit that there are three elements in the proposals which are detrimental to both general A303 users and local communities, fail to represent 'value for money' to the UK taxpayer, and would cause unnecessary environmental damage in both the short and the long term. These elements are:
- The impact on local roads of congestion on the A303, especially during the construction phase;
 - The proposed design of Hazlegrove Junction;
 - The retention of (mainly) the carriageway of the existing A303 as a local road running parallel to the new dual carriageway.
- 10.4.22. The PCs state that they have sought to work constructively with the Applicant and their Consulting Design Engineers but consider the Applicant has been inflexible from very early on in the design process. [REP6-018]
- 10.4.23. The PCs' suggested improvements to the Hazlegrove junction and retention of the parallel road at the beginning of the consultation process. Many of their recommendations featured in previous A303 designs and they are unaware of any changes in road design requirements which might have invalidated them. [REP2-051].

Impact on Local Roads and Traffic Mitigation

- 10.4.24. It is anticipated that throughout the construction period there will be high levels of driver frustration due to congestion caused by slow-moving traffic, particularly during peak periods. The ES does not acknowledge how this congestion and frustration will impact on the local communities.
- 10.4.25. There are existing issues with the local highway network. These include Blackwell Lane, which is often grid-locked; congestion at Queen Camel High Street and Sparkford Hill due to heavy traffic; and heavy traffic on West Camel Road and the High Street which causes safety concerns and exposes school children and their families to high levels of environmental pollution. The Parish Councils state that:
- 10.4.26. At present these problems occur mainly at times of peak traffic flow, notably at weekends and holiday times (especially through the summer), or when there has been a Road Traffic Accident (RTA). However, the 40mph speed limit proposed during construction would likely lead to congestion for much of the day most days throughout the 2½ years of the construction phase, with grave effects on the quality of life of local residents. [REP2-051]
- 10.4.27. The PCs also consider that there is a need for traffic calming to address the effects of the scheme on:
- Speeding traffic and rat-running through Sparkford High Street at peak times, including weekends and holiday periods.

- The additional traffic using the unclassified roads of West Camel.
- The accident black-spot at the cross roads in West Camel. [REP4-020]

10.4.28. The PCs are concerned at the lack of detail in the Applicant's Outline Traffic Management Plan, and request that the DCO secures the necessary mitigation for these parishes. [REP4-040]

Hazlegrove Junction

10.4.29. The unorthodox design and layout of the proposed Hazlegrove junction will have a negative environmental impact on local communities, destroy far more of the Hazlegrove RPG than necessary, and would increase the length of journeys to and from Hazlegrove School. The design would involve a 1.12 km detour for Hazlegrove School users and a 0.82km detour for East on-slip users. Furthermore, conflicts at the right turn to the East on-slip will cause grid lock at peak hours. [REP2-027]

10.4.30. Although the Road Safety Audit [APP-152 4.9.9] found traffic flows to be low, due to the school these figures drastically increase at peak hours, where approximately 600 vehicles meet 280 travelling in the opposite direction. This would lead to vehicles backing up on to Sparkford roundabout within 10 minutes. [REP4-024]

Parallel Road

10.4.31. The PC's view is that that the ES fails to give serious consideration to the advantages of retaining the carriageway of the existing A303 as a parallel road for the use of local traffic. [REP2-051]. This is wholly inconsistent with similar HE schemes in the South West (A30 at Bodmin) where retention of the old road is seen as a priority [REP5-034].

10.4.32. The PCs consider that a 'parallel road' would:

- Reduce the need for speed limits and road closures during construction, resulting in less congestion on the A303 and local roads.
- Reduce the cost and the duration of construction.
- Enable heavy farm traffic to access Traits Lane and Eyewell Farm from the north (as currently), keeping it off narrow Blackwell Lane, and obviating the need to alter and enlarge the Traits Lane - Blackwell Lane junction.
- Keep Traits Lane, Gason Lane and the spur road past the Shell Filling Station as through roads. Under the existing proposals they would all become 'dead-ends', attracting fly-tipping and anti-social behaviour.
- Safeguard the future of current A303 businesses which depend of passing trade like the Shell Filling Station, Mattia Diner, West Camel bakery and Wayne's Bistro.
- Add spare capacity alongside the dual carriageway; this would give the A303 greater resilience and improve access for emergency vehicles in the event of an RTA.

- 'Future proof' the local road network when the A303 becomes an Expressway⁴⁰ from which slow moving (including agricultural) vehicles are excluded. [REP2-051]

- 10.4.33. The PCs disagree that there is insufficient width between the Camel Hill SM and MoD land on Camel Hill to accommodate a parallel road [REP2-027] and [REP4-024].
- 10.4.34. The proposal involves a substantial diversion for users of WN 23/10 and WN 23/14 wishing to connect with the network to the north of the existing A303. The proposed underbridge could pose a danger for horses due to the long diagonal tunnel next to very busy traffic with a concrete wall on the other side. [REP2-027]

South Somerset Bridleways Association & British Horse Society (SSBA)

- 10.4.35. NMU routes should be available to all vulnerable road users, walkers, cyclists and equestrians. Dedicating NMU routes as restricted byways offers best value for public funds. Diversions where crossings have been closed should be of a reasonable length. Equestrians need safe off-road places to ride and drive their horses; as well as greater provision for their safety when they have to ride on the road, given the ever increasing volume and speed of motorised traffic. [REP4-039]

The Hazlegrove Roundabout

- 10.4.36. Horse-riders and carriage drivers will need to share the carriageway with motorised traffic and cross both the eastbound and the westbound off ramps because they are excluded from the footway/cycleway in verge at the Hazlegrove Roundabout.
- 10.4.37. A Pegasus crossing is needed at the junction of the A359 from Queen Camel with the Hazlegrove roundabout for safety reasons (see [REP4-036] and [REP7-047]).

Traits Lane/Gason Lane

- 10.4.38. The absence of a bridleway at this location would involve a 2.3km diversion on roads rather than the 0.3km route along the MoD land. This will also mean that riders from the stables at Camel Hill will have to ride over 6.25km to reach the PRow network.
- 10.4.39. The Applicant states that they are not at liberty to discuss their communications with the MoD, but that the reasons the MoD gave, at a very late stage, to only allow footpath rather than bridleway status, is for

⁴⁰ An extract from the Road Investment Strategy, given at Appendix A of the Funding Statement [APP 021], [AS-009]/[AS-010], indicates "*this long term programme will transform this route into an Expressway to the South West*".

security reasons. SSBA state that it is difficult to understand why horse riders pose a security threat that walkers do not. [REP6-020]

Eastmead Lane

- 10.4.40. Bridleway Y 30/29 was negotiated in 1996 and shown on the maps for years. It is now going to be revoked without consultation. It had always been assumed that the Higher Farm Lane road bridge carried public vehicular rights as suggested by the speed limit and dead-end signage.
- 10.4.41. There is a DMMO application to upgrade Eastmead Lane from a bridleway to a restricted byway (see Appendix D to the LIR [REP2-019]). Eastmead Lane joins two restricted byways and has all the characteristics of a Restricted Byway. SSBA consider that the new route between Higher Farm Lane and Eastmead Lane, should be of restricted byway status.
- 10.4.42. The land parcels connecting Higher Farm Lane with Eastmead Lane (1/1a, 1/2a, 1/3a and 1/3d (see Lands Plan [REP7-002])) are to be acquired and kept on a permanent basis by the Applicant. Therefore, they would have the power to dedicate restricted byway rights along the maintenance track (track 1) between Higher Farm Lane and Eastmead Lane.

Underbridge

- 10.4.43. The proposed underbridge would be shared with vehicular traffic. Due to its length, it would be daunting for many. Some sort of physical barrier, with noise deadening properties is essential.
- 10.4.44. SSBA state that if the Applicant intends to satisfy the policy within NNNPS of keeping communities connected, it should consider the scope to add a safe connecting route between Queen Camel and South Barrow. DMMO applications for this have already been submitted.

Defence Infrastructure Organisation

- 10.4.45. The Proposed Development occupies the birdstrike and technical statutory safeguarding zones surrounding RNAS Yeovilton and the birdstrike statutory safeguarding zone surrounding Yeovil Airfield. The MoD is concerned that the proposed ponds would potentially increase the risk of birdstrike to military aircraft operating around RNAS Yeovilton and Yeovil Airfield [RR-033].
- 10.4.46. The DIO provided details of the flight paths for aircraft using RNAS Yeovilton and explained that the ponds 1 to 3 would be located beneath the approach into runway 22 and beneath the runway 04 take off climb. It is concerned that the proposed ponds would increase the attractiveness of the site to existing flocking bird species are deemed hazardous to aircraft safety especially when in critical stages of flight.
- 10.4.47. The DIO preference is for the ponds to be predominantly dry and for the basins to dry down within 72 hours. It also recommended that bird

attractants could be designed out using the following principles through ensuring that the banks to the ponds are as steep as possible :

- 10.4.48. Pond bank sides to be as steep as possible, the use of planting to ensure that there is no visible open water and that a Bird Hazard Management Plan is put in place for both the construction and operational phases [REP8-036].
- 10.4.49. The final SoCG between the Applicant and the DIO states that the DIO would only be able to remove its concerns once formal pond designs are submitted for safeguarding analysis [REP8-011].

Other IPs

- 10.4.50. A number of other IPs made submissions to the Examination in respect of traffic and transport matters. These include Allan Keith Tingey, Phil Gamble, James March Smith, and Cllr Mike Lewis. The main points arising from these submissions are set out below.
- 10.4.51. A number of IPs advocated the provision of a parallel road, for similar reasons to those given by the Parish Councils [RR-024], [RR-023], [REP2-032], [REP2-046], [REP4-023], [REP4-033], [REP4-041], [REP6-026] and [REP6-024]. Linked to this was the view of some parties that the Downhead and Camel Cross junctions should be deleted and Podimore link road provided [RR-024], [REP1-016] and [REP2-032].
- 10.4.52. There was also support for the simplification of the Hazlegrove interchange [RR-024], [RR-021], and concern that the Proposed Development fails to address major issues of safety or resilience of the route [RR-023]. In addition, IPs raised concerns about the traffic implications of the Proposed Development both during the construction period [RR-037] and once operational. Some IPs considered that the existing issues with traffic diverting off the A303 within Wales [REP3-028, RR-022] would be exacerbated and that the layout of the Hazlegrove Junction layout would adversely affect traffic to and from Hazlegrove School [RR-08]. There were also concerns about the impact of the scheme of NMU routes [RR-027], [REP2-024] and [RR-036],

10.5. EXA CONSIDERATIONS

General

- 10.5.1. The issues include:
- Local Traffic Impacts;
 - Provision for Non-Motorised Users, including horse riders and carriage drivers;
 - The effect of the scheme on safety, including the risk of birdstrike at RNAS Yeovilton;
 - The case for a parallel road;
 - The layout of the Hazlegrove roundabout; and

- The operational effects of the scheme in terms of junction capacity, congestion and journey time benefits.

- 10.5.1. The Applicant used AADT to model the predicted changes in traffic flows. It explains that the model used is based on March, a neutral month [REP4-018] AP7. These figures are comparable with the October figures. However, they do not reflect the significantly higher traffic on Fridays and during the summer months. The summer model is included in the COMMA Report [APP-149].
- 10.5.2. For the year 2015 traffic flows on Fridays in October were approximately 32% higher by comparison with the Monday – Thursday average, and approximately 24% higher than average Monday - Friday in October (AADT). Traffic flows for summer months were higher for all days of the week, especially Fridays. The AADT figure for March is 24,000, whereas the Friday figure for August was 34,000 [APP-151 Table 2.1]. For this reason, a summer weekend model was also created (COMMA Report [APP-149])
- 10.5.3. The ExA acknowledges that DMRB generally uses AADT figures for the purposes of assessments. However, due to the characteristics of the traffic using this part of the A303 the higher weekend and summer traffic flows should be taken into account when assessing some impacts of the Proposed Scheme.

Local traffic impacts

- 10.5.4. At a local level the Proposed Development would give rise to increases in traffic at some locations, including Sparkford High Street and West Camel. Whilst SCC and SSDC do not dispute the modelled figures, they consider that significance of the increase has not been assessed ([REP2-019] Assessment of Impacts T9 and T10, EC13).

Sparkford

- 10.5.5. The COMMA Report [APP-151] establishes that traffic along Sparkford High Street would increase by about 37%, from 4,900 in the 2038 Do-Minimum scenario to 6,700 in the 2038 Do-Something scenario [APP-151 Table 12.8]. This increase is based on AADT. Evidence from the Parish Councils and IPs suggest that flows are noticeably higher during the summer and at weekends (see traffic flow information in response to ExQ2 2.7.8 at [REP5-034], but it is unclear whether traffic within Sparkford would increase at these times to a similar extent to the A303. Should there be a proportionate increase the number of vehicles could exceed 8,000 at weekends in neutral months such as March and October.
- 10.5.6. Sparkford Parish Council is concerned that the speed and volume of traffic, which may include additional HGV's, would impact on the ability of local residents to cross the road safely, and could potentially have an adverse effect on parking and accidents. There are a number of recently permitted developments in the immediate vicinity of Sparkford High Street [REP4-037] that will use Sparkford High Street for access and

egress. Due to the mix of dwellings proposed there is also likely to be a noticeable increase in the number of children using Sparkford High Street. The Parish Councils also submit that the assumptions made by the Applicant do not accord with driver behaviour ([REP2-034] paragraphs 1.7.13 and 1.7.14) and therefore the amount of traffic diverting through the villages is greater than assumed by the Applicant's traffic models.

- 10.5.7. At the time of the ExA's ASI, during the day time, there was a steady stream of traffic, including some larger commercial vehicles using the High Street. A number of these travelled at speed, and caution needed to be exercised when crossing the road.
- 10.5.8. The dDCO does not include provision for monitoring traffic or traffic calming in Sparkford. The Applicant's view is that traffic calming and monitoring is unnecessary since the Proposed Development would not cause any significant impacts in terms of the performance of the nearby junctions; air quality; noise levels; or the rate of accidents [REP6a-022], [REP7-027] Action Point 11.
- 10.5.9. As a consequence of the Proposed Development there would be a substantial increase in the number of vehicles using Sparkford High Street ([APP-150] paragraph 7.1.4, Figure 12.8 of the COMMA Report [APP-151]). This increase could have the potential to adversely affect Sparkford High Street. However, there is insufficient evidence to conclude that the increase in traffic would necessitate additional traffic calming within Sparkford High Street. Notwithstanding this, there is clearly a potential for harm arising from the substantial increase in traffic and in the light of the submissions from the PCs and other IPs to the effect that the Applicant's transport model does not accurately reflect driver behaviour.

West Camel

- 10.5.10. Traffic within West Camel would increase under the Do-Something scenario a by comparison with the Do-Minimum scenario ([APP-151] 12.2.6-12.2.7). In the absence of the Proposed Development traffic would decrease by comparison with the base year due to the difficulties associated with using the junctions on the A303 with Howell Hill and Plowage Lane. Accordingly, with the Proposed Development traffic figures would only increase by about 300 vehicles per day.
- 10.5.11. The Transport Report [APP-150] noted two accidents at the Parsonage Road/West Camel Road crossroads. More recent figures from SCC recorded 7 accidents in the 5-year period 2014-2018 [REP4-035], Anecdotal evidence from the Parish Council and IPs indicate that many accidents are not recorded.
- 10.5.12. West Camel PC advise that the village experiences significant traffic problems at present, due to the narrow roads and the use of the village as a preferred commuting route [REP2-043]. Based on the Applicant's AADT figures ([APP 150] paragraph 7.1.4) the number of additional

vehicles travelling through West Camel would be modest compared to other locations, but the increase would still be significant given the narrow rural roads that characterise West Camel. Moreover, the number of vehicles could increase significantly during the weekend and summer peaks, and potentially at times when the A303 is subject to delays or closed due to accidents.

- 10.5.13. The Applicant's view is that traffic calming and monitoring is unnecessary since the Proposed Development would not cause any significant impacts in terms of the performance of the nearby junctions; air quality; noise levels; or the rate of accidents [REP6a-022], [REP7-027] Action Point 11.
- 10.5.14. It is evident that there are existing road safety issues within West Camel, particularly at the crossroads which are located at the heart of the village. Due to the narrow single-track nature of some of the roads within the settlement, even the small number of additional vehicles predicted could have a significant effect.
- 10.5.15. The ExA concludes that notwithstanding the existing traffic issues in West Camel, the increase in traffic arising from the Proposed Development has the potential to exacerbate existing problems and adversely affect West Camel.

Queen Camel

- 10.5.16. The effects of traffic during construction would be addressed in the Traffic Management Plan. The PCs and SCC are concerned that there is insufficient detail at the present time to be confident that any adverse effects are mitigated as far as practical. The mechanism for consultation and approval of the Traffic Management Plan in relation to consultation with the local community are discussed in Chapter 11.

Conclusion on Local Traffic Impacts

- 10.5.17. The LIR recommends that mitigation, such as traffic calming, is provided at Sparkford High Street and West Camel. There are uncertainties as to the potential impact of the predicted increase in traffic and the effects of driver behaviour. The ExA concludes that since the significance of the increase in traffic through these communities has not been assessed there is a potential need for mitigation. On the basis of the available evidence it is unclear whether the Proposed Development will give rise to a need for mitigation.
- 10.5.18. The ExA therefore considers that following the completion of the Proposed Development there should be a period of monitoring to establish whether mitigation is required, and any mitigation should then be provided at the Applicant's expense.
- 10.5.19. Different mitigation measures may be required in each settlement, however, they are likely to include traffic calming measures, such as chicanes, alterations to traffic light phasing and perhaps changes to road surface materials. Such Works would be within the public highway and

therefore the ExA does not consider that there is an impediment to the delivery of these measures.

The ExA considers this to be a balanced approach in that mitigation would only be provided if it were shown that there was a need for it. In the absence of mitigation measures identified by monitoring there would be an adverse effect on the local communities of Sparkford and West Camel. These effects may include increased traffic congestion and road safety issues. For this reason, the ExA recommends that an additional Requirement is included in the Applicant's preferred DCO.

NMU Routes

- 10.5.20. The Proposed Development includes the permanent diversion of all at-grade crossings of the A303 between Hazlegrove and Podimore. This involves the stopping up or diverting of a number of existing NMU routes and the creation of new rights of way.
- 10.5.21. The Applicant has assessed the effects of the proposed changes on each NMU route and concludes that overall the scheme is predicted to result in a slight beneficial effect on NMUs. ([APP-049] paragraph 12.10.33).
- 10.5.22. The Applicant's assessment methodology is set out in the ES ([APP-049] paragraphs 12.4.4 and 12.4.32). It involves a combination of DMRB guidance and professional judgement.
- 10.5.23. The assessment methodology had regard to journey length and quality, as well as the results of the NMU surveys [APP-093]. As pointed out in the LIR [REP2-019] the surveys excluded evening and weekend use, thus, they are likely to have significantly unrecorded of the use of the various NMU routes within the locality of the scheme. Furthermore, the area surrounding the Proposed Development is lightly populated, and even if the overall numbers using the routes is low, the importance of such routes to the local community could nonetheless be significant.
- 10.5.24. The ExA also considers that there are some inconsistencies between the Applicant's assessment ([APP-049] Table 12.23) and methodology. One example of this is the Slow Court to Downhead journey where there would be a 2100m increase in journey length. Based on Table 12.4 [APP-049] such an increase in journey length would be assessed as a major adverse impact, but the Applicant has weighed the perceived safety benefits and the potential for increased usage of the PRoW and determined this change to have a neutral impact. Whilst the improvement of new NMU facilities can amount to a major beneficial effect, in this instance having regard to the additional journey length, the ExA is doubtful that such a change can realistically be described as neutral even allowing for variations in professional judgement. For this reason the weight to be attributed to the Applicant's assessment is limited.

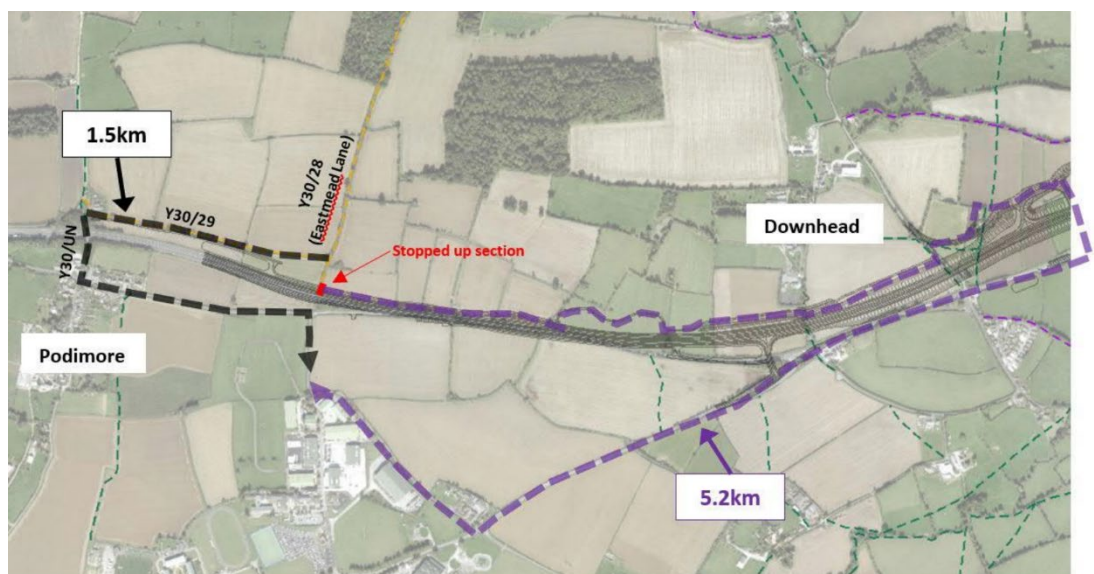
- 10.5.25. The ExA has concerns with specific NMU routes. These include the Eastmead Lane connection, the Traits Lane/Gason Lane link and the Hazlegrove Underbridge.

Eastmead Lane (Y 30/28)

- 10.5.26. It is proposed that the Right of Way Y 30/28 (also known as Eastmead Lane) is stopped up over a distance of 27m northwards from its junction with the existing A303.
- 10.5.27. The Applicant's proposed mitigation for stopping up Y 30/28 is the provision of a new NMU route from Eastmead Lane to Sparkford via Downhead. Before considering the appropriateness of the mitigation it is necessary to consider the status of Y 30/29, a bridleway that potentially connects Y 30/28 to public footpath Y 30/UN (Higher Farm Lane).
- 10.5.28. Y 30/29 was authorised as part of the Side Roads Order.
- 10.5.29. The SRO [REP7-040] came into effect on 7 November 1996. Amongst other matters it authorised the provision of a bridleway connecting Eastmead Lane with Higher Farm Lane. Article 4 of the Side Roads Order states: *"Each new highway, except those referred to in Article 3, should be transferred to Somerset County Council as highway authority with effect from the date on which the Secretary of State notifies them that it has been completed and is open for traffic"*.
- 10.5.30. The 1996 scheme did not proceed to construction and no evidence was submitted to the Examination to suggest that SCC was notified that any part of the 1996 scheme was complete and open to traffic.
- 10.5.31. At ISH5 the ExA requested a joint note from the parties in relation to the outstanding Right of Way legacy issue. SCC submitted a note outlining its latest position at D7 [REP7-035 Action 6]. This stated: *"Further to ISHs 5-7, legal advice has been obtained, which advises that in principle the rights of way so extinguished and created by the 1996 Side Road Order (SRO), save for the trunk road, took effect in 1996. The order was made, and advertised in accordance with the relevant legislation, and to the best of our knowledge without further challenge. It is assumed that all the administrative processes were correctly followed."*
- 10.5.32. Although the Applicant acknowledges the uncertainty in relation to Y 30/29 [REP4-20] paragraph 2.3.4, it did not update its position in respect of this matter during the course of the Examination.
- 10.5.33. In the absence of any evidence to suggest that SCC was notified by the SoS that bridleway Y 30/29 was complete and open to traffic, the ExA concludes that the bridleway was not delivered as part of the 1996 Side Roads Order. The ExA notes that Y 30/29 is shown on the Council's online mapping, but this has no legal status. It is the Definitive Map & Statement (DMS) together with all subsequent valid confirmed orders that are conclusive evidence of what public rights of way exist.

- 10.5.34. SCC also gave consideration as to whether Y 30/29 could be deemed to be a highway by virtue of section 31 of the Highways Act 1980. It concluded that: *"It is not known what use there has been of the routes of Y 30/29 and Y 27/29, and whether any use would constitute sufficient evidence to add the route to the DMS as a result of use over a period of 20 years."* [REP4-035] paragraph 1.9
- 10.5.35. The ExA therefore concludes that bridleway Y 30/29 has no legal status. Accordingly, there is no connection for walkers, horse-riders or cyclists via Y 30/31 between Podimore and Y 30/28.
- 10.5.36. The route proposed by the Applicant would involve a journey of about 5.2km for those wishing to cross the A303 at this point (over 10km for a return journey). The alternative proposed by SCC, SSDC and SSBA would follow bridleway Y 30/29 until it reached Y 30/UN at Higher Farm Lane, where the existing Higher Farm Lane Bridge could be used to cross the A303 into the village of Podimore. This diversion would be about 1.5km in length. It would also require Y 30/UN (Higher Farm Lane and Bridge) to be upgraded from footpath to bridleway status. The two diversion routes are shown in Figure 3.

Figure 3: Alternative routes to replace stopping up of southern end of Eastmead Lane (Y 30/28)⁴¹



- 10.5.37. Whilst a diversion in excess of 5km may not be excessive for a motorised user, it is likely to take someone walking 45 to 60 minutes each way. The failure to provide a suitable and convenient crossing for someone just wishing to get to the other side of the road would be likely to encourage people to use their cars. This would be contrary to the Government's aim

⁴¹ Figure 4.1 from Topic Paper: Right of Way Y30/28 (Eastmead Lane) [REP3-006]

of providing people with sustainable transport choices by attractive and convenient routes.

- 10.5.38. The Applicant submits that due to the road markings and width of the carriageway there is not a north-south crossing at this location at present, and that it should not be expected to remedy this missing link as part of its DCO scheme. The ExA accepts that crossing the A303 in this location is not ideal in terms of safety. Nevertheless, there are no physical barriers, and the hatching in the centre of the road is likely to be seen by some NMU's as a refuge, allowing the road to be crossed in two stages. SCC submitted details of a suggested route for crossing the A303 [REP4-035]. The ExA acknowledges that the number of NMUs using this route is likely to be low due to the speed and flow of traffic, but states that since it is an existing route it should be mitigated. Therefore the ExA disagrees that the road cannot be crossed at this point, and indeed, the ExA crossed the A303 at this point during USI2. Views of the bridge from the northern approach and from the eastbound A303 can be seen in Figures 4 and 5.

Figure 4: Higher Farm Overbridge from north side approach⁴²



⁴² Image: Google streetview taken October 2009

Figure 5: Higher Farm Overbridge from eastbound A303⁴³



- 10.5.39. The implementation of the Proposed Development would introduce an additional lane of traffic and a physical barrier, and this would deter most people from crossing. However, given the extent of the diversion proposed by the Applicant, the ExA considers that there would inevitably be some NMUs who would attempt to cross at this location, and this would have serious consequences for road safety.
- 10.5.40. It is acknowledged that mitigation as suggested by IPs would require alterations to the Higher Farm Lane bridge. However, there would appear to be no practical impediment to such Works. Despite its designation as a footpath the bridge has the appearance of a minor local road due to its width and tarmacked surface. Although the bridge lies outside of the red line boundary it is located adjacent to it and close to land the Applicant is seeking to permanently acquire.
- 10.5.41. The ExA disagrees that a westerly connection is not required as mitigation for the scheme. The Proposed Development would effectively sever the community. This would be at odds with the policies within the NNNPS, which seeks to reduce community severance and improve accessibility. In particular paragraph 5.184 which requires the convenience of any revisions to existing rights of way to be taken into account, the proposed Moreover, paragraph 5.205 states that Applicants are expected to provide evidence that they have used reasonable endeavours to address any existing severance issues that act as a barrier to NMUs.
- 10.5.42. In the LIR [REP2-19 issue P4], SCC suggest that the amendments to the bridge could be secured by way of planning obligation. The ExA is

⁴³ Image: Google streetview taken September 2016

satisfied that such an obligation would meet the statutory tests, but the Applicant's position is that such mitigation is not required.

- 10.5.43. There are two elements of mitigation in relation required in order to provide a west-bound route. The first would be an amendment to the Applicant's preferred DCO to include to provision of a bridleway in the location of Y30/29. This would effectively re-instate the bridleway provided by the 1996 Side Roads Order. The Rights of Way and Access Plans show Y 30/29 lying just outside of the red line boundary, but parallel to a strip of land the Applicant seeks compulsorily acquire. Accordingly, if there were any legal impediments to the provision of the bridleway in its current location, the ExA considers it could be provided within the red line boundary.
- 10.5.44. In order to provide the second part of the suggested mitigation there would need to be an assessment of Higher Farm Lane bridge to ascertain the feasibility of providing a suitable barrier for equestrians. It would also be likely to require the closure of the A303 whilst the Works are implemented. There would be some risk that requiring the upgrade of footpath Y 30/UN to be provided prior to the stopping up of Eastmead Lane could delay the implementation of the Proposed Development. The ExA consider this to be a low to medium risk.
- 10.5.45. The Applicant's Topic Paper [REP3-006] states that it is willing to consider the upgrade to the Higher Farm Bridge outside of the DCO process and is investigating whether funding could be made available. Whilst this could provide an alternative mechanism outside of the DCO process, there is no certainty that such funding would be forthcoming. Moreover, the ExA considers that the improvements are necessary to mitigate the effects of the Proposed Development and therefore should not be reliant on discretionary funding that lies outside of the DCO process. In the absence of a crossing point, suitable for NMUs at the western end of this part of the A303 the Proposed Development would fail to mitigate the harm arising from the termination of Y 30/28 and would not accord with the policies within the NNNPS which has "*a very strong expectation that impacts on accessibility for non-motorised users should be mitigated*" (paragraph 5.216) or address the concerns raised by SCC in the LIR.
- 10.5.46. The ExA therefore recommends an additional Requirement be included in the Applicant's preferred DCO to ensure that adequate mitigation is provided. As an alternative the SoS may wish to give consideration to a planning obligation to secure the necessary mitigation.
- 10.5.47. There is an additional matter between the parties as to the legacy issues arising from the partial revocation of the Side Roads Order as set out in Schedule 3, Part 10 of the dDCO. This matter is addressed in Chapter 16, however, since the ExA has found that the Side Roads Order was not implemented these legacy issues would not arise.

Traits Lane/Gason Lane

- 10.5.48. The Application proposes the stopping up of Traits Lane and Gason Lane on the south side of the A303. As a consequence, neither pedestrians, nor horse riders would be able to cross the proposed road at this point. As submitted, the Application proposed the diversion of footpaths WN 23/33, WN 23/32, and WN 23/12 on the north side of the existing A303, and WN 23/10. It also included a footpath and bridleway link between Traits Lane and Gason Lane. Together these would have provided a continuous bridleway link along the southern side of the proposed road. The proposed underbridge would have provided crossing facilities for NMUs. Whilst this would have been a lengthy diversion of about 2km it would limit the extent of the severance arising from the Proposed Development.
- 10.5.49. The non-material change deleted the southernmost PRow between Traits Lane and Gason Lane. The remaining PRow across MoD land is proposed to be dedicated as a footpath only. At D7 the Applicant submitted changes to the dDCO [REP7-013] and the BoR [REP7-018] and Land Plans [REP7-002]. These deleted the proposed southern PRow and changed the status of the remaining PRow to a footpath
- 10.5.50. As a result of this change there would be no connection between the proposed bridleway to the west side of Traits Lane and the east side of Gason Lane. Therefore horse-riders would have a lengthy diversion along Traits Lane, Blackwell Lane and Gason Lane [REP6-020].
- 10.5.51. The downgrading of the link between Traits Lane and Gason Lane to a footpath would mean that no mitigation has been provided for horse-riders and others that are currently able to use the A303 at grade crossing. The alternative for these users would be a much longer route in some instances and for others a disconnection with the PRow network.
- 10.5.52. The effect of this change is not assessed within the ES Chapter 12 [APP-049], therefore the overall balance in terms of the effect of the proposal on NMUs does not reflect the application in its current form. The ExA concludes that the application in its amended form fails to mitigate the effects of the proposal. The Proposed Development would sever the existing PRow network and fail to provide suitable and convenient mitigation contrary to paragraphs 5.184 and 5.205 of the NNNPS.
- 10.5.53. The ExA considers that as a minimum an alternative route linking Traits Lane and Gason Lane open to all NMUs should be provided. In order to fully mitigate the effect of the Proposed Development at this important NMU crossing point and accord with NNNPS an alternative means of crossing the A303 at this point is necessary.
- 10.5.54. The provision of an alternative route linking Traits Lane would require either the acquisition of the land immediately adjacent the proposed diversion, or permission from the MoD to use the proposed diversion as a bridleway as well. The former would involve land that now lies outside of the red line boundary and could involve acquisition beyond that shown on

the Land Plans and the BoR. The ExA considers that it would be simpler to seek permission from the MoD to extend the use of the proposed footpath as a bridleway. Accordingly, the SoS may wish to discuss this matter with the MoD. Should the MoD agree to a bridleway in this location it would be likely to be a non-material change and the implications of it have already been assessed within the ES. The funding to deliver a bridleway in this location was included in the original funding for the Proposed Development.

- 10.5.55. No evidence was submitted indicate the reasons why the MoD would not allow use of its land as a bridleway. SSBA and the Parish Councils requested that this matter be pursued with the MoD due to the impact of the loss of a bridleway on such users.
- 10.5.56. If it were not possible to resolve this issue through either of the above means, the ExA considers that the Applicant should seek an alternative means of providing this link.
- 10.5.57. The ExA therefore recommends that an additional Requirement should be included within the DCO to ensure that alternative provision is made for horse-riders and other NMUs who currently cross this part of the A303.

Hazlegrove Underbridge

- 10.5.58. The importance of the underbridge to the NMU network is explained in the ES Chapter 12 [APP-049]. It would provide the primary crossing point for NMUs towards the eastern end of the Proposed Development. The Applicant relies on the benefits of the underbridge in its assessment of the effect of the proposal on NMU routes. It is described as much safer than the existing facilities and the benefits of it are weighed in the overall balance.
- 10.5.59. The underbridge would be of a considerable length with long concrete abutments at either end. It is proposed that it would be used for motorised and non-motorised traffic and only lit during the daytime. During the Examination the ExA questioned the safety implications of not providing lighting during the hours of darkness during ISH1 and the Applicant was asked further questions were asked ExA2 2.6.6 and 2.6.7 [PD-014].
- 10.5.60. No specific security assessment of the underbridge or its approaches has been undertaken with respect to the provision of lighting for the NMU route. [REP4-020]. Without careful design there is the potential that it could create a hostile environment for NMUs even during the daytime when it is lit. During the hours of darkness it would be likely to add to the severance caused by the scheme.
- 10.5.61. One of the key roles of artificial lighting is to keep people safe and prevent accidents. It enables pedestrians to discern obstacles or other hazards in their path and be aware of the movements of other pedestrians, friendly or otherwise, who may be in close proximity. The ExA considers that in the absence of lighting the underbridge would not

provide an attractive route for NMUs. Consequently, it would fail to accord with paragraph 5.184 of NNNPS.

- 10.5.62. DMRB recognises the importance of good design for underpasses and advises that they should be lit. It states: *"Wide approaches, subway alignments with good through visibility, and good lighting, all within the view of passing pedestrians and passing traffic, will help to minimise pedestrians' fears for their personal safety. Subways and their accesses should be designed to avoid places of concealment in the interests of personal security."*⁴⁴
- 10.5.63. It continues: *"Personal safety can be a significant issue in underpasses, and it is recommended that they are lit to an acceptable level to reduce the perceived risk (subject to environmental impact)."*⁴⁵
- 10.5.64. The Applicant acknowledges that the comfort of the route would be limited by the enclosed nature of the underbridge which may amplify traffic noise. However, for the reasons given at paragraphs 10.3.20 to 10.3.25 of this Report the Applicant resists the provision of lighting during the hours of darkness.
- 10.5.65. The ExA is not persuaded by the Applicant's reasons for not lighting the underbridge in hours of darkness. The cost-benefit analysis referred to by the Applicant assessed lighting to the roundabout and associated slip roads. It does not support the Applicant's position in relation to lighting the underbridge. [REP5-025].
- 10.5.66. The Applicant considers that such a relatively localised section of illumination may introduce an unnecessary change in lighting levels for drivers and may actually attract antisocial behaviour [REP4-020]. The Applicant also suggests that it may be necessary to extend any lighting beyond the underbridge and this could have consequences for RPG and nocturnal protected species.
- 10.5.67. Notwithstanding the information submitted by the Applicant at D7 ([REP7-027] Action point 9)], the ExA considers it should be possible using modern lighting methods to design a lighting scheme that would provide a safe and attractive environment for pedestrians whilst avoiding any unnecessary light spill that would give rise to an unacceptable risk to motorised users. If for reasons of safety it was found to be necessary to extend the lighting beyond the underbridge the ExA considers that a full assessment of the minimum extent of any pedestrian lighting to the underpass should be provided, including any environmental impacts it may have. The ExA requested such an assessment during the

⁴⁴ Volume 6 Section 3 Chapter 2 Part 1 TD 36/93 paragraph 2.5

⁴⁵ DMRB Volume 5 Section 2 Part 4 TA 91/05 paragraph 6.56

Examination, but it was not forthcoming (ExQ2 2.6.7 at [PD-014] response at [REP5-025]).

- 10.5.68. The ExA also requested examples of other NMU underbridges of a similar length to that proposed that are unlit at night time. The Applicant declined to provide any examples.
- 10.5.69. The Applicant's D7 submission [REP7-027] referred to the guidance in BS 5489-1:2013: Code of Practice for the Design of Road Lighting Part 1: Lighting of Roads and Public Amenity Areas. Read as a whole, BS 5489 recognises the importance of lighting for pedestrian safety. Paragraph 4.1 states: *"It can allow pedestrians to see hazards, orientate themselves, recognize other pedestrians and feel more secure. It also has a wider social role, with the potential of helping to reduce crime and the fear of crime."*
- 10.5.70. Similar advice is found throughout BS 5489 including at paragraphs 4.2, 4.2.2, 4.2.3 and 7.2.5. Paragraph 7.4.1 provides guidance on lighting subways and lists the factors to be taken into account, including the length of the subway and visibility of the exit when entering.
- 10.5.71. The ExA does not consider that BS 5489 lends support to the Applicant's position in respect of lighting the underbridge. There is no substantive evidence to support the Applicant's view that it is not usual for an underbridge or underpass to be illuminated at night where it is located on an otherwise unlit part of the network. The Applicant's D7 Submission suggests that lighting in this location would also be inconsistent with guidance within HSG-38. The reasons for the Applicant's reliance on HSG 38 (Health and Safety at Work) is unclear, since this does not relate to pedestrians.
- 10.5.72. As acknowledged by the Applicant in its response to the ExA written questions [REP5-025], the decision to provide lighting should be based on specific circumstances. In this instance it would be the primary crossing point for a number of NMU routes and lighting is necessary to ensure that NMUs feel safe when using a route that will generally be less convenient than the one it seeks to mitigate.
- 10.5.73. The failure to light the underbridge for the benefit of NMUs is inconsistent with the advice in DMRB and BS 5489. The proposed underbridge would be used for the diversion of five NMU routes. In many cases it would add a significant additional length to such journeys. Due to this additional journey length, together with the lack of attractiveness due to noise and the enclosed nature of the underbridge, the failure to provide night-time lighting would be a significant deterrent for many NMUs. It would almost certainly deter anyone wishing to walk with children to and from school or nursery during the winter months. A consequence of this is that some NMUs may attempt to cross the new carriageway despite the acknowledged safety risk. Others may revert to the use of their cars.

10.5.74. Paragraph 4.66 of the NNNPS states that: *"The Secretary of State should not grant development consent unless satisfied that all reasonable steps have been taken and will be taken to:*

- *minimise the risk of road casualties arising from the scheme; and*
- *contribute to an overall improvement in the safety of the Strategic Road Network."*

10.5.75. The ExA considers that night-time lighting represents a reasonable step that is essential to minimise the risk of road casualties and improve road safety and therefore recommends a change to the DCO to this effect. In the absence of such mitigation, the proposal would also fail to accord with paragraphs 3.15 and 5.184 both of which seek to ensure attractive and convenient routes for NMUs.

Other NMU Matters

10.5.76. The Proposed Development has the potential to provide an alternative safer route between Sparkford Hall, and Sparkford High Street. The existing A303 dual carriageway dissects PRow WN 27/16. The A303 runs in a cutting, and although there is a crossing point, access is by way of very steep steps on either side of the road with a pedestrian refuge chicane in the central reservation crash barrier.

10.5.77. The ExA appreciates that this crossing lies just outside of the red line boundary, but it links both sides of Sparkford and provides access to an extensive PRow network. The provision of a footbridge in this location would restore the link between these two parts of Sparkford and would provide a convenient and comfortable NMU link between the PRow network on both sides of the carriageway. It would also enhance the links between the businesses on both sides of the road, whereby guests at Sparkford Hall use the services and facilities within Sparkford Village. It would also accord with paragraph 3.17 of the NNNPS which states that:

"The Government also expects applicants to identify opportunities to invest in infrastructure in locations where the national road network severs communities and acts as a barrier to cycling and walking, by correcting historic problems, retrofitting the latest solutions and ensuring that it is easy and safe for cyclists to use junctions."

10.5.78. The Applicant confirmed that the Steart Hill overbridge would include provision for horse riders due to conflicting details on the submitted plans (see paragraph 4.1.1 of The Applicant's Written Submissions of Oral Case at Second Round of Hearings [REP7-028]). The bridleway is provided for at Schedule 3 Part 1 of the DCO.

Safety

10.5.79. The removal of some of the crossing points on the A303 would be likely to be beneficial in terms of safety, however, any such benefits must be balanced against any adverse effects on safety.

- 10.5.80. As explained above, the proposal would increase severance within the local communities, providing much longer routes, especially if a return journey is proposed. Due to the substantial increases in journey lengths it is probable that some NMUs would be likely to cross at desired locations rather than follow the NMu routes proposed by the Applicant. In addition, the proposed underbridge would create an intimidating pedestrian environment.
- 10.5.81. The ES outlines the safety benefits, but the ExA has concerns with the robustness of the assessment since it does not take account of convenience, attractiveness or comfort of these routes for NMUs.
- 10.5.82. The accident data submitted by SCC [REP4-035] shows that there are clear road traffic issues within the surrounding area, particularly at the West Camel crossroads where 8 accidents with 21 casualties were recorded over a five year period. The proposal is likely to increase traffic at this location and in the absence of mitigation would be likely to exacerbate the existing safety problems.
- 10.5.83. The Applicant's position is that by 2038 (the design year) the Proposed Development would only give rise to 300 additional vehicles per day by comparison with the base year [REP8-024]. However, in the Do-Minimum scenario traffic levels within West Camel are predicted to decrease. Therefore, there would be 600 additional vehicles per day as a consequence of the Proposed Development. Whilst the overall number of vehicles would remain relatively low, due to the existing safety issues at West Camel, in the absence of mitigation even this modest increase could potentially have an adverse effect on highway safety. Moreover, the safety benefits that would be likely to arise due to the reduction in traffic through West Camel would not be realised which would have otherwise occurred without the Proposed Development'
- 10.5.84. SSBA raised specific concerns regarding safety at the Hazlegrove roundabout [REP7-047]. There would appear to be no good reason for the exclusion of horse-riders from the proposed footpath/cycle track in the verge. Given the clear safety benefits of permitting horse-riders to use this track, the ExA recommends that the designation of this route should be amended.
- 10.5.85. Whilst the Applicant strongly asserted that Pegasus crossings are not justified at Hazlegrove roundabout or Plowage Lane, there was no objective evidence to support this view. At Hazlegrove roundabout riders would need to pass the on and off slips roads to the Proposed Development. Pegasus crossings at this location would provide a significant safety improvement in accordance with paragraphs 4.64 and 4.66 of the NNNPS. particularly at the Hazlegrove roundabout where it would allow riders to cross the A359 safely and would accord with NNNPS policies. A change to the preferred DCO this effect is therefore recommended.
- 10.5.86. At Plowage Lane where equestrians would need to cross the old A303 the ExA considers that the traffic flows are likely to be markedly lower than

at present and is not persuaded that a Pegasus crossing is justified for reasons of safety at this location.

- 10.5.87. The ExA concludes that the proposals would not be in accordance with the NNNPS paragraph 4.64 in that it would not contribute to an overall reduction in road casualties within the locality and would fail to contribute to improvements in road safety for walkers, cyclists and other NMU users.
- 10.5.88. It is recommended that the Applicant's preferred DCO be amended to include provision for a bridleway as part of the footway/cycleway in the verge at the Hazlegrove Roundabout. In addition, it is recommended that an additional Requirement is included for the provision of a Pegasus Crossing at the roundabout.

Birdstrike

- 10.5.89. RNAS Yeovilton is one of the Navy's two principal air bases, and one of the busiest military airfields in the UK. The DIO raised concerns about the potential for birdstrike at the time of RR [RR-033]. The ExA asked the Applicant and the DIO a number of written questions. (ExQ3 3.0.5 in [PD-018], [PD-020] and [PD-024])
- 10.5.90. NNNPS paragraph 5.55 requires "*where a proposed development may have an effect on civil or military aviation and/or other defence assets, an assessment of potential effects should be carried out*". This matter was not addressed in the ES. The SoCG describes the consultation and discussions between the parties [REP8-011] took place in the context of the SoCG.
- 10.5.91. The proposed ponds vary in size with the longest being about 210m long. Due to their size and depth the proposed ponds would have the potential to attract birds hazardous to aircraft. They would all lie within the 13km safeguarding zone. The DIO has particular concerns, with ponds 2 and 3 which lie very close to the airfield.
- 10.5.92. The ExA shares the concerns of the DIO regarding the potential for birdstrike. Should a birdstrike incident occur the consequences could be extremely serious given the proximity of the runways to the heavily trafficked A303.
- 10.5.93. The Applicant submitted a birdstrike analysis as part of its D4 draft SoCG with the DIO [REP4-010], although this did not form part of the final SoCG between the parties. It submits that the types of birds that cause air strike problems are not common within the locality, and that due to the depth of the permanent water would not pose a serious hazard. The DIO's final position as set out in the SoCG is that whilst there are some design measures that could reduce the risk of birdstrike it would only be able to remove its concerns once formal pond designs are submitted for safeguarding analysis [REP8-011].

- 10.5.94. Paragraph 5.47 of the NNNPS states that it is *"essential that the safety of UK aerodromes, aircraft and airspace is not adversely affected by new national networks infrastructure"*. Whilst paragraph 5.59 states that: *"The Secretary of State should be satisfied that effects on civil and military aviation and other defence assets have been addressed by the applicant and that any necessary assessment of the proposal on aviation or defence interests has been carried out"*.
- 10.5.95. The Applicant suggests that this matter could be resolved at the detailed design stage through the use of clusters of smaller ponds or marginal planting (SoCG between the Applicant and the DIO [REP8-011]).
- 10.5.96. The DIO suggestion that the ponds could be predominantly dry and dry down within 72 hours following a period of rain would not be consistent with the drainage strategy for the Proposed Development. Paragraph 8.2.2 of the Drainage Strategy Report explains that *"attenuation is achieved by allowing large inflows but limiting the outflow. Treatment is achieved by allowing the sediments to settle out prior to discharge."* [APP-060]. In addition, the strategy provides for a permanent pool of water to allow to protect against re-suspension of fine deposited sediments. The volume of the permanent pool is the primary design factor for treatment efficiency. Accordingly, the DIO's suggestion would require a fundamental change to the Drainage Strategy and would not be consistent with the strategy assessed within the ES.
- 10.5.97. Such an approach would also be difficult to ensure in the event of a prolonged period of bad weather. The alternative approach, namely to ensure that the ponds would have step sides and be densely planted raises different issues.
- 10.5.98. The gently sloping sides proposed would provide an Aquatic Bench, and this forms part of the Drainage Strategy. This feature, as set out at paragraph 8.2.2 of the Drainage Strategy [APP-060] would act as a biological filter and also allow for planting and maintenance. The feasibility of planting the ponds in their entirety to provide year-round cover together with the changes to the profile of the pond has not been assessed and may have implications for the overall capacity of the ponds. Therefore a revised Drainage Strategy would be required.
- 10.5.99. Providing steep sides to the ponds would also have implications for biodiversity, both in terms of wildlife and marginal planting. Therefore the Proposed Development would not deliver all of the biodiversity benefits outlined in the ES. For this reason, the effect of the Proposed Development on biodiversity would need to be re-assessed as part of a revised ES and any disbenefits weighed in the overall balance.
- 10.5.100. Some of the ponds would be located very close to the carriageway and/or proposed PRow. This could have safety implications for both motorised and non-motorised users. Once dualled, the A303 would have a 70 mph speed limit. Should a motorised user leave the carriageway as the result of an accident, a steep sided pond is likely to have much more severe consequences by comparison with the gently sloping sides proposed.

- 10.5.101. In addition, if NMUs or those responsible for maintaining the ponds were to slip or fall into the ponds there could also be serious consequences. It may be possible to provide a suitable safety barrier, but the practicality of this has not been assessed and it would also have implications for the landscape and visual effects of the Proposed Development. Therefore providing steep sides to the proposed ponds would need to be subject to a RSA in terms of the implications for motorised and non-motorised users given the proximity of the ponds to the carriageway and the extent to which a barrier would mitigate such risk. The ExA therefore considers that revising the ponds in the manner suggested by the DIO would require significant changes to the Proposed Development in areas that have not been examined and would fail to accord with the ES. They would also require changes to the Drainage Strategy and would need to be assessed as part of a RSA. For these reasons the ExA does not consider that the suggested revisions could be the subject of an additional Requirement to the Applicant's preferred DCO.
- 10.5.102. The ExA disagrees with the Applicant's position, namely that the changes to the ponds are a matter of detailed design. Any changes to the configuration of the ponds in the manner suggested by the Applicant would need to provide sufficient evidence as to their ability to accommodate the necessary volume of water and that this could be discharged at an appropriate rate, as well as resolve the concerns of the DIO.

Conclusion on Birdstrike

- 10.5.103. The Proposed Development would have significant implications for birdstrike and therefore would be contrary to the advice at paragraph 5.47 of the NNNPS.
- 10.5.104. The suggestions by the DIO that the ponds could be predominantly dry, or alternatively providing steep sides and dense planting would both fail to accord with the assessed Drainage Strategy. Consequently, a revised Drainage Strategy would be required, and this would also have significant implications for other areas of the ES. The suggested changes could also have significant implications for both NMU's and motorists.
- 10.5.105. Therefore, even if the SoS accepted that the safety benefits at RNAS Yeovilton outweighed any dis-benefits to biodiversity, due to the implications for the Drainage Strategy, in the ExA's view it would not be possible to mitigate the potential safety risk within the assessed envelope of the ES as submitted.
- 10.5.106. For the above reasons the ExA is not satisfied that effects on RNAS Yeovilton have been addressed by the Applicant. The ExA concludes that the Proposed Development would have considerable safety implications that could not be addressed by way of a revision to the Applicant's preferred DCO. Therefore, on the basis of the evidence submitted to the Examination and taking account of the potential for loss of life, the ExA is not persuaded that the design of the ponds in terms of their precise location, size and depth should be a matter for detailed design.

- 10.5.107. The ExA recognises that there would be some safety benefits arising from the Proposed Development as a whole but concludes that these would be clearly outweighed by the harm to NMUs and the risks to RNAS Yeoviiton.

Parallel Road

- 10.5.108. The Parish Councils and IPs submit that a parallel road should be provided as part of the Proposed Development [REP2-051]. They advise that the benefits of a parallel road were recognised by the Inspector at the Inquiry that resulted in the 1996 Orders and that they have sought its inclusion from very early in the consultation process.
- 10.5.109. The constraints of providing a parallel road are discussed under consideration of alternatives at Chapter 4 of this Report. In summary the Applicant believes that it would require an area of MoD land, and if this could not be acquired by agreement within the necessary timescale it would represent a risk to the project. Despite several requests from the ExA there is no evidence before the Examination to indicate the effort made by the Applicant to acquire this land.
- 10.5.110. In terms of traffic and transport issues, a parallel road would provide many of the benefits put forward by the Parish Councils and IPs. In addition to providing an alternative route for those living and working in the locality, it would also ensure that farm vehicles and other slow-moving traffic would not need to use the new A303.
- 10.5.111. There was an inconsistency between the Applicant's response to the ExA's questions regarding future plans for the road to become part of an Expressway in the future and the Government's position as set out in the Road Investment Strategy: Overview, Department for Transport, December 2014 [REP5-010]. The Applicant stated that Highways England will not be introducing the term 'Expressway' as a concept to road users, whilst the latter sets out the Government's vision for Expressways, namely that they will provide a motorway quality journey for drivers. It also confirms the Government's long-term commitment to creating an Expressway to the South West. Therefore, although there is no funding in place at the present time, there would seem to be a realistic prospect that this part of the A303 may become part of an Expressway at some point in the future. This is likely to entail the need to make alternative provision for slower moving vehicles.
- 10.5.112. The Applicant acknowledges that a continuous parallel local road would provide an alternative route when the carriageway is compromised but is of the view there should be far fewer occasions when this occurs.
- 10.5.113. The provision of a parallel road would provide clear benefits for local communities as submitted by the PCs and a number of IPs. It would also provide resilience in the event of an accident, and benefits during the construction period in that the existing road could remain open. Should the A303 be upgraded to an Expressway in the future it is probable that a parallel road would reduce any works required in accordance with paragraphs 4.31 and 4.3.2 of the NNNPS.

- 10.5.114. The ExA conclude that whilst it would be a desirable and prudent modification to the Proposed Development and will address some of the issues with NMU routes, the failure to provide a parallel road does not justify withholding development consent.

Hazlegrove junction

- 10.5.115. The Applicant was critical of the engineering drawings prepared by Fairhurst Engineering on behalf of the Parish Councils [REP2 -027] pages 59 to 61, [REP8-024] Section 4.2. Whilst the plans are untested, and were submitted in 2D, they were professionally prepared by a Consulting and Civil Engineering practice. Accordingly, the Applicant's portrayal of these plans as a 'sketch' significantly downplays their quality.
- 10.5.116. It is not the purpose of this Examination to test the alternative layout submitted by the PCs, but to look at any issues emanating from the arrangement submitted by the Applicant. In terms of traffic and transport the main criticisms of the junction layout relate to the impact on journeys to and from Hazlegrove School and conflicts at the right turn to the East on-slip.
- 10.5.117. Although the Road Safety Audit ([APP-152] paragraph 4.9.9) found traffic flows to be low, the PCs state that due to the school, these figures drastically change at peak hours, where approximately 600 vehicles meet 280 travelling in the opposite direction. This would lead to vehicles backing up to Sparkford roundabout within 10 minutes.
- 10.5.118. It is evident that the arrangement shown on the Applicant's plans would involve additional journey lengths. The ExA has no reason to doubt the traffic figures submitted by the PCs which were based on survey results. However, they have not been subject to modelling and testing. Whilst the ExA accepts that there is potential for congestion at the beginning and end of the school day, there is insufficient evidence to conclude that the solution put forward by the PCs would not give rise to issues elsewhere on the network. Therefore, the SoS may wish to satisfy themselves that the Proposed Development would not give rise to unacceptable levels of congestion at the beginning and end of the school day.
- 10.5.119. The ExA concludes that, based on the information submitted to the Examination, in so far as traffic and transport matters are concerned, the layout of the Hazlegrove Junction is acceptable

Congestion/journey time

- 10.5.120. The journey time savings are set out in the Transport Report [APP-150] Transport Report Table 8.1. The savings would be greatest during the summer months where the journey time route from Ilminster to Mere would be reduced by 05:14 (mm:ss) in 2023 and 03:58 (mm:ss) in 2038.
- 10.5.121. The Transport Report does not assess any journey delays on the local network. The benefits of faster, more reliable journeys on the A303 must

be balanced against any adverse effect on the local population in terms of increased journey time and the substantial increase in journey time for most NMUs.

Podimore Roundabout

- 10.5.122. Table 12.18 of the COMMA Report [APP-151] suggests that the Podimore Roundabout is nearing capacity in the evening peak hour. These figures are based on AADT. The Friday and summer figures are likely to be substantially higher. In the light of the technical note to establish the impact of the summer traffic on the junction, mitigation measures, involving changes to the phasing of the traffic lights at the roundabout are likely to be required.
- 10.5.123. The ExA agrees that such mitigation could be achieved by phasing and other changes to the traffic lights. On the basis of the explanation provided by the Applicant at paragraph 2.5.5 of [REP4-020] the ExA is satisfied that this matter need not be the subject of a separate Requirement.

ExA Conclusions

- 10.5.124. The Proposed Development is predicated on the need to address the problems arising from the high summer and weekend traffic flows on the A303. The scheme does this to some extent and would deliver a number of the objectives set out within the Applicant's Case for the Scheme [APP-149], in so far as they relate to the A303. It is probable that there would be improvements in journey reliability and some benefits in terms of journey time and safety. These benefits would assist with improving connectivity to the south-west.
- 10.5.125. However, the ExA considers that the effects of the Proposed Development on the surrounding area, in particular the local communities, has not been integral to the design process and that the needs of motorised users have been prioritised over NMUs.
- 10.5.126. The Applicant's approach is to mitigate only what it considers to be the impacts of the Proposed Development, and disregards mitigation sought by IPs, particularly where such mitigation would fall outside of the Order Land. As a consequence, numerous adverse effects of the Proposed Development on the surrounding area have not been mitigated. This approach is entirely at odds with the policies within the NNNPS and the Applicant's narrow interpretation of mitigation has given rise to a number of the issues discussed above.
- 10.5.127. Some of the concerns above could be mitigated by way of changes to the Applicant's preferred DCO. The ExA has recommended such changes where appropriate: These changes include:
- The monitoring of traffic and any necessary mitigation at Sparkford High Street and in West Camel;
 - Mitigation for the loss of the Eastmead Lane (Y 30/28 route)

- Mitigation for the stopping up of Traits Lane and Gason Lane
 - The provision of lighting during the hours of darkness to the Hazlegrove Underbridge
 - The inclusion of a bridleway to the cycleway/footpath in the verge at the Hazlegrove roundabout
 - The provision of a Pegasus crossing at Hazlegrove roundabout
- 10.5.128. In the absence of these revisions the ExA considers the Proposed Development would not be in accordance with the NNNPS and would also fail to address issues identified within the LIR.
- 10.5.129. The ExA is doubtful that the need for a bridleway at Traits Lane/Gason Lane can be addressed by way of a Requirement since it would either need consent from the MoD or an alternative route. The failure to provide a bridleway at this location would sever the PRow network and would have significant consequences for horse-riders who currently use this part of the NMU network.
- 10.5.130. For the reasons given above, the ExA does not consider that the issues in respect of bird-strike could be resolved by amendments to the DCO. Nor is it accepted that this is a matter that could be resolved at the detailed application stage, since the effects of any changes have not been assessed within the ES. On the basis of the information submitted to the Examination, the ExA is not satisfied that the proposal has been designed to minimise adverse impacts on the operation and safety of RNAS Yeovilton and that the Proposed Development would provide reasonable mitigation in accordance with paragraph 5.59 of the NNNPS.
- 10.5.131. Paragraph 5.59 of the NNNPS also states *"The Secretary of State will have regard to the necessity, acceptability and reasonableness of operational changes to aerodromes, and the risks or harm of such changes when taking decisions. When making such a judgement in the case of military aerodromes, the Secretary of State should have regard to interests of defence and national security."*
- 10.5.132. Paragraph 5.62 states *"Where, after reasonable mitigation, operational changes and planning obligations and requirements have been proposed, development consent should not be granted if the Secretary of State considers that the development would significantly impede or compromise the safe and effective use of defence assets or significantly limit military training."*
- 10.5.133. The ExA considers that the Proposed Development would have an adverse effect on the operation and safety of RNAS Yeovilton, therefore, having regard to paragraph 5.62 of the NNNPS indicates that the SoS should not grant development consent.
- 10.5.134. The ExA affords the absence of a parallel road moderate weight. The failure to mitigate the stopping up of Traits Lane/Gason Lane is attributed significant weight. The increase in journey times for NMUs and the local community is also attributed significant weight. The failure to mitigate the effects of stopping up Eastmead Lane PRow, make provision for

traffic monitoring and mitigation within Sparkford High Street and West Camel, together with the failure to provide lighting for pedestrians and other NMUs each attract substantial weight. These are all not in accordance with the NNNPS.

- 10.5.135. The Applicant's failure to adequately address the birdstrike issue and the associated safety implications are accorded very substantial weight. The ExA considers that all of these matters should be weighed against the benefits of the Proposed Development in the overall planning balance.

11. SOCIO-ECONOMIC EFFECTS ON SURROUNDING COMMUNITIES

11.1. INTRODUCTION

- 11.1.1. This Chapter considers the economic and social benefits of the Proposed Development, including the effects on local businesses and communities.

11.2. POLICY

NNNPS

- 11.2.1. The NNNPS promotes the delivery of environmental and social benefits as part of new schemes. It requires any adverse impacts to be mitigated in line with the principles set out in the Framework and the Government's planning guidance (paragraph 3.3).
- 11.2.2. It also states: *"Severance can be a problem in some locations. Where appropriate applicants should seek to deliver improvements that reduce community severance and improve accessibility"* (paragraph 3.22).
- 11.2.3. Paragraphs 4.3 and 4.4 explain that the potential benefits of the Proposed Development, including the facilitation of economic development, will be taken into account as part of the overall balance. It advises that environmental, safety, social and economic benefits and adverse impacts, should be considered at national, regional and local levels.
- 11.2.4. Paragraph 4.80 of the NNNPS identifies the potential indirect health impacts of schemes in so far as they can affect access to services, opportunities for cycling and walking, or the use of open space for recreation and physical activity.
- 11.2.5. Applicants should provide evidence that as part of the project they have used reasonable endeavours to address any existing severance issues that act as a barrier to NMUs (paragraph 5.205).

Framework

- 11.2.6. The Framework requires significant weight to be afforded to the need *"to support economic growth and productivity, taking into account both local business needs and wider opportunities for development"* (paragraph 80).
- 11.2.7. Paragraph 84 states *"it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport)"*.

- 11.2.8. The Framework also *"aims to achieve healthy, inclusive and safe places which:*
- a) promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other – for example through mixed-use developments, strong neighbourhood centres, street layouts that allow for easy pedestrian and cycle connections within and between neighbourhoods.*
 - b) are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion – for example through the use of clear and legible pedestrian routes, and high quality public space, which encourage the active and continual use of public areas; and*
 - c) enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling."* (Paragraph 91)

11.3. THE CASE FOR THE APPLICANT

- 11.3.1. The socio-economic effects of the proposal are assessed in the ES Chapter 12 People and Communities [APP-049] and the Supplemental information [APP-095].
- 11.3.2. The Applicant states that there would be some adverse effects due to the land take from farms and private residential properties necessary in order to accommodate the Proposed Development. These effects are set out at paragraphs 12.10.9 and 12.10.26 to 12.10.29 and Table 12.21. The Applicant concludes that overall there would be a moderate adverse effect for individual farms during construction. Land take from private residential properties would also have a moderate adverse effect.
- 11.3.3. The Proposed Development would deliver some economic benefits during the construction period due to the use of local labour and materials. [APP-049] paragraphs 12.10.17 to 12.10.19. In the longer term there could be some benefits in terms of increased indirect employment opportunities to the local community due to the reduction in congestion.
- 11.3.4. There would be some sites in and around Yeovil and Wincanton that would also benefit from journey time savings to and from the A303 via the A37, as well as a number of development sites in the Local Plan area. It should also strengthen the overall investment prospects for this area. [REP5-024]
- 11.3.5. The Applicant submits that the new NMU routes proposed would be more comfortable for NMUs to use and therefore could increase levels of physical activity and improve health [APP-049 paragraphs 12.10.20 and 12.10.21].

- 11.3.6. The Applicant submitted a Land Use and Economic Development Topic Paper during the Examination [REP5-024]. It confirmed at ISH1 that the impact on local businesses was assessed on the basis of land take and whether access to these businesses would be maintained during construction and operation. It stated that these were the only criteria within DMRB and there is no robust methodology for assessing other effects [REP4-020] Section 2.8
- 11.3.7. The Applicant also noted that the Proposed Development would be likely to give rise to a slight adverse effect for NMUs during construction due to potential diversions, the closure of NMU routes and the presence of construction materials, machinery and vehicles. A slight adverse effect for driver stress was also anticipated due to temporary road closures and diversions increasing stress for vehicle travellers [REP-049] paragraph 12.12.4.
- 11.3.8. Once in operation a moderate beneficial and significant effect is anticipated for driver stress and a slight beneficial effect on NMUs [REP-049 paragraphs 12.12.5 and 12.12.6].

11.4. THE CASE FOR IPs

SSDC

- 11.4.1. SSDC considers that the Proposed Development would provide economic value and other benefits through increased capacity, improved connectivity and journey resilience for South Somerset and the wider South West. However, there could be disruption during the construction of the proposed scheme which would adversely impact upon businesses. The viability of some route-reliant businesses would be adversely affected in the long-term [REP4-019].
- 11.4.2. The LIR is critical of the defined Local Impact Area for businesses which it considers to be restrictive and fails to take account of the impacts on various route-reliant businesses and visitor attractions to be taken into account. A number of small businesses and tourist attractions such as Haynes International Motor Museum, Hadspen House (Emily Estate to open spring 2019), Hauser and Wirth and Fleet Air Arm Museum are outside this tightly drawn area [REP4-019] ECI1.
- 11.4.3. The LIR states that effective management of traffic and good signage, especially during the construction phase of the proposed route will be essential, to ensure that businesses and communities are not negatively impacted. The message should be clear that "South Somerset is still open for business" [REP4-019] ECI2.

SCC

- 11.4.4. The length of highway between Hazlegrove roundabout and the Mattia Diner is proposed to be de-trunked and would become a no through road. SCC is concerned that this stretch of road could attract antisocial

uses that could have significant financial consequences for SCC in perpetuity [REP4-019 T7].

- 11.4.5. SCC submitted evidence of anti-social behaviour at similar de-trunked sections of highway, including fly tipping and illegal encampments. It also explained the difficulties with resolving these issues [REP8 028]. SCC considers that this stretch of road would provide very little public benefit and could leave the County Council with significant financial liabilities [REP4-035]. It considers that such liabilities should be addressed.

Other IPs

- 11.4.6. Representations about the effect of the Proposed Development on the viability of businesses located adjacent to the A303 were received from the Mattia Diner [RR-016], Hawk House/Waynes Diner [RR-009] and Joy Whittington on behalf of the Bakery [REP4-032], [REP5-030].
- 11.4.7. There were also representations from other businesses within the locality including Sparkford Hall [RR-027], [REP2-023] and [REP2-024], Long Hazel Park [RR-011] the Red Lion Inn, Babcary [RR-004] and the National Trust [RR-029].
- 11.4.8. The issues raised included mitigation for businesses during the construction period, traffic management during construction, the effect of traffic noise on the viability of businesses, visual impact, severance and signage for businesses.
- 11.4.9. Devon County Council and Peninsular Transport submit that the proposal, together with other planned schemes represent the vital first steps towards the improvement of the A303/A358/A30 corridor. They consider that it is vital to the region's economic growth and resilience of the south-west's transport connectivity with the rest of the UK.
- 11.4.10. The A303 Sparkford to Ilchester scheme, along with other schemes currently being progressed at Amesbury to Berwick Down and Ilminster to M5 at Taunton, are and as such are strongly supported by Devon County Council [AS-023] and [AS-024]
- 11.4.11. A number of RRs identified specific problems at local farms [RR-013], [RR-021], [RR-030], [RR-031] [RR-032].

11.5. EXA CONSIDERATIONS

- 11.5.1. The ExA agrees that there are likely to be local economic benefits during the construction period. The Applicant stated that its assessment of local economic benefits took account of South Somerset in its entirety, this would be likely to extend beyond the communities of Queens Camel, West Camel and Sparkford, and would include the larger towns such as Yeovil and Wincanton.
- 11.5.2. There are also likely to be a number of negative impacts during the construction period. These include increased traffic congestion and driver

frustration, additional noise and dust, and the effect of closures and diversions on NMU routes. These effects would be experienced particularly by the communities situated closest to the Proposed Development, but also by the local community as defined by the Applicant and by drivers using this part of the A303.

- 11.5.3. These effects would be short term and they could be mitigated to some extent by the measures within the CEMP. The Traffic Management Plan would provide a mechanism to minimise the effect on drivers using the A303 and on local communities. In order to successfully achieve these aims it is essential that the Traffic Management Plan draws on local knowledge, rather than relying on the outputs of modelling. Accordingly, the DCO requires a mechanism that ensures that SCC and SSDC are involved in the development of the Traffic Management Plan.
- 11.5.4. Post-construction, the proposal would contribute towards improving links between the south-east and the south-west of England. However, the full benefits would not be realised until the remainder of the route is upgraded. The ExA notes the Applicant's figures illustrating the economic benefits of the Proposed Development. The Applicant confirmed that these benefits were largely due to the savings in time as set out at paragraphs 10.3.33 and 10.5.118 of this Report. The Applicant also confirmed that the economic assessment is not limited to trips on this route and includes trips that use part of the Proposed Development, or trips on other routes that would be affected by traffic changes as a result of the Proposed Development ([REP5-024] paragraph 2.6.2).
- 11.5.5. The ExA agrees that the Proposed Development may make the area, including Yeovil, more attractive to developers and investors. It may also assist with the delivery of some of the commitments within the Local Plan. The commitments identified in the Applicant's Topic Paper include sites at Wincanton, Ilminster and within South Petherton and Martock., as well as a number around Yeovil and are predominantly employment related uses [REP5-024]. Whilst it is accepted that these commitments may benefit from the journey time reliability and faster travel times provided by the Proposed Development there is no substantive evidence to suggest that these schemes will not come forward in the absence of the Proposed Development.
- 11.5.6. Whilst the ExA acknowledges that the economic benefits have been modelled in accordance with assumptions within the COMMA Report Section 13 [APP-151], given the relatively modest savings in time, and the fact that the A303 is a strategic route, the ExA is doubtful that the economic benefits are as great as the Applicant's modelling suggests. Nevertheless, the improvements in journey time reliability would be a benefit of the Proposed Development.
- 11.5.7. The Applicant confirmed that at a local level the impact of the Proposed Development on businesses was assessed only in terms of land take and the effect on access to these businesses during construction and operation [REP4-020] Section 2.8. The ExA considers that the impact of the Proposed Development on route reliant businesses and attractions

close to, but outside of the Local Impact Area is an omission in the Applicant's assessment but given that the assessment is based upon land take and access the inclusion of these businesses would be unlikely to alter the Applicant's conclusions.

- 11.5.8. The Mattia Diner currently has direct access onto the westbound A303. Together with the adjacent filling station it provides a service for drivers using the route. Following the Proposed Development, it would be accessed via the de-trunked section of the A303 from the Hazlegrove roundabout which will terminate in a cul-de-sac. The west-bound off-slip would be located about more than 250m to the east of the Hazlegrove roundabout. Drivers would be unaware of it at the point at which they would need to leave the road. Moreover, given that these businesses would not only lose their A303 frontage, but would also be at the end of a no through road, drivers would need to re-trace their steps in order to use these businesses. Therefore, whilst an access would be maintained to both businesses their viability is likely to be severely compromised to the extent that that they may struggle to survive.
- 11.5.9. Hawk House and Waynes Bistro would no longer have direct access onto the A303. It is located close to the retained section of the A303 as well as the off slips for the A303. Therefore, whilst there would be a change in the configuration of this part of the road, the Proposed Development would be likely to have a neutral effect on this business.
- 11.5.10. The Bakery is situated adjacent to the existing A303. As a consequence of the Proposed Development it would be located adjacent to the Howell Hill link. It would be likely to lose passing trade from drivers using the A303, however due to speed of traffic and limited parking at this location the contribution to trade from passing traffic is likely to be modest. The lower traffic speeds and links with the opposite side of the A303 for both drivers and pedestrians would improve accessibility for the local community.
- 11.5.11. The Proposed Development is likely to have indirect effects on a number of local businesses due to severance and to a lesser extent, noise. Evidence submitted to the Examination illustrated the links between a number of local businesses, particularly in Sparkford. These include Long Hazel Park providing accommodation for people attending events at Sparkford Hall, the filling station providing fuel and LPG for guests at Long Hazel Park, as well as the hospitality businesses meeting the demand from other businesses in the vicinity and visitors to those nearby such as the Haynes Motor Museum and the Fleet Air Museum [AS-020].
- 11.5.12. The Applicant submitted a signage strategy as part of the D5 Report [REP5-020]. This explains that in addition to highway related signs there would be signs to Haynes Motor Museum, Fleet Air Museum and Long Hazel Park. Other businesses were excluded from the strategy because they do no benefit from authorised signs at present. There are a number of businesses that currently benefit from direct access on the A303, therefore the signs on these premises are visible to passing motorists. In the case of the Mattia Diner and the adjacent filling station the absence

of signage is likely to compound the adverse effects arising from the loss of direct access. Motorists would be unaware of these businesses at the point at which they would need to leave the main carriageway. The effect on Hawk House and Waynes Diner would be less severe.

- 11.5.13. There are a number of businesses such as the Red Lion at Babcary that currently benefit from signs located close to the existing carriageway that will no longer serve a useful purpose once the Proposed Development is implemented. It would seem that these signs rely on private agreements between the businesses and landowners concerned. Therefore, the ExA considers that it would be unreasonable to expect the Applicant to replace them.
- 11.5.14. Due to its length the de-trunked section of the A303 linking Hazlegrove roundabout and the Mattia Diner would become a long, relatively straight stretch of unlit road. The LIR raises concerns in relation to the de-trunking if this stretch of road at T7. The provision of a road of this nature that is not overlooked, is unlit, unconnected to other parts of the network and with a very low volume of traffic runs contrary to the principles of good design and would be inconsistent with paragraph 127 of the Framework.
- 11.5.15. The ExA shares the concerns of SCC, that this road could be subject to anti-social behaviour due to gatherings of people, fly-tipping, abandoned cars, or perhaps illegal encampments. The Proposed Development includes the provision of a NMU route in the verge linking Traits Lane with the Hazlegrove roundabout and then through the underbridge to the opposite side of the A303. It also links with a number of other existing PRoWs. The long unlit nature of the de-trunked section of the A303 combined with the fact that it would not be used by passing traffic, is likely to deter NMUs, particularly pedestrians. Should the anti-social behaviour referred to by SCC arise, many NMUs would be reluctant to use it, and it would therefore add to the severance discussed at Chapter 10 of this Report.
- 11.5.16. It would be preferable if the Proposed Development could be designed to avoid these risks. However, the ExA considers that there is limited scope to do so in the context of the existing layout of the Proposed Development, particularly since access to the Mattia Diner and filling station need to be maintained.
- 11.5.17. Although there are legal remedies to these problems, such remedies would not prevent the problems from occurring, either initially, or in the future. There would be a cost to SCC in taking action to resolve these issues, and therefore this stretch of road is likely to leave SCC with significant on-going financial liabilities even though the road would provide little public benefit [REP4-020].
- 11.5.18. This issue arises due to the manner in which the Proposed Development isolates the Mattia Diner and filling station and thus is a direct consequence of the Proposed Development. The parallel road/partial parallel road advocated by IPs would assist with addressing this problem.

As such the proposal does not have regard to paragraph 84 of the Framework. In these circumstances the ExA considers that SCC's request for a contingency fund to address these problems to be reasonable, necessary and directly related to the Proposed Development. Accordingly, a planning obligation is required to secure a contingency fund to address these issues.

- 11.5.19. The ExA notes the Applicant's resistance to a contingency fund, and a modification to the DCO to exclude this stretch of road from the transfer to SCC would be an alternative approach. The ExA notes the Applicant's view that as a Strategic Highway Authority it should not be expected to retain control of this stretch of road, but it cannot be reasonable that the layout proposed by the Applicant, that fails to have regard to the principles of good design, imposes an additional financial burden on the local community ([REP8-024] paragraphs 5.3.15 to 5.3.17).
- 11.5.20. The ExA concludes that mitigation should be provided to address the potential effects of anti-social behaviour, so that the financial burden for such behaviour is not borne by SCC and ultimately the local community. The ExA concludes that this could be achieved by a change to Article 13 and Schedule 3, Part 2 of the DCO. The mechanism for such mitigation is discussed at Chapter 16.
- 11.5.21. As discussed at Chapter 10 the Proposed Development would contribute to severance and would fail to address existing severance issues contrary to the policies within the NNNPS. If these problems were addressed the ExA considers that there would be potential economic and social benefits for the local communities.
- 11.5.22. The ExA disagrees that NMU route would be beneficial to health. The previous Chapter discusses the effect of the Proposed Development on NMU routes. Having regard to safety, increased journey length and severance issues the ExA considers that the Proposed Development would be likely to encourage greater use of motorised transport.
- 11.5.23. In addition, the Proposed Development, as discussed at Chapter 8 give rise to significant adverse effect on health and potential adverse effects to other properties. Whilst the ExA concluded at Chapter 6 that there would not be an exceedance of the NO₂ or PM₁₀ annual mean air quality objectives, there would be an overall worsening in local air quality.
- 11.5.24. The proposal would involve substantial land take from three residential properties. The Applicant has addressed the effect of this land take as moderate adverse. The ExA notes the very high percentage of land to be acquired from these properties. However, having regard to the reason within the ES [APP-049] the ExA agrees with this assessment.
- 11.5.25. Many of the effects on individual farms could be addressed at the detailed design stage. The non-material change addressed the issues raised by Messrs Hewlett [RR-030], [RR-031]. The ExA notes that a SoCG has been agreed with the Church Commissioners, [REP8-012].

Some matters remain 'not agreed'. These comprise some matters of detail and issues in terms of Access 5 and 31.

- 11.5.26. It is unfortunate that the change to Access 5 sought by the Church Commissioners was not accommodated due to the need to use land outside the red-line boundary. The ExA recommends that the Applicant should continue to use its best endeavours to provide a suitable access to this land owned by the Church Commissioners.
- 11.5.27. The ExA notes that it may not be possible to use proposed access 31 at certain times of year due to its located in a very wet area of land. The Applicant is continuing discussions with the Church Commissioners to address this matter. Due to the submission of the SoCG at D8 the ExA was not able to explore this matter further.

11.6. CONCLUSIONS

- 11.6.1. The ExA concludes that the Proposed Development would deliver some economic benefits to the wider area due to the reduction in journey time. There would also be benefits arising from the improved connectivity and greater journey reliability.
- 11.6.2. At local level there would be some economic benefits during construction. Balanced against this local communities would experience additional delays, noise and inconvenience during the construction period. There would also be an adverse effect on some businesses due to accessibility.
- 11.6.3. The proposal would not deliver benefits in terms of air quality or noise. The proposal would increase reliance on cars due to the severance issues above and therefore would not be beneficial to health. There would also be adverse effect on businesses that would not be mitigated by the Proposed Development. The severance issues are also likely to give rise to problems in the vicinity of the de-trunked road which would not be mitigated and may in turn adversely affect the adjacent proposed NMU route.
- 11.6.4. There would be an adverse effect arising from land take at local farms and residential properties.
- 11.6.5. Overall the proposal would fail to mitigate the social effects of the Proposed Development in accordance with paragraph 3.3 of the NNNPS. It would also fail to address the concerns within the LIR (T7) in relation to the de-trunked section of the A303 serving the Mattia Diner and filling Station or fully mitigate the impacts of the Proposed Development on businesses close in the locality (ECI2). It is important to note that whilst the proposed amendments to the Applicant's preferred DCO would assist with mitigating the issues with part of the A303 it is proposed to de-trunk it would fail to address the cause of the problem.
- 11.6.6. The following socio-economic matters need to be weighed in the overall planning balance. The adverse effect of the Proposed Development on businesses in the locality, together with the failure of the Applicant to

undertake to provide signage to help to mitigate these adverse effects is afforded significant weight. The ExA also affords the social issues associated with the de-trunking of the part of the A303 close to the Mattia Diner very substantial weight.

12. WATER ENVIRONMENT

12.1. INTRODUCTION

12.1.1. This Chapter deals with the effects of the Proposed Development in relation to the water environment. In particular it deals with whether the Proposed Development would:

- Be at risk of flooding or increase the flooding risk off-site;
- Result in adverse effects on the water quality and resources.

12.2. POLICY

NNNPS

12.2.1. NNNPS paragraphs 5.90 to 5.115 deal with flood risk considerations and paragraphs 5.219 to 5.231 deal with water quality and resources.

12.2.2. Paragraph 5.98 of the NNNPS states "*where flood risk is a factor in determining an application for development consent, the SoS should be satisfied, where relevant,*

- *that the application is supported by a [Flood Risk Assessment] (FRA);*
- *the Sequential Test (as set out in the Framework) has been applied as part of site selection, and if required, the Exception Test".*

12.2.3. When determining the application, paragraph 5.99 of the NNNPS states, that the SoS should be satisfied that flood risk will not be increased elsewhere and only consider development appropriate in areas at risk of flooding where it can be demonstrated that development is appropriately flood resilient and any residual risk can be safely managed.

12.2.4. Paragraph 5.103 of the NNNPS states "*the design of linear infrastructure and the use of embankments in particular can reduce the risk of flooding for the surrounding area. In such cases the SoS should take account of any positive benefit to placing linear infrastructure in a flood-risk area".*

12.2.5. In terms of mitigation, paragraph 5.112 of the NNNPS indicates "*site layout and surface water drainage systems should cope with events that exceed the design capacity of the system, so that excess water can be safely stored on or conveyed from the site without adverse impacts".* Paragraph 5.113 of the NNNPS states "*the surface water drainage arrangements for any project should be such that the volumes and peak flow rates of surface water leaving the site are no greater than the rates prior to the proposed project, unless specific off-site arrangements are made and result in the same net effect".*

12.2.6. Paragraph 5.114 of the NNNPS advises "*it may be necessary to provide surface water storage and infiltration to limit and reduce both the peak rate of discharge from the site and the total volume discharged from the site. There may be circumstances where it is appropriate for infiltration*

attenuation storage to be provided outside the project site, if necessary, through the use of a planning obligation”.

- 12.2.7. Paragraph 5.222 of the NNNPS states *“for those projects that are improvements to the existing infrastructure, such as road widening, opportunities should be taken, where feasible, to improve upon the quality of existing discharges where these are identified and shown to contribute towards Water Framework Directive commitments”.*
- 12.2.8. In terms of decision making, paragraph 5.226 of the NNNPS states the SoS *“should be satisfied that a proposal has had regard to the River Basin Management Plans and the requirements of the Water Framework Directive ... and its daughter directives, including those on priority substances and groundwater”.*
- 12.2.9. Paragraph 5.227 of the NNNPS states the ExA and SoS *“should consider proposals put forward by the applicant to mitigate adverse effects on the water environment and whether appropriate requirements should be attached to any development consent and/or planning obligations”.*
- 12.2.10. In terms of mitigation, paragraph 5.230 of the NNNPS states *“the project should adhere to any National Standards for sustainable drainage systems (SuDs). The National SuDs Standards introduce a hierarchical approach to drainage design that promotes the most sustainable approach but recognises feasibility, and the use of conventional drainage systems as part of a sustainable solution for any given site given its constraints”.*

Framework

- 12.2.11. The Framework sets out various planning policies to meet the challenge of climate change and flooding in paragraphs 148 to 165. This provides detail on the Sequential and Exception Tests as does the Flood risk and coastal change section of the PPG.

Local Policy

- 12.2.12. SCC’s Local Flood Risk Management Strategy (LFRMS) guides the flood risk management in the county. The strategy sets out the approach used by SCC as the Lead Local Flood Authority (LLFA) to limit the impacts of local flooding.
- 12.2.13. Although the Proposed Development is located outside the boundary of the area for which the Somerset Drainage Board Consortium (the Consortium) is responsible it is within the catchment for that area. The Consortium’s document ‘Development and Flood Risk in Drainage Board Areas’ (the DFRDBA) sets out policy in various areas. This includes (paragraph 2.1) that where construction will have an influence on the run-off that drains into a Drainage Board area the Board should be consulted. Paragraph 3.5 indicates that there shall be no increase, either

directly or indirectly, as regards the flow or volume of water in any watercourse without the consent of the Board.

- 12.2.14. Paragraph 4.2 of the DFRDBA indicates that where development is proposed within a catchment that drains through a drainage board area but is located outside the board area, it is expected that the surface water arising from the development should be managed in a sustainable manner to mimic the surface water arising from the undeveloped site whilst reducing the flood risk to the site itself and elsewhere.
- 12.2.15. Local Plan Policy EQ1: Addressing Climate Change in South Somerset indicates that development should demonstrate how climate change mitigation and adaptation will be delivered.
- 12.2.16. Local Plan Policy EQ7: Pollution Control aims to avoid and minimise impacts on the water environment due to new development.

12.3. THE APPLICANT'S CASE

- 12.3.1. The Application was accompanied by a Flood Risk Assessment (FRA) [APP-059]. ES Chapter 9 [APP-046] deals with Geology and Soils and ES Chapter 13 [APP-050] deals with Climate.
- 12.3.2. The FRA references DMRB 11, Section 3, Part 10 HD 45/09 *Volume 11 Environmental Assessment, Section 3, Part 10 Road Drainage and the Water Environment* which states that flood risk should be considered in line with Planning Policy Statement 25: Development and Flood Risk which has been superseded by the Framework.
- 12.3.3. Technical Appendix 4.3: Road Drainage and the Water Environment Assessment Summary [APP-056] has been submitted together with a summary of results from supporting assessments including the Highways Agency (now Highways England) Water Risk Assessment Tool (HAWRAT) [APP-057], Water Framework Directive (WFD) Screening and Scoping Assessment [APP-058], and Drainage Strategy Report [APP-060].

General Approach

FRA

- 12.3.4. The FRA looks at fluvial flooding, surface water flooding, groundwater flooding and flooding from artificial drainage systems. It also references coastal and reservoir/lake flooding.

Fluvial flooding

- 12.3.5. The Application site lies wholly in Flood Zone 1 of the EA's maps and is thus at the lowest level of risk. As can be seen from Figure 2.1 of the FRA [APP 059] the Application site lies close to the watershed between two river catchments along the ridge of Camel Hill. The River Cam and its associated Flood Zones 2 and 3 lie approximately 0.5km to the south and

Dyke Brook and its associated flood zones lie approximately 1.25km to the north.

Surface water flooding

- 12.3.6. The EA's records indicate that the Application site is not within an area of high, medium or low risk from surface water flooding. However at the western foot of Camel Hill surface water can be seen to abut the eastbound carriageway for approximately 700m. The area is flat, low-lying and is predominantly in agricultural use. The Applicant indicates eight instances of flooding along this section of highway, one of which is a direct result of water entering the highway from an adjacent field. A high-risk surface water flooding zone centres around the location of the existing cross carriageway culvert.
- 12.3.7. There have also been surface water flooding events where the carriageway is in a cutting, although the Applicant believes that this would have been caused by either drainage system failure or an extreme storm event (design exceedance). Further flooding events have been noted at the junction of Steart Hill and the A303 and at the junction of Plowage Lane and the A303, both where an area of high surface water flood risk is shown adjacent to the carriageway

Groundwater flood risk

- 12.3.8. The Ordnance Survey maps shows a number of springs are present both north and south of the A303. The British Geological Survey dataset susceptibility to groundwater flooding indicates that the Application site is wholly located within an area of limited potential for groundwater flooding to occur. Immediately to the south of the A303 near Podimore and its surrounds is susceptible to groundwater flooding. An area to the west of the Higher Farm Lane overbridge just beyond the Application site is considered to have potential for groundwater flooding.

Artificial drainage systems

- 12.3.9. Artificial drainage systems relate principally to the existing highway. There are four catchments with water discharging into ordinary watercourses near Podimore Roundabout, north of Stockwitch Farm, Plowage Lane and Hazlegrove Roundabout.
- 12.3.10. There have been a number of flooding incidents causing low levels of flooding, but with the root cause being blocked drains or an exceedance of the drainage system capacity. There is an instance of run-off from an adjacent field entering the carriageway.
- 12.3.11. Just to the north of Hazlegrove Roundabout the 2.8ha of highway catchment (approximately 40% of the existing highway effected by the Proposed Development) discharges via an existing attenuation pond. The remaining 60% of the existing carriageway (4.2ha) discharges to ordinary watercourses unrestricted, with the potential to increase flood risk downstream.

- 12.3.12. There is a single Wessex Water sewer crossing the Application site conveying effluent from approximately 11 dwellings and a garage from north to south at Canegore Corner.

Coastal and reservoir/lake flooding

- 12.3.13. The Application site is located 36km from the coast and 32km from the nearest estuary. It is also located some 4.9km, but not directly downstream, from the Compton Castle Lake to the east of the Application site. As such there is no, or an extremely low, risk of coastal or reservoir/lake flooding therefore it is not necessary for the ExA to consider this matter further.

HAWRAT

- 12.3.14. The HAWRAT assessment tool was utilised to ascertain risks to ecology from pollutants in both the short and long term. In the short term the results from the assessment indicate that the runoff outputs to turnoff specific thresholds would not be breached by routine run-off from the Proposed Development for any outfalls, provided that the proposed pollution reduction measures are included. In the long term the spillage risk assessment indicates for all outfalls, and without the drainage scheme, there would be no discharge with a serious spillage risk more frequent than 1% (1 in 100 year return period). With inclusion of the drainage scheme, the risk would be even lower.

Water Framework Directive (WFD)

- 12.3.15. In terms of the WFD assessment there are no proposed Works or activities as part of the Proposed Development which would require Works within or physical modifications to waterbodies (for example, watercourse crossings or realignments). The primary aspect of the Proposed Development which has potential to affect waterbodies is routine surface runoff or accidental spillage incidents on the carriageway entering the drainage system.
- 12.3.16. The ZoI for the Proposed Development includes any waterbodies (surface waterbodies or groundwater bodies) that lie within a 1km radius of the Application site. Waterbodies located outside of this 1k radius (but a hydraulic connection to those that are) may be affected by downstream pollutant/contaminant transport from the Proposed Development and have been included in this screening assessment. This includes downstream waterbodies within 10km radius of the Application site.
- 12.3.17. There are two WFD surface waterbodies/waterbody catchments which lie within the 1km ZoI of the Proposed Development; the River Cary (Cary - source to confluence with Kings Sedgemoor Drain) and the River Cam (Cam - Lower). There are five other WFD surface waterbodies that lie within a 10km buffer zone of the Proposed Development; the 'Cam Upper', 'Cam tributary', 'River Yeo (Yeo downstream of Over Compton)', 'Hornsey Brook' and 'King's Sedgemoor Drain (Henley sluice to mouth)'. These waterbodies are located outside of the 1km ZoI, but have a

hydraulic connection to waterbodies that may be affected by pollutant/contaminant transport.

- 12.3.18. The Applicant concluded that only the potential impact pathways to the nearest three WFD waterbodies (the Rivers Cam – Lower; Cary - source to confluence with Kings Sedgemoor Drain and the Yeo downstream of Over Compton) had the potential for contamination. Subject to drainage mitigation measures/treatments procedures these are all very low risk. Consequently, provided this mitigation was in place run-off from the Proposed development very unlikely to affect the WFD status or cause any deterioration of the waterbodies or prevent improvements. This would mean that the Proposed Development would not present a risk to WFD status/objectives of the waterbodies.

Drainage Strategy

- 12.3.19. The drainage strategy notes that the Proposed Development would represent a 297% increase in impermeable area. The Applicant proposes that off-site discharge will be regulated up to and including the 1% Annual Exceedance Probability (AEP) (1 in 100 year event), to no greater than the mean annual peak rate of run-off for a greenfield site (Qbar) including a 40% climate change allowance.
- 12.3.20. The Applicant has confirmed [REP2-004] in response to the ExA's questions (ExQ1 1.8.12 [PD-009]) that the design would accommodate the latest UK Climate Projections (UKCP18). It would have a 40% storm water allowance rather than the 20% required standard in the DMRB Vol 4, Section 2, Part 3 HD 33/16 Surface and Sub-Surface Drainage systems for highways. This 'headroom' would therefore still leave some flexibility.
- 12.3.21. Five attenuation ponds are proposed along with the continued use of an existing pond. The outfalls have been located to mirror the existing outfall locations which form tributaries to the Park and Dyke Brook. There is one existing highway outfall which forms part of a minor tributary to the River Cam (near Plowage Lane). In addition, Sustainable Drainage Systems (SuDS) have been included which are designed to provide benefits in water quantity, water quality, amenity and biodiversity.
- 12.3.22. In response to questions from the ExA (ExQ3 3.0.6 [PD-018] relating to the potential for birdstrike in relation to RNAS Yeovilton, it is possible that the design/arrangement of the ponds could change.

Private water supplies

- 12.3.23. In response to the EA's RR [RR-034] and the ExA's question 1.8.2 [PD-014] the Applicant produced a private water supplies technical note (within [REP2-005]).
- 12.3.24. This noted that there are no licenced surface or groundwater abstractions within the study area. However, there are seven known private water supplies, mostly from natural springs, and one of these is located within

the Application site. The private water supplies technical note records that while this would be lost the intention is that it would be replaced.

12.4. REQUIREMENTS

- 12.4.1. R3 includes the submission and approval of a CEMP. This includes management plans to cover soils handling, asbestos and a pollution incident control plan. The CEMP must be prepared in consultation with the EA, the local highway authority and the relevant planning authority (SSDC).
- 12.4.2. R6 and R7 deal with landscaping. These requirements will need to include the landscaping design both within attenuation/drainage ponds and around those features. R9 deals with land and groundwater contamination to deal with any contamination on the Application site.
- 12.4.3. R14 covers surface water drainage and requires the details of the surface water drainage system, reflecting the mitigation measures in the ES and including means of pollution control, have been submitted to and approved. This requires consultation with the EA and SCC as LLFA and a CCTV survey. R14 also specifies that runoff from natural catchments must be intercepted to prevent flooding of the carriageway and that highway drainage should be constructed to certain specified standards including an allowance for the effects of climate change by allowing for a 40% increase in rainfall intensity, and being designed to ensure that off-site drainage will be limited to the Qbar rate or 2l/s/ha in the 1 in 100 year event plus 40% allowance for climate change.
- 12.4.4. Pursuant to article 42 dealing with Protective Provisions Part 3 of Schedule 8 deals with Drainage Authorities. These were agreed with the EA and the Consortium.

12.5. THE POSITION OF IPS

SCC

- 12.5.1. The LIR [REP2-019] sets out the initial position of SCC in respect of its role as LLFA. The SoCG with the Councils [REP8-010] indicated where SCC agreed with the Applicant's assessment and where they did not agree. As a result of this it can reasonably be concluded that SCC has amended its position in light of additional information or a change in circumstance. This part of this Report will look primarily at those areas where there was disagreement.
- 12.5.2. One significant area of disagreement deals with the approval mechanisms with SCC who consider that it should be the approval authority where drainage interacts with the local road network. This issue is covered in more detail in Chapter 16.
- 12.5.3. SCC notes that the Applicant is intending to set up a drainage working group and would like to see this secured pursuant to a Requirement. The

Applicant considers the more general requirement for consultation would allow for this to take place rather than being a need for a specific provision.

Environment Agency (EA)

- 12.5.4. The SoCG with the EA [REP5-018] left no matters not agreed between the Applicant and the EA. It includes, in Appendices, correspondence from the EA dealing with WFD Screening and Scoping, HAWRAT Assessment, and the FRA. The EA accepts all of these matters have been appropriately prepared and agrees with the Applicant's conclusions.
- 12.5.5. It notes that the WFD Screening and Scoping report concludes that a full, detailed WFD impact assessment would not be required as the potential impact pathways present a very low risk to WFD status and objectives of the Rivers Cary, Cam and Yeo.
- 12.5.6. The EA has given advice as to how the private water supply which would be directly affected by the Proposed Development should be decommissioned. The Applicant has accepted this advice and it has been included in the OEMP (Reference RDWE3) [REP7-020] to ensure the Proposed Development does not provide a preferential pathway where contaminated runoffs/spills can enter the aquifer during construction or operation. The EA is satisfied that subject to the inclusion of Pollution Control Devices or penstocks, accidental spillage can be isolated and due to the intended construction techniques could be prevented from infiltrating the underlying secondary aquifer.

The Consortium

- 12.5.7. Although the SoCG with the Consortium [REP5-018] is entitled "Draft" it has been signed and the ExA considers it can be read as a final, agreed document.
- 12.5.8. This SoCG agrees on all matters except one relating to access to ponds for maintenance. There is thus agreement that the Proposed Development would result in betterment in that the runoff from the Application site would be reduced to Qbar rates and controlled. It is also accepted that condition surveys of existing watercourses and structures did not need to be undertaken until after the DCO is made.
- 12.5.9. The disagreement relates to the width of the access tracks to allow for adequate and effective maintenance of the ponds and ditches. The Consortium is seeking a 6m strip for the reasons set out in response to the ExAs question ExQ3 3.8.1 [REP6a-007] while the Applicant considers that 4m is sufficient. The Applicant's position is set out in response to Action Point 25 of those identified at ISH5 [REP7-027]. This includes an assessment of what amendments could and could not be included at the detailed design stage should a 6m width be considered necessary.

Church Commissioners for England (the CCfE)

- 12.5.10. In its RR [RR-032] the CCfE expressed concerns about a number of matters including drainage from the Application site to land controlled by the CCfE at Higher Farm and Coutry & Speckington Farm given these have areas of land which are occasionally waterlogged.
- 12.5.11. A SoCG between the Applicant and the CCfE [REP8-012] agreed that due to the proposed attenuation provisions there would be no adverse impact on these two farms in terms of drainage.

Other IPs

- 12.5.12. Few IPs raised drainage or climate matters, although HBMCE and SSDC did raise concerns about the location of Pond 5 in relation to the RPG. These are dealt with in Chapter 5 of this Report dealing with Archaeology and Cultural Heritage.
- 12.5.13. Councillor Mike Lewis [RR-037] raised general concerns about flooding on the south side of the A303 in relation to the River Cam and the Proposed Development adding to flood risk indicating that direct experience of the local communities does not match data provided by the EA.
- 12.5.14. In response to the ExQ1 1.8.5 Cllr Lewis [REP2-029] indicated during this century there have been three major floods affecting properties largely in Queen Camel and West Camel but also impacting on properties further downstream along the River Cam. He stated that in West Camel's case it is the volume of water not only travelling down from Sparkford but the additional water above West Camel from the A303, both when the ground is sodden and when hard from lack of rain.
- 12.5.15. Mr Roy Lawrenson [RR-039] raised concerns about flooding from the original Application from the former proposed alternative access to Blackwell Farm towards his dwelling which would have been approximately opposite this access on Blackwell Lane. As a result of the accepted material change this concern has been overcome.

12.6. PLANNING ISSUES

- 12.6.1. The main areas in dispute at the end of the Examination in respect of the water environment relate to:
- How drainage is to be taken forward in detailed design
 - The appropriate width for maintenance of drainage features.
- 12.6.2. It is also appropriate to look at the other matters, since although they are not in dispute the effects should be properly taken into account.

12.7. EXA's CONSIDERATIONS

Detailed drainage design

- 12.7.1. Under R14 details of the surface water drainage need to be approved following an exercise which involves consultation with the LLFA, the local highway authority and the EA. R5 sets out how this is to operate. The requirements do not specify how the consultation is to take place, whether through working groups, through letter or by any other means.
- 12.7.2. The ExA considers that it would not be appropriate to specify how consultation should take place in advance as different methods may be appropriate for different stakeholders and different scenarios. As under R5 any consultation responses have to be sent to the decision-maker, the ExA considers that this would provide the decision maker with sufficient information to allow them to conclude whether consultation had been adequate.

Maintenance tracks

- 12.7.3. The first point to make is that while the overall design is set out in the relevant plans, details need to be approved under R13. Having said that no specific reference is made to drainage maintenance tracks under R13(2). The approval of the detailed design therefore would allow for some flexibility to accommodate wider maintenance tracks if this is required.
- 12.7.4. In its response to Action Point 25 at [REP7-027] the Applicant has analysed each of the ponds and indicates that 6m maintenance track can be achieved around the perimeters of Ponds 1, 3, 4 and 5 should that be necessary. However, in the case of Pond 2, it would only be possible to provide a 4.5m maintenance track
- 12.7.5. The main dispute as to the width of the maintenance track stems from the size of the excavator to be used together with necessary working room. The Applicant's Operations Department has indicated that it considers that a 4m track plus verges would be sufficient for it safely to maintain the ponds. The Consortium disputes this indicating a 4m track would not accommodate a standard vehicle and be able to safely operate.
- 12.7.6. The ExA considers that to ensure resilience in the long term over the life of the road and its drainage features a possible maintenance track as wide as possible is necessary. This would allow for greater flexibility and allow for greater options as practices change over time. While the maintenance track for Pond 2 would not be 6m wide it could be made wider than proposed to enhance its resilience.
- 12.7.7. This could be secured by amending R13(2) to ensure that this is accommodated and the ExA recommends as such.

- 12.7.8. None of the accepted changes suggested by the Applicant in [REP7-027] would have a significant effect when compared to the original application. However as discussed in Chapter 10 of this Report, there are outstanding matters relating to the risk of birdstrike and, the ExA has considerable doubts as to whether it would be possible to resolve this within the terms of this Application and still ensure an appropriate drainage strategy.

Other water environment matters

- 12.7.9. The ES has demonstrated that the Proposed Development would be resilient to flood risk due to it not being in an area of high flood risk and would, in fact, provide a betterment to the local water environment. This is because it would remove currently unattenuated flows from approximately 60% of the current highway network to 100% attenuation over a greater area at greenfield runoff rates in line with NNNPS paragraph 5.113. This will reduce the risk of flooding for the surrounding area in line with NNNPS paragraph 5.103.
- 12.7.10. There was anecdotal evidence that the A303 currently causes off-site flooding. However, in the current situation water flows from the A303 towards West Camel are unattenuated. The Proposed Development would attenuate the water flows from the Application site to greenfield rates. This should ensure that there would be an improvement in the current situation.
- 12.7.11. As noted in Chapter 10 the ExA has considerable concerns about the provision of the drainage ponds and their potential to increase the risk of birdstrike in relation to aircraft using RNAS Yeovilton. The Applicant indicated that it considered that this could be resolved by minor design changes, but the ExA has concluded that this may not be the case. Any necessary design changes are likely to be significant and would need to be fully assessed both in terms of the ES and the WFD. These design changes may not be as effective in draining the Application site, may not ensure water quality would be appropriate and would not necessarily bring the benefits to the water environment that the currently assessed design would deliver.
- 12.7.12. The Proposed Development would introduce SuDS thereby improving water quality and would be designed to meet climate change in line with the latest 2018 UK Climate Change projections with some flexibility. The drainage systems have also been designed to facilitate pollution control should there be releases in the catchment.
- 12.7.13. The Proposed Development has had regard to River Basin Management Plans and the requirements of the WFD and its daughter directives. This would ensure that there be no deterioration of ecological status in watercourses, and, for the reasons set out above, there would be an improvement.
- 12.7.14. In respect of the LIR most areas were agreed. However, there were outstanding concerns over consultation and the approval mechanism. The ExA considers these concerns overstated in that the recommended

DCO would secure appropriate consultation and that, on balance, a single tier of consultation would be most appropriate.

12.8. CONCLUSION ON WATER ENVIRONMENT

12.8.1. Taking all the relevant documents and policies into account the ExA concludes as follows:

- The Proposed Development would be resilient to flood risk including to the latest information on climate change.
- Through the use of attenuation and SuDS the Proposed Development would result in betterment to the local water environment and reduce the risk of flooding off-site. The ExA considers that this should be given moderate weight.
- The Proposed Development would ensure that there would be no deterioration of ecological status in watercourses and would comply with River Basin Management Plans and the requirements of the WFD and its daughter directives.
- Design changes to mitigate the risk of birdstrike at RNAS Yeovilton would need to be fully assessed in terms of the ES and WFD and may not bring the identified benefits to the water environment and have implications for the overall planning balance.
- The mitigation proposed in respect of the Proposed Development as submitted is reasonable in all the circumstances but could be enhanced by amending the requirements in the dDCO and so the EXA recommends the following:
 - o Including with R13 a Requirement that the detailed design accommodate wider maintenance tracks to ensure resilience of the Proposed Development over its lifetime.

13. FINDINGS AND CONCLUSIONS IN RELATION TO HABITATS REGULATIONS ASSESSMENT

13.1. INTRODUCTION

- 13.1.1. This Chapter of the Report sets out the ExA's analysis, findings and conclusions relevant to HRA. This will assist the SoS, as the Competent Authority, in performing his duties under Habitats Directive, as transposed in the UK through the Habitats Regulations.
- 13.1.2. Consent for the Proposed Development may only be granted if, having assessed the potential adverse effects the Proposed Development could have on European sites, the Competent Authority considers that it meets the requirements stipulated in the Habitats Regulations. The SoS for Transport is the Competent Authority for the purposes of the Habitats Directive and Habitats Regulations for transport applications submitted under the PA2008. NE is the statutory nature conservation body (SNCB).
- 13.1.3. The ExA prepared a RIES [PD-015] during the Examination, with support from the Planning Inspectorate's Environmental Services Team. The purpose of the RIES was to compile, document and signpost information provided in the Application and information submitted by the Applicant and IPs during the Examination (up to and including D5 of the Examination (5 April 2019)) in relation to potential effects on European sites. The RIES was published on the Inspectorate's National Infrastructure website on 16 April 2019. Consultation on the RIES was undertaken between 16 April 2019 and 31 May 2019. The RIES was issued to ensure that IPs, including NE had been formally consulted on Habitats Regulations matters. This process may be relied on by the SoS for the purposes of Regulation 63(3) of the Habitats Regulations.
- 13.1.4. No comments were received regarding the RIES. The RIES is not updated following consultation.

13.2. EUROPEAN SITES AND THEIR QUALIFYING FEATURES

- 13.2.1. The Proposed Development is not connected with, or necessary to the management for nature conservation of any of the European sites considered within the Applicant's HRA report [APP-147].
- 13.2.2. The Proposed Development Order limits do not overlap with any European site. The nearest European site is approximately 7.3km to the west of the Proposed Development.
- 13.2.3. The methodology in the HRA report (consistent with that specified in the DMRB) stipulates that impacts to European sites are anticipated at sites up to 2km from the Proposed Development. Additionally, impacts to

European sites with hydrological connectivity to the Proposed Development and/or those where bats are a qualifying feature are anticipated up to 30km from the Proposed Development.

- 13.2.4. The Applicant provided a HRA report [APP-147] with the DCO application, this identified five European sites for inclusion within the assessment. The five sites which were identified by the Applicant and included within their HRA report are as follows:
- Mells Valley SAC;
 - North Somerset and Mendip Bats SAC;
 - Brackets Coppice SAC;
 - Somerset Levels and Moors SPA; and
 - Somerset Levels and Moors Ramsar.
- 13.2.5. The full list of these sites and their qualifying features is included at Table 2.1 of the RIES and presented in the Applicant's HRA Screening Matrices [APP-147].
- 13.2.6. A draft SoCG with NE [APP-157] was submitted with the Application. The SoCG highlighted a concern from NE that impacts from the Proposed Development may act in-combination with other projects (A303 Stonehenge and A358 Taunton Dualling) and effect the Salisbury Plain SAC. This was a focus of the Examination and is discussed further in this report.
- 13.2.7. The Applicant did not identify any potential impacts on European sites in any other European Economic Area (EEA) State. No comments relating to European sites within another EEA State were received during the Examination.
- 13.2.8. The ExA is satisfied that the Applicant has correctly identified all the relevant European sites and relevant qualifying features for consideration within the HRA.

13.3. ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS

- 13.3.1. Section 2 of the HRA report [APP-147] outlines the Applicants approach to HRA screening, including how the Applicant identified European sites for consideration through the screening assessment.
- 13.3.2. The HRA report [APP-147] identified the following impacts with the potential to result in likely significant effects:
- reduction of habitat area;
 - disturbance to key species;
 - habitat or species fragmentation;
 - reduction in species density;
 - changes in key indicators of conservation value (such as water quality); and
 - climate change.

- 13.3.3. In the first round of questions [PD-009], the ExA asked the Applicant (Question 1.3.8) if there were any implications for the Proposed Development coming from the Court of Justice decisions in the case of *People Over Wind*, *Peter Sweetman v Coillte Teoranta Case C-323/17*, and *Brian Holohan, Richard Guilfoyle, Noric Guilfoyle, Liam Dinegan v An Bord Pleanála C-461/17* which the Applicant should consider with regard to HRA. The Applicant responded at D2 [REP2-005] stating that:

"the cases referred to confirmed that proposed mitigation measures cannot be taken into account for the purposes of screening under the UK Habitats Regulations, which give effect to the EU Habitats Directive (92/43/EEC). The purpose of screening is to establish whether the project is likely to have a significant effect on a European Site. The conclusions of this report have been agreed with Natural England in advance of the Application".

- 13.3.4. The Applicant's HRA report [APP-147] concluded that there are no specific measures to avoid or reduce effects from the five European sites and likely significant effects are not anticipated to occur as a result of the Proposed Development. Therefore, it concluded, an Appropriate Assessment was not required in this instance.

In-combination effects

- 13.3.5. The Applicant's approach to assessing in-combination/cumulative effects is outlined in Section 2 of the HRA report [APP-147] and discussed further in Section 4.3. The approach identified each European site and the other developments which met specified criteria sufficient for them to be considered within the in-combination assessment.
- 13.3.6. The draft SoCG [APP-157] between the Applicant and NE provided with the Application, included a request from NE to include Salisbury Plain SAC within the screening assessment due to potential for in-combination effects with the proposed A303 Stonehenge scheme and the A358 Taunton Dualling scheme. NE's concern in this regard related to in-combination impacts on air quality. The Applicant explained within the draft SoCG [APP-157] the approach they followed to identify European sites. The Applicant's response affirmed that the Habitats screening process is in accordance with that which is prescribed in the DMRB. The Applicant concluded that the changes in traffic levels from the Proposed Development alone or in-combination would be below the threshold level established in DMRB where significant effects on ecological receptors can be expected.
- 13.3.7. In the first round of questions [PD-009] the ExA sought clarification from both NE and IPs in question Q1.3.9, that they agreed that there would be no likely significant effects upon European sites, either alone, or in combination with other schemes as a result of the A303 Sparkford to Ilchester Dualling scheme. Neither NE or any other IP provided a response to this question.

- 13.3.8. At D2, a second draft SoCG [REP2-015] between the Applicant and NE was submitted which showed the matter remained under discussion. At D4 a third draft SoCG [REP4-007] between the parties was submitted and included further explanation from the Applicant as to why they consider it was not necessary to include Salisbury Plain SAC in its screening assessment. The Applicant stated that the results, particularly those for air quality, presented in the ES for A303 Stonehenge, showed that in 2026 (the opening year) the critical level for NO_x would not be breached at Salisbury Plain, with or without the Scheme. As the critical level is not exceeded then significant effects are not anticipated, in accordance with DMRB's Interim Advice Note 174/13.
- 13.3.9. At D5, a final and signed version of the SoCG [REP5-015] between the Applicant and NE was submitted. The Applicant reiterated the content of previous draft SoCG and stated that the Proposed Development would not have a significant effect on the Salisbury Plain SAC either alone or in-combination with other plans and projects. The SoCG confirms that NE are now in agreement with the Applicant on this matter.

Screening conclusion

- 13.3.10. The Applicant's screening assessment [APP-147] concluded that the Proposed Development would have no likely significant effect, either alone or in-combination with other plans or projects, on the qualifying features of the five European sites identified.
- 13.3.11. The Applicant's conclusions in relation to these sites and their features were not disputed by any IPs during the Examination.
- 13.3.12. At D5 of the Examination, a final and signed SoCG with NE was submitted confirming that NE now agrees with the Applicant on the matter of an in-combination effect on Salisbury Plain SAC.
- 13.3.13. The ExA is content that all relevant potential impacts have been identified and assessed by the Applicant in the HRA Report.

13.4. CONSERVATION OBJECTIVES

- 13.4.1. The Applicant provided the conservation objectives for the five European sites in Tables 5.1 to 5.5 of the HRA report [APP-147].

13.5. HRA CONCLUSIONS

- 13.5.1. In light of the above the ExA is satisfied that the SoS as Competent Authority can conclude with sufficient certainty at the initial screening stage pursuant to Regulation 63(1) of the Habitats Regulations that the Proposed Development, either on its own or in combination with other plans and projects, is unlikely to have a significant effect on a European site. Consequently, there is no need to go on to undertake an Appropriate Assessment of the implications of the Proposed Development in view of any European site's conservation objectives.

14. CONCLUSION ON THE CASE FOR DEVELOPMENT CONSENT

14.1. INTRODUCTION

- 14.1.1. The recommendations of the ExA are based on its assessment of the evidence presented through the Examination process including the application documents, the Environmental Statement, the LIR, SoCGs, RR's and WRs, submissions during the Examination at the Hearings, answers to questions and the site visits undertaken by the ExA both accompanied and unaccompanied.
- 14.1.2. All of this evidence is reviewed in the individual topic Chapters and considered in the context of the NNNPS, the LIR and other relevant policy and guidance. In Chapter 3 of this Report we set out the legal and policy context that is considered both important and relevant to our examination and assessment of the application. In Chapters 5 to 12 the ExA refers to specific parts of the NNNPS as the starting point, together with other relevant policies, in considering and concluding on the issues examined in those Chapters.
- 14.1.3. This Chapter is structured to first examine the case for the Proposed Development, undertaking the planning balance to arrive at an overall conclusion and a recommendation to the SoST.

14.2. NATIONAL POLICY STATEMENTS

- 14.2.1. Section 104 of the PA2008 sets out at subsection (2) the matters to which the SoS must have regard where there is a relevant NPS. In particular Section 104(3) provides that: *"The Secretary of State must decide the application in accordance with any relevant National Policy Statement, except to the extent that one or more of subsections (4) to (8) applies."*
- 14.2.2. Section 4 of the NNNPS addresses assessment principles. Paragraph 4.2 states: *"Subject to the detailed policies and protections in this NPS, and the legal constraints set out in the Planning Act, there is a presumption in favour of granting development consent for national networks NSIPs that fall within the need for infrastructure established in this NPS"*.
- 14.2.3. In considering any proposed development, and in particular when weighing its adverse impacts against its benefits, paragraph 4.3 of NNNPS expects the following to be taken into account:
- *"its potential benefits, including the facilitation of economic development, including job creation, housing and environmental improvement, and any long-term or wider benefits; and*
 - *its potential adverse impacts, including any longer-term and cumulative adverse impacts, as well as any measures to avoid, reduce or compensate for any adverse impacts."*

14.3. THE PLANNING BALANCE

Archaeology and Cultural Heritage

- 14.3.1. The Proposed Development would have a very significant adverse effect on the RPG. There would be a permanent loss of parkland, copse, boundary features, a veteran tree and the introduction of substantial man-made features in the southern end of the RPG. There would also be some sort of fence around the area of Pond 5 subdividing this otherwise open parkland area, which could have been avoided had this Pond and its surrounds been located outside the RPG. However, it must be acknowledged that the existing A303, including the Sparkford bypass, has already had a significant adverse effect on the RPG. Nevertheless, the Proposed Development would have a very significant effect on the overall character and integrity of the RPG.
- 14.3.2. There would be some mitigation through additional planting and bunds within the southern area of the RPG. By ensuring that the long-term management of that part of the RPG within the Application site was secured through the proposed alteration to R4, this would mitigate the effects further. However, taken together this would lead to less than substantial harm to the RPG but would nevertheless be significant. In line with paragraph 5.134 of the NNNPS this harm should be weighed against the public benefits of the proposals. There would also be less than substantial harm to Hazlegrove House and its associated nearby buildings although there would be no effect on the Triumphal Arch.
- 14.3.3. In respect of the LIR there was agreement as to the overall level of harm to the RPG, although SSDC considered that the effect could have been lessened by alternative designs. Within the constraint of the Application site, subject to the mitigation which would be secured by the recommended DCO, it is considered that this harm is at the lowest level that could be achieved.
- 14.3.4. There would be less than substantial harm to the Camel Hill SM and to its setting on the basis that it does not physically affect the SM, although in very close proximity, and because of the existing situation with traffic already it is in very close proximity to the SM. Again, in line with paragraph 5.134 of the NNNPS this harm should be weighed against the public benefits of the proposals.
- 14.3.5. Furthermore, there would be less than substantial harm to Eyewell House and its associated outbuildings both during the construction and operational stages.
- 14.3.6. In line with paragraph 5.131 of the NNNPS great weight should be given to conservation of designated heritage assets. In this regard the ExA gives great weight to the harms which, in line with paragraph 5.132 of the NNNPS, should be weighed against the benefits of development.

- 14.3.7. The Proposed Development would preserve the character of the West Camel and Queen Camel conservation areas in line with Regulation 3 of the Decisions Regulations and this conclusion would also apply should additional, appropriate, traffic mitigation be introduced in line with the request in the LIR.
- 14.3.8. The LIR raised the issue of harm to the Martock to Sparkford Turnpike Road. This could be mitigated by the provision of additional information boards in the two proposed laybys through the proposed amendment to R12 of the DCO, and this would also provide some mitigation for the missing listed milestone.
- 14.3.9. The LIR also raised concerns over the loss of the Howell Hill Stone Boundary Wall which would be an effective total loss, but as this is a non-designated heritage asset this can only be given limited weight.

Air Quality and Emissions

- 14.3.10. The construction phase will result in negative air quality effects, but these would be mitigated, and the mitigation is secured through the DCO.
- 14.3.11. There would be an overall net worsening in local air quality within the study area. However, the Proposed Development would not result in a new exceedance of the NO₂ or PM₁₀ annual mean air quality objectives. The Proposed Development would therefore be in accordance with the policies relating to air quality in the NNNPS and the ExA considers that this would be neutral in the overall planning balance.
- 14.3.12. The Proposed Development is estimated to cause an increase of 631,167tCO₂e in non-traded emissions and increase by 5,972tCO₂e in traded emissions over 60 years. However, this Proposed Development would not be of sufficient scale to materially bear on the achievement of the statutory carbon budget. Its immediate carbon impact has been taken into account within the Benefit Cost Ratio and the Proposed development would be in accordance with the NNNPS and is therefore neutral in the planning balance. However, the SoST may wish to satisfy themselves of the impact of the change in the net emissions target to 2050 which occurred after the close of the Examination.
- 14.3.13. In terms of the LIR SSDC did not raise any particular concerns, although were concerned about increases in the level of traffic in Sparkford High Street and West Camel and potential air quality effects. In as far as the recommended DCO makes provision for surveys this would satisfactorily resolve this matter.

Biodiversity, Ecology and Natural Environment

- 14.3.14. In light of conclusions in this Report on air quality there would be no significant effects, either direct or indirect, on either of the two nearest SSSIs, the Sparkford Wood and Whitesheet Hill.

- 14.3.15. There would be a number of significant effects in the construction phase on hedgerows (including 'important' hedgerows), bats and barn owls. These would be partially mitigated by the measures outlined in the OEMP, particularly through hedgerow protection, replacement planting and the provision of bat and bird boxes so that these effects would only be temporary during the construction period and for a period thereafter. The number of bat boxes was amended following representations by SSDC with a more targeted approach utilised. This is considered appropriate.
- 14.3.16. The mitigation for badgers, including the provision of a badger tunnel under the proposed A303, would ensure that there were no adverse effects on this species.
- 14.3.17. In light of the advice in NNNPS paragraphs 5.34 to 5.35 the effects have been minimised to ensure habitats and species are protected from the adverse effects of the Proposed Development with the Requirements delivering the necessary protection.
- 14.3.18. The loss of the veteran tree is considered to be acceptable on the basis that its loss is unavoidable given the proposed route of the A303; going around it would be impractical. Both SSDC and SCC confirmed that they considered that the overall landscaping proposals represented a suitable compensation strategy. Consequently, this element of the proposal complies with paragraph 175 c) of the Framework.
- 14.3.19. Following completion of the development there would be a significant positive effect as a result of the development on biodiversity as a whole as evidenced by the offsetting matrix. Although NE has indicated that the results may be overly optimistic, on the basis of the evidence submitted the ExA is satisfied that there is sufficient 'margin for error' in the assessed units to ensure that the overall effect is beneficial and this should be weighed in the final balance. The ExA gives this moderate weight.
- 14.3.20. There would be no significant geological conservation effects.
- 14.3.21. Overall, with the exception of any changes that may be necessary in respect of mitigating the risk of birdstrike where the effects are unknown, so that the weighting may change the Proposed Development is considered to be in accordance with the NNNPS in respect of its effects on biodiversity and ecological conservation and there were no outstanding matters which had been raised in the LIR that are not satisfactorily resolved through provisions in the recommended DCO.

Noise and Vibration

- 14.3.22. During the construction period the Proposed Development would give rise to some adverse effects on residential receptors even after the proposed mitigation. These effects would be of a limited duration, and subject to the proportionate and reasonable mitigation that will be secured by the CEMP these effects are considered to be acceptable.

- 14.3.23. The Applicant acknowledges that the Proposed Development would have some adverse effects in terms of operational noise. These effects are likely to be greater than suggested by the Applicant's noise assessment since this does not take account of the most recent WHO guidance (ENG) or the variations in traffic flow at evenings or weekends.
- 14.3.24. Although the Applicant assessed the impacts of the Proposed Development on previously permitted residential development close to the A303, it is likely that additional noise mitigation measures would be required in relation to these properties. R15 should be amended to ensure that adequate noise mitigation measures are provided to existing and proposed properties and to avoid a significant adverse effect on health.
- 14.3.25. The proposal has sought to optimise the layout to minimise noise emissions in accordance with NNNPS paragraph 5.194. In accordance with NNNPS paragraph 5.197 the ExA has recommended additional noise mitigations measures. Subject to the implementation of these measures the Proposed Development should avoid any significant adverse effects on health and the quality of life and would be consistent with paragraph 5.195 of the NNNPS.
- 14.3.26. In the absence of these measures the Proposed Development would fail to accord with NPSE because the resultant noise emissions would exceed SOAEL and would not be in accordance with the NNNPS paragraph 5.195.
- 14.3.27. Subject to appropriate mitigation as secured in the CEMP the Proposed Development would not result in any significant effects through vibration and is therefore neutral in the planning balance.
- 14.3.28. The ExA considers that the failure to mitigate any increase in noise emissions above SOAEL, having regard to the ENG should be afforded substantial weight in the overall planning balance.

Landscape and Visual Effects

- 14.3.29. The Proposed Development would give rise significant adverse effects on the landscape of the area and on visual receptors. These should not be underestimated. It should also be noted that there would be some slight beneficial effects for some receptors due to increased screening.
- 14.3.30. There would be temporary adverse effects during the construction period throughout the corridor which would be unavoidable. It is stated that the overall construction period would be around two and a half years. Because the Applicant has not specified the construction programme it must be assumed that these effects will be over the whole of the corridor for the whole of the period. Certainly, the main compound will likely be in use for the whole period. This would be a notable period rather than being of a brief period.
- 14.3.31. However well designed the individual elements or the landscaping mitigation are the Proposed Development would have a transformative

effect. As is acknowledged by the Applicant, that LCA2 Hazlegrove would be significantly affected on a permanent basis and the southern part of this LCA would no longer recognisably remain part of that LCA, and there also would be slight adverse effects to LCA1 West Camel Hill at the end of Year 15. Those using the PRoW network through the LCA would have a fundamentally different appreciation of the landscape, from a natural environment to a man-made one featuring bunds, steep slopes and with a greater effect from traffic on the A303.

- 14.3.32. During construction there would be significant effects on the LCA6 – West Camel and Wales and LCA7 – Yeovilton, but this would be mitigated in the longer term by planting once operational and when planting has matured.
- 14.3.33. As NNNPS paragraph 5.149 states the aim should be to avoid or minimise harm to the landscape, providing reasonable mitigation where possible and appropriate. The ExA concludes that due to the nature of the Proposed Development it would not be possible to avoid harm to either the landscape or visual receptors. Subject to detailed design within the parameters set by the outline documents the Proposed Development would minimise harm to the greatest extent possible given the uncertainties that are inevitable. The Proposed Development would therefore be in accordance with paragraph 5.149 of the NNNPS, but notwithstanding that would be harmful to the landscape and visual receptors and the ExA considers that this should be given limited weight.
- 14.3.34. In respect of the LIR there were outstanding matters between the parties at the close of the Examination, particularly concerning the environmental barrier near to Viewpoint 38 and the design of structures. However, given the constraint of drainage the use of an environmental barrier is reasonable, and the design of structures could be satisfactorily resolved through the detailed design secured in the recommended DCO.

Traffic and Transport

- 14.3.35. The Proposed Development has been predicated on the need to address the congestion arising from the high volume of traffic using the A303 particularly at weekends and during the summer months. The ExA considers that the Proposed Development has been overwhelming focussed on addressing concerns in relation to motorised users on the A303 to the detriment of local communities, including NMUs.
- 14.3.36. Whilst the Applicant has sought to mitigate some of the adverse effects of the Proposed Development, it has adopted a narrow interpretation of such mitigation, relying on cost-benefit exercises to justify decisions not to mitigate.
- 14.3.37. In pursuing its aim of improving the SRN the Applicant has failed to give adequate consideration to the effects on the local road network. A consequence of this is the lack of connectivity between parts of the local road network and the creation of hostile environments for pedestrians and other NMUs. There is also a potential issue with the resilience of the

Proposed Development should the road be upgraded to an Expressway in the future

- 14.3.38. The Application fails to assess the implications of the increase in traffic on local communities. The ExA has suggested an additional Requirement in order to address this matter in recommended R14.
- 14.3.39. The Applicant acknowledges that the scheme would give rise to severance in some instances but has failed to address these issues, or embrace the objectives of the NNNPS which places emphasis on the need to address the needs of cyclists and pedestrians through investing in infrastructure in locations where the national road network severs communities and acts as a barrier to cycling and walking, by correcting historic problems.
- 14.3.40. The NMU routes of most concern to the ExA are the Eastmead Lane/Higher Farm Bridge route, Traits Lane/Gason Lane bridleway, and the Hazlegrove underbridge. The ExA considers that these routes require mitigation in order to accord with paragraphs 3.17, 4.64, 4.66 and 5.216 of NNNPS. In the ExA's view it would be preferable to address the first two of these matters by way of a planning obligation, but the Applicant is resistant to such a planning obligation. The ExA therefore recommends additional requirements, or amendments to requirements in the Applicant's preferred DCO, to mitigate all of these matters including the lighting to the underbridge.
- 14.3.41. There are a number of other matters relating to the safety of NMUs, as detailed in Chapter 10, where the ExA has also recommended changes to the Applicant's preferred DCO to mitigate these matters.
- 14.3.42. The Proposed Development would have the potential to harm air safety at RNAS Yeovilton due to birdstrike. For the reasons given in Chapter 10, the ExA is not persuaded that this matter could be addressed as part of the detailed design since the provision of mitigation in accordance with advice provided by DIO would have implications for several other aspects of the Proposed Development, including the safety of NMUs and motorised users, biodiversity and the drainage strategy. The ExA does not consider that this matter can be addressed in the context of the Applicant's preferred DCO. Any significant change in the configuration of the ponds would require the ES to be updated due to the implications for a number of other areas.
- 14.3.43. This is a matter of considerable concern with safety implications for both RNAS Yeovilton and motorised and non-motorised users along the route. In its present form the Proposed Development would conflict with paragraphs 5.47 and 5.62 of the NNNPS.
- 14.3.44. The construction phase would have a temporary adverse impact of moderate significance. Impacts on drivers using the A303 would be beneficial in terms of journey time and reliability.

- 14.3.45. Even with the inclusion of the additional mitigation measures discussed above, the proposal would fail to accord with NNNPS due to the risks of birdstrike at RNAS Yeovilton.
- 14.3.46. The Application as amended during the course of the Examination addressed a number of the issues raised within the LIR. There are a number of outstanding matters in relation to the impact of on traffic in the local community and the effects on NMU routes which are addressed above and could be mitigated in accordance with the ExA's recommendation.

Socio-Economic Effects

- 14.3.47. The Proposed Development would provide some economic benefits within the wider region. There would also be some economic benefits during construction.
- 14.3.48. The Proposed Development would have an adverse effect on businesses in locality. The Applicant's failure to assess these effects or to undertake to provide signage to help mitigate them is afforded significant weight in the overall balance.
- 14.3.49. The Proposed Development would fail to deliver any health benefits due to the attractiveness and convenience of the proposed NMU routes. Moreover, the increases in noise levels would add to the harm arising from the proposal. The ExA has recommended mitigation to address these matters. However, even with the mitigation in place the Proposed Development would have an adverse effect on local communities and would not be beneficial to health and this matter is given significant weight in the overall balance
- 14.3.50. There would be adverse effects arising from the de-trunked section of the A303 at the Mattia Diner. Due to the design of the proposal there is limited scope to mitigate these effects and they would continue for the foreseeable future. This is unfortunate since these are not problems that exist at the present time and are a direct consequence of the Proposed Development. The ExA has suggested mitigation in relation to the management of this issue, but it would not address the underlying cause of the problem. The ExA affords this matter very substantial weight.
- 14.3.51. Overall the proposal would fail to mitigate the social effects of the Proposed Development in accordance with paragraph 3.3 of the NNNPS. It would also fail to address the concerns within the LIR (T7) in relation to the de-trunked section of the A303 serving the Mattia Diner and filling Station or fully mitigate the impacts of the Proposed Development on businesses close in the locality (ECI2).
- 14.3.52. It is important to note that whilst the proposed amendments to the Applicant's preferred DCO would assist with mitigating the issues with part of the A303 it is proposed to de-trunk it would fail to address the cause of the problem.

Water Environment

- 14.3.53. The ES has demonstrated that the Proposed Development would be resilient to flood risk due to it not being in an area of high flood risk and would, in fact, provide a betterment to the local water environment. This is because it would remove currently unattenuated flows from approximately 60% of the current highway network to 100% attenuation over a greater area at greenfield runoff rates in line with NNNPS paragraph 5.113. This will reduce the risk of flooding for the surrounding area in line with NNNPS paragraph 5.103.
- 14.3.54. There was anecdotal evidence that the A303 currently causes off-site flooding. However, in the current situation water flows from the A303 towards West Camel are unattenuated. The Proposed Development would attenuate the water flows from the Application site to greenfield rates. This should ensure that there would be an improvement in the current situation, again be in accordance with NNNPS paragraph 5.103.
- 14.3.55. The Proposed Development would introduce SuDS thereby improving water quality and would be designed to meet climate change in line with the latest 2018 UK Climate Change projections with some flexibility. The drainage systems have also been designed to facilitate pollution control should there be releases in the catchment.
- 14.3.56. The Proposed Development has had regard to River Basin Management Plans and the requirements of the WFD and its daughter directives. This would ensure that there be no deterioration of ecological status in watercourses, and, for the reasons set out above, there would be an improvement. Overall, therefore on the basis of the design at present the ExA considers that this should be given moderate beneficial weight.
- 14.3.57. In respect of the LIR most areas were agreed. However, there were outstanding concerns over consultation and the approval mechanism. The ExA considers these concerns overstated in that the recommended DCO would secure appropriate consultation and that, on balance, a single tier of consultation would be most appropriate.
- 14.3.58. However, design changes to mitigate the risk of birdstrike at RNAS Yeovilton would need to be fully assessed in terms of the ES and WFD and may not bring the identified benefits to the water environment of the Proposed Development and this would affect the weight that could be given to this consideration.

HRA

- 14.3.59. The ExA is satisfied that the SoS as Competent Authority can conclude with sufficient certainty at the initial screening stage pursuant to Regulation 63(1) of the Habitats Regulations that the Proposed Development, either on its own or in combination with other plans and projects, is unlikely to have a significant effect on a European site. Consequently, there is no need to go on to undertake an Appropriate

Assessment of the implications of the Proposed Development in view of any European site's conservation objectives.

14.4. FINDINGS AND CONCLUSIONS

- 14.4.1. The principle of the Proposed Development benefits from local and regional support. The local community does not dispute the need to dual this section of the A303. The Parish Councils and others have sought to engage with the Applicant have proposed solutions to perceived problems. In these circumstances the ExA considers that it is unfortunate that more progress has not been made with addressing some of the adverse effects of the scheme.
- 14.4.2. S104 of the PA2008 requires the SoS to have regard to various matters. When assessed against the provisions of the NNNPS this the Proposed Development would accord with those provisions relating to:
- air quality and emissions;
 - biodiversity, ecology and the natural environment;
 - landscape and visual effects; and
 - water environment.
- 14.4.3. Changes necessary to deal with mitigating risks in relation to air safety for RNAS Yeovilton may, however, affect these assessments.
- 14.4.4. However, it would not accord with the following provisions of the NNNPS:
- socio-economic impacts, including community severance;
 - sustainable transport;
 - safety;
 - good design;
 - health;
 - military and defence interests; and noise.
- 14.4.5. In respect of heritage matters there would result in less than substantial harm to the Hazlegrove House RPG, a designated heritage asset. This harm should be weighed against the public benefits of the proposals. There would also be the total loss of the Howell Hill Stone Boundary Wall, but as a non-designated heritage asset this can only be given limited weight.
- 14.4.6. Turning to the LIR the Proposed Development would even with the mitigation identified to be recommended in Chapters 5 to 12 fail to address the issues raised by SSDC in terms of the effect on landscape, particularly in relation to the effect on the RPG which would also be a heritage harm, and socio-economic effects, and of SCC in terms of the effect on the local highway network and socio-economic effects, and there would be outstanding matters in respect of approval mechanisms.
- 14.4.7. In respect of the Decisions Regulations, the Proposed Development would cause:

- less than substantial harm to the setting of, and thus significance of, Hazlegrove House and the associated buildings as part of the harm to the RPG;
- would cause less than substantial harm to, and thus significance of, the Camel Hill SM and its setting;
- would cause less than substantial harm to the setting of, and thus significance of, Eyewell House and its outbuildings.

- 14.4.8. In line with Regulation 3 of the Decision Regulations regard must be given of preserving any listed building or scheduled monument or their respective settings.
- 14.4.9. Regulations 4, 5 and 6 of the Decisions Regulations are not engaged, and in respect of Regulation 7 the Proposed Development would be consistent with United Nations Environmental Programme Convention on Biological Diversity.
- 14.4.10. The SoS must determine the application in accordance with the NNNPS except if one or more of the subsections (4) to (8) of S104 applies. In this regard there is no evidence that to determine the application in accordance with the NNNPS would lead to the United Kingdom being in breach of its international obligations, being in breach of any duty imposed on the SoS by it under any enactment, or that the decision be unlawful by virtue of any enactment. It would also not be contrary to any condition prescribed for deciding an application. It would therefore not be contrary to sub-paragraphs (4), (5), (6) and (8) of S104.
- 14.4.11. In respect of subsection (7) the national need for improvements to this stretch of the A303 as an important route to the south-west carries considerable weight in favour of the Proposed Development. This is reflected in the presumption in favour of granting consent to applications for transport NSIPs. The jobs likely to be forthcoming from the construction phase, and economic benefits to the wider areas add to the benefits side of the argument.
- 14.4.12. Notwithstanding this, the Proposed Development would give rise to a number of adverse effects that could not be fully mitigated. The poor design of the Proposed Development, which is focussed on accommodating motorised users on the A303, under-pins many of these matters. The failure of the Proposed Development to satisfactorily mitigate the effects on NMU's contributes to severance of local communities, together with adverse effects on health and the inconvenience and lack of comfort of the proposed routes would encourage increased reliance on motorised transport. The failure to mitigate noise emissions so that they would not exceed SOAEL, or increase the number of receptors subject to SOAEL, would add to the adverse impacts on health.
- 14.4.13. The Proposed Development has the potential to give rise to serious safety issues due to birdstrike. This would also have adverse consequences for military and defence interests contrary to NNNPS. The proposal would also give rise to safety issues for both NMUs and the local

community. The failure to properly address the de-trunked section of the A303 within the overall design would give rise to on-going social problems that could further impact on the comfort and convenience of NMU routes.

- 14.4.14. On the basis of the situation when the Examination closed, along with the changes to the PPG, the ExA finds that the case for the Proposed Development has not been made out and recommends accordingly in Chapter 17. Furthermore, the public benefits ensuing from the development would not overcome the harm to heritage assets identified in Chapter 5, and which adds to the weight of issues against the Proposed Development. On balance therefore we do not find the proposed development to be in accordance with the NNNPS and that the disbenefits outweigh the benefits.
- 14.4.15. However, if the SoS takes a contrary view the ExA considers that it is imperative that the matters set out in Chapter 16 are included within any made DCO in order to mitigate the effects of the Proposed Development as far as is possible. Notwithstanding this, the ExA reiterates its concerns about the issue of the conflict between the proposed ponds and their ability to attract birds which could lead to birdstrike in relation to RNAS Yeovilton and whether this could be adequately mitigated, still allow for the proper drainage of the Proposed Development and fall within the scope of the existing ES and WFD.

15. COMPULSORY ACQUISITION AND RELATED MATTERS

15.1. INTRODUCTION

- 15.1.1. The Application subject to examination included proposals for the CA and TP of land and rights over land. Notwithstanding the ExA's conclusion on the merits of the Application this Chapter records the examination of those proposals and related issues.

15.2. THE REQUEST FOR CA AND TP POWERS

- 15.2.1. The request for CA and TP powers is made through the inclusion of Part 5 Powers of Acquisition in the Applicant's final dDCO [REP8-004] (the preferred DCO). The following provisions are included:

- Article 23: Compulsory acquisition of land;
- Article 24: Compulsory acquisition of land - incorporation of the Minerals code;
- Article 26: Compulsory acquisition of rights;
- Article 27: Public Rights of Way;
- Article 28: Private rights over land;
- Article 31: Acquisition of subsoil or airspace only;
- Article 32: Rights under or over streets;
- Article 33: Temporary use of land for carrying out the authorised development; and
- Article 34: Temporary use of land for maintaining the authorised development; and

- 15.2.2. If made, the DCO would also confer on the Applicant other rights and powers that may interfere with property rights and private interests. These additional powers include:

- Article 15: Temporary stopping up and restriction of use of streets and highways;
- Article 16: Permanent stopping up and restriction of use of highways, streets, and private means of access;
- Article 21: Protective Works to Buildings;
- Article 22: Authority to survey and investigate the land; and
- Article 48: Crown Land

- 15.2.3. The application was accompanied by a BoR, Land Plans, Crown Lands Plan, a SoR, and Funding Statement. Taken together these documents set out the land and rights sought by the Applicant, together with the reasons for their requirement and the basis under which compensation would be funded.

Compulsory Acquisition

- 15.2.4. The CA powers sought under Article 23 are for the acquisition of land within the Order limits where it is required to carry out or facilitate the Proposed Development. Article 26 (1) provides for the compulsory acquisition of rights and the imposition of restrictive covenants. Article 26(2) provides that in the case of Schedule 5 land only new rights may be acquired, rather than the land itself. It also allows for the imposition of such restrictive covenants, as may be required for the purposes set out in Schedule 5. Article 26(3) restricts the imposition of restrictive covenants to Schedule 5 land, whilst Article 26(4) provides that where the undertaker only needs to acquire rights over land it is not obliged to acquire any greater interest in that land.
- 15.2.5. Article 28 provides for the extinguishment of private rights over land that is subject to compulsory acquisition under the Order. Article 28(4) provides that all private rights over land which the undertaker takes TP of under the Order will be suspended and unenforceable for as long as the undertaker remains in lawful possession of the land.
- 15.2.6. The preferred DCO seeks the acquisition of rights (under Article 26) together with TP of some Schedule 5 land to deliver some elements of the Proposed Development. This relates to plots 4/4b, 5/3j, 7/1c, 7/5a, 7/7c, 7/7d, and 7/8c as shown on the Land Plans [REP7-002].

Crown Land

- 15.2.7. The Applicant has also made provision in the preferred DCO for the acquisition of those land interests in Crown land comprising plots 7/5a and 7/6a. These plots are necessary for the footpath link between Traits Lane and Gason Lane and are included in Part 4 of the BoR [REP7-018]. Article 48 provides that the Applicant may only enter upon land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, where it has the consent in writing of that government department. The land concerned is held by the MoD. It confirmed by letter dated 11 April 2019 that it has authorised the acquisition of rights to create a public right of way by foot [AS-028].
- 15.2.8. The Applicant has included land in its ownership within the scope of CA. The Applicant acquired title to land previously held by the SoST through a transfer scheme dated 30 March 2015 made under section 1 of the Infrastructure Act 2015. This transferred the highways property previously held by the Crown (including in the name of the Highways Agency) to the Applicant. As the Applicant is a company this land no longer constitutes Crown Land.

Temporary Possession

- 15.2.9. Article 33 provides for the temporary use of land for carrying out the authorised development. It also allows for the temporary occupation of any of the land intended for permanent acquisition that has not yet been

acquired. Article 33(1)(c) permits the construction of temporary works and sub-paragraph (d) provides for the construction of permanent works specified in Schedule 7, or any other mitigation works in connection with the authorised development. Article 33(3) sets out the time limits for remaining in possession of land under Article 33, unless it has the agreement of the owners. Article 33(4) makes provision for the restoration of the land and 33(5) sets out the provision for compensation.

- 15.2.10. Article 34 allows the Undertaker to take TP of land within the Order limits, at any time within a period of five years from the date on which that part of the authorised development is first opened for use where required for the purpose of maintaining the authorised development.

Statutory Undertakers

- 15.2.11. Statutory Undertakers' land and Electronic Communications Code Operators' land is extensively involved along the route and CA powers are sought to acquire land, interfere with interests, override interests and remove apparatus. All the land involved is included in Part 1 and Part 3 of the BoR.
- 15.2.12. Article 35 allows the Undertaker, subject to the Protective Provisions in Parts 1 to 3 of Schedule 8, to acquire compulsorily, acquire new rights, or impose restrictive covenants over any Order land belonging to Statutory Undertakers and to remove or reposition apparatus belonging to Statutory Undertakers.
- 15.2.13. Article 35(2) provides that the power in relation to apparatus does not apply if the streets in question are to be stopped up as part of the authorised development. In that situation then the provisions of Article 36 will apply.
- 15.2.14. Article 36 governs what happens to Statutory Undertakers' apparatus (pipes, cables etc.) under streets that are stopped up by the Order. Under Article 36(2) the Applicant may require a Statutory Undertaker to remove and relocate the apparatus (or apparatus provided in substitution) elsewhere.

15.3. CHANGES TO CA AND TP POWERS SOUGHT DURING THE COURSE OF THE EXAMINATION.

Material Change

- 15.3.1. During the course of the Examination a material change was submitted by the Applicant and accepted into the Examination by the ExA. This material change, described at paragraphs 2.3.2 to 2.3.9 above, included changes to the land and rights to be compulsory acquired and that for which temporary possession is sought.
- 15.3.2. In summary the changes in so far as they relate to CA and TP are:

Amendment to the layout, siting and size of the main construction compound

- 15.3.3. Much of the land originally identified as the main construction compound is required by the DIO for the installation of new landing lights for RNAS Yeovilton. A new larger compound is proposed to the west of the original. This is identified as plot 2/5e (TP) on the Land Plans. As a consequence, TP of much of plots 2/5b, 5/13b and 7/1b (previously proposed as a secondary construction compound) is no longer sought.

Change to the access to Blackwell Farm

- 15.3.4. Following an objection to Work 59 (an access track on plot 7/7b) (see [RR-039], an alternative access arrangement was proposed. This involves widening the corner and junction of the existing public highway rather than constructing an entirely new access track on greenfield land in agricultural use as previously proposed. Although much of the land required for widening under Work 104 is within the highway verge, a small area is in third party ownership and the remainder is in the ownership of the party for whom the access Works would be required. The proposed widening would require less land take and less new hard surfacing than the previously proposed track and would move the junction of the access away from the objector's property. This change added plots 7/1d, 7/1e and 7/7e to the request for CA, and plot 7/5c to the request for TP. TP of plot 7/7b (Work 59) was withdrawn.

Addition to Plot 7/8b at Gason Lane

- 15.3.5. The original land plans showed this plot extending into the verge of the public highway at Gason Lane, but it did not fully meet the edge of the carriageway. The amendment extends the plot by 3m² to meet the edge of the existing carriageway and permit an appropriate join to be made.

Hazlegrove School – Correction of Error

- 15.3.6. One party (Hazlegrove School), holding rights within the Order land which will be affected by the Proposed Development, was consulted as a category 1 and 3 person but should have been consulted as a category 2 person.

Non-Material change

- 15.3.7. The Applicant submitted a request to the ExA at D6 [REP6-014] in respect of a number of design changes. The ExA issued a procedural decision dated 9 May 2019 [PD-019] to accept the non-material change into the Examination.
- 15.3.8. In so far as the change relates to CA and TP it includes:
- The deletion of the Podimore turning head (plot1/5a). As a consequence, the Applicant seeks TP of the plot rather than CA of rights.

- The deletion of the more southerly of the two proposed PRow between the east of Traits Lane and the west of Gason Lane, shown as plots 7/7a and 7/7c on the Lands Plans. Accordingly, the Applicant no longer seeks the CA of rights in respect of 7/7a and the extent of 7/7c is much reduced.

15.4. THE PURPOSES FOR WHICH CA AND TP IS REQUIRED

- 15.4.1. The purposes for which the CA and TP powers are required are set out in the BoR [REP7-018] and the SoR [AS-40].
- 15.4.2. In general terms, CA is sought for land that would be required permanently for the construction and operation of the main proposal namely the A303 Sparkford to Ilchester dualling, alterations to the local road network, the associated drainage Works, landscaping, and habitat compensation. CA of rights is sought for the accommodation and alteration of electricity transmission and distribution system alignments and other infrastructure including turning heads that would form part of the local road network.
- 15.4.3. The Applicant also seeks powers to take TP of land to carry out and thereafter maintain the Proposed Development. Articles 33 and 34 make provision for these powers. The SoR [AS-40] explains that this is land which is required during construction of the Proposed Development which is not required permanently. The authorisation of TP prevents the Applicant having to permanently acquire land which is required to construct the Proposed Development, but which is not needed permanently. The Applicant states that this approach helps to minimise the interference with landowners' rights.
- 15.4.4. In the case of plots 4/4b, 5/3j, 7/1c, 7/5a, 7/7c, 7/7d, and 7/8c (all listed at Schedule 5) the Applicant proposes to use TP together with the permanent acquisition of rights for the construction of a number of turning heads and the designation of the roads formed on these plots as public highway open to vehicular traffic. The ExA and SCC questioned whether this was an appropriate mechanism for the provision of the proposed turning heads. This matter is considered in Section 15.9 below.

15.5. LEGISLATIVE REQUIREMENTS

Compulsory Acquisition

- 15.5.1. CA can include the acquisition of rights. Sections 122 to 134 of the PA2008 set out the main provisions relating to the authorisation of compulsory acquisition of land. CA powers can only be granted if the conditions set out in sections 122 and 123 of the PA2008, together with relevant guidance in 'Planning Act 2008: Guidance Related to Procedures for Compulsory Acquisition of Land', (DCLG September 2013), (the DCLG Guidance) are met.

- 15.5.2. Section 122 sets out the purpose for which CA may be authorised. Section 122(2) of the PA2008 requires that land subject to CA must be required for the development to which the development consent relates, or must be required to facilitate, or be incidental to that development. Section 122(2)(c) applies where replacement land which is to be given in exchange for the order land under section 131 or 132. This does not apply in respect of the Proposed Development In respect of land required for development the land to be taken must be no more than is reasonably required and proportionate⁴⁶.
- 15.5.3. Section 122(3) of the PA2008 requires that there must be a compelling case in the public interest to acquire the land compulsorily, which means the public benefit derived from the CA must outweigh the private loss that would be suffered by those whose land is affected.
- 15.5.4. An order granting development consent may include provision authorising the CA of land only if the SoS is satisfied that one of the conditions in s123 (2) to (4) is met. The ExA is satisfied that the condition in s123(2) is met because the application for development consent includes a request for CA of the land to be authorised.
- 15.5.5. A number of general considerations also have to be addressed either as a result of the following applicable guidance or in accordance with the legal duties on decision makers:
- All reasonable alternatives to CA must have been explored;
 - The Applicant must have a clear idea of how it intends to use the land subject to CA powers and to demonstrate that adequate funds are likely to be available to meet the compensation liabilities that might flow from the exercise of CA powers;
 - The decision-maker must be satisfied that the purposes stated for the CA are legitimate and sufficiently justify the inevitable interference with Human Rights of those affected.
- 15.5.6. These matters were tested in the Examination and are reported on below.
- 15.5.7. The PA2008 requires that if changes are sought to the Application, the changes, whether material or non-material, must be considered and approved or otherwise by the ExA. If the changes accepted into the Examination involve CA of additional land and the consent of all parties with an interest in that land is not obtained by the Applicant, then the provisions of the CA Regulations will apply. There were changes to the Application involving additional land and these are considered elsewhere in this Chapter.

⁴⁶ DCLG CA guidance

Temporary Possession

- 15.5.8. TP powers are capable of being within the scope of a DCO. The PA2008 does not address TP. The DCLG Guidance requires land affected by temporary occupation to be described in the BoR. It does not provide any other guidance in relation to TP.
- 15.5.9. The Neighbourhood Planning Act 2017 (NPA) Part 2, Chapter 1 includes provisions in relation to TP. In recognition of the greater extent to which TP is being sought by scheme promoters and of the extended durations for which TP is being sought by them, the provisions in general terms provide for enhancements to the rights of parties subject to TP, with a view to ensuring that they have equivalent or proportionate rights to notice, and to relevant compensation to those already available for parties subject to CA. However, although the NPA has been enacted, the provisions in relation to TP had not come into force at the time the Examination closed.

Crown Land

- 15.5.10. Section 135(1) of the PA2008 enables DCOs authorise the compulsory acquisition of an interest in Crown land where that interest is held by a party other than the Crown. This provision only applies where the appropriate Crown authority consents to the acquisition.
- 15.5.11. Section 135(2) of the PA2008 allows a DCO to include any provision which applies "in relation to Crown land or rights benefiting the Crown", but only if the appropriate Crown authority consents to the inclusion of the provision. This provision could include, a power to use Crown land temporarily for construction or maintenance of the Proposed Development.
- 15.5.12. On 11 April 2019 the DIO sent a letter to the Applicant [AS-028] which it copied to the Examination confirming that the MoD "*hereby grants Crown Land consent under section 135(1) of the Act*". This letter does not reference sub-section 135(2), but the ExA is of view that as the letter goes on to state that the DIO confirms that "*Highways England would be permitted to use the Crown land to carry out works authorised by the DCO, if the DCO is made by the Secretary of State for Transport in due course*" this can reasonably be implied.

Statutory Undertakers

- 15.5.13. Section 127(2) of the PA2008 places restrictions on the CA of land held by statutory undertakers for the purposes of their undertaking. Where the land falls into the description set out in that section and a statutory undertaker makes a representation, Section 127(3) requires that the SoS will need to be satisfied that:
- the land can be purchased and not replaced without serious detriment to the carrying on of the undertaking; or

- if purchased, it can be replaced by other land belonging to, or available for acquisition by, the undertaker without serious detriment to the carrying on of the undertaking.

- 15.5.14. Section 127(5) places restrictions on the CA of rights over Statutory Undertakers' land where new rights over that land are created. If the circumstances in that subsection apply the SoS will need to be satisfied that:
- the rights can be purchased without any serious detriment to the carrying on of the undertaking, and;
 - any consequential detriment to the carrying on of the undertaking can be made good by the undertaker by the use of other land belonging to or available for acquisition by the undertaker.
- 15.5.15. Section 138(4) provides for the extinguishment of rights of Statutory Undertaker's rights of the relevant apparatus only if the SoS is satisfied that it is necessary purposes of carrying out the Proposed Development.
- 15.5.16. The ExA received a letter on behalf of Southern Electric Power Distribution plc dated 7 June 2019 [OD-021] formally withdrawing all of its representations in respect of the Application.

Government Guidance

- 15.5.17. The DCLG Guidance, does not provide advice in relation to TP. In terms of acquisition of rights, the latter explains that there are powers available which provide for the CA of new rights over land where full land ownership is not required. It states that such rights can only be created using a specific statutory power. Although the PA2008 is not listed as one of the available powers, it is not a closed list and s120 of the PA2008 makes provision for CA powers.

15.6. EXAMINATION OF THE CA AND TP CASE

- 15.6.1. The Examination of the Application included consideration of all submitted written material relevant to CA and TP. This section of this report does not include the Examination of TP and the CA of rights in respect of Schedule 5 land within the Applicant's preferred DCO. This matter is addressed below.
- 15.6.2. All relevant guidance and legislation is taken into account in the reasoning below and relevant conclusions are drawn at the end of this Chapter in relation to both CA and TP.
- 15.6.3. Written questions were posed to the Applicant and APs in respect of CA and TP in the ExA First Written Questions [PD-009], Further Written Questions [PD-014] and Additional Written Questions [PD-018].
- 15.6.4. The Applicant was asked about the justification for the powers sought. A Compulsory Acquisition Hearing (CAH) was held on 28 February 2019

[EV-017] and [EV-018] as part of the first round of hearings. A further CAH was held on 23 May 2019 [EV-035] in relation to the material change to the Application. These hearings were not attended by any Statutory objectors.

15.6.5. The Examination of the Applicant's request for CA and TP is based on the most recent documents submitted, including the accepted material and non-material changes. In addition, during the course of the Examination due diligence process led to changes to the submitted documentation. At the close of the Examination the most up to date versions of the Applicant's documents were:

- Draft Development Consent Order [REP8-004]
- Explanatory Memorandum [REP7-015]
- Book of Reference Revision E [REP7-018]
- Land plans [REP7-002]
- Crown Land Plans [REP7-009]
- Statement of Reasons Revision 4 [AS-040]
- Funding statement [REP5-010]

15.6.6. These documents taken together form the basis of the analysis in this Chapter. References to these documents from this point should be read as references to the latest revision cited above. It should be particularly noted that all Land Plan plot references employed in this Chapter are correct as per the most recently submitted Land Plans.

15.6.7. The Land subject to powers of CA and TP required in order to enable the Applicant to construct, operate and maintain the Proposed Development comprises approximately 110.87ha. Of this, approximately 82.10ha will be permanently acquired, 24.54ha will be temporarily possessed for construction and 4.23ha will be subject to TP with acquisition of permanent rights. Land over which CA and or TP powers is sought is referred to in this Chapter as the Order Land.

15.7. THE APPLICANT'S CASE FOR CA AND TP

15.7.1. The Applicant's case is set out in the SoR, a final version of which was submitted on 12 June 2019 [AS-040] to take account of changes arising from the ExA rule 17 letter dated 7 June 2019 [PD-021].

15.7.2. The policy and background to the application is set out in the Case for the Scheme [APP-149]. The NNNPS was designated in January 2015. The NNNPS sets out the Government's vision and policies to deliver road networks that meet the country's long-term needs, support a prosperous and competitive economy and improve the quality of life for all. The Proposed Development is also in general accordance with policies and objectives contained in the local development plan through supporting economic development.

- 15.7.3. The dualling of the A303 between Sparkford and Ilchester was announced in the *Road Investment Strategy (RIS)* for the 2015/16 to 2019/20 road period⁴⁷.
- 15.7.4. The single carriageway section of the A303 between Sparkford and Ilchester suffers from congestion and queuing, particularly during the summer months and at weekends. It also suffers from higher than national average accident rates for single-carriageway A-class trunk roads. Numerous at-grade junctions and accesses, NMU crossing points and limited space for road workers during maintenance, create hazards for numerous user groups.
- 15.7.5. The proposed scheme would provide a number of benefits to road users, businesses, the local community and tourists, including:
- Relieving traffic congestion on a vital link to the south-west peninsula;
 - Providing more reliable journey times;
 - Improving safety and reducing driver stress by providing a more free-flowing network;
 - Providing safer local access provisions for pedestrians, cyclists and other NMUs;
 - Supporting the local economy to grow through the creation of a modernised and reliable road that reduced delays and makes the south-west more accessible for tourism and businesses; and
 - Improving the environment by reducing pollution from queuing traffic, particularly during the busy summer months.
- 15.7.6. Dualling of the A303 between Sparkford and Ilchester is therefore an appropriate solution which would meet the objectives of the DfT and overcome the existing traffic problems on this section of road.
- 15.7.7. The aims of the scheme are directly in line with the Government's policies. Section 104 of the PA2008 states that, where a relevant, NPS has been designated, the application must be decided in accordance with it except to the extent of S104(4) to (8).
- 15.7.8. Improvements are needed to this section of the A303 to improve journey times, reduce congestion and decrease the number of accidents. Without improvement, the performance of the route will deteriorate, congestion and delays will increase, and road access will be a greater barrier to economic growth and prosperity.
- 15.7.9. The Proposed Development is expected to deliver economic benefits of up to £122.2 million (2010 prices, discounted to 2010), due to journey time improvements through the conversion of the single carriageway section to a dual carriageway with associated junction improvements, as

⁴⁷ DfT (2015) *Road Investment Strategy: 2015 to 2020* available at: <https://www.gov.uk/government/collections/road-investment-strategy> (last accessed March 2018).

well as business user reliability benefits of over £10.2 million (2010 prices, discounted to 2010). Through the increased capacity and improved journey time reliability, the scheme would assist in making the region more attractive for businesses and provide the required infrastructure for development including housing and employment.

- 15.7.10. The Proposed Development will give rise to a number of environmental impacts including:
- A small overall dis-benefit due to a greater number of households experiencing daytime traffic noise increases than decreases;
 - An overall net worsening in local air quality within the study area. However, the Proposed Development would not result in a new exceedance of the NO₂ or PM₁₀ annual mean air quality objectives;
 - The scheme is estimated to cause an increase of 631,167tCO₂e in non-traded emissions and increase by 5,972tCO₂e in traded emissions over 60 years.
 - Moderate adverse effects are anticipated for the historic environment, whilst slight adverse effects are anticipated for landscape and biodiversity, and no effects anticipated for the water environment.
- 15.7.11. The social benefits, expected to arise from the scheme include journey time benefits of up to £74.5 million (2010 prices, discounted to 2010) for commuting and other users, as a direct result of capacity improvements; commuting and other user reliability benefits of over £16.4 million (2010 prices, discounted to 2010); accident reduction benefits valued at up to £11 million (2010 prices, discounted to 2010) over the appraisal period; and journey quality benefits as a result of reduced traveller stress [APP-149], section 6.1
- 15.7.12. The Applicant submits that the condition in section 122(3) of the PA2008 is met and that there is a compelling case in the public interest for CA.

The Case for CA and TP

- 15.7.13. The specific purposes for which land subject to CA and TP powers is proposed in order to deliver the Proposed Development are set out in Appendix A of the updated SoR [AS-040]. The tables at Annex A describe the purpose for which each plot of land is required in order to deliver the Proposed Development and identify the land over which powers of CA and TP are sought.
- 15.7.14. The Applicant has sought (and continues to seek) to acquire the necessary interests in the Order land through negotiation and agreement. However, acquisition by agreement may not be achievable in all cases, or in any event within the timescales necessary to ensure that the programme for the construction of the Proposed Development would be met. There are also cases where the ownership of land, or of interests in or rights over land, is unknown, and where it would therefore not be possible to acquire the interest or right except by way of CA. Land parcels will not be removed from the CA to ensure consistency and the

CA will only be used as a matter of last resort. The status of such negotiations is set out in Annex B of the SoR [AS-040] and in the BoR [REP7-018].

- 15.7.15. The Applicant has concluded that it may not be possible to negotiate the acquisition of all land interests necessary to deliver the Proposed Development within this timescale. Therefore the Proposed Development is unlikely to be capable of being delivered without CA and TP powers.
- 15.7.16. The Applicant considers that the land included in the DCO is the minimum land-take required to construct, operate, maintain and mitigate the Proposed Development and to achieve the objectives of the Proposed Development.
- 15.7.17. The limits of the land have been drawn as tightly as possible so as to avoid unnecessary land take. In the event that less land proves to be required, the Applicant would only seek to acquire that part of the land that is required and would seek to minimise the effect on landowners. The Applicant is accordingly satisfied that the land to be taken is reasonable and proportionate.
- 15.7.18. The main powers authorising the CA of land, or interests in, or rights over land, are contained in Articles 23 (compulsory acquisition of land) and 26 (compulsory acquisition of rights) of the preferred DCO.
- 15.7.19. Other compulsory acquisition powers are sought in the preferred DCO that will, or may, interfere with property, rights and interests. These include the extinguishment of existing private rights over land which is acquired by the Applicant (Article 28), Acquisition of subsoil or airspace only (Article 31), Rights under or over streets (Article 32).
- 15.7.20. The Applicant also seeks powers to take TP of land to carry out and thereafter maintain the Proposed Development in accordance with Article 33 (Temporary use of land for carrying out the authorised development), and Article 34 (Temporary use of land for maintaining the authorised development).

Availability and Adequacy of Funds

- 15.7.21. The Applicant, HE, is a Government owned company and is responsible for the operation, maintenance of and improvements to the SRN in England. HE is responsible for delivering the major projects in the RIS.
- 15.7.22. The Applicant submitted a Funding Statement [APP-021] with the application, this was updated in April 2019 to take account of the material change [REP5-010].
- 15.7.23. The Proposed Development has an estimated cost of £171 million. This estimate includes all costs to deliver the Proposed Development from the options stages through to the end of construction and close-out. It includes an allowance for compensation payments relating to the CA of land interests in, and rights over, land and the TP and use of land. It also

takes into account potential claims under Part 1 of the Land Compensation Act 1973, Section 10 of the Compulsory Purchase Act 1965 and Section 152(3) of the 2008 Act.

- 15.7.24. The Government published the RIS on 1 December 2014. This is underpinned by legislation following the Infrastructure Act 2015, and the creation of HE on 1 April 2015. The RIS provides certainty of Government funding with over £15 billion to be invested in major roads between 2015/2016 and 2020/2021. The scheme was announced in the RIS as a committed and funded scheme.
- 15.7.25. The funding commitment was reiterated in the Highways England Delivery Plan 2015- 2020 which was published in March 2015 and subsequent delivery plans 2016-2017 and 2017-2018. The Scheme will be fully funded by the DfT and consequently the Scheme is not dependant on funding contributions from other parties.
- 15.7.26. The standing of the Applicant for funding purposes has been accepted by the SoS in previous NSIP decisions. Relevant Orders have been made without particular steps being taken to secure funding in the DCO, on the basis that as a publicly funded organisation delivering a publicly committed project, the Applicant will be able to draw on public funds to meet project costs, compensation liabilities and any blight costs.

Consideration of Alternatives

- 15.7.27. In designing the Proposed Development and determining the land to be subject to CA and TP powers, the Applicant has considered alternatives during the design process. Two options were presented at an Options Consultation that was held between February and March 2017. These alternatives and modifications were consulted on. A Preferred Route was identified, based on assessments undertaken on the routes and feedback received from members of the public and Key Stakeholders. A Preferred Route Announcement was made on the 24 October 2017 by the SoST.
- 15.7.28. This process is described in detail in the ES and Case for the Scheme [APP-149].

Crown Land

- 15.7.29. The Applicant has made provision in the DCO for the acquisition of those land interests in Crown land comprising plots 7/5a and 7/6a which are not held by or on behalf of the Crown as shown in Part 4 of the Book of Reference [REP7-018] and the Crown Land Plan [REP7-009]. The consent of the MoD to the CA of these land interests is required. The DIO has confirmed on behalf of the MoD that such consent is granted [AS-028].
- 15.7.30. The Applicant has included land in its ownership within the scope of CA. It acquired title to land previously held by the SoST through a transfer scheme dated 30 March 2015 made under section 15 of the Infrastructure Act 2015. This transferred the highways property

previously held by the Crown (including in the name of the Highways Agency) to the Applicant. As the Applicant is a company this land no longer constitutes Crown Land.

Human Rights

- 15.7.31. The Human Rights Act 1998 incorporated into domestic law the provision of the European Convention on Human Rights ("ECHR"). Article 1 of the First Protocol, Article 6, and Article 8 which aim to protect the rights of the individual.
- 15.7.32. Section 6 of the Human Rights Act 1998 prohibits public authorities from acting in a way which is incompatible with rights protected by the ECHR. In exercising its powers of CA, the Applicant is acting as a public authority for the purpose of the Human Rights Act 1998 so must be conscious of the need to strike a balance between the rights of the individual and the interests of the public.
- 15.7.33. The preferred DCO, if made, may infringe the Human Rights of persons with an interest in land. This infringement is authorised by law provided that there is a compelling case in the public interest for CA powers included within the DCO, and that proper procedures are followed and that any interference with a human right is proportionate and otherwise justified.
- 15.7.34. The land over which CA powers are sought is the minimum necessary to ensure the delivery of the Proposed Development. The Applicant has reviewed the rights sought and in a number of cases has determined that only rights over land need to be acquired rather than the acquisition of all interests in those plots. This has led to a reduction in the number of plots which will be permanently acquired and demonstrates the proportionality of the land acquisition strategy.
- 15.7.35. The Applicant is content that the proper procedures have been followed for both the consultation on the Proposed Development and in determining the CA powers included within the preferred DCO.
- 15.7.36. The Applicant recognises that the Proposed Development may have an impact on individuals but considers that the significant public benefits that will arise from the Proposed Development outweigh any harm to those individuals. The dDCO strikes a fair balance between the public interest arising from the implementation of the Scheme and the private rights which will be affected by the CA.
- 15.7.37. The Applicant considers that any infringement of the ECHR rights of those whose interests in the land might be affected by the exercise of powers of CA would be proportionate and legitimate, would be in the public interest and would be in accordance with national and European law.

Applicant's Conclusion

- 15.7.38. The Applicant considers the CA and TP powers sought to be necessary, proportionate, and justified. Without the grant of CA and TP powers, the Applicant considers that it will not be possible to construct the Proposed Development, or realise the public benefits arising from it.
- 15.7.39. The Applicant has considered the Human Rights of the individuals affected by the CA and TP powers. It is satisfied that there is a compelling public interest case for CA and that there are significant public benefits.

15.8. THE OBJECTORS' CASE

- 15.8.1. The position in respect of CA and TP negotiations at the end of the Examination is provided by the Applicant in its final SoR [AS-040] This sets out the position for each affected interest in respect of each of the plots which are included in the final BoR [REP7-018].
- 15.8.2. Four objections were made at the RRs stage in relation to the land the Applicant seeks to acquire. These were from The Church Commissioners [RR-032], A W Hewlett (Wales Dairy) and D W Hewlett (Blackwell Farm) [RR-030] and [RR-031], and Iain Aird [RR-036].

The Church Commissioners for England

- 15.8.3. The CCfE estate includes two farms, Higher Farm and Coutry & Speckington Farm. The CCfE representations [RR-032] raised concerns in relation to parcel 2/5c (CA) which it considered to be excessive and the Works and materials compound at plot 2/5b (TP) which was also considered to be excessive. There were also a number of detailed concerns regarding access and drainage.
- 15.8.4. The ExA sought further information from the CCfE in their First Written Questions [PD-009] ExQ1 1.6.13, 1.8.6, and 1.8.7. No response was received. The material change accepted by the ExA [PD-012] removed 47,095m² of agricultural land from plot 2/5b.
- 15.8.5. A signed SoCG between the Applicant and the CCfE was submitted at D8 [REP8-012]. This outlined the issues between the parties. Matters in relation to land acquisition between the parties is now agreed. At the time of the close of the Examination the Church Commissioners were in the process of agreeing a lease with the Applicant.
- 15.8.6. On the basis of the information within the SoCG the ExA is now satisfied that the objection from the CCfE has been adequately addressed.

A W Hewlett (Wales Dairy) and D W Hewlett (Blackwell Farm) [RR-030] and [RR-031]

- 15.8.7. The issues raised by Messrs Hewlett related to a bridleway diversion across the north of a field (plots 7/7a and 7/7c). Messrs Hewlett stated that they were led to believe the bridleway was going through the MoD property/wooded area. As such they submitted that they had not been properly consulted about the impact of having a public bridleway across their dairy farm.
- 15.8.8. They were concerned about the adverse effect arising from the extent of plots 5/13b and 7/1b (to be used for a construction compound) which were subject to TP due to the impact on an active livestock farm. It was submitted that this would cut off their ability to administer the application of slurry on the land due to the nature and topography of the land and available hard road access.
- 15.8.9. The RR included a request to attend the CAH on 26 February 2019 [EV-17] and [EV-18] but neither objector or their agent attended. Mr D W Hewlett attended the OFH on 12 December 2018 [EV-004]. He stated that he was satisfied with the Application as it was at that time.

ExA Comment

- 15.8.10. The ExA requested further details from Messrs Hewlett (ExQ1 1.6.13 [PD-009]) but did not receive a response.
- 15.8.11. The material change referred to above altered the access arrangements referred to by Mr D W Hewlett, but he did not comment further on the Proposed Development.
- 15.8.12. The material change reduced the extent of Plots 5/13b through the removal of 14,909m² of agricultural land and 7/1b through the removal of 21,795.74m² of agricultural land. The non-material change accepted into the Examination by the ExA [PD-019] removed the bridleway across Messrs Hewlett's land.
- 15.8.13. Having regard to the material and non-material changes to the application the ExA is satisfied that the concerns raised by Messrs Hewlett in their RRs have been adequately addressed.

Iain Aird

- 15.8.14. The RR submitted by Iain Aird [RR-036] suggested that there were inaccuracies in the BoR. The ExA sought clarification of the perceived inaccuracies (ExQ1 1.13.8 [PD-009]). No response was received. Therefore, on the basis of the evidence submitted to the Examination the ExA considers that there is no substantive evidence to indicate that the BoR is inaccurate.

15.9. TURNING HEAD LAND WITHIN SCHEDULE 5

- 15.9.1. Schedule 5 of the preferred DCO is given effect by Article 26 of the dDCO. It lists the land over which only new rights may be created and the purposes for which the land may be acquired.
- 15.9.2. Although the heading to Schedule 5 in the Applicant's preferred DCO refers to TP, no part of the preferred DCO explicitly provides for the TP of Schedule 5 land. The right to take TP of land is derived from Article 33 of the dDCO. Article 33(1)(d) provides for the TP of any Order land required for mitigation Works in connection with the Proposed Development.
- 15.9.3. Article 33(3)(b) states that the Applicant must not, without the agreement of the owners of the land, remain in possession of any land for more than one year from the date of completion of the Work for which TP of the land was taken, unless the undertaker has served a notice of entry under section 11 of the Compulsory Purchase Act 1965, or made a declaration under section 4 of the Compulsory Purchase (Vesting Declarations) Act 1981 in relation to that land.
- 15.9.4. The Applicant and SCC disagree as to whether TP and permanent acquisition of rights is an adequate and suitable means of providing vehicular turning heads that will form part of the public highway. The ExA raised similar concerns as SCC in relation to the Applicant's approach to this matter. This was raised early in the Examination (ExQ1 1.13.10 and 1.13.11 [PD-009]) and continued to be an issue throughout the Examination.

Case for the Applicant in Relation to Turning Head Land

- 15.9.5. The Applicant's case in relation to this matter is set out in its legal submission [REP8-023].
- 15.9.6. In summary the Applicant's submits that the proposed mechanism is appropriate. The necessary steps to provide a public highway open to vehicles at these locations comprise:
- a. The Applicant takes possession of the land under the DCO and constructs the highway.
 - a. The public right of passage is created through Schedule 5 and acquisition (including through creation) of the necessary right.
 - b. The highway is classified by the DCO.
 - c. The highway is opened to the public.
 - d. The highway is now a highway within the legal definition.
 - e. The highway becomes maintainable at public expense through the operation of the 1980 Act and that responsibility is allocated to the County Council under Article 13 of the DCO.
 - f. The surface of the highway is vested in the highway authority by operation of law through the 1980 Act.

- g. The landowner is entitled to compensation for the new highway rights created on his land as well as the TP taken to construct the highway.
- 15.9.7. The Applicant also states that similar rights have been acquired elsewhere to provide permanent works. A number of examples have been provided at table 1.1 of the Applicant's submissions [REP8-023].
- 15.9.8. The Applicant also submits that the use of TP and the CA of rights is less interfering with the landowners, since if the road is no longer required for highway purposes in the future, it could be returned to the land owner.

The Case for SCC in Relation to Turning Head Land

- 15.9.9. SCC's case in relation to this matter is set out in its response at [REP8-027].
- 15.9.10. In summary SCC's case is it is for the Applicant to demonstrate that it has effectively created public highway rights over the sections of new highway it seeks to create by the inclusion of the land in Schedule 5 of the preferred DCO.
- 15.9.11. SCC submits that the creation of new sections of public highway cannot be achieved through the acquisition of permanent rights and temporary occupation of the land pursuant to Article 26 and Schedule 5 of the preferred DCO for the following reasons:
- a. If the undertaker only has TP of the land it does not have the capacity to dedicate the land as public highway.
 - b. The rights of public passage do not fall within the scope of the rights or interests referred to in section 159 of the PA2008 and Article 26(2) of the DCO.
 - c. Schedule 5 of the dDCO relates to the TP of land. If the land is to be used permanently as public highway, the owner is permanently dispossessed of the surface and subsoil insofar as it is required to form part of the public highway.
 - d. There is no case law or guidance of which the County Council is aware that supports the Applicant's position that section 159(2) of the PA2008 enables the creation of a new public highway through the acquisition by the Applicant of a permanent right of this nature.
- 15.9.12. SCC refers to the *Guidance on the Compulsory Purchase process and the Crichel Down Rules* (MHCLG February 2018⁴⁸). This sets out the circumstances in which an acquiring authority can acquire rights over land. Reference is made to paragraph 263 which states that: "The

⁴⁸ Since the Examination closed this has been superseded by a version published in July 2019. The ExA considers that the changes between the two versions are not material to this Application, but the SoS may wish to satisfy themselves in this regard.

creation of new rights can only be achieved using a specific statutory power, known as an 'enabling power'."

- 15.9.13. Whilst the list of enabling powers does not include the PA2008, SCC acknowledges that it allows for the creation of highways. Nonetheless, it submits that it is extremely unlikely that the powers under the PA2008 would be interpreted as broader than the powers under section 250 of the Highways Act which provides for the acquisition and creation of rights by Highway Authorities. *Department of Transport Local Authority Circular 2/97 - Notes on the Preparation, Drafting and Submission of Compulsory Purchase Orders for Highway Schemes and Car Parks for which the [SoST] is the Confirming Authority* provides guidance on the use of such powers. Paragraph 72 of the Circular is clear that it is not envisaged that these powers can be used by highway authorities in cases where the land will form part of the highway or proposed highway or where the Works they wish to carry out will, to all intents and purposes, deprive the landowner permanently of beneficial use of the land. In such cases full title to the land would be appropriate. For this reason, SCC submits that the TP of land and the permanent acquisition of rights is an inappropriate means of providing a public highway at these locations.

How this matter was examined

- 15.9.14. The ExA initially examined the matter through its ExQ1 [PD-009] questions 1.13.10, 1.13.11. The Applicant responded at D2 [REP2-004]. SCC commented on the Applicant's response at D3 [REP3-014]. At CAH1 the ExA asked the Applicant a question in relation to the affected plots and the Applicant responded that it was intended to submit what it considered to be a non-material change request to CA the affected plots rather than just acquire rights. Accordingly, the questions were not pursued at that Hearing. A formal request for a non-material change dated 8 March 2019 was received [REP4-043]. As outlined in a letter to the Applicant dated 14 March 2019 the ExA took the view that the CA regulations were engaged [PD-013a]. The Applicant decided not to pursue the change request [AS-029].
- 15.9.15. Further questions were asked at the DCO ISH6. Both the Applicant and SCC were invited to make legal submissions on this matter at D8. The ExA was conscious that this would not provide the parties with an opportunity to respond to each other's comments, but both SCC and the Applicant considered that D7 would not afford them sufficient time to make detailed submissions.

The ExA's Consideration of the Turning Head Land Issue

- 15.9.16. The issue is whether the Applicant's approach to the delivery of the turning heads listed at Schedule 5 (the turning head land) of the DCO by way of the TP of land, the acquisition of rights and designation of the road to be formed as public highway open to vehicular traffic, is appropriate. The Works associated with these plots are 27 (Downhead

turning head), 61 (Camel Hill Quarry turning head), 62 (Traits Lane turning head), 63 (Gason Lane turning head), and 64 (Camel Hill Services turning head) are listed in the SoR.

- 15.9.17. The concerns raised by SCC do not represent a formal objection to the CA and TP provisions of the dDCO, but they are nevertheless material to the consideration of this issue. SCC stated that it would not be willing for the land to be vested in it unless it could be shown that creating a public highway through such means was lawful.
- 15.9.18. The right to take TP of land is derived from Article 33 of the preferred DCO. Whilst Article 33 allows for the provision of permanent Works, the only permanent Works specifically authorised are those within Schedule 7. Due to the manner in which Article 33 is drafted the turning head Works could fall within 33(1)(d) which states:
- "construct any permanent works specified in relation to that land in column (2) of Schedule 7 (land of which only temporary possession may be taken), or any other mitigation works in connection with the authorised development."*
- 15.9.19. There are no other powers by which the Applicant can provide such permanent Works on land it has not and does not intend to acquire. The EM [REP7-016] at paragraph 4.123(b) that 'mitigation Works' include *"any permanent works necessary and appropriate to mitigate the impacts of the Scheme (e.g. landscaping or ecological mitigation works)"*
- 15.9.20. The ExA considers that the turning head Works do not readily fall within the explanation provided in the EM, therefore the ExA has considered whether these Works represent 'other mitigation Works' for the purposes of Article 33(1)(d).
- 15.9.21. The Proposed Development would stop up a number of roads that currently have access on to the A303. The ExA has considered each of the turning heads proposed and found that they are necessary to provide facilities for motorised users in the interests of highway safety and convenience. The ExA concludes that the turning head works represent necessary mitigation for the Proposed Development and therefore come within the scope of Article 33(1)(d).
- 15.9.22. Article 33(3) limits the time the Applicant can remain in possession of land of which TP has been taken. The Applicant's position is that it would not remain in possession of the land but would designate as a public highway open to traffic under the Highways Act using Article 26 rights.
- 15.9.23. The approach within Schedule 5 to plots 4/4b, 5/3j, 7/1c, 7/5a, 7/7d and 7/8c, differs from other Schedule 5 plots, in that neither the SoR or the BoR refer to construction or undertaking the Works listed within the Schedule of the rights sought. Instead they seek to designate the road to be formed on part of these plots as public highway open to vehicular traffic, and to transfer responsibility for maintenance of the public highway so designated to SCC. The only explicit reference to the TP of

these plots is with the title of Schedule 5. However, as explained at Chapter 16 the ExA recommends that this should be amended since Article 26 makes no provision for TP.

- 15.9.24. The principle that a DCO can be used to acquire rights and interests over land is not in dispute and has been used in many DCOs. The turning head Works plots come within the acquisition of rights section of the SoR. The reason for the acquisition of these plots relates to the designation of the plot as public highway and the transfer of responsibility for its maintenance to SCC. It does not include them within the TP section or make reference to the Works to be carried out whilst the Applicant has TP of the land.
- 15.9.25. Within the BoR, with the exception of plot 7/7c, there is no reference to the TP or use of these plots. The description refers to the right to designate the road to be formed on the plot, rather than the right to carry out the Works necessary to form the road. In the case of plot 7/7c the reference is solely to the temporary use of the plot, but the purpose of such use is not specified.
- 15.9.26. TP is not explicitly sought for any of the plots within Schedule 5, although TP is shown on the Land Plans. The preferred DCO addresses TP in the context of Schedule 7 where it is clear that it is land which is required during construction of the Scheme, but which is not required permanently.
- 15.9.27. The ExA concludes that in strict legal terms Article 33 of the Applicant's preferred DCO would allow the TP of the land required for the turning head Works in so far as the Works comprise mitigation for the Proposed Development. Taken together with the CA of rights by virtue of Article 26 the turning head Works could be delivered.
- 15.9.28. In reaching this conclusion, the ExA has had regard to the advice in Circular 02/97, the Section 159 of the PA2008 and the provisions of the Highways Act 1980, but does not consider that any of these matters represent a legal impediment to the powers necessary to deliver the Proposed Development.
- 15.9.29. The ExA now turns to the question as to whether the use of such powers is appropriate.
- 15.9.30. The EM [REP7-016] explains the purposes of the various provision of the DCO. With regard to Article 33 it states: *"the purpose of Article 33 is to allow the temporary occupation of land which is required during construction of the Scheme but which is not required permanently. The purpose is to prevent the undertaker having to permanently acquire land which is required to construct the Proposed Development, but which is not needed permanently and therefore assists in minimising the interference with landowners' rights."*
- 15.9.31. The Applicant also suggests that the use of TP powers rather than CA powers would minimise the interference with land owner rights and would

allow the land to be returned to the owners should the road not be required at some point in the future.

- 15.9.32. However, under the provisions of the preferred DCO SCC would remain in possession of these areas of highway for the foreseeable future. Such a situation would not reflect that outlined in the EM where the land is required during the construction of the scheme and would not be permanently required. Those with an interest in the land would for all practical purposes be deprived of it indefinitely. Whilst "temporary" does not necessarily need to be short term, it does imply a limited duration defined by either a date or an event. In this instance the period of TP is limited by Article 33 of the preferred DCO, but the acquisition of rights would be permanent. The ExA considers that there is little realistic prospect of the land being offered back to the owners in the future. In practice the owner would have no more right to use the land than any member of the public and would effectively be dispossessed of it
- 15.9.33. The ExA has had regard to the submission by SCC in relation to the Department of Transport Circular 2/97 - Notes on the Preparation, Drafting and Submission of Compulsory Purchase Orders for Highway Schemes and Car Parks for which the Secretary of State for Transport is the Confirming Authority. This addresses questions in relation to the preparation of orders for the compulsory purchase of land for highways and car parks. It takes account of the Highways Act 1980 and the Acquisition of Land Act 1981.
- 15.9.34. Paragraph 71 of the Circular explains that the kind of rights for which the compulsory acquisition of rights over land by the creation of new rights are designed are in the nature of easements ancillary or appurtenant to the highway, proposed highway or other facility. It is clear that the Circular does not envisage that these powers can be used by highway authorities in cases where the land will form part of the highway or proposed highway or where the Works they wish to carry out will, to all intents and purposes, deprive the landowner permanently of beneficial use of the land. In such cases the Circular advises in paragraph 72 that full title to the land would be appropriate.
- 15.9.35. Paragraph 98 of the Circular states that where there is a legal difficulty the procedure which will be put into force by the SoS is on similar lines to paragraph 23 of DoE Circular 14/94 (since superseded by Circular 06/04, which itself has subsequently been replaced by the Crichel Downs guidance).
- 15.9.36. The Applicant's approach would also be inconsistent with the advice within Circular 02/97. This does not anticipate the use TP powers where the land will form part of the highway or proposed highway or where it would to all intents and purposes, deprive the landowner permanently of beneficial use of the land.
- 15.9.37. The applicant's DCO [REP8-004] does not include a request for the TP of these turning head Works plots, or any explicit request to carryout Works of construction. It is therefore unclear whether those with an interest in

these plots were aware as to the implications as of the Applicant's approach. Whilst they would be eligible for compensation there remains an issue of procedural fairness.

- 15.9.38. Whilst the PA2008 does not provide any guidance in relation to this matter, the ExA notes that many of the provisions within it are concerned with procedural fairness. Moreover, the key aims of the DCO examination process include promoting best practice, as well as fairness, and transparency⁴⁹.
- 15.9.39. The Applicant's submissions refer to other DCOs⁵⁰ where it is alleged that similar rights have been created. A review of these other orders indicates that the schedules within these other DCOs are not comparable to Schedule 5. In addition, the A14 example is for a permissive route (a route whose use is allowed by the landowner). The ExA is unaware of any other DCOs that have taken a similar approach to CA and TP.
- 15.9.40. The ExA considers that there is a fundamental conflict between TP and the creation of permanent rights of a nature that effectively seek to dispossess the owner of their land. The Applicant is effectively compulsorily acquiring the land but is not doing so in an open or transparent manner. The carrying out of Works is not explicitly referred to in either the BoR or the SoR. Furthermore, the only power within the preferred DCO to enable the Works to be carried out (Article 33) is not explicit. Such an approach would not be consistent with that of previous made DCOs.
- 15.9.41. Having regard to the shortcomings within the BoR, SoR and the preferred DCO itself there is a real possibility that those dispossessed of their land may not fully understand the implications of the powers sought by the Applicant. This could have implications for the Human Rights of those affected. The powers sought are not explicit within the preferred DCO. They also fail to reflect the contents of the EM, which provides a guide to the provisions of the preferred DCO and may well have been relied upon by the owners of the plots concerned.
- 15.9.42. The ExA therefore considers that the Applicant's approach is not transparent, does not represent best practice and cannot be considered to be fair or in accordance with the ethos of the PA2008.

Conclusion on Turning Head Land

- 15.9.43. The ExA concludes:

⁴⁹ Planning Act 2008: Guidance for the examination of applications for development consent paragraph 4

⁵⁰ REP8-023 table 1.1

- The approach adopted by the Applicant is not consistent with made DCOs, is not transparent, does not represent best practice and cannot be considered to be fair.
- The powers sought are not explicit and there is a genuine possibility that the Affected Persons may be unaware that they are effectively disposed of their land. This could have implications for the Human Rights of these parties.
- While there does not appear to be a legal impediment to the exercise of CA and TP powers as set out in the preferred DCO, the SoS will need to satisfy themselves that this would be an appropriate use of CA and TP powers.

15.10. THE EXA'S RECOMMENDATIONS ON THE GRANTING OF COMPULSORY ACQUISITION POWERS

- 15.10.1. The ExA's approach to the question as to whether and what CA powers it should recommend to the SoS to grant has been to seek to apply the relevant sections of the PA2008, notably s122 and s123, the DCLG Guidance, 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.
- 15.10.2. The preferred DCO [REP8-004] deals with both the development itself and CA powers. The case for CA powers cannot properly be considered unless and until the ExA has formed a view on the case for the development overall, and the consideration of the CA issues must be consistent with that view.
- 15.10.3. The ExA concludes above that when the adverse effects of the Proposed Development are weighed against its public benefits the DCO should not be confirmed.
- 15.10.4. The ExA has also considered whether in the event that the SoS finds that the public benefits arising from the Proposed Development would outweigh the adverse effects and there would be a compelling case in the public interest for the CA and TP powers requested by the Applicant.
- 15.10.5. The effect of s122(1) and s122(2) of PA2008 is to provide that the land to be subject to CA must be required for the development to which the development consent relates, required to facilitate the development, and be incidental to the development.
- 15.10.6. The ExA is satisfied that if development consent were to be granted for the Proposed Development there would be a need to acquire the rights and interests in the CA land. On this basis the Proposed Development would comply with S122(1) and 122(2).
- 15.10.7. The ExA is satisfied that the Applicant has sought to acquire land by negotiation, and has modified the Proposed Development by way of the

material and non-material changes to reduce the extent of land for which it seeks CA or TP in accordance with paragraph 8 of the DCLG Guidance

- 15.10.8. The ExA concludes that, the use of TP and the CA of rights as a means of delivering permanent Works on land that would then be designated as public highway to be inappropriate, lacking in transparency, and procedural fairness. Therefore, whilst it may be acceptable in law, the ExA considers that it goes against the underlying principles of fairness and transparency that underpin the National Infrastructure Planning Process.
- 15.10.9. For the reasons given above in relation to the Turning Head Works, the ExA concludes that a compelling case in the public interest as required by Section 122(3) has not been made in so far as it relates to the acquisition of rights in relation to plots 4/4b, 5/3j, 7/1c, 7/5a, 7/7c, 7/7d and 7/8c.
- 15.10.10. The implications of this are discussed later in this Chapter.

Funding

- 15.10.11. In accordance with DCLG Guidance the Applicant submitted a Funding Statement [APP-021] with the application, this was updated in April 2019 to take account of the material change [REP5-010]. The Funding Statement estimates that the cost of the Proposed Development would be about £171 million. This estimate includes an allowance for compensation payments relating to the CA of land interests in, and rights over, land and the TP and use of land. It also takes into account potential claims under Part 1 of the Land Compensation Act 1973, Section 10 of the Compulsory Purchase Act 1965 and Section 152(3) of the 2008 Act.
- 15.10.12. The Proposed Development will be fully funded by the DfT and consequently the Scheme is not dependant on funding contributions from other parties. On the basis of the evidence submitted by the Applicant no changes to the Funding Statement have been requested. Nor has the ExA proposed any amendments to the DCO or the procurement of any other methods of funding security. The ExA is satisfied that should the DCO be confirmed there would be adequate funding in place to ensure its delivery.
- 15.10.13. Consistent with previous SoS decisions on Orders relating to Highways England and having regard to the DCLG Guidance in respect of the adequacy and security of financial resources, the ExA is satisfied that there are adequate funds for CA and TP compensation and no additional or special steps are required to secure or guarantee those funds.

15.11. HUMAN RIGHTS ACT 1998 CONSIDERATIONS

- 15.11.1. The Applicant acknowledges that the DCO engages a number of the articles of the Convention for the Protection of Human Rights and Fundamental Freedoms as brought into UK Law by the Human Rights Act

but submits that such interference with individuals' rights would be lawful, necessary, proportionate and justified in the public interest.

- 15.11.2. It would affect 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).
- 15.11.3. Article 6 entitles those affected by CA powers sought for the project to a fair and public Hearing of their objections. The provision of a CAH [EV-006e], and a further CAH in respect of the material change [EV-035], as well as four OFH [EV-004], [EV-014], [EV-024], and [EV-034] at which CA issues might also be raised has enabled any AP who wished to be heard to be heard fully, fairly and in public.
- 15.11.4. The Applicant states that all owners and occupiers of land affected by the proposals have been contacted and that representations could be made in response to notice under s56 PA2008 or at any CA Hearing advertised or held in public by the ExA.
- 15.11.5. The ExA finds that SoR and BoR lack clarity in terms of the Schedule 5 plots referred to above. When taken together with the absence of a direct reference to the permanent Works proposed on these plots, there is an ambiguity within the Order, and such ambiguity could mean that the APs are not fully aware as to the implications of the scheme on their property.
- 15.11.6. The SoS may wish to satisfy themselves that APs have had a fair and public hearing in accordance with Article 6, this would include being properly informed of the detail and nature of the CA powers sought in relation to their property. For the reasons given above in relation to the Turning Head Works, the ExA has significant concerns that CA and TP for the Proposed Development cannot be delivered in a manner that fully accords with all relevant Human Rights considerations.
- 15.11.7. Article 8 protects private and family life, home and correspondence. No public authority can interfere with these interests except if it is in accordance with the law and is necessary in the interests of national security, public safety or the economic well-being of the country.
- 15.11.8. The ExA concludes that when the adverse effects of the Proposed Development are weighed against its public benefits the dDCO should not be confirmed. Accordingly, there is not a compelling case in the public interest for the CA and TP powers requested by the Applicant.
- 15.11.9. Should the SoS conclude that the public benefits of the Proposed Development outweigh the harm, the ExA concludes that the interference with Human Rights is not proportionate or explicit. Therefore the CA powers sought by the DCO are not justified in so far as they relate to plots 4/4b, 5/3j, 7/1c, 7/5a, 7/7c, 7/7d and 7/8c. Consequently, there is not a compelling case in the public interest for the CA and TP powers requested by the Applicant.

- 15.11.10. Should these plots be removed from the request for CA it would not be possible to deliver the proposed turning heads. In the absence of these turning heads there would be an adverse effect on highway safety and convenience. The ExA is particularly concerned that given its length, the absence of the turning head at Camel Hill Services would exacerbate the concerns the ExA has in relation to this de-trunked stretch of the A303. Moreover, these roads are unlit, and in the absence of the proposed turning heads vehicles would need to reverse a considerable distance along a road that could also be used by NMUs. This harm has not been identified in the ES, no evidence has been submitted to suggest that it has been assessed as part of the RSA. This would add to the adverse effects of the Proposed Development.

15.12. Public Sector Equality Duty

- 15.12.1. As set out above (paragraph 3.4.10) the PSED is designed to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share the protected characteristics and persons who do not.
- 15.12.2. The Applicant did not address this duty in the original Application documents, but in response to the ExA's ExQ1 1.0.9 [PD-009] provided an Equality Impact Assessment (EqIA) (within [REP2-005]) it had prepared in 2017-18. The Applicant also committed to submitting an updated EqIA for the close of the Examination which it submitted at D8 [REP8-017].
- 15.12.3. The final EqIA finds negative effects for those with the following protected characteristics:
- age, both children under 16 years and for older people;
 - disability;
 - gender (pregnancy and maternity); and
 - religion and belief.
- 15.12.4. These are based predominantly on the effects of noise, air quality, interruption to access (including to a place of worship) and decline in driver confidence. Some of these were only judged to take place during the construction period, but others would take place during the operational period.
- 15.12.5. Conversely the EqIA identified the positive effects for those with the following protected characteristics:
- age, children under 16 years;
 - disability;
 - gender (pregnancy and maternity); and
 - religion and belief.
- 15.12.6. The EqIA identified no positive or negative effects for the those with protected characteristics of gender reassignment, race or sexual orientation.

- 15.12.7. The PSED is for the decision maker, in this case the SoST. However, to assist the SoS in making their determination the ExA makes the following comments.
- 15.12.8. In general terms the ExA considers that the EqIA provides a reasonable approach to this issue. The ExA agrees with the Applicant that due to the nature of the project there would be no positive or negative effects for those with protected characteristics of gender reassignment or sexual orientation. The ExA also agrees with the Applicant as to the negative effects as set out in the EqIA.
- 15.12.9. However, the ExA does not agree with the Applicant that there would be the positive effects identified. This is principally because of the separation of communities and the increase in distance that NMUs would be required to travel. The ExA also does not accept the proposition that there would be improvements to pedestrian facilities. These would particularly affect those under the age of 16 years and the elderly, the disabled, the pregnant and during maternity, and those with the protected characteristics of religion and belief for those wishing to attend All Saints church in West Camel.
- 15.12.10. Furthermore, the design of the existing A303 to the west of the Hazlegrove services to the Camel Hill services has also been identified as a possible location for anti-social behaviour including, according to SCC [REP5-032] *"illegal gypsy and traveller encampments"*. Such gypsy and travellers may well have the protected characteristic of race. Such encampments would be unlikely to *"foster good relations between persons who share a relevant protected characteristic and persons who do not share it"* s149(1) of the Equality Act 2010.
- 15.12.11. The ExA considers that the evidence produced by SCC [REP8-028] to justify its concerns that this section of highway may be used for anti-social behaviour or unauthorised encampments is compelling. Consequently, this factor should also be taken into account by the SoS in assessing the scheme under the PSED.

15.13. CONCLUSIONS

- 15.13.1. The ExA concludes as follows:
- The CA powers sought would accord with Sections 122(2) and 123 of the PA2008;
 - The request for CA in respect of Crown Land would comply with S135 of the PA2008;
 - In terms of Statutory undertakers there would be no conflict with Section 127 or 138 of the PA2008, and there are no outstanding objections;
 - The ExA is satisfied that objections from the Church Commissioners [RR-032], A W Hewlett (Wales Dairy) and D W Hewlett (Blackwell Farm) [RR-030] and [RR-031], and Iain Aird [RR-036] have been addressed by the Applicant and there are no outstanding matters in relation to these objections;

- There is adequate funding in place for the Proposed Development;
- There would appear to be no legal impediment to the Applicant's approach to delivering the turning heads listed at Schedule 5 of the preferred DCO using the rights sought under Articles 26 and 33;
- The exercise of the powers under Articles 26 and 33 of the preferred DCO would be inconsistent with other DCOs and would not reflect best practice and would lack transparency;
- The inclusion of plots 4/4b, 5/3j, 7/1c, 7/5a, 7/7c ,7/7d and 7/8c would interfere with Human Rights and would not be proportionate. However, the removal of these plots would result in significant, adverse effects on highway safety, thereby adding to the harm from the development. These effects have not been assessed as part of the ES;
- The SoS should satisfy themselves as to the implications of the CA and TP powers sought in respect of Human Rights and the PSED.

16. DRAFT DEVELOPMENT CONSENT ORDER AND RELATED MATTERS

16.1. INTRODUCTION

- 16.1.1. A dDCO [APP-017] and EM [APP-018] were submitted by the Applicant as part of the Application for development consent. The EM describes the purpose of the dDCO as originally submitted, with each of its articles and schedules.
- 16.1.2. The submission version dDCO was broadly based on the now-repealed Infrastructure Planning (Model Provisions) (England and Wales) Order 2009) along with other development consent orders that have been made up to the date of the Application. The original dDCO [APP-017] and subsequent iterations are in the form of a Statutory Instrument as required by s117(4) of the PA2008.
- 16.1.3. This Chapter starts by providing an overview of the changes made to the dDCO during the Examination process, between the original Application dDCO and the final dDCO submitted by the Applicant at D8 [REP8-004]. This final dDCO will be referred to as “the preferred DCO” as it is the version preferred by the Applicant at the end of the Examination. A final EM was submitted at D7 [REP7-016] which incorporated changes to that date. This Chapter then considers changes made to the preferred dDCO in order to arrive at the ExA’s Recommended DCO in Appendix E to this Report in the event that the SoS is minded to make the DCO. However, as Chapters 10 and 15 makes clear this would not resolve the issues with the Ponds or CA and TP.
- 16.1.4. The sections of this Chapter describe:
- the DCO as applied for;
 - changes during the Examination;
 - errors and omissions;
 - wording of Requirements; and
 - matters in contention.

16.2. THE DCO AS APPLIED FOR

- 16.2.1. This section records the structure of the dDCO based on the preferred DCO and is as follows:

Articles

Part 1: Preliminary

- 1) Citation and Commencement
- 2) Interpretation
- 3) Disapplication of legislative provisions
- 4) Maintenance of drainage works

Part 2: Principal Powers

- 5) Development consent etc. granted by the Order
- 6) Maintenance of authorised development
- 7) Planning permission
- 8) Limits of deviation
- 9) Benefit of Order
- 10) Consent to transfer benefit of Order

Part 3: Streets

- 11) Street works
- 12) Application of the 1991 Act
- 13) Construction and maintenance of new, altered or diverted streets and other structures
- 14) Classification of roads, etc.
- 15) Temporary stopping up and restriction of use of streets and highways
- 16) Permanent stopping up and restriction of use of highways, streets and private means of access
- 17) Creation or improvement of means of access to works
- 18) Clearways, prohibitions and restrictions
- 19) Traffic regulation

Part 4: Supplemental powers

- 20) Discharge of water
- 21) Protective works to buildings
- 22) Authority to survey and investigate the land

Part 5: Powers of Acquisition

- 23) Compulsory acquisition of land
- 24) Compulsory acquisition of land – incorporation of the mineral code
- 25) Time limit for exercise of authority to acquire land compulsorily
- 26) Compulsory acquisition of rights
- 27) Public rights of way
- 28) Private rights over land
- 29) Modification of Part 1 of the 1965 Act
- 30) Application of the 1981 Act
- 31) Acquisition of subsoil or airspace only
- 32) Rights under or over streets
- 33) Temporary use of land for carrying out the authorised development
- 34) Temporary use of land for maintaining the authorised development
- 35) Statutory undertakers
- 36) Apparatus and rights of statutory undertakers in stopped up streets
- 37) Recovery of costs of new connections

Part 6: Operations

- 38) Felling or lopping of trees and removal of hedgerows

Part 7: Miscellaneous and general

- 39) Application of landlord and tenant law
- 40) Operational land for purposes of the 1990 Act
- 41) Defence to proceedings in respect of statutory nuisance
- 42) Protective provisions
- 43) Certification of plans etc.
- 44) Service of notices
- 45) Arbitration
- 46) Appeals relating to the Control of Pollution Act 1974
- 47) Removal of human remains
- 48) Crown rights

Schedules

Schedule 1 - Authorised Development

Schedule 2 - Requirements

- Part 1 - Requirements
- Part 2 - Procedure for Discharge of Requirements

Schedule 3 - Classification of Roads, etc.

- Part 1 - Trunk Roads
- Part 2 - Roads to be Detrunked
- Part 3 - Classified A Roads
- Part 4 - Classified B Roads
- Part 5 - Unclassified Roads
- Part 6 - Speed Limits
- Part 7 - Traffic Regulation Measures (Clearways and Prohibitions)
- Part 8 - Traffic Regulation Measures (Weight Restrictions)
- Part 9 - Traffic Regulation Measures (Waiting Restrictions)
- Part 10 - Revocations and Variations of Orders
- Part 11 - Public Rights of Way
- Part 12 - Notification of Dates to be Determined

Schedule 4 - Permanent Stopping Up of Highways and Private Means of Access

- Part 1 - Highways to be Stopped Up for which No Substitute is to be Provided
- Part 2 - Highways to be Stopped Up for which a substitute is to be provided and New Highways which are otherwise to be provided
- Part 3 - Private Means of Access to be Stopped up for which No Substitute is to be Provided

Part 4 - Private Means of Access to be Stopped Up for which a Substitute is to be Provided and New Private Means of Access which are otherwise to be Provided

Part 5 - Alterations to Private Means of Access

Part 6 - New Private Means of Access

Schedule 5 - Land of which Temporary Possession may be taken and only New Rights etc. may be Permanently Acquired

Schedule 6 - Modification of Compensation and Compulsory Purchase Enactments for Creation of New Rights

Schedule 7 - Land of which Only Temporary Possession may be Taken

Schedule 8 - Protective Provisions

Part 1 - For the Protection of Electricity, Gas, Water and Sewerage Undertakers

Part 2 - For the Protection of Operators of Electronic Communications Code Networks

Part 3 - For the Protection of Drainage Authorities

Part 4 - For the Protection of the Local Highway Authority Regarding Vehicular Highways

Part 5 - For the Protection of the Local Highway Authority Regarding Non-Vehicular Highways

- 16.2.2. The structure of the DCO is generally fit for purpose, although as will be explained below, an additional Schedule is required to set out the Documents to be Certified pursuant to Article 43 of the dDCO. There were also a significant number of errors and omissions which are discussed below.

16.3. CHANGES DURING EXAMINATION

- 16.3.1. Following acceptance of the application and prior to the ExA's appointment, the Inspectorate wrote to the Applicant pursuant to s51 of the PA2008 [PD-002] noting a number of inconsistencies within the original dDCO [APP-017]. Inconsistencies were also noted between the original dDCO, the EM and the BoR. A revised dDCO [AS-007], SoR [AS-009] and BoR [AS-011] were submitted. These were used by the ExA in setting out its initial questions.
- 16.3.2. Unfortunately, notwithstanding this there remained a number of typographic, cartographic or similar errors. These were identified in Annex A to the first Written Questions [PD-009] and responded to by the Applicant at D2 [REP2-005].
- 16.3.3. The ExA's review of the first revision of the dDCO [AS-007] commenced before the PM. In addition to the typographic, cartographic or similar errors, the ExA raised matters relating to the substance of the dDCO in the Written Questions [PD-009], Further Written Questions [PD-014] and

Additional Written Questions [PD-018] and at the Hearings. IPs also raised matters relating to the content of the dDCO. The Applicant was content to amend the dDCO to incorporate some of these matters. Furthermore, three specific ISHs were held to discuss the dDCO as set out in paragraph 1.4.20 which led to further changes to the dDCO.

16.3.4. The acceptance of the material changes to the Application [PD-012] (see paragraphs 2.3.2 to 2.3.9) also led to changes to the dDCO.

16.3.5. With the exception of version 0.3 at each iteration of the dDCO the Applicant submitted a “clean” and “tracked change” version of the dDCO. There were seven versions of the dDCO submitted up to the close of the Examination. The following table sets out the version number, dates of submission and Examination event, along with the Examination Library numbers of the clean and tracked change versions.

Table 6: History of draft DCOs

Version	Date	Event	Clean version reference	Tracked change version reference
0	July 2018	Application	[APP-017]	
0.1	November 2018	To reflect s51 advise	[AS-007]	[AS-008]
0.2	January 2019	D2	[REP2-001]	[REP2-002]
0.3	February 2019	Material change request		[OD-004]
0.4	April 2019	D5	[REP5-005]	[REP5-006] ⁵¹
0.5	May 2019	D7	[REP7-013]	[REP7-014]
0.6	June 2019	D8	[REP8-004]	[REP8-005]

16.3.6. Time was reserved in the Examination Timetable for the ExA to publish either a proposed schedule of changes to the dDCO or the ExA's dDCO (if required). Because of the accepted material change and the continuation of the Examination in this and other areas, the ExA chose not to do this. Instead the Additional Written Questions [PD-014] raised various matters

⁵¹ This included tracked changes from version 0.2

which could have led to changes to the dDCO. Issues were also discussed in the May 2019 Hearings.

- 16.3.7. Both SCC and SSDC had concerns over the provisions of the dDCO and made representations on this throughout the Examination. Some of these matters remained outstanding at the closure of the Examination, and are mostly identified in the final SoCG between the Applicant and the two Councils [REP8-010] and SCC's 'Note on Latest Changes to the dDCO submitted by the Applicant for D7' [REP8-032] and SSDC's 'Responses to Highways England's response to Action Points arising from Issue Specific Hearings 5 and 6 and the draft Development Consent Order revision 0.5' [REP8-033]. These are discussed below where they do not relate to topics covered in the subject matter Chapters above. Insofar as they relate to topic areas the conclusions will inform this Chapter.
- 16.3.8. Furthermore, in addition to changes to the dDCO there were changes to the plans submitted to accompany the dDCO to accommodate not only the accepted material [PD-012] and non-material changes [PD-019] but also minor changes discussed during the Examination and to resolve cartographic errors on the drawings.

16.4. ERRORS AND OMISSIONS

- 16.4.1. Before coming to discuss the main points in contention at the close of the Examination, note must be made of a significant number of errors which remain in, or omissions from, the preferred DCO.
- 16.4.2. A good proportion of these are typographic errors, some of which relate to changes made to the dDCO where the Applicant amended some provisions but failed to amend equivalent ones elsewhere.
- 16.4.3. An example of this is in Schedule 2. SCC does not employ a "County Archaeologist" (see Ref. 21 of SCC's D3 response at [REP3-014]). Consequently, SCC requested that the Applicant amend (in the preferred DCO) R10 to remove reference to this non-existing post and rather refer to "Somerset County Council's archaeological advisor". This the Applicant did in R10 (Archaeology), but then did not delete the term "County Archaeologist" from R1 (Interpretation), and equally did not define "Somerset County Council's archaeological advisor".
- 16.4.4. There were also a significant number of other changes to the dDCO which the Applicant agreed to make during the course of the Examination but then did not incorporate them into the preferred DCO and did not resile from accepting that change. An example of this type is in Schedule 2, R1 (Interpretation) where, in response to the ExA's Additional Written Question ExQ3 3.10.7 the Applicant agreed [REP6a-002] to include a definition of "Schedule 1 birds" which itself was agreed. However, this was not done.
- 16.4.5. The biggest change of this type relates to Article 43 Certification of Plans. In the Written Questions ExQ1 1.10.18 [PD-009] the Applicant was asked *"How does this provision ensure that the final versions of these*

documents are those referred to?”. The response in [REP2 004] was “The Applicant suggests that version numbers for these documents could be added into the final version of the draft Development Consent Order (dDCO) submitted to the examination to clarify this and will include that change in the relevant version”. Once again this was not done and there are clear typographic errors in the drafting of the preferred DCO in this Article.

- 16.4.6. The ExA considers that to ensure certainty and for the benefit of those undertaking the Proposed Development, the SoS when discharging the requirements, and for enforcement, it is appropriate to include reference to all the certified documents referred to by version number. In the case of some documents, for example, the engineering sections drawings [REP7-012], a mixture of different revisions (C01, C02 and C03) are included. Therefore, as it is not just a case of referring to a single document reference this could lead to uncertainty. Setting out all the relevant documents has been followed in other DCOs such as that for The M20 Junction 10a Development Consent Order 2017.
- 16.4.7. To avoid this uncertainty, the ExA therefore recommends that Article 2 is amended to include definitions of all of these certified documents to refer to individual Parts of a new Schedule (Schedule 9) to the dDCO. Article 43 is then redrafted to include reference to the documents which have been redefined or newly defined in Article 2.
- 16.4.8. All of these errors and omissions along with the ExA’s recommended amendments are set out in Appendix D to this Report. As well as setting out the reference and the recommended amendment a comment explaining the nature of the change is given. None of these are considered by the ExA to be contentious and, with the exception of the reference to the plans, were fully discussed in the Examination, and the reference to the certified documents was discussed as above.

16.5. WORDING OF REQUIREMENTS

- 16.5.1. R5 sets out the Applicant’s obligations in relation to the submission of details for approval to the SoS following consultation with another party. Notwithstanding this, the drafting of some requirements could be read ambiguously, or in other instances do not always explicitly require this approach. For example, in R6 (Landscaping) the R6(1) states:
- “No part of the authorised development is to commence until a written landscaping scheme for that part has been submitted to and approved in writing by the Secretary of State following consultation with the relevant planning authority and the local highway authority,...”*
- 16.5.2. This could be read so that it is for the SoS to undertake the consultation with the relevant planning authority and the local highway authority after submission to the SoS rather than, as is intended, the Applicant prior to submission to the SoS.
- 16.5.3. While R6(2) does make clear that:

"At the time of submission to the Secretary of State for approval, the undertaker must provide a copy of the report referred to under sub-paragraph (1) to the relevant consultees referred to in the requirement in relation to which approval is being sought from the Secretary of State"

the ExA considers that sub-paragraph (1) should be made more explicit.

16.5.4. Other Requirements, such as R10 (Archaeology), have been drafted to avoid this ambiguity.

16.5.5. There are a number of these changes and these are set out in the following table:

Table 7: Table of amendments on consultation to Requirements

Requirement No in preferred DCO	Original text	Recommended text
5(1)	With respect to any requirement which requires details to be submitted to the Secretary of State for approval under this Schedule following consultation with another party, the details submitted must be accompanied by a report setting out the consultation undertaken by the undertaker to inform the details submitted and the undertaker's response to that consultation, and enclosing a copy of all consultation responses received.	With respect to any requirement which requires details to be submitted to the Secretary of State for approval under this Schedule after consultation with another party, the details submitted must be accompanied by a report setting out the consultation undertaken by the undertaker to inform the details submitted and the undertaker's response to that consultation, and enclosing a copy of all consultation responses received.
6(1)	No part of the authorised development is to commence until a written landscaping scheme for that part has been submitted to and approved in writing by the Secretary of State following consultation with the relevant planning	No part of the authorised development is to commence until, after consultation with the relevant planning authority and the local highway authority, a written landscaping scheme for that part has been submitted to and approved in writing

Requirement No in preferred DCO	Original text	Recommended text
	authority and the local highway authority,	by the Secretary of State,
9(1)	... and the assessment has been submitted to and approved by the Secretary of State following consultation with the Environment Agency.	... and, after consultation with the Environment Agency, the assessment has been submitted to and approved by the Secretary of State.
9(4)	... intended purpose must be prepared submitted to and approved in writing by the Secretary of State following consultation with the Environment Agency and the relevant planning authority	... intended purpose, after consultation with the Environment Agency and the relevant planning authority must be prepared, submitted to and approved in writing by the Secretary of State
12(1)	No part of the authorised development is to commence until a traffic management plan for the construction of the authorised development, substantially in accordance with the outline traffic management plan, has been submitted to and approved in writing by the Secretary of State following consultation with the local highway authority and relevant planning authority ⁵² .	No part of the authorised development is to commence until, after consultation with the local highway authority and South Somerset District Council, a traffic management plan for the construction of the authorised development, substantially in accordance with the outline traffic management plan, has been submitted to and approved in writing by the Secretary of State.
13(1)	No part of the authorised development	No part of the authorised development

⁵² In paragraph 16.6.70 below, it is recommended that "relevant planning authority" is replaced with "South Somerset District Council".

Requirement No in preferred DCO	Original text	Recommended text
	is to commence until the detailed design of that part has been approved in writing by the Secretary of State following consultation with the relevant planning authority and local highway authority on matters related to their functions.	is to commence until, after consultation with the relevant planning authority and local highway authority on matters related to their functions, the detailed design of that part has been approved in writing by the Secretary of State.
13(4)	Following approval of detailed design under sub-paragraph (1), the undertaker may submit amended detailed design for any part of the authorised development in writing to the Secretary of State following consultation with the relevant planning authority and local highway authority on matters related to their functions.	Following approval of detailed design under sub-paragraph (1), the undertaker may, after further consultation with the relevant planning authority and local highway authority on matters related to their functions, submit amended detailed design for any part of the authorised development in writing to the Secretary of State.
14(1)	No part of the authorised development is to commence until written details of the surface water drainage system, reflecting the mitigation measures in the environmental statement and including means of pollution control, have been submitted to and approved in writing by the Secretary of State following consultation with the relevant planning authority, the Lead Local Flood Authority, the local	No part of the authorised development is to commence until, after consultation with the relevant planning authority, the Lead Local Flood Authority, the local highway authority and the Environment Agency, written details of the surface water drainage system, reflecting the mitigation measures in the environmental statement and including means of pollution control, have been submitted to and

Requirement No in preferred DCO	Original text	Recommended text
	highway authority and the Environment Agency.	approved in writing by the Secretary of State.
14(3)	The drainage system must be constructed in accordance with the approved details referred to in sub-paragraph (1) unless otherwise agreed in writing by the Secretary of State following consultation with the relevant planning authority, the local highway authority and the Environment Agency.	The drainage system must be constructed in accordance with the approved details referred to in sub-paragraph (1) unless, after consultation with the relevant planning authority, the local highway authority and the Environment Agency, otherwise agreed in writing by the Secretary of State.
15(1)	No part of the authorised development is to commence until written details of proposed noise mitigation in respect of the use and operation of that part of the authorised development have been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority.	No part of the authorised development is to commence until, after consultation with the relevant planning authority, written details of proposed noise mitigation in respect of the use and operation of that part of the authorised development have been submitted to and approved in writing by the Secretary of State.
16(1)	No part of the authorised development is to commence until a written scheme of the proposed highway lighting to be provided for that part of the authorised development has been submitted to and approved in writing by the Secretary of	No part of the authorised development is to commence until, after consultation with the relevant planning authority and (in the case of proposed lighting for any highway for which the undertaker is not, or will not be following

Requirement No in preferred DCO	Original text	Recommended text
	State, following consultation with the relevant planning authority and (in the case of proposed lighting for any highway for which the undertaker is not, or will not be following implementation of article 14(2), the highway authority) the local highway authority.	implementation of article 14(2), the highway authority) the local highway authority, a written scheme of the proposed highway lighting to be provided for that part of the authorised development has been submitted to and approved in writing by the Secretary of State.
17(1)	No part of the authorised development is to commence until a delivery approach plan for the construction of the authorised development has been submitted to and approved in writing by the Secretary of State following consultation with the local highway authority and relevant planning authority. ...	No part of the authorised development is to commence until, after consultation with the local highway authority and relevant planning authority, a delivery approach plan for the construction of the authorised development has been submitted to and approved in writing by the Secretary of State. ...

16.5.6. This same ambiguity also exists in Article 8 (limits of deviation), which should similarly be amended as follows:

Table 8: Table of amendments on consultation to Articles

Article	Original text	Recommended text
8	... except that these maximum limits of vertical deviation do not apply where it is demonstrated by the undertaker to the Secretary of State's satisfaction and the Secretary of State, following consultation	... except that these maximum limits of vertical deviation do not apply where it is demonstrated by the undertaker, after consultation with the relevant planning authority and the local highway authority, to

Article	Original text	Recommended text
	with the relevant planning authority and the local highway authority, certifies accordingly ...	the Secretary of State's satisfaction and the Secretary of State certifies accordingly ...

16.6. MATTERS IN CONTENTION

16.6.1. This section of the Report addresses the outstanding matters where IPs did not agree with the Applicant as to the substance of the dDCO. This will be dealt with by topic area. It will deal with the most contentious points first, and then go through the other points in the order of the preferred DCO.

16.6.2. Having concluded on each matter, Table 9: DCO Provisions Recommended to be Changed in addition to those identified in the Table of Errors and Omissions and Consultation Arrangements, then sets out the proposed changes to the preferred DCO. This includes changes considered appropriate through consideration of the planning issues in Chapters 5 to 12. All are cross-referenced from where the recommendation is considered in the Table.

Level of Approval and Fees

The case for SCC

16.6.3. Throughout the Examination SCC maintained a position that, in respect of the highways for which it would become or is the local highway authority following completion of the Proposed Development, it should be the body that the Applicant should apply to for consent of the detailed design. Furthermore, the Applicant should pay SCC its reasonable costs associated with such an approval.

16.6.4. SCC made clear that it had no desire to be the approval body for those parts of the Proposed Development which the Applicant would become the highway authority; this would be for the SoST.

16.6.5. SCC's position was initially set out in its RR [RR-040], reiterated in the LIR (Ref T1 at [REP2-019]), at the relevant ISHs, along with representations made at the various deadlines including in the final SoCG [REP8-010] and in its representations submitted at D8 [REP8-025] to [REP8-032].

16.6.6. To be put simply, SCC's case was that as it would be responsible for the maintenance of those parts of the highway (in its widest sense) which did not form part of the strategic network it should be the approval body to ensure that the highway met its requirements. Further, as this role would be in addition to its normal role, caused by factors outside its control and

as no provision would have been made for this additional work, then it should be able to charge for that work on a cost recovery basis. SCC set out examples of where this had occurred in previously made DCOs in Appendix A of its D5 submissions [REP5-032].

- 16.6.7. The extent of the Works that SCC seeks to approve is set out in the series of Plans showing the extent of the local highway network [REP7-043]. This is its final position and is slightly different from the list set out at Appendix D of [REP4-035], although the principles are the same.

The case for the Applicant

- 16.6.8. The Applicant's position in relation to this matter changed during the course of the Examination, including with regard to the drafting of R5 (Details of consultation) to explicitly widen its scope and effect. This Report sets out the Applicant's final position, having regard to the Applicant's Statement of Final Position submitted at D8 ([REP8-024] paragraphs 5.2.11 to 5.2.21).
- 16.6.9. The Applicant's first point is that the PA2008 was designed to simplify the overall process of obtaining permission for infrastructure. Adding a second, separate, level of approval would dilute this and could lead to delays in the delivery of the Proposed Development. Further, if SCC were to refuse permission then it would be reasonable for there to be an appeal process, in line with normal planning practice, which would only delay matters.
- 16.6.10. Secondly, for those elements which would become the responsibility of SCC there would be consultation with SCC prior to the submission to the SoS for approval. The submission to the SoS would include the comments of SCC (and/or any other consultee), supplied in full, and require a statement where the Applicant did not incorporate a change. R5(3) sets this out in full and indicates that the Applicant must amend the details proposed in response to consultation only where it is appropriate, reasonable and feasible to do so, taking into account considerations including, but not limited to, cost and engineering practicality.
- 16.6.11. Thirdly, certain elements are intrinsically linked together, and separation would be artificial and impractical. Changes cannot be made to the local highway sections without considering the impact of those on the trunk road sections and vice versa.
- 16.6.12. Fourthly, the Applicant is very concerned that local approval would set a precedent. It comments that the SoST team is very used to dealing with a wide variety of circumstances and considers that it would not be reasonable for one County Council to be exempted from a national process without a very compelling reason; and none here exists. Of the seven NSIP's submitted by the Applicant and consented to date, six have the SoS only as decision making body.

- 16.6.13. On the question of fees, the Applicant makes the point that the PA2008 does not make provision for fees. This, the Applicant, indicates that SCC does not have the resources to act as discharging authority, and SCC cannot seek payment for a role it does not need to undertake.

The ExA's consideration

- 16.6.14. It has long been a tenet of good administration that decisions should be made at the lowest level possible contingent on ensuring efficiency and equity. It is also the case that the PA2008 was brought in to, amongst other aims, to try to simplify a number of consenting regimes and, if possible, ensure a single consenting mechanism for development.
- 16.6.15. It is entirely reasonable for SCC to seek to ensure that it is fully content with the design and construction of those parts of the network for which it will ultimately be responsible. There may be locally specific matters that need to be resolved.
- 16.6.16. While these matters are finely balanced, the ExA considers that provided SCC (or any other consultee) was fully involved prior to the submission of the detailed design and any comments made were fully reported to the SoS as decision maker, along with any reasons why any request of the consultee had not been accepted, it would be more efficient if the SoS were to be the ultimate decision maker for the detailed design of the whole of the Proposed Development.
- 16.6.17. Inevitably there would be interfaces between what will become, ultimately, the responsibility of HE and that of SCC. While it should be possible to resolve these interfaces, this may not be the case in all situations. By having a single determination authority the opportunity for incompatible elements is removed.
- 16.6.18. The requirement within R5 to provide the SoS with copies of all the representations received, would ensure that the SoS is fully appraised of the consultee's concerns. It would also be open for a consultee to write to the SoS to indicate that they considered that the prior-submission consultation exercise was deficient explaining why they considered that to be the case.
- 16.6.19. That said, the ExA does consider that arrangements set out in the preferred DCO could be improved. At present the submission to the SoS requires the Applicant to state in its accompanying report, if appropriate *"why any requests made in consultation responses have not been included in the submitted details"* (R5(4)). However, under the current drafting the consultee would not know this reasoning, or, if it felt further consultation would be beneficial, know why the Applicant has rejected that proposition.
- 16.6.20. It is therefore recommended that the DCO is amended so that at the same time as sending to the SoS the application for approval of the detailed design the Applicant is required to send to any consultee who made representation a copy of the report explaining why it came to the

conclusion that it so did. This would allow the consultee, if it felt that the consultation exercise had been deficient, or there was some matter which the Applicant had not fully appreciated, to make simultaneous representations to the SoS which the SoS would take into account in making the final decision. This would ensure equity in decision making.

- 16.6.21. However, if the SoS does not accept this recommendation and considers that SCC should be the decision making body for those parts of the network which will become its responsibility the ExA makes two further comments. Firstly, the ExA does not accept that if the approval was undertaken at a local level that an appeal mechanism would be necessary. The preferred DCO already includes provisions for arbitration (Article 45) and there is nothing which means that equally could not apply here. In fact, if there was a dispute, arbitration may be more effective as it can require compromise on both sides, when appeal decisions are effectively binary.
- 16.6.22. Secondly, the ExA also considers that if approval was to be undertaken at a local level then it would be reasonable for the Applicant to pay the decision maker's reasonable costs. The additional obligation on the consultee would be created by the Applicant through the Proposed Development and it follows therefore that the decision maker should be recompensed. That the SoS does not set a fee is a matter for the SoS.

Protective Provisions (Parts 4 and 5)

- 16.6.23. Dependant on the approval mechanism different Protective Provisions in favour of the local highway authority (as set out in Parts 4 and 5 of Schedule 8 of the preferred DCO) would be required. If the detailed design approval is undertaken by the SoS then the Protective Provisions should be those set out in the Applicant's preferred DCO. However, SCC made various comments which are set out in its version of the Protective Provisions in the event that the SoS is the approving authority [REP7-046].
- 16.6.24. Alternative wording is also set out if SCC was the approval body [REP7-044] with an explanatory note at [REP7-045].
- 16.6.25. In light of the ExA's consideration above (paragraph 16.6.16) the ExA will consider those elements of the Protective Provisions based on the approval being by the SoS rather than the local highway authority.
- 16.6.26. The outstanding areas of dispute are set out in Section 6.4 of the Applicant's Statement of Final Position [REP8-024]. However, there are also a small number of matters which are 'not agreed' in the SoCG between the Applicant and SCC and SSDC [REP8-010]. The outstanding matters are:
- Definition of Provisional Certificate and its use;
 - Maintenance Period;
 - Detailed Design Consultation;

- Detailed Local Operating Agreement and Detailed Design and Other Detailed Information Approval;
- Inspection, Testing and Materials;
- Road Safety Audits;
- Defects and Final Certificate;
- Costs and Expenses;
- Lighting;
- Commuted Sum and Non-Standard Highway Assets; and
- Definition of widths and limitations to NMU routes.

16.6.27. A conclusion on all the points made will be set out at the end of this section.

Provisional Certificate

- 16.6.28. SCC sets out a regime where once the Development has reached practical completion stage (Road Safety Audit Stage 3) the Applicant would be required to notify the local highway authority to give it the opportunity to inspect the Works insofar as they impact on the local highway network and the undertaker shall give proper consideration to any representations made by the local highway authority. Whereas the preferred DCO would merely have required the Applicant to use reasonable endeavours to agree the Works set out in the Audit with the local highway authority. On completion of the Works to the satisfaction of the local highway authority the local highway authority would then issue a 'Provisional Certificate' to the Applicant which would have the effect of commencing the maintenance period
- 16.6.29. The Applicant resists this on the basis that it considers it would make SCC an approval body, since it would oblige the Applicant to undertake any Works recommended in the Road Safety Audit Stage 3 which for legitimate reasons it, the Applicant, might consider inappropriate. The Applicant's case is set out in paragraphs 7.2.24 to 7.2.32 of The Applicant's Written Submissions of Oral Case at Second Round of Hearings [REP7-028] and in its Statement of Final Position [REP8-024] in paragraph 5.2.22 to 5.2.26.
- 16.6.30. The mechanism of the Provisional Certificate allows SCC to participate in Stages 2, 3 and 4 of the Road Safety Audit process and be satisfied that those Works will be to its reasonable satisfaction. The Applicant does have a legitimate point that the drafting as submitted by SCC could be read as giving it an approval role. It also requires the Applicant to agree with SCC which Works or alternatives are required to be implemented.
- 16.6.31. The ExA concludes that as SCC will be responsible for the local highway network after it is transferred SCC should be able to approve those local details, but considers that the Applicant's concerns could be overcome by alternative drafting and recommends a change to the DCO to this effect. This includes ensuring any disputes are resolved by way of arbitration.

Maintenance Period

- 16.6.32. This, in part, relates to the definition of the word "complete" which is discussed below in paragraphs 16.6.63 to 16.6.65. It is also to deal with who is responsible for the maintenance of the local highway network, including for winter maintenance, following opening of the highway to traffic.
- 16.6.33. The ExA considers that while Works were being undertaken by the Applicant on the local highway network the Applicant should be responsible for all maintenance. However, once operational, even during the defects period, it makes sense for SCC to be responsible. If there are issues of construction that led to liabilities then this will need to be resolved between the parties, but it should be remembered that a Stage 3 Road Safety Audit needs to be completed before the Works become open to traffic. The drafting should reflect this.

Detailed Design Consultation

- 16.6.34. The main issue in the drafting relates to whether the caveat "*provided always that it will be the decision of the undertaker whether it implements [the] views [of the appropriately qualified officer of the local highway authority] and for the avoidance of doubt any such view shared by the officer will not be an instruction, requirement or authorisation under this Order*" should be included at the end of paragraph 31 of the Protective Provisions.
- 16.6.35. The ExA is of the view that this could have reasonably been implied from the drafting and therefore to make it explicit would not be inappropriate. The ExA therefore is recommending a change to the DCO to this effect.

Detailed Local Operating Agreement and Detailed Design and Other Detailed Information Approval

- 16.6.36. That a Detailed Local Operating Agreement is necessary is not in dispute, nor are the general terms. The issue relates to whether SCC should approve the 'Other Detailed Information'. It appears from paragraph 6.4.4 of [REP8-024] that the Applicant considers that this would be in addition to other detailed information which must be approved by SCC under R5 (although it would appear that the Applicant's comments is a reference to paragraph 5 of SCC's drafting of the Protective Provisions).
- 16.6.37. The Applicant maintains that this is a second approval mechanism to which it objects. This has been discussed above.
- 16.6.38. The ExA considers that these practical matters should be agreed, and thus with its overarching view of the wider local network, SCC should be given approval powers in this respect.

Inspection, Testing and Materials

- 16.6.39. Apart from some minor drafting differences between the parties such as whether it should apply to land adjacent to any local highway, the main issue between the Applicant and SCC relates to notice periods before accessing the site, with the Applicant concerned about health and safety.
- 16.6.40. To the ExA the Applicant's concerns are overstated. SCC could simply get around them by indicating every day that it will be inspecting Works in two days' time. There is nothing in the Order to supersede or otherwise override the Construction, Design and Management Regulations and SCC would be acting outside its powers as a responsible employer to seek otherwise. However, to avoid this conflict, making it clear that the power to access the site is subject to health and safety considerations would avoid this issue. The ExA therefore recommends a change to the dDCO to this effect.
- 16.6.41. Having said that, if SCC wishes for any additional testing to that already undertaken by the Applicant, then SCC should be liable for its own costs. Consequently, the Applicant's drafting in this regard is appropriate.

Road Safety Audits

- 16.6.42. SCC's drafting includes that *"The undertaker must carry out at its own expense any works which the stage 3 and 4 road safety audits identify to the reasonable satisfaction of the local highway authority and prior to any local highway being transferred or returned to the control of the local highway authority"*.
- 16.6.43. The Applicant objects to this because this may lead to situations where the designer concludes that the recommendations of the Road Safety Audit are not appropriate or the issue identified could be resolved in another manner. The Applicant response to safety measures suggested by the ExA and IP's has been that they are not justified on basis of cost benefit.
- 16.6.44. The ExA notes this provision is based on a test of "reasonableness". Given that any Works are eventually to be for SCC to maintain in the long term, it would be reasonable for the conclusions of the Road Safety Audits to be incorporated into the project, with the proviso that any final disputes dealt with by arbitration under Article 45. Furthermore, this would not provide comfort to SCC for the local highway network for which it is responsible. The change discussed above in relation to the Provisional Certificate would resolve this matter.

Defects and Final Certificate

- 16.6.45. The Applicant and SCC agree that a provision relating to defects is necessary. The main differences relate to how the end of that period is to be defined. SCC suggests a Final Certificate with the Applicant promoting a finite period of not more than 52 weeks.

- 16.6.46. The issue relates to how to confirm that any defects are resolved, particularly if resolution of the first defect led to a later defect which was not resolved within the finite period. Unfortunately, this situation can arise and as drafted by the Applicant would result in an unfunded obligation on SCC through an act of a third party (the Applicant). The ExA therefore concludes that the mechanism of a Final Certificate is a good one, and the drafting should be amended. The ExA therefore recommends a change to the DCO to this effect.
- 16.6.47. Again, should there be a dispute which could not be resolved, and with good will on both sides this should not occur, this could be dealt with pursuant to arbitration under Article 45.

Costs and Expenses

- 16.6.48. SCC seeks to recover its costs, charges and expenses associated with dealing with these Protective Provisions, along with surveys it is reasonably required to do in connection with the construction of the Works and the transfer of land and rights to it on the basis that the Proposed Development would place an additional obligation upon it.
- 16.6.49. The Applicant "*objects in the strongest terms*" (paragraph 6.5.1 of Applicant's Statement of Final Position [REP8-024] to this. The Applicant continues "*Parliament did not impose a schedule of fees or charges for parties who are consultees to any part of a DCO process. There is no legal right for a Local Authority to require to be paid for the matters which it is insisting it must be allowed to do to fulfil its statutory role. It is not the Applicant's role to fund the activities of the Local Authority in a statutory capacity or to address any constraints in local authority funding and it is not reasonable to expect the Applicant to use its public funds to address problems elsewhere in the public sector.*"
- 16.6.50. The ExA is of the view that it is only reasonable that SCC should be recompensed for the additional work which is being occasioned by the Proposed Development. If the Proposed Development was not to take place there would be no additional demand on SCC's services. In this context there is no difference between an Application under the PA2008 being promoted by a public sector organisation and a private sector one. Nor, as pointed out elsewhere, is there any prohibition on one public sector organisation paying an appropriate charge to another where necessary. Furthermore, the ExA considers that failure to do so would represent a cost to the local community, when the main benefits of the Proposed Development are on a regional/national basis and it would deliver few benefits at local level. The ExA therefore recommends a change to this effect.

Lighting

- 16.6.51. SCC has requested that responsibility for the lighting and its electricity supply (which under the Proposed Development is entirely at Hazlegrove roundabout) is secured in the DCO (see the SoCG between the Applicant

and SCC [REP8-010]). The Applicant considers that these are detailed points and can be resolved as part of the detailed design.

- 16.6.52. The ExA notes that the Protective Provisions include that lighting columns are considered to be 'Standard highway assets' and therefore there is no specific provision for them to be agreed with SCC (or resolved through arbitration). However, SCC's concerns do represent matters of detailed design and thus the dDCO does not need to be amended. This would also allow for consideration of this matter in respect of the proposed lighting of the Underbridge.

Commuted Sum and Non-Standard Highway Assets

- 16.6.53. There is no dispute over the principle of the commuted sum, rather the concern relates to its timing. This is set out in sub-paragraph (7) of paragraph 46 of Part 4 of Schedule 8 in the preferred DCO. Under SCC's drafting the payment is due on the later date of completion of the development or when the value of the commuted sum is agreed. The Applicant points out that this could be some time prior to the contingent liability being occasioned.
- 16.6.54. The ExA considers that provided the payment was on the later of the two dates, then this would ensure an appropriate provision. This can be resolved by minor redrafting.

Definition of widths and limitations

- 16.6.55. SCC considers that a schedule of widths and limitations is required within the DCO and that there is no conflict with the Rights of Way Plans. The Applicant considers that this is a matter of detailed design and that the Protective Provisions make adequate provision with regard to this matter.
- 16.6.56. The ExA notes that under paragraph 50(b) of Part 5 of Schedule 8 (Protective Provisions) of the preferred DCO the Applicant must provide SCC with copies of the detailed information including a schedule of widths and limitations. This would have previously been the subject of consultation with SCC prior to approval by the SoS. Consequently, the ExA considers that adequate safeguards would be provided and that no change is required to the dDCO.

Conclusions on Protective Provisions

- 16.6.57. The ExA concludes that the following changes to the preferred DCO are necessary to ensure that Protective Provisions are appropriate and ensure sufficient safeguards for SCC.
- Additional provisions should be included to deliver a Provisional Certificate, but with revised drafting to ensure that SCC did not have an approval role.
 - Once operational, all matters of maintenance should fall on SCC. However, this would not apply to the resolution of defects.

- The Detailed Local Operating Agreement should be agreed by SCC in respect of "Other Detailed Information" as so defined.
- The inspection of the site should be at SCC's request, but subject to health and safety considerations.
- The question of any disputes following the results of the Road Safety Audits should be left to Arbitration if necessary.
- A Final Certificate process is appropriate, with, if necessary, any disputes resolved through Arbitration.
- SCC should be able to recover its reasonable costs, charges and expenses caused by the Proposed Development.
- The payment of the commuted sums should be within 10 working days of the later of the date of completion of the development or the date of agreement or determination of what that sum should be.

16.6.58. Similar considerations apply to the Proposed Protective Provisions under Part 5 of Schedule 8 regarding non-vehicular highways relating to inspections and costs.

16.6.59. The changes to the preferred DCO are set out in Table 9: DCO Provisions Recommended to be Changed in addition to those identified in the Table of Errors and Omissions and Consultation Arrangements, and in the recommended DCO at Appendix E.

Article 2 – definition of 'commence'

16.6.60. SSDC [REP6-021] is concerned that the definition as set out could result in adverse environmental effects, particularly to ecology, which would not be prevented or mitigated. This would be because the exempted matters "*archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, creation of working areas for remedial works, erection of any temporary means of enclosure, receipt and erection of construction plant and equipment, and the temporary display of site notices or advertisements*" could have such an effect and could take place before commencement.

16.6.61. The Applicant's response to this is that R11 of the preferred DCO prevents any part of the authorised development to be undertaken unless the ecological effects are supervised by an Ecological Clerk of Works. This would ensure that ecology was protected.

16.6.62. The ExA concludes that R11 provides sufficient safeguards for the protection of ecology, since "any part of the authorised development" includes those elements set out within the exempted elements in the definition. Undertaken, in the ExA's view has a wider meaning than "commence" which is specifically defined under s56(4) of the Town and Country Planning Act 1990 (as amended) (the TCPA1990).

Article 2 – definition of ‘complete’

- 16.6.63. SCC [REP8-032] makes the point that the proposed drafting would be incompatible with SCC being the approval body. It also considers that it would make sense for ‘completion’ to happen on a single date. This is also set out as not agreed in the SoCG between the Applicant and SCC [REP8-010] and the drafting of Article 14. Having a single date would avoid confusion between HE and SCC over who was responsible for maintenance (including winter maintenance) of what would be the local highway network. For example, if there was an incident on the local highway network which was caused (if only in part) by a defect on the network during the maintenance period following the physical completion of the works there could be a dispute over who would be liable.
- 16.6.64. The Applicant’s response relates partially to the previously discussed issue of approval mechanisms. In respect of the liability issue, the Applicant did not completely address this issue. However, from the oral statements at the ISH it can be inferred that the Applicant believes that this could be easily resolved by exploring the cause of the incident and then apportioning liability.
- 16.6.65. The ExA concludes that it would be simpler if there was a single completion date for all of the Proposed Development. Nevertheless, on a project of this size different elements may be finished at different times and made operational. Therefore it makes sense for these parts of the Proposed Development to be handed over in sections as that occurs.

Article 2 – definition of ‘relevant planning authority’

- 16.6.66. Both SCC [REP8-032] and SSDC [REP8-033] have made comments on this provision. SCC requests that the definition is amended so that rather than it being SSDC or SCC it be SSDC and/or SCC. SSDC would prefer to be specifically named in R12 (traffic management) and R16 (highways lighting) of the preferred DCO.
- 16.6.67. The Applicant evolved the drafting of this provision during the Examination process and did not make any specific comment in respect of these matters.
- 16.6.68. The ExA notes that the relevant planning authority in a two-tier local planning authority area, such as here, is defined in law (Schedule 1 of the TCPA1990) and cannot be both authorities at the same time. This means that the use of “and/or” would not be appropriate. Section 173 of the PA2008 uses the term “relevant local planning authority”, which is different.
- 16.6.69. However, SCC would be the local planning authority for highways works undertaken by SCC, notwithstanding that, outside matters for which it has a statutory function, SCC predominantly deals with minerals and waste matters.

- 16.6.70. In order to ensure the effects of these matters are considered in connection with other matters for which SSDC would normally be the determining authority, for example the effects of highway lighting on the Hazlegrove House RPG, SSDC should be specifically consulted. It is therefore RECOMMENDED that R12 and R16 are amended to replace "relevant planning authority" with "South Somerset District Council"⁵³. SCC would continue to be consulted as local highway authority in both provisions.

Article 5(2) – Adjacent land

- 16.6.71. SCC and SSDC believe this provision is cast on too wide a basis and would allow the Applicant to undertake works which would have a significant effect, and could be incompatible with other matters for which SCC as traffic or highway authority would be responsible. SSDC is also concerned on the basis that it would allow the Applicant to undertake unspecified works across an unspecified area for an unspecified length of time.
- 16.6.72. SCC points out [REP8-025] this provision does not appear in the repealed Infrastructure Planning (Model Provisions) (England and Wales) Order 2009) and the Applicant cites only two other examples where it has appeared in other DCOs⁵⁴. It considers that the sub-Article should be deleted on the basis that it would allow the disapplication of unknown legislative provisions within an undefined area causing uncertainty for those seeking to enforce the law and those seeking to abide by it.
- 16.6.73. In the final version of the EM [REP7-016] the Applicant explains that this provision is designed to prevent conflict of law by providing that, where something provided for in the DCO would conflict with another enactment, the DCO takes precedence. This means for example that the stopping up provisions of the DCO can be exercised by the undertaker under the DCO rather than a separate stopping up order having to be promoted by the relevant highway authority as would be the case under other legislation. The DCO can also provide consents, such as hedgerow consents, without the normal process for obtaining these having to be followed.
- 16.6.74. The Applicant considers that the powers only apply to adjacent land where specifically provided for in the Order and where that is necessary. Article 5(2) is not a wide or general provision and does not allow the Applicant to do anything outside the Order limits which is not specifically

⁵³ Table 7: Table of amendments on consultation to Requirements also recommends that Requirement 12 is amended to ensure clarity as regarding consultation.

⁵⁴ See article 5(2) of The M20 Junction 10a Development Consent Order 2017 and article 5(2) of The A14 Cambridge to Huntingdon Improvement Scheme Development Consent Order 2016

provided in the Order. The ExA notes that the number of instances where Order powers apply to adjacent land is limited and the preferred DCO makes it clear where these apply. For example, the power under Article 21 to undertake protective Works to buildings applies to any building – it is not limited to within the Order Limits. The use of such powers is limited by necessity under the definition of adjacent land and by the Article concerned. “Adjacent land” is defined in Article 2 as *“that land which is necessary to carry out the development of the Works or ensure the safe construction, maintenance or operation of any section or part of the Works”*.

- 16.6.75. The ExA concludes that the part of Article 5(2) relating to land within the Order limits is reasonable and would avoid conflict with any other enactment. However, the drafting in the preferred DCO is too widely drawn in respect of adjacent land and could continue without limit of time. During construction it may be appropriate for the Applicant to impose restrictions, for example on the adjacent highway network. However, once the development is complete, notwithstanding the definition of necessity, this power could result in conflicts between SCC’s statutory responsibility as traffic authority and HE’s use of the power in a disproportionate manner. The ExA notes that in neither of the cited DCOs is “adjacent land” defined, and neither ExA Report discussed the matter.
- 16.6.76. Once the Proposed Development is complete the balance will lie in a different place than during construction. Consequently, it is recommended that the definition of “adjacent land” in Article 2 is amended to remove the words “maintenance or operation”. This would allow the Applicant to ensure necessary matters during the construction period but would mean that the powers would cease upon completion of the Proposed Development.

Article 8 – Limits of deviation

- 16.6.77. SSDC is concerned [REP6-021] not about the limits of deviation *per se* but rather about the need to ensure that any mitigation is in line with that deviation. For example, if the carriageway was raised by, say, 0.5m against Ordnance Datum then, so SSDC contends, the bunds adjacent to the carriageway designed to mitigate views of HGVs on the carriageway should also be raised by 0.5m against Ordnance Datum. Because deviation could be cumulative, that is with the carriageway going vertically up and the mitigation bund vertically down, the benefit of the mitigation could be removed.
- 16.6.78. This matter was discussed at the ISH1 with the Applicant setting out its position at D4 [REP4-024]. The Applicant in the last version of the EM [REP7-016] explains that the limits of deviation shown on the application plans have been taken into account in the preparation of the ES and the potential impacts of a deviation within the permitted limits have therefore been assessed.

- 16.6.79. The ExA concludes, as the effects of the mitigation have been assessed to include the variation permitted by the limits of deviation, development within the limits of deviation would not result in a materially different effect. Consequently, no change is required to the preferred DCO.

Article 13(4)(b) - Construction and maintenance of new, altered or diverted streets and other structures

- 16.6.80. SCC considers [REP6-019] that in Article 13(4)(b) the word "de-trunked" should be replaced with "completed" and "to the reasonable satisfaction of the local highway authority" added to be consistent with Article 13(1) to (3).
- 16.6.81. The Applicant in the final version of the EM [REP7-016] explains that Article 13 paragraphs (1) to (4) allow the Applicant to make agreements with the local highway authority concerning liability for maintenance that would otherwise apply under the Highways Act.
- 16.6.82. The ExA considers that there is a difference between paragraphs 13(1) to (3) and paragraph (4) in that the highways in paragraphs (1) to (3) will involve new works, a road being de-trunked pursuant to paragraph (4) may only involve a change in status, and therefore the highway may not be 'completed'. Consequently, no change is required to the preferred DCO. However, other changes are required to this Article in relation to whether the existing A303 to the west of the Hazlegrove roundabout should be de-trunked. These are discussed below at paragraphs 16.6.96 to 16.6.110.

Article 21 – Protective Works to buildings

- 16.6.83. SSDC [REP6-021] requests that should protective Works be required to a listed building, should those Works involve "a permanent change or alteration of the listed features". SSDC is concerned that it is not clear what are "listed features".
- 16.6.84. The ExA notes that the term "listed features" is not used in Article 21. However, R13(3) of the preferred DCO does use this term in the context of protective Works. This has proposed to be amended pursuant to the errors and omissions set out in Appendix D to "*features in any manner which would affect its character as a building of special architectural or historic interest*". It is considered that this term is precise since it follows s7(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) and no further change is required.

Schedule 2, Requirement 1 - Interpretation

- 16.6.85. SSDC considers [REP6-021] that the definition of the HEMP should be the subject of a separate consultation and approval process rather than following on from the CEMP. This would allow for clarity and enforcement

if necessary. SSDC is also concerned about the timetable for the provision of the HEMP.

- 16.6.86. The Applicant at D8 amended the dDCO to separate out the LEMP so that this was the subject of a separate approval process. The ExA is therefore satisfied that provided the final HEMP is made available pursuant to R21 (Register of requirements) of the preferred DCO then there would be sufficient clarity to allow for enforcement should this be necessary. There is therefore no need to amend the preferred DCO.

Schedule 2, Requirement 3 – Construction Environmental Management Plan (the CEMP)

- 16.6.87. The CEMP is designed to ensure that the development is undertaken in line with all the necessary environmental commitments. It was put to the Applicant by SCC that the relevant measures set out in Table 3.1 (record of environmental actions and commitments) should be made explicit to ensure that these commitments are delivered. The Applicant took the view that this was already secured by the Requirement in that the CEMP should incorporate all the relevant measures in the ES (as set out in sub-paragraph 2(c)). However, the ExA considers that the delivery of the environmental commitments should be made explicit and consequently recommends a change to the dDCO to this effect.
- 16.6.88. Furthermore, in sub-paragraph (4) the ExA considers that the words "*and taking account of the provisions of the LEMP which need to be incorporated into the HEMP*" are a duplication and reduce clarity. The ExA therefore recommends that this phrase should be deleted.

Schedule 2, Requirement 5 - Details of consultation

- 16.6.89. SSDC [REP6-021] is concerned about approvals "in part" for elements of the landscaping. It is concerned about oversight and the effect of one phase upon another. SSDC requests that the phrase "for that part" should be deleted throughout the document.
- 16.6.90. The preferred DCO includes a 'Delivery Approach Plan'. This has a number of purposes, including that mitigation is delivered for the Proposed Development. It also in paragraph (2) requires *that "Where any requirement refers to any part of the authorised development and discharge is sought for a part, the delivery approach plan must set out how that part fits into the overall plan and why it is appropriate for that part to commence as a part"*.
- 16.6.91. The ExA considers that this paragraph would ensure that SSDC concerns do not occur since this would ensure the delivery of landscaping where necessary.

Schedule 2, Requirement 6 – Landscaping

- 16.6.92. This Requirement deals with ensuring that the landscaping of the Proposed Development is appropriate. Sub-paragraph (3) requires appropriate surveys, but this is not then delivered in sub-paragraph (5). The ExA therefore recommends a change in sub-paragraph (5) to ensure, additionally, that surveys, assessments and method statements as guided by BS 5837:2012 and the Hedgerows Regulations 1997 (as amended) are secured.

Schedule 2, Requirement 8 – Fencing

- 16.6.93. This Requirement relates to the construction and installation of any permanent or temporary fencing and requires the method of construction to be in accordance with HE's Manual of Contract Document for Highway Works. The Applicant was asked at ISH4 about this Requirement and the relationship between Manual of Contract Documents for Highway Works and DMRB. The Applicant responded in its Deadline Report supporting information [REP4-018]. The ExA concludes that this draft Requirement relates to construction methodologies and specifications rather than any planning need and does not meet the tests for Requirements set out in paragraph 4.9 of the NNNPS. Consequently, the ExA recommends this Requirement is deleted.

Schedule 2, Requirement 14 – Surface water drainage

- 16.6.94. SCC notes in the SoCG between the Applicant and SCC [REP8-010] that the Applicant intends to hold a Drainage Working Group, but this is not secured in the dDCO and requests that provision is made. The Applicant considers that the Detailed Design would be submitted for approval to the SoS and this would include details of any consultation to that date so this is not necessary.
- 16.6.95. The ExA considers that while it would be useful for the purposes of clarity that the Working Group were provided for within either the DCO or a document secured under it (such as the OEMP), it cannot be considered necessary. Consequently, no change is required to the dDCO. However, should such a Working Group not materialise SCC, as LLFA, would, reasonably, be able to point out this fact in its representations on the consultation that did take place which the SoS would be able to take into account in adjudicating on the Detailed Design.

Schedule 3, Part 2 - Existing A303 to the west of Hazlegrove roundabout

- 16.6.96. The issues in respect of the de-trunked part of the A303 that serves the Mattia Diner and filling station is discussed at Chapter 10. SCC made it clear *"It is the County Council's position that the length of the existing A303 between Hazelgrove [sic] Roundabout and the Camel Hill Services*

is of little or no public benefit and should not become part of the local highway network and maintained at the public expense.” (reference 1.4 of SCC Review of Draft DCO dated April 2019 [REP6-019]).

- 16.6.97. The Applicant at the final ISH on the DCO made clear that it was its view that the highway outside the Camel Hill Services should be de-trunked as it would no longer form part of the strategic highways network. The ExA notes that there is no dispute as to this. The issue is the responsibility for its future management and maintenance.
- 16.6.98. The Applicant indicated it considers that the road would still have public utility [REP8-024] providing access to properties and those using the new footpath to the northern end of Gason Lane. SCC would be best placed to manage and maintain this. However, other than saying that it was appropriate to pass the land to SCC as the most appropriate authority the Applicant did not give any practical reasons why it could not remain the responsibility of HE.
- 16.6.99. The Infrastructure Act 2015 provided for the creation of HE. S6 includes provision for the SoS to *"give a strategic highways company directions or guidance as to the manner in which it is to exercise its functions"* and this can be found in 'Highways England: Licence'⁵⁵ (April 2015). However, this does not deal with the issue of where land was the responsibility of HE but no longer forms part of the active strategic highway network.
- 16.6.100. S2 of the Highways Act 1980 deals with *"Highway authority for road which ceases to be a trunk road"* and this includes (1) *"Where an order made under section 10 below directs that a trunk road shall cease to be a trunk road"*. It therefore appears to the ExA that unless such an order is made then HE would remain the highway authority.
- 16.6.101. Nothing was put in front of the Examination as to any public policy that dealt with the situation of land no longer forming part of the strategic highway network, but still remaining highway in circumstances where the local highway authority is clear that it does not wish to have responsibility for the future management and maintenance.
- 16.6.102. The Applicant is a public body. However, the ExA is of the view that this is of little relevance. A planning obligation cannot unilaterally impose a requirement on a local planning authority to accept land, and the ExA considers that this would equally well apply to a local highway authority.
- 16.6.103. While this is a matter of public policy for the SoS the ExA is of the view that to transfer land to a public body that has made clear that it does not want it would not be appropriate. Consequently, responsibility for

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/431389/strategic-highways-licence.pdf

management and maintenance of this section of public highway should remain the responsibility of HE.

- 16.6.104. Notwithstanding its position in principle, SCC for the reasons discussed at Chapters 10 and 11, considered that the de-trunked section of the road would have the potential to give rise to anti-social behaviour. As a consequence, if transferred to SCC, the ExA considers that SCC is likely to incur financial liabilities
- 16.6.105. The ExA considers that in this situation it is reasonable that these costs are met. Failure to do so would mean that the local community would incur costs for the adverse effects of the Proposed Development.
- 16.6.106. SCC suggested that this could be resolved by a contingency fund. However, the ExA considers that this would not be a short term or finite issue and would be an on-going problem. Consequently, a contingency fund would not be an appropriate mechanism to resolve this problem. The Applicant is resistant to a planning obligation. In any event, a contingency fund cannot be secured by way of a Requirement and therefore it would need to be secured by way of a planning obligation.
- 16.6.107. The ExA is satisfied that a planning obligation would meet the statutory tests. It is necessary to make the development acceptable and directly related to the Proposed Development. Since the funds would only be drawn upon should problems occur, it would also be fairly and reasonably related in scale and kind to the development.
- 16.6.108. Although the ExA is satisfied that a planning obligation would meet the statutory tests, for the reasons given above the ExA considers that the most appropriate solution given the on-going nature of the issue would be for Article 13(4) to be amended in accordance with SCC's suggestion [REP6-019]. This would involve separating Schedule 3 Part 2 into Section A (de-trunked roads to become vested in SCC) and Section B (de-trunked roads to remain under the control and management of the Applicant). The Applicant also opposes this approach on the basis that it is a Strategic Highway Authority and this road should not form part of the SRN or become a private road. [REP6-007].
- 16.6.109. For the reasons set out in Chapters 10 and 11 the ExA considers that the potential problems identified by SCC would be on-going because they are intrinsic to the design. However, the suggested modification would ensure that the local community would not be subject to a financial burden due to the Proposed Development.
- 16.6.110. The ExA therefore recommends that Article 13(4) be amended to exclude those sections of de-trunked road which are of little or no public benefit by separating Schedule 3 Part 2 into Section A (de-trunked roads to become vested in SCC) and Section B (de-trunked roads to remain under the control and management of the Applicant). There would also need to be consequential changes to Article 14.

Schedule 3, Part 6 – Speed limits

- 16.6.111. In the SoCG between the Applicant and SCC [REP8-010] SCC requests consideration as to whether Schedule 3 dealing with speed limits can be amended to ensure that SCC have the ability to review and approve the detail relating to the extents of speed restriction on local roads. The Applicant makes the point that under the consultation requirements in R5 the decision maker, the SoS, will have the views of SCC.
- 16.6.112. The issue of where the approval body should be is considered elsewhere, and on this basis the ExA considers that the drafting is sufficient to allow SCC to fully participate in the process. Accordingly, the ExA recommends no change to the preferred DCO.

Schedule 3, Part 10 - Revocations

- 16.6.113. SCC [REP8-032] is concerned about the text in column 4 in respect of the A303 Trunk Road (Sparkford to Podimore) (50 miles per hour speed limit) Order 1999 in that it does not indicate whether this Order is to be revoked or varied referring only to "*Shown as a dashed blue line on sheets 1, 2, 3 and 4 of the Traffic Regulation Measures Plans*".
- 16.6.114. The Traffic Regulation Measures Plans [REP7-007] show a continuous length along the existing A303 corridor. However, there is no information in front of the Examination to show whether there are any other parts of the highway network which are covered by this 1999 Order.
- 16.6.115. The ExA considers that for clarity the text should be amended by effectively adding a preamble. Therefore "Shown ..." should be replaced with "To be partially revoked to the extent shown ..." and recommends a change to this effect. If this is the full extent of the Order then the Order will be effectively superseded, but if there are further highways affected by the Order then the Order will remain in force.

Schedule 4, Part 2 - Identification of existing PRowS

- 16.6.116. At D6 SCC [REP6-019] at point 1.26 makes a comment about the classification of two PRowS. This indicates that when the Ilchester bypass was provided there was a Side Road Order made in 1974. This made a number of changes to the rights of way. These changes have only recently, in 2018, been legally evented to bring the Definitive Map and Statement up to date (see Legal Event Modification Order attached as Appendices 5(a), 5(b), and 5(c) to the LIR [REP2-019]). Consequently, SCC considers the nomenclature of these PRowS in Schedules 3 & 4 should be updated accordingly.
- 16.6.117. It should be noted that this relates to the Ilchester bypass rather than the previous proposals for the Application site discussed at paragraphs 10.5.26 to 10.5.35.

- 16.6.118. It would appear that this was overlooked by the Applicant as there is no reference to this in the response to the LIR [REP3-003]. In order to ensure that matters are up-to-date it is recommended that the preferred DCO is amended as appropriate.

Schedule 8, Part 3 - Drainage Authority

- 16.6.119. SCC requests [REP6-019] that the definition of "drainage authority" is amended to include it as LLFA as well as the Consortium. SCC is the relevant authority for ordinary watercourses (being those not designated as a Main River) in areas not covered by an Internal Drainage Board.
- 16.6.120. SCC points out [REP8-030] that the Application site is within the area for which the LLFA is responsible and any Works that will affect the flow of water in an ordinary watercourse may require Land Drainage Consent from the LLFA. This includes any Works to culvert or pipe an ordinary watercourse or to undertake Works to existing culverts.
- 16.6.121. It continues that none of the discussions on the drainage strategy for the scheme between the Applicant and LLFA remove the need to obtain Land Drainage Consent to undertake Works affecting the ordinary watercourses. The involvement of the Consortium stems from the fact that the Proposed Development is adjacent to the area for which the Consortium has responsibility and will ultimately receive the run-off from the Proposed Development. The byelaws of the Consortium will also require consents from them in addition to any that may be required by SCC.
- 16.6.122. The Applicant [REP7-027] points out that these Protective Provisions are to protect authorities into whose assets the scheme drainage connects. The Applicant indicates that the LLFA does not require to be included in the Protective Provisions as it is not the party responsible for maintaining the watercourses into which the development drainage will connect, that is the Consortium.
- 16.6.123. The ExA notes above (paragraph 12.2.13) that the Proposed Development is outside the area where the Consortium has responsibility. However, that area will receive the run-off from the Proposed Development. But before getting to that area, any run-off will have to travel through the area where SCC is the relevant authority. The Protective Provisions should therefore include SCC as LLFA in order to ensure its interests are protected.
- 16.6.124. It is therefore recommended that the definition of "drainage authority" in Part 3 of Schedule 8 is amended so as to also include SCC where its interests would be affected by the Proposed Development.

Other matters

Lack of Agreements

- 16.6.125. As noted above (paragraph 1.7.2) SCC in its D8 submission [REP8-026] considered that two matters needed to be resolved by an agreement pursuant to s278 of the Highways Act 1980 (as amended). These are:
- The installation of No Through Road signs at the southern limits of both Traits Lane and Gason Lane; and
 - A Traffic Regulation Order legalising the required speed limit to 50mph along the existing B3151 carriageway.
- 16.6.126. In its Statement of Final Position [REP8-024] the Applicant rejects the need for such an agreement on the basis that this runs counter to the principles of the DCO regime to streamline consenting for NSIPs. It also rejected the request for fees for these Works on the basis that (a) a public sector body should not be used to redress funding constraints elsewhere in the public sector and (b) as there are no fees under the PA2008. It also stated at the ISH on the matter that if SCC considered such matters were necessary then it could promote them itself.
- 16.6.127. Notwithstanding this, in the SoCG between the Applicant and SCC the Applicant [REP8-010] states it *"is preparing a Section 278 agreement to secure this mechanism"*. However, it goes on that it *"does not believe that the provision of a section 278 agreement meets the legal tests for it to be included as a requirement within the DCO and so it is proposed that this is entered into outside of the DCO"*. This occurs in relation the SoCG in relation to both any No Through Road Signs and any Traffic Regulation Order. No s278 agreement has been submitted and no draft has been provided to the Examination.
- 16.6.128. Unless the SoS is satisfied that such provision has been made, the ExA makes the following comments on the basis that an agreement is not in place.
- 16.6.129. The ExA considers that both matters requested by SCC are necessary to ensure the proper function of the Proposed Development and would be a consequence of the Proposed Development. Without the Proposed Development neither would be necessary. Both relate to the development being permitted and are related to planning.
- 16.6.130. To indicate that SCC should be required to use powers available to it and at its own expense is, in the ExA's view, untenable. Both these matters are necessary to ensure highway safety. As paragraph 4.66 of the NNNPS makes clear *"development consent should not be granted unless all reasonable steps have been taken and will be taken to minimise the risk of road casualties arising from the scheme"*. Furthermore, paragraph 109 of the Framework makes clear development should be prevented *"if there would be an unacceptable impact on highway safety"*. The need for these matters is created by the Proposed Development. That the Applicant is a public sector organisation is irrelevant to this argument. In addition,

there are numerous situations where a public sector body pays fees for services to another public sector body.

- 16.6.131. The ExA concludes that both of these matters should be delivered. Given the situation that the Applicant is not willing to do this through an agreement, the alternative is to include an additional Requirement. Paragraph 4.9 of the NNNPS refers to guidance on the use of planning conditions.
- 16.6.132. The Framework gives advice on the use of planning conditions in paragraphs 54 and 55. This reminds that "*planning conditions should be kept to a minimum and only imposed when they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects*". Further advice is given in the PPG. The PPG section on 'Use of Planning Conditions' was revised on 23 July 2019 following the closure of the Examination.
- 16.6.133. The PPG, in its section 'Use of Planning Conditions' makes clear⁵⁶ that no payment of money or other consideration can be positively required when granting planning permission. It may be possible to use a negatively worded condition to prohibit development authorised by the planning permission until a specified action has been taken (for example, the entering into a planning obligation requiring the payment of a financial contribution towards the provision of supporting infrastructure).
- 16.6.134. The PPG continues⁵⁷ that conditions requiring works on land that is not controlled by the applicant, or that requires the consent or authorisation of another person or body often fail the tests of reasonableness and enforceability, but it may be possible to achieve a similar result using a condition worded in a negative form.
- 16.6.135. A negatively worded condition limiting the development that can take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases. However, in exceptional circumstances a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence may be appropriate, where there is clear evidence that the delivery of the development would otherwise be at serious risk (this may apply in the case of particularly complex development schemes).
- 16.6.136. The ExA considers that without the provision of these matters the delivery of the development would be at risk since the alternative would be not to confirm the Order. Consequently, it would be reasonable to impose negatively worded Requirements in this case.

⁵⁶ Reference ID: 21a-005-20190723

⁵⁷ Reference ID: 21a-009-20140306

- 16.6.137. Although the Applicant has not agreed to the terms of a planning obligation, it is fully aware of the issue and the likely solution. Given that the PPG is only guidance, and the national significance of the Proposed Development, the ExA considers that the balance in this issue lies with imposing the additional Requirements rather than not confirming the Order. This approach is consistent with the approach in the PPG.
- 16.6.138. In respect of the No Through Road signs at the southern limits of Traits Lane and Gason Lane these only become necessary at the closing of the junction of those roads with the existing A303. These should therefore be installed prior to these roads being closed.
- 16.6.139. Similarly, a Traffic Regulation Order legislating for the required speed limit to be 50mph along the existing B3151 carriageway is only necessary from when the existing B3151 junction with the A303 is reconfigured.
- 16.6.140. It is therefore recommended that two additional Requirements are imposed to ensure the delivery of these matters. It will then be for the Applicant to arrange for their delivery through the necessary legal agreements.

NMU routes Higher Farm lane (Y 30/UN) and Y 30/29

- 16.6.141. In Chapter 10 the ExA concluded that bridleway Y 30/29 was not implemented. As a consequence, the stopping up of Eastmead Lane would involve a substantial eastwards diversion for all NMUs with implications for sustainable transport and highway safety. The ExA concluded that an alternative route was necessary as mitigation. This would require a bridleway in a similar location to that shown for Y 30/29 on the Applicant's Rights of Way plans linking to Y 30/UN which would need to be upgraded to bridleway status. The latter lies outside of the Order limits and would also entail the existing status of this route to be upgraded from footpath to bridleway. The ExA considers that these matters should be dealt with together within the DCO.
- 16.6.142. Since Y 30/UN lies outside of the red-line boundary the options for upgrading Higher Farm Bridge include the use of a Grampian style Requirement, a planning obligation, or a s278 agreement with SCC. The Applicant is resistant to all of these measures.
- 16.6.143. The ExA is satisfied that a planning obligation would provide an alternative mechanism, but no obligation was submitted to the Examination. In its D7 submission, Action point 60 [REP7-035] SCC submitted suggested heads of terms for an agreement under s278 Highways Act 1980.
- 16.6.144. A Grampian style Requirement would ensure that the upgrade is implemented prior to the stopping up of Eastmead Lane (Y 30/28). Since Higher Farm Lane lies outside of the DCO boundary, there is a risk, as noted by the Applicant, that the imposition of an additional Requirement may delay the implementation of the Proposed Development. The ExA considers this risk to be slight, and it does not justify failure to mitigate

the effects of the Proposed Development. However, if this was a matter of concern, the SoS could specify a timeframe for the delivery of the upgrade to avoid such a risk.

- 16.6.145. The ExA notes the Applicant's comment in its Statement of Final Position [REP8-024] that there is no guarantee that such an application would be granted or dealt with in a timely manner by SCC. Given that SCC is one of the parties promoting this change the ExA considers that the risks are minimal. Should they materialise they could be addressed by way of arbitration under Article 45.
- 16.6.146. The ExA considers that the most effective manner in which to secure this essential mitigation is by way of a new Requirement to ensure the provision of a NMU link from Eastmead Lane to Podimore and recommends to that effect. Consequential amendments to Schedule 3 Parts 10 and 11 and Schedule 4 Part 1, Part 2 would also be necessary.
- 16.6.147. However, if the SoS were to disagree with the ExA's consideration as whether the bridleway authorised by the Side Roads Order had amended the DMS, it would not be appropriate to make the specific change to Schedule 3, Part 10 relating to the revocation of that bridleway.

Unrecorded Rights of Way

- 16.6.148. SCC seeks to ensure that if applications for upgrades or additions to the DMS are confirmed that they would not be impacted on by the Proposed Development. At the present time there are two applications that are impacted upon by the development. There are also two applications in close vicinity to the schemes. A plan showing the applications is attached as Appendix 4 to the LIR [REP2-019]
- 16.6.149. SCC seeks a mechanism to ensure that the DCO to includes a detailed legally binding commitment to show how these additional rights, if found to exist, will be appropriately mitigated.
- 16.6.150. SCC accepts that this should not be an open-ended agreement. It also seeks an additional Requirement in relation to two current Wildlife & Countryside Act 1981 applications to modify the DMS that are directly affected by the Proposed Development.
- 16.6.151. SCC's suggested wording is: *"Upon the recording of any additional/ higher rights in relation to applications 859M & 861M to modify the Somerset Definitive Map & Statement, the undertaker and any successor in title, shall cooperate in full to ensure that any possible right of way cul-de-sac situations are resolved without compensation or costs being sought for any dedication agreement(s) or diversion order relating to AA-AB (861M) and BF-BM-BN-BO-BP (859M), or equivalent routes thereof."*
- 16.6.152. The Applicant provided a detailed response to this matter in their D7 Action Point 61 response [REP7-027]. The main points are:

- The suggested Requirement is not appropriate, necessary or enforceable and therefore it cannot form a Requirement;
- In seeking to force the Applicant to address future unknown events the Council is asking for the scheme to be treated differently to every other planning determination which has to be made on the facts and circumstances of the case, not conjecture;
- Seeking to treat the Applicant differently from every other landowner is unreasonable. The attempt to seek to remove the Applicant's legal rights to compensation or costs is again, entirely unreasonable as well as being unrelated to the Proposed Development and unnecessary provision of PRow to appropriate widths; and
- Binding successors in title – that is not something which can lawfully be done through Requirements as they do not bind the title, they run only with the consent to which they relate.

16.6.153. The suggested Requirement should meet the tests set out in the Government's PPG and Framework. Although the ExA supports the aim of SCC and such a Requirement would be relevant to planning, it would not be relevant to the development to be permitted, and nor would it be reasonable in all the circumstances. Consequently, the ExA does not recommend a change in this regard.

Other Matters

16.6.154. The SoCG between the Councils and the Applicant [REP8-010] includes a number of other matters that are not agreed between the parties. However, these are all matters of detailed design and the ExA considers these matters would be addressed through the consultation arrangements for this and no further changes to the preferred DCO are necessary

Table 9: DCO Provisions Recommended to be Changed in addition to those identified in the Table of Errors and Omissions and Consultation Arrangements⁵⁸

Provision	Examination Issue	Recommendations
Table of Contents	Consequential changes	Update table of contents as necessary
Article 2(1)	To limit effect of Order on "adjacent land" pursuant to Article 5(2) to the construction period {16.6.76}.	In definition of "adjacent land" after "safe construction" delete ", maintenance or operation"

⁵⁸ References in braces {} are to paragraphs of this Report.

Provision	Examination Issue	Recommendations
Article 13(4)	To ensure that the section of the existing A303 to the west of the Hazlegrove roundabout remains in the ownership and the responsibility of the Applicant {16.6.110}	After "de-trunked under" insert "under Part 2A of Schedule 3". At end of provision insert: "(5) Where a highway is de-trunked under Part 2B of Schedule 3 to this Order section 265 (transfer of property and liabilities upon a highway becoming or ceasing to be a trunk road) of the 1980 Act applies in respect of that highway, with the modification that subsection (7) is omitted."
Article 13(5), (6), (7), (8) and (9)	Consequential changes	Renumber as (6), (7), (8) (9) and (10) respectively. In new sub-paragraph (9) replace "(7)" with "(8)"
Article 14(2)	Consequential change to change to Article 13	Replace text with: "(2) "Subject to the provisions of paragraph (5) of article 13 (Construction and maintenance of new, altered or diverted streets and other structures), on such day as the undertaker may determine, the roads described in Part 2A (roads to be de-trunked and transferred to Somerset County Council) and 2B (roads to be de-trunked and remain under the control and management of the undertaker) of Schedule 3 are to cease to be trunk roads as if they had ceased to be trunk roads by virtue of an order made under section 10(2) of the 1980 Act specifying that date as the date on

Provision	Examination Issue	Recommendations
		which they were to cease to be trunk roads."
Article 14(6)	Consequential change to ensure additional bridleways are provided.	After "access plans" add "and the bridleways referred to in Requirements 18, 19 and 20"
Schedule 2, Requirement 3(2)(a)	To ensure environmental commitments are delivered {16.6.87}	Add after "(certification of plans, etc.)" "including compliance with Table 3.1 (record of environmental actions and commitments) of that plan"
Schedule 2, Requirement 3(4)	For clarity {16.6.88)	Delete "and taking account of the provisions of the LEMP which need to be incorporated into the HEMP,"
Schedule 2, Requirement 4(1)	To ensure that LEMP is subject to consultation with HBMCE to ensure historically appropriate management of that part of the Application site within the RPG {5.7.33}.	After sub-paragraph (1) add: "(2) Where the LEMP to be submitted under sub-paragraph (1) relates or includes to any part of the Hazlegrove Registered Park and Garden, consultation must also be undertaken with the Historic Buildings and Monuments Commission for England in addition to the consultees set out in sub-paragraph (1). Renummer subparagraphs (2) to (4) as (3) to (5).
Schedule 2, Requirement 5(4).	To ensure consultees are aware why their requests for changes to detailed design have not been accepted by the Applicant {16.6.20}.	Add at end "At the same time as sending this report to the Secretary of State for approval the undertaker must send a copy of that report by electronic transmission to any consultee who made

Provision	Examination Issue	Recommendations
		representations on that matter."
Schedule 2, Requirement 6(5)	To ensure that method statements for tree protection are delivered. {16.6.92}	Before (a) insert: "(a) surveys, assessments and method statements as guided by BS 5837:2012 and the Hedgerows Regulations 1997 (as amended);" Renummer (a) to (g) as (b) to (h).
Schedule 2, Requirement 8	This Requirement does not meet the tests in the NNNPS for Requirements {16.6.93}	Delete Requirement
Schedule 2, Requirements 9, 10, and 11	Consequential change	Renummer as 8, 9 and 10 respectively
Schedule 2, Requirement 12	To ensure clarity that that SSDC are consulted on traffic management measures {16.6.70 } ⁵⁹	Renummer as 11 In sub-paragraph (1) replace "relevant planning authority" with "South Somerset District Council"
Schedule 2, Requirement 13	Consequential change and to ensure (a) Information boards in lay-bys to reflect history of road; (b) Satisfactorily widths to maintenance tracks to Ponds {5.7.45} and {12.7.6}.	Renummer as 12. In sub-paragraph (2): In (ii) replace ";" with ", including information boards in laybys to set out the history of the road;" In (iii) replace "." with "; and (iv) provision for a 6 metre wide maintenance track to

⁵⁹ Table 7: Table of amendments on consultation to Requirements also recommends that Requirement 12 is amended to ensure clarity as regarding consultation.

Provision	Examination Issue	Recommendations
		Ponds 1, 3, 4, and 5 and a 4.5 metre maintenance track to Pond 2 as identified on the general arrangement plans."
Schedule 2. Requirement 14	Consequential change	Renumber as 13
Schedule 2, Requirement 15	Consequential change and to ensure the noise mitigation is effective {8.6.26}	Renumber as 14 In sub-paragraph (1) before "use" insert "construction, ". After sub-paragraph (1) insert: "(2) The scheme must include an assessment of the potential impacts on the consented residential development, including that at Long Hazel Park, situated between the A303 and Sparkford High Street, and provide for any necessary mitigation measures. (3) The scheme should have regard to the thresholds for road traffic noise within the Environmental Noise Guidelines for the European Region 2018, published by the World Health Organisation, Section 3.1." In sub-paragraph (2) as sub-paragraph (4) and replace "written details" with "scheme". After new sub-paragraph (4) insert:

Provision	Examination Issue	Recommendations
		“(5) In the event that the scheme identifies works which would give rise to any new or materially different adverse effects from those identified in the Environmental Statement, the undertaker must make a subsequent application to the Secretary of State and must follow the procedure set out in Regulations 22 to 25 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 to seek to permit the carrying out the identified works. (6) In the event that the Secretary of State grants consent for the subsequent application the approved works must be undertaken by the undertaker prior to the part of works referred to in sub-paragraph (1).” Renumber sub-paragraph (3) as sub-paragraph (7).
Schedule 2, Requirement 16	To ensure clarity that that SSDC are consulted on highway lighting {16.6.70}. ⁶⁰	Renumber as 15 In sub-paragraph (1) replace “relevant planning authority” with “South Somerset District Council”
Schedule 2, Requirement 16	Pedestrian lighting to underbridge {10.5.74}.	Insert additional paragraph after 16(1)

⁶⁰ Table 7: Table of amendments on consultation to Requirements also recommends that Requirement 12 is amended to ensure clarity as regarding consultation.

Provision	Examination Issue	Recommendations
		"(2) The scheme must include measures for lighting the Hazlegrove junction underbridge during hours of darkness for the benefit of pedestrians and other non-motorised users." Renumber sub-paragraphs (2), (3) and (4) as (3), (4) and (5) respectively.
Schedule 2, Requirement 16	Consequential change to ensure lighting of pedestrian underbridge is carried out.	In renumbered paragraphs (3) and (4) replace "sub-paragraph (1)" with "sub-paragraphs (1) and (2)".
Schedule 2, Requirement 17	Consequential change	Renumber as 16
Schedule 2, New Requirement	To deliver a bridleway between southern end of Eastmead Lane and south side of A303 {16.6.146}.	After renumbered Requirement 16 add: "Provision of non-motorised user route at western end 17. No part of the authorised development is to commence until details of a scheme for a bridleway connecting Eastmead Lane at the point marked "JA" on Works Plan HE5510507-MMSJV-LSI-000-DR-UU-2032 Revision C07 with the southern side of the A303 by way of the Higher Farm Lane overbridge that, after consultation with Somerset County Council, has been submitted to and approved in writing by the Secretary of State. The route must be available for use prior to the stopping up of that

Provision	Examination Issue	Recommendations
		part of Eastmead Lane to the south of the said point."
Schedule 2, New Requirement	To deliver a bridleway and Pegasus crossing around southern side of Hazlegrove roundabout {10.5.83}	After new Requirement 17 add: "Bridleway at Hazlegrove roundabout 18. No part of the authorised development is to commence until a scheme for the provision of a bridleway connecting the points marked "BS" and "BU" on Rights of way and Access Plans Regulation 52(2)(k) and 5(2)(o) Sheet 4 of 4 HE5510507-MMSJV-LSI-000-DR-UU-2105 Revision C has, after consultation with Somerset County Council, been submitted to and approved in writing by the Secretary of State. The scheme shall also include provision for a 'Pegasus crossing' between the points marked "BS" and "BT" on the said drawing. The route must be available for use prior to the opening of the Hazlegrove junction westbound on slip to operational traffic."
Schedule 2, New Requirement	To deliver a bridleway between the northern ends of Traits Lane and Gason Lane {10.5.57}.	After new Requirement 18 add: "Provision of bridleway between Traits Lane and Gason Lane 19. No part of the authorised development is to commence until a scheme for the provision

Provision	Examination Issue	Recommendations
		of a bridleway connecting the points marked "EF" and "EG" on Works Plan HE5510507-MMSJV-LSI-000-DR-UU-2034 Revision C07 has, after consultation with Somerset County Council, been submitted to and approved in writing by the Secretary of State. The route must be available for use prior to the stopping up of the junctions of Traits Lane and Gason Lane with the A303."
Schedule 2, New Requirement	To ensure delivery of No Through Roads signs at southern end of Traits Lane and Gason Lane {16.6.140}.	After new Requirement 19 add: "No through road signs for Traits Lane and Gason Lane 20. Notwithstanding any provision in this Order the existing junctions of Traits Lane and Gason Lane with the A303 must not be closed to traffic until no through road signs have been installed at the southern junctions of these roads with Blackwell Road in accordance with a scheme that, after consultation with the traffic authority, has been submitted and approved in writing by the Secretary of State."
Schedule 2, New Requirement	To ensure a change to the speed limit for the B3151 between the Application site and Podimore {16.6.140}.	After new Requirement 20 add: "Speed limit on B3151 21. Notwithstanding any provision in this Order the existing junction of the B3151 with the A303 must

Provision	Examination Issue	Recommendations
		not be reconfigured until a traffic regulation order under the 1984 Act amending the speed limit of this road has come into force in accordance with a scheme that, after consultation with the traffic authority, has been submitted and approved in writing by [the Secretary of State]."
Schedule 2, New Requirement	Need for traffic monitoring and mitigation in Sparkford High Street and West Camel {10.5.9 and 10.5.15}.	After new Requirement 21 add: "Traffic monitoring and mitigation in Sparkford and West Camel 22-1) No part of the authorised development is to commence until written details of a traffic impact monitoring and mitigation scheme for Sparkford High Street and West Camel has been submitted to and approved in writing by the local highway authority. (2) The traffic impact monitoring and mitigation scheme must include— (a) a before and after survey to assess the changes in traffic; (b) the locations to be monitored and the methodology to be used to collect the required data; (c) the periods over which traffic is to be monitored; (d) the submission of survey data and interpretative report to the

Provision	Examination Issue	Recommendations
		local highway authority; and (e) a mechanism for the future approval of mitigation measures together with a programme for their implementation. (3) The scheme approved under sub-paragraph (1) must be implemented by the undertaker.
Schedule 2, Requirements 18 to 22	Renumber in light of new requirements above.	Renumber as 23 to 27 respectively
Schedule 3, Part 2	To address consequences on anti-social behaviour on de-trunked section of A303 {16.6.110}.	Separate Part 2 into Parts 2A and 2B. Part 2A to be entitled: "ROADS TO BE DETRUNKED AND VESTED IN SOMERSET COUNTY COUNCIL" and Part 2B to be entitled: "ROADS TO BE DETRUNKED AND REMAIN UNDER THE CONTROL AND MANAGEMENT OF THE UNDERTAKER" Move "Former A303 west of Hazlegrove roundabout between points AN and EI on sheet 3 of the Detrunking plans, comprising of 622 metres" from Part 2A to Part 2B.
Schedule 3, Part 10, Non-Title Row 1, Column (4)	For clarity {16.6.115}.	Replace "Shown" with "To be partially revoked to the extent shown"

Provision	Examination Issue	Recommendations
Schedule 3, Part 10, penultimate row	The remainder is superfluous in light of the ExA's findings on status of bridleways created by the Side Roads Order {16.6.147}	Delete all words after "the Order limits"
Schedule 4, Part 2, Non-Title Row 3, Column (2)	To ensure DCO reflects current position of DMS {16.6.119}.	Replace "Y27/36" with "Y27/29"
Schedule 4, Part 2, Non-Title Row 6, Column (2)	To ensure DCO reflects current position of DMS {16.6.118 }.	Replace "Y27/29" with "Y27/UN"
Schedule 5 title	To better reflect the rights to be taken {15.9.43}	Delete the words "temporary possession may be taken and"
Schedule 8, Part 3, paragraph 19	To ensure SCC as LLFA has benefit of Protective Provisions for those ordinary watercourses where it is the drainage authority {16.6.124}.	In the definition of "drainage authority" add at end " or Somerset County Council as the case may be;"
Schedule 8 Part 4, paragraph 30	Definition for term used later	After the definition of "Commutated Sum" insert: "Design Detailing" means any part of the authorised development approved by the Secretary of State pursuant to Requirement 13 of Schedule 2.
Schedule 8 Part 4, paragraph 30	Now superfluous following insertion of definition of "Detailed Design"	In the definition of "Detailed Information" replace the words "detailed design approved under requirement 13 of Schedule 2" with "Design Detailing"
Schedule 8 Part 4, paragraph 30	Definition for term used later	After the definition of "Detailed Information" insert:

Provision	Examination Issue	Recommendations
		““Detailed Local Operating Agreement” means the agreement agreed pursuant to paragraph 32 of this Part; “Final Certificate” means a final certificate to be issued by the local highway authority when the provisions of paragraph 19 of this Part have been met;”
Schedule 8 Part 4, paragraph 30	Definition for terms used later	After definition of “Non-standard Highway Assets” insert: ““Other Detailed Information” means: (a) a schedule of timings for the Works, including dates and durations for any closures of any part of the local highway; (b) traffic management proposals including any diversionary routes and a Detailed Local Operating Agreement; (c) a schedule of condition of the affected local highway within the order limits; and (d) where the local highway is occupied under this Order in connection with any Works but is not itself subject to Works, a specification of the condition in which the local highway will be returned post occupation.

Provision	Examination Issue	Recommendations
		"Provisional Certificate" means a certificate issued by the local highway authority to certify that the Works to which the certificate relates have been completed in accordance with this Part and are available for use by the public;"
Schedule 8 Part 4, paragraph 31	For clarity {16.6.35}	Add at end after "local highway authority" "provided always that it will be the decision of the undertaker whether it implements the views of the local highway authority and for the avoidance of doubt any such view will not be an instruction, requirement or authorisation under this Order"
Schedule 8 Part 4, paragraph 32(1)	To ensure the Detailed Local Operating Agreement is agreed and titled {16.6.57}.	Delete "use reasonable endeavours to" and replace "detailed local operating agreement" with "Detailed Local Operating Agreement".
After Schedule 8 Part 4, paragraph 32 insert:	To minimise conflict with local traffic in area {16.6.57}.	33.— (1) Before commencing the construction of, or the carrying out of any Works the undertaker must provide to the local highway authority the Design Detailing and the Other Detailed Information; (2) The undertaker must not commence construction of the Works to which the Design Detailing relates until approval has been given

Provision	Examination Issue	Recommendations
		by the local highway authority to the Other Detailed Information; (3) The Works must not be constructed except in accordance with the Design Detailing and Other Detailed Information as may be approved in writing by the local highway authority or as otherwise agreed in writing between the undertaker and the local highway authority.
Schedule 8 Part 4, paragraphs 33, 34 and 35	Consequential changes	Renumber as 34, 35, and 36 respectively
Schedule 8 Part 4, paragraph 35	To provide appropriate access to SCC during works, and typographic changes {16.6.40}.	Renumber as 36; replace "on giving to the undertaker not less than two working days' notice" with "subject to any necessary and reasonable health and safety restrictions imposed by the undertaker". In sub-paragraph (a) replace "over or under" with "over, under or adjacent to". Enumerate "which may affect any local highway or any property of the local highway authority" with "(b)". In sub-paragraph (2) fifth line replace "have" with "has".

Provision	Examination Issue	Recommendations
		In sub-paragraph (3) before "consent" insert "prior written".
Schedule 8 Part 4, paragraph 36	To ensure reports are delivered expeditiously, to provide for arbitration if necessary and in the interests of highway safety {16.6.31}.	Renumber as 37. Sub-paragraph (1): add after "local highway authority" "as soon as practicable" Delete sub-paragraph (4) Renumber sub-paragraph (5) as sub-paragraph (4) and delete the words after "implemented" the first time it occurs. After new sub-paragraph (5) insert: "(6) Where either the stage 3 or stage 4 road safety audit identifies works which would give rise to any new or materially different adverse effects from those identified in the Environmental Statement, the undertaker must make a subsequent application to the Secretary of State and must follow the procedure set out in Regulations 22 to 25 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 to seek to permit the carrying out the identified works. (7) In the event that the Secretary of State grants consent for the subsequent application the approved works must be undertaken by the

Provision	Examination Issue	Recommendations
		undertaker prior to the completion of works under this Order and prior to any local highway being transferred or returned to the control of the local highway authority." Renumber sub-paragraphs (6) and (7) as sub-paragraph (8) and (9) respectively, and in each case replace "sub-paragraphs (4) and (6)" with sub-paragraphs (5) and (7)". After new sub-paragraph (9) add: (10) Where agreement cannot be reached under this paragraph, the terms of the Detailed Local Operating Agreement will be resolved by arbitration under article 45 (arbitration).
Schedule 8 Part 4, paragraphs 38, 39, 40, 41, 42, 43, 44, 45	Consequential changes	Renumber as 39, 40, 41, 42, 43, 44, 45, and 46 respectively.
After Schedule 8 Part 4, new paragraph 46 insert:	To clarify resolution of post-construction defects, issuing of Final Certificate to confirm same, and to ensure payment by the Applicant of SCC's reasonable costs associated with this matter {16.6.46 and 16.6.50}.	47.—(1) When the undertaker considers that the Works have reached completion (which must include the carrying out of a Stage 3 safety audit in accordance with GG19 of DMRB and the completion of works resulting the audit and in the case of those Works not subject to a safety audit the inspection of the works by the local highway authority

Provision	Examination Issue	Recommendations
		and the completion of any further works required to address any safety deficiencies or defects) it must notify the local highway authority and must allow the local highway authority the opportunity to inspect the Works and the undertaker must give proper consideration to any representations that are made by the local highway authority (2) Following completion of any Works necessary following proper consideration of the representations of the local highway authority and in accordance with this Part the local highway authority must issue the Provisional Certificate to the undertaker. 48. No earlier than 52 weeks from the date of issue of the Provisional Certificate and provided that: (a) all identified defects requiring remediation have been completed such that the local highway authority consider the Final Certificate may be properly issued; (b) a Stage 4 safety audit has been carried out (if such Stage 4 safety audit is required in accordance with GG19 of DMRB in connection with the Works), and following

Provision	Examination Issue	Recommendations
		proper consideration of the representations of the local highway authority, any additional works, alterations or amendments to the Works as a result of the Stage 4 safety audit are to be completed to the reasonable satisfaction of the local highway authority; (c) the undertaker has given the local highway authority an opportunity to inspect the Works and has given proper consideration to any representations that are made by the local highway authority; (d) the undertaker has paid to the local highway authority any Commuted Sum due in relation to the local highway to which the Provisional Certificate relates; (e) the undertaker has provided the local highway authority with such detailed information as the local highway authority may reasonably 'require in relation to the Works as built; and (f) all costs charges, expenses payable to the local highway authority pursuant to this Part have been paid the local highway authority must issue the Final Certificate. 49. The undertaker must indemnify the local

Provision	Examination Issue	Recommendations
		highway authority in respect of all costs, charges and expenses which the local highway authority may reasonably incur, have to pay or sustain— (a) in the examination or approval of the Other Detailed Information under this Part; and (b) in inspecting the construction of the Works including any works required by the local highway authority under this Part; and (c) in carrying out any surveys by the local highway authority which are reasonably required in connection with the construction of the Works (d) in the transfer pursuant to paragraph 43 to the local highway authority of the land and rights acquired by the undertaker.
Schedule 8 Part 4, paragraph 46	Consequential and typographic errors	Renumber as 50. In sub-paragraph (2) delete “clause”. In sub-paragraph (6) replace “paragraph” with “sub-paragraph”.
Schedule 8 Part 4, paragraph 47, 48	Consequential changes	Renumber as 51, 52 respectively

Provision	Examination Issue	Recommendations
Schedule 8 Part 5, paragraph 49	Consequential change	Renumber as 53
Schedule 8, Part 5, paragraph 50	For clarity {16.6.58}	Renumber as 50. Before definition of "Detailed Information" insert: "Design Detailing" means any part of the authorised development approved by the Secretary of State pursuant to Requirement 13 of Schedule 2; In the definition of "Detailed Information" replace "Design Detailing approved under requirement 13 of Schedule 2" with "Detailed Design".
Schedule 8 Part 5, paragraph 51	Consequential change	Renumber as 55
Schedule 8 Part 5, paragraph 52	To ensure SCC has appropriate facilities to inspect site {16.6.40}	Renumber as 56 Replace "on giving to the undertaker not less than two working days' notice" with "subject to any necessary and reasonable health and safety restrictions imposed by the undertaker".
Schedule 8 Part 5, paragraphs 53, 54, 55, 56	Consequential changes	Renumber as 57, 58, 59, 60 respectively
After Schedule 8 Part 5, new paragraph 60 insert	To ensure payment by the Applicant of SCC's reasonable costs	61. The undertaker must indemnify the local highway authority in respect of all costs, charges and expenses

Provision	Examination Issue	Recommendations
	associated with this matter {16.6.58}.	which the local highway authority may reasonably incur, have to pay or sustain (a) in inspecting the construction of the Works including any works required by the local highway authority under this Part; (b) in carrying out any surveys by the local highway authority which are reasonably required in connection with the construction of the Works.
Schedule 8 Part 5, paragraphs 57, 58	Consequential changes	Renumber as 62, 63 respectively.

16.7. CONCLUSIONS

- 16.7.1. As this Report makes clear the ExA is recommending that the Order is not confirmed. However, in the event that the SoS disagrees with the ExA, then the preferred DCO would need to be amended as set out above, and this would mitigate some of the harm identified. The ExA, however, needs to emphasise that this would not resolve the issue of CA and TP which have been previously identified in Chapter 15 or the issues associated with the drainage ponds and air safety.

17. SUMMARY OF FINDINGS AND CONCLUSIONS

17.1. INTRODUCTION

- 17.1.1. This Chapter summarises the ExA's conclusions arising from the Report as a whole and sets out a recommendation to the SoS.

17.2. CONSIDERATION OF FINDINGS AND CONCLUSIONS

- 17.2.1. The ExA concludes that the benefits of the Proposed Development are not sufficient to overcome the disbenefits of the project. Having regard to all of the matters raised during the Examination, our conclusion is that the matters against making the DCO are not outweighed by the matters in its favour. We find that the case for the Proposed Development is not made out and recommend accordingly.
- 17.2.2. In reaching this recommendation the ExA has considered whether the Proposed Development is in accordance with relevant National Policy Statements and has had regard to the submitted Local Impact Report from Somerset County Council and South Somerset District Council, matters prescribed in relation to the development and other matters that are both important and relevant to the decision, as required by s104(2) of PA2008.
- 17.2.3. The conclusions in earlier Chapters show conflict with the NNNPS and the Framework. Although the Applicant has sought to provide some mitigation there would remain:
- Residual adverse landscape and visual effects;
 - Less than substantial harm to the Hazlegrove House and its associated buildings, the Hazlegrove House RPG, Camel Hill SM, Eyewell House and its associated buildings, and the milestone, all designated heritage assets. There would also be substantial harm to the Howell Hill Boundary Wall, and less than substantial harm to Pepper Hill Cottage and the Martock to Sparkford Turnpike, all non-designated heritage assets;
 - A failure to mitigate the effects of the Proposed Development on NMUs in terms of safe and convenient routes and the likelihood of increased reliance on motorised vehicles;
 - An increase in the severance of local communities and a failure to address historic severance issues in accordance with the NNNPS;
 - Adverse effects on the local road network and local communities due to the layout of the Proposed Development;
 - A potential for adverse effects on health due to noise emissions and the increased use of motorised transport;
 - Adverse safety impacts for local communities and NMUs; and
 - Serious safety issues in relation to the proposed drainage ponds. Contrary to the view of the Applicant, this is not a matter of detailed design that could be resolved once the DCO is confirmed. Any

significant changes would necessitate a review of several Chapters within the ES.

- 17.2.4. For these reasons we recommend to the Secretary of State that, because the adverse impacts of Proposed Development would outweigh the benefits, the presumption in favour of granting consent to applications for transport NSIPs is not justified in this case.
- 17.2.5. The ExA has considered the case for CA and TP of land and rights required in order to implement the Proposed Development. At the close of the Examination the CA and TP powers requested in all cases were necessary to enable the Applicant to complete the Proposed Development.
- 17.2.6. The Applicant has a clear idea of how it intends to use the land, and funds are available for the implementation. The ExA also considers that the powers within the DCO would be sufficient in legal terms to enable the implementation of development, but the ExA does not consider that the powers within the DCO provide an appropriate means for the provision of the turning heads discussed at Chapter 15. In the ExA's view the use of such powers would not only introduce a new and novel approach that would not accord with previous practice but would also be at odds with the fairness and transparency that underpins the National Infrastructure Planning process. The ExA considers that the use of CA powers as provided for within the DCO could have implications for Human Rights.
- 17.2.7. The exclusion of these plots from the Proposed Development would have an adverse effect on convenience and safety, for both motorised users and NMUs, and would add to the adverse impacts of the Proposed Development.
- 17.2.8. Due to the adverse effects of the scheme, the ExA is not persuaded that there is a compelling case in the public interest for the CA of the land and rights sought by the DCO.
- 17.2.9. The ExA has had regard to the provisions of the Human Rights Act 1998. In some cases, there would be interference with the peaceful enjoyment of possessions in contravention of Article 1 of the First Protocol of the Human Rights Act 1998. Of greater concern is the issue in respect of the turning head plots.
- 17.2.10. Although the wider public interest qualifies any interference with the Human Rights of the owners and occupiers affected by CA and TP of land. The interference in their Human Rights would not be proportionate for the reasons given in Chapter 15.
- 17.2.11. The ExA has had regard to the Public Sector Equality Duty (PSED). The Proposed Development would harm the interests of those dependant on non-motorised transport, and those wishing to use sustainable means of transport.

- 17.2.12. Even with the changes to the recommended dDCO proposed in Appendix E to this Report, the ExA considers that the Proposed Development would still fail to meet the tests in s104 of PA2008.

17.3. RECOMMENDATION

- 17.3.1. For all the above reasons and in the light of the Panel's findings and conclusions on important and relevant matters set out in this Report, the Panel, as Examining Authority under the PA2008, recommends that the Secretary of State for Transport should not make an Order granting development consent for the Proposed Development.
- 17.3.2. Should the Secretary of State disagree with the Examining Authority's recommendation for the Proposed Development, then the Order should be granted development consent, subject to modifications to the Applicant's preferred DCO as set out at Appendix E.
- 17.3.3. Whilst the SoS is the competent authority under the Habitats Regulations and will make the definitive assessment, the ExA concludes that the Proposed Development would not be likely to have significant effects on European sites, species or habitats. This finding has been taken into account in reaching the recommendation.
- 17.3.4. Taking these factors together, and only subject to the Order being made, the ExA is of the view that the Secretary of State cannot be satisfied that there is a compelling case in the public interest for the CA and other powers sought in respect of the land shown on the Land plans. In respect of CA, the Panel concludes that the proposal would not comply with s122(3) of the PA2008.
- 17.3.5. If however, the Secretary of State is minded to grant development consent, in relation to the application for CA within the Orders, the Examining Authority concludes that:
- The Applicant has shown that all reasonable alternatives to CA have been explored and, with the exception of the plots referred to below, there are no alternatives which ought to be preferred. The Applicant has also demonstrated that the extent of land over which powers are sought would be no more than is reasonably required and it is proportionate to the needs of the Proposed Development.
 - Adequate and secure funding would be available to enable the CA within the statutory period following the Order being made.
 - The ExA recommends that plots 4/4b, 5/3j, 7/1c, 7/5a, 7/7d and 7/8c should not be the subject of CA. References to these plots should be deleted from the BoR, the SoR and the Lands Plans. In the case of these plots the ExA does not find that interference with the Human Rights of individuals would be for a legitimate purpose that would justify such interference in the public interest and to a proportionate extent.

APPENDICES

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APPENDIX A: THE EXAMINATION

APPENDIX A: THE EXAMINATION

The table below lists the main events that occurred during the Examination and the procedural decisions taken by the Examining Authority (ExA)

Date	Examination Event
17 October 2018	Unaccompanied Site Inspection 1
12 December 2018	Preliminary Meeting Open Floor Hearing 1
21 December 2018	Issue by ExA of • Examination Timetable • ExA's Written Questions
11 January 2019	DEADLINE 1 Deadline for receipt of: • Comments on updated application documents • Comments on Relevant Representations (RRs) • Summaries of all RRs exceeding 1500 words • Post Hearing submissions including written submissions of oral case made at OFH1 • Notification by Statutory Parties of their wish to be considered as an IP by the ExA • Draft itinerary for Accompanied Site Inspection (ASI) • Notification of wish to speak at any subsequent Open Floor Hearing (OFH) • Notification of wish to make oral representations at an Issue Specific Hearing (ISH) • Notification of wish to speak at a Compulsory Acquisition Hearing (CAH) • Notification of wish to have future correspondence received electronically • Comments on any additional information/submissions received • Responses to any further information requested by the ExA for this deadline

APPENDIX A: THE EXAMINATION

23 January 2019	DEADLINE 2 Deadline for receipt of: • Written Representations (WRs) • Summaries of all WRs exceeding 1500 words • Local Impact Reports from any local authorities • Statements of Common Ground (SoCG) requested by the ExA (except those requested between the Applicant and statutory undertakers) • Responses to the ExA's Written Questions • Applicant's first revised draft DCO • Responses to comments on RRs • Comments on draft itinerary for ASI and suggested locations for site inspections • Comments on any additional information/submissions received by D1 • Responses to any further information requested by the ExA for this deadline
29 January 2019	Issue by ExA of • Procedural Decision on Notification of Hearings
08 February 2019	DEADLINE 3 Deadline for receipt of: • Comments on WRs • Comments on Local Impact Reports • Comments on SoCGs • Comments on responses to the ExA's Written Questions • Comments on applicant's first revised draft DCO • Notification of wish to attend an ASI • Comments on any additional information/submissions received by D2 • Responses to any further information requested by the ExA for this deadline
19 February 2019	Accompanied Site Inspection
20 February 2019	Unaccompanied Site Inspection 2
26 February 2019	Issue Specific Hearing 1
27 February 2019	Issue Specific Hearing 2 Open Floor Hearing 2
28 February 2019	Issue Specific Hearing 3 Compulsory Acquisition Hearing 1
01 March 2019	Issue Specific Hearing 4
07 March 2019	Issue by ExA of • Request for further information on the proposed changes to the application – Rule 17

APPENDIX A: THE EXAMINATION

08 March 2019	DEADLINE 4 Deadline for receipt of: • Post Hearing submissions including written submissions of oral case • SoCG's between the Applicant and Statutory Undertakers • Any revised/updated SoCG • Comments on any additional information/submissions received by D3 • Responses to any further information requested by the ExA for this deadline
11 March 2019	Issue by ExA of • Request for further clarification on the proposed changes to the application – Rule 17
12 March 2019	Issue by ExA of • Procedural Decision to accept proposed provision and material changes • Proposed Provisions Checklist
14 March 2019	Issue by ExA of • Procedural Decision - Rule 9
22 March 2019	Publication by ExA of • Further Written Questions
05 April 2019	DEADLINE 5 Deadline for receipt of: • Responses to the ExA's Further Written Questions • Applicant's revised draft DCO • Comments on any revised/updated SoCGs • Comments on any additional information/submissions received by D4 • Responses to any further information requested by the ExA for this deadline
16 April 2019	Issue by ExA of • Report on the Implications for European Sites (RIES) • Procedural Decision on Notification of Hearings
24 April 2019	Issue by ExA of • Notification of procedural Decision - Rule 8(3) and 9
25 April 2019	Issue by ExA of • Additional Written Questions

APPENDIX A: THE EXAMINATION

01 May 2019	DEADLINE 6 Deadline for receipt of: • Comments on responses to the ExA's further Written Questions, issued on 22 March 2019 • Comments on applicant's revised draft DCO • Comments on any additional information/submissions received by D5 • Responses to any further information requested by the ExA for this deadline
03 May 2019	DEADLINE 6a Deadline for receipt of: • Responses to the ExA's Additional Written Questions
09 May 2019	Issue by ExA of • Procedural Decision to accept non-material changes
14 May 2019	Further Issue Specific Hearing 5
15 May 2019	Further Open Floor Hearing 3 Further Issue Specific Hearing 6
22 May 2019	Unaccompanied Site Inspection 3 Deadline for receipt of: • Responses for specific matters identified at Further Issue Specific Hearing 6
23 May 2019	Hearings held in accordance with CA Regs • Further Issue Specific Hearing • Further Compulsory Acquisition Hearing • Further Open Floor Hearing • Further Issue Specific Hearing 7
30 May 2019	DEADLINE 7 Deadline for receipt of: • Post Hearing submissions including written submissions of oral case • Comments on the RIES • Written Representations on the proposed provision to amend the application and include additional land • Comments on responses to the ExA's Additional Written Questions, issued on 25 April 2019 • Applicant's revised draft DCO • Comments on any additional information/submissions received by D6 • Responses to any further information requested by the ExA for this deadline

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04 June 2019	Issue by ExA of Request for further information following Deadline 7 submissions – Rule 17
07 June 2019	Issue by ExA of Request for further information from the Applicant – Rule 17
10 June 2019	DEADLINE 8 (D8) Deadline for receipt of: - Response to comments on the RIES - Final DCO to be submitted by the applicant in the SI template with the SI template validation report - Final updated Book of Reference - Final SoCGs - Final Compulsory Acquisition Schedule - Final updated Guide to the Application - Comments on any additional information/submissions received by D7 - Responses to any further information requested by the ExA for this deadline
11 June 2019	Issue by ExA of Request for further information from the Applicant following Deadline 8 submissions – Rule 17
12 June 2019	Issue by ExA of - Request for further information from the Applicant – Rule 17 - Request for further information from the Defence Infrastructure Organisation – Rule 17 - Notification of change to the Examination Timetable – Rule 8(3)
12 June 2019	Deadline for responses to any further information requested by the ExA for this deadline EXAMINATION CLOSED

APPENDIX B: EXAMINATION LIBRARY

A303 Sparkford to Ilchester Dualling Examination Library

Updated – 13 June 2019

This Examination Library relates to the A303 Sparkford to Ilchester Dualling application. The library lists each document that has been submitted to the examination by any party and documents that have been issued by the Planning Inspectorate. All documents listed have been published to the National Infrastructure's Planning website and a hyperlink is provided for each document. A unique reference is given to each document; these references will be used within the Report on the Implications for European Sites and will be used in the Examining Authority's Recommendation Report. The documents within the library are categorised either by document type or by the deadline to which they are submitted.

Please note the following:

- This was a working document and was updated periodically as the examination progressed.
- Advice under Section 51 of the Planning Act 2008 that has been issued by the Inspectorate, is published to the National Infrastructure Website but is not included within the Examination Library as such advice was not an examination document.
- This document contains references to documents from the point the Application was submitted.
- The order of documents within each sub-section is either chronological, numerical, or alphabetical and confers no priority or higher status on those that have been listed first.

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Category	Reference
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Relevant Representations	RR-xxx
Procedural Decisions and Notifications from the Examining Authority Includes Examining Authority's questions, s55, and post acceptance s51	PD-xxx
Additional Submissions Includes anything accepted at the Preliminary Meeting and correspondence that is either relevant to a procedural decision or contains factual information pertaining to the examination	AS-xxx
Events and Hearings Includes agendas for hearings and site inspections, audio recordings, responses to notifications, applicant's hearing notices, and responses to Rule 6 and Rule 8 letters	EV-xxx
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Deadline 4:	REP4-xxx
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Deadline 6:	REP6-xxx
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Other Documents Includes s127/131/138 information, s56, s58 and s59 certificates, and transboundary documents	OD-xxx

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APP-002	Highways England 1.2 Covering Letter and Schedule of Compliance with Section 55
APP-003	Highways England 1.3 Application Form
APP-004	Highways England 2.1 Location and Scheme Layout Plan
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AoC-003	Exmoor National Park Authority Adequacy of Consultation Representation
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Relevant Representations	
RR-001	Jonathan Baker
RR-002	Mark Wilson
RR-003	Paul Griffiths
RR-004	The Red Lion Inn
RR-005	Stagecoach UK Bus
RR-006	The British Horse Society
RR-007	Queen Camel Parish Council
RR-008	Hazlegrove Preparatory School
RR-009	Hawk House Ltd

RR-010	The Coal Authority
RR-011	Alan Walton on behalf of Alan and Pamela Walton t/a Long Hazel Park
RR-012	Forestry Commission
RR-013	Symonds & Sampson on behalf of Mr John Plested
RR-014	Queen Camel, Sparkford and West Camel Parish Councils (Joint Submission)
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RR-021	Christopher David Cree
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RR-024	Allan Keith Tingey
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PD-003	Section 55 Acceptance of Applications Checklist
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PD-005	Examining Authority's Request for Updated Information
PD-006	Rule 6 Letter - Notification of the Preliminary Meeting and matters to be discussed
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PD-008	Rule 8 Letter - Notification of Timetable for the Examination
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PD-012	Procedural Decision to Accept Changes
PD-013	Proposed Provisions Checklist
PD-013a	Notification of Procedural Decision - Rule 9 Procedural Decision in response to the Applicant's request for a Non-Material Change
PD-014	Further Written Questions
PD-015	Report on the Implications for European Sites (RIES) Issued by the Examining Authority 16 April 2019
PD-016	Rule 13 - Notification of Hearings - May 2019

PD-017	Notification of Procedural Decision - Rule 8 and Rule 9 Hearing notification letter for hearings taking place on 23 May 2019, including procedural decisions relating to the Additional Land Application and amendments to the time table
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PD-020	Rule 17 - Request for further information following Deadline 7 submissions Request for further information following receipt of the Deadline 7 submissions
PD-021	Rule 17 - Request for further information from the Applicant Request for further information from the Applicant in relation to the Statement of Reasons
PD-022	Rule 17 - Request for further information from the Applicant Request for further information following receipt of the Deadline 8 submissions
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PD-025	Notification of completion of the Examining Authority's Examination
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AS-001	South Somerset District Council Correspondence from South Somerset District Council – Accepted at the discretion of the Examining Authority
AS-002	Highways England Section 51 Response - Accepted at the discretion of the Examining Authority
AS-003	Highways England Guide to the Application - Section 51 Response Document - Accepted at the discretion of the Examining Authority
AS-004	Highways England 2.3 Works Plans - Section 51 Response Document - Accepted at the discretion of the Examining Authority
AS-005	Highways England 2.4 Rights of Way and Access Plans - Section 51 Response Document - Accepted at the discretion of the Examining Authority
AS-006	Highways England 2.6 General Arrangement Plans - Section 51 Response Document - Accepted at the discretion of the Examining Authority
AS-007	Highways England 3.1 Draft Development Consent Order (Clean Version) - Section 51 Response Document - Accepted at the discretion of the Examining Authority
AS-008	Highways England

	3.1 Draft Development Consent Order (Tracked Version) - Section 51 Response Document - Accepted at the discretion of the Examining Authority
AS-009	Highways England 4.1 Statement of Reasons (Clean Version) - Section 51 Response Document - Accepted at the discretion of the Examining Authority
AS-010	Highways England 4.1 Statement of Reasons (Tracked Version) - Section 51 Response Document - Accepted at the discretion of the Examining Authority
AS-011	Highways England 4.3 Book of Reference - Section 51 Response Document - Accepted at the discretion of the Examining Authority
AS-012	Somerset County Council Response to Rule 6 Letter
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AS-016	Brian Norman Response to Rule 6 Letter
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AS-019	West Camel Parish Council Response to Rule 6 Letter
AS-020	Alan and Pamela Walton Response to Rule 6 Letter
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AS-022	Phil Gamble Response to Rule 6 Letter
AS-023	Devon County Council Letter of support by Devon County Council – Accepted at the discretion of the Examining Authority
AS-024	Peninsula Transport Letter of support by Peninsula Transport Shadow Sub-National Transport Body - Accepted at the discretion of the Examining Authority
AS-025	Highways England Letter from Highways England confirming intention to submit requests for changes - Accepted at the discretion of the Examining Authority
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	Clarification - Accepted at the discretion of the Examining Authority
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AS-029	Highways England Additional Submission - Response to Procedural Decision published on 14 March 2019 - Accepted at the discretion of the Examining Authority
AS-030	Highways England Additional Submission - 9.33 Protective Provisions Note - as requested by the Examining Authority
AS-031	Highways England Additional Submission - Comparison of Protective Provisions - as requested by the Examining Authority
AS-032	Highways England Additional Submission - Highways England draft Protective Provisions for the protection of the local highway authority - as requested by the Examining Authority
AS-033	Natural England Additional Submission - Natural England response to Examining Authority's Additional Written Questions - Accepted at the discretion of the Examining Authority
AS-034	Highways England Additional Submission - Responses to action points 32 and 34 following ISH6, as well as a note on the applicability of DCO powers on adjacent land - Accepted at the discretion of the Examining Authority
AS-035	South Somerset Bridleways Association Additional Submission - Prior to Hearings being held on 23 May 2019 - Accepted at the discretion of the Examining Authority
AS-036	Somerset County Council Additional Submission - Response to the Applicant's Note on Protective Provisions (AS-030) - Accepted at the discretion of the Examining Authority
AS-037	Somerset County Council Additional Submission - Flow charts discussed at the Issue Specific Hearing (Action 30) - as requested by the Examining Authority
AS-038	Highways England Additional Submission - 9.35 Responses to Action Points for Midday 22 May 2019 - Accepted at the discretion of the Examining Authority
AS-039	Highways England Additional Submission - 9.42 Response to Rule 17 Letter - Accepted at the discretion of the Examining Authority
AS-040	Highways England Additional Submission - 4.1 Statement of Reasons June 2019 - Accepted at the discretion of the Examining Authority
AS-041	Highways England Additional Submission - Applicant's response to Rule 17 Letter 12

	June 2019 - Accepted at the discretion of the Examining Authority
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AS-043	Highways England Additional Submission - Response to Rule 17 letter of 12 June 2019 in relation to the submissions from Somerset County Council regarding Action Point 18 for 23 May 2019
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EV-004	Recording of Open Floor Hearing - 12 December 2018
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EV-006	Note of Unaccompanied Site Inspection - 20 February 2019
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EV-006b	Agenda for Issue Specific Hearing 2 (ISH2)
EV-006c	Agenda for Issue Specific Hearing 3 (ISH3)
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EV-007	Action Points from ISH1, ISH2, ISH3, ISH4 and CAH1 - 26 February 2019-01 March 2019
EV-008	Recording of Issue Specific Hearing 1 (ISH1) - Part 1 AM - 26 February 2019
EV-009	Recording of Issue Specific Hearing 1 (ISH1) - Part 2 AM - 26 February 2019
EV-010	Recording of Issue Specific Hearing 1 (ISH1) - Part 1 PM - 26 February 2019
EV-011	Recording of Issue Specific Hearing 1 (ISH1) - Part 2 PM - 26 February 2019
EV-012	Recording of Issue Specific Hearing 2 (ISH2) - Part 1 AM - 27 February 2019
EV-013	Recording of Issue Specific Hearing 2 (ISH2) - Part 2 AM - 27 February 2019
EV-014	Recording of Open Floor Hearing 2 (OFH2) - 27 February 2019
EV-015	Recording of Issue Specific Hearing 3 (ISH3) - Part 1 AM - 28 February 2019
EV-016	Recording of Issue Specific Hearing 3 (ISH3) - Part 2 AM - 28 February 2019
EV-017	Recording of Compulsory Acquisition Hearing 1 (CAH1) - Part 1 - 28 February 2019
EV-018	Recording of Compulsory Acquisition Hearing 1 (CAH1) - Part 2 - 28 February 2019
EV-019	Recording of Issue Specific Hearing 4 (ISH4) - Part 1 AM - 01 March 2019

EV-020	Recording of Issue Specific Hearing 4 (ISH4) - Part 2 AM - 01 March 2019
EV-021	Recording of Issue Specific Hearing 4 (ISH4) - PM - 01 March 2019
EV-022	Agenda for Issue Specific Hearing 5 (ISH5) - 14 May 2019
EV-023	Agenda for Issue Specific Hearing 6 (ISH6) - 15 May 2019
EV-024	Agenda for Open Floor Hearing 3 (OFH3) - 15 May 2019
EV-025	Recording of Issue Specific Hearing 5 (ISH5) - 14 May 2019
EV-026	Recording of Open Floor Hearing 3 (OFH3) - 15 May 2019
EV-027	Recording of Issue Specific Hearing 6 (ISH6) - 15 May 2019
EV-028	Agenda for Compulsory Acquisition Hearing (CAH) - 23 May 2019
EV-029	Agenda for Issue Specific Hearing (ISH) - 23 May 2019
EV-030	Agenda for Open Floor Hearing (OFH) - 23 May 2019
EV-031	Agenda for Issue Specific Hearing 7 (ISH7) - 23 May 2019
EV-032	Action Points from Issue Specific Hearing 5 (ISH5) - 14 May 2019
EV-033	Action Points from Issue Specific Hearing 6 (ISH6) - 15 May 2019
EV-034	Recording of Open Floor Hearing (OFH) - 23 May 2019
EV-035	Recording of Compulsory Acquisition Hearing (CAH) - 23 May 2019
EV-036	Recording of Issue Specific Hearing (ISH) - 23 May 2019
EV-037	Recording of Issue Specific Hearing 7 (ISH7) - Part 1 - 23 May 2019
EV-038	Recording of Issue Specific Hearing 7 (ISH7) - Part 2 - 23 May 2019
EV-039	Action Points from Issue Specific Hearings - 23 May 2019
EV-040	Note of Unaccompanied Site Inspection - 22 May 2019
Representations	
Deadline 1 - 11 January 2019	
• Comments on updated application documents • Comments on Relevant Representations (RRs) • Summaries of all RRs exceeding 1500 words • Post Hearing submissions including written submissions of oral case made at OFH1 • Notification by Statutory Parties of their wish to be considered as an IP by the ExA • Draft itinerary for Accompanied Site Inspection (ASI) • Notification of wish to speak at any subsequent Open Floor Hearing (OFH) • Notification of wish to make oral representations at an Issue Specific Hearing (ISH) • Notification of wish to speak at a Compulsory Acquisition Hearing (CAH) • Notification of wish to have future correspondence received electronically • Comments on any additional information/submissions received • Responses to any further information requested by the ExA for this deadline	
REP1-001	Highways England Deadline 1 Submission
REP1-002	Highways England Deadline 1 Submission - Comments on Relevant Representations
REP1-003	Highways England Deadline 1 Submission - Draft itinerary for Accompanied Site Inspection
REP1-004	Roy Lawrenson Deadline 1 Submission

REP1-005	Joint Councils of Queen Camel, Sparkford and West Camel Deadline 1 Submission
REP1-006	West Camel Parish Council Deadline 1 Submission
REP1-007	West Camel Parish Council Deadline 1 Submission - Request for accompanied site visits
REP1-008	West Camel Parish Council Deadline 1 Submission - Post Hearing Submission
REP1-009	Long Hazel Park Deadline 1 Submission - Written statement and Appendices
REP1-010	South Somerset District Council Deadline 1 Submission - Summary of Relevant Representation
REP1-011	Greenslade Taylor Hunt on behalf of A W Hewlett & Son (Wales Dairy), D W Hewlett (Blackwell Farm) Deadline 1 Submission
REP1-012	Somerset County Council Deadline 1 Submission - Cover Letter
REP1-013	Somerset County Council Deadline 1 Submission - Summary of Relevant Representation
REP1-014	Somerset County Council Deadline 1 Submission - Notification of wish to make oral representations at an Issue Specific Hearing
REP1-015	Environment Agency Deadline 1 Submission
REP1-016	Phil Gamble Deadline 1 Submission to the Open Floor Hearing
Deadline 2 - 23 January 2019 • Written Representations (WRs) • Summaries of all WRs exceeding 1500 words • Local Impact Reports from any local authorities • Statements of Common Ground (SoCG) requested by the ExA (except those requested between the applicant and statutory undertakers) • Responses to the ExA's Written Questions • Applicant's first revised draft DCO • Responses to comments on RRs • Comments on draft itinerary for ASI and suggested locations for site inspections • Comments on any additional information/submissions received by D1 • Responses to any further information requested by the ExA for this deadline	
REP2-001	Highways England Deadline 2 Submission - Revised draft Development Consent Order - clean version
REP2-002	Highways England Deadline 2 Submission - Revised draft Development Consent Order - tracked change version
REP2-003	Highways England Deadline 2 Submission - Table of Amendments to the draft DCO
REP2-004	Highways England Deadline 2 Submission - Response to Examining Authority's (ExA) first round of Written Questions

REP2-005	Highways England Deadline 2 Submission - Additional Documents to Support Written Questions
REP2-006	Highways England Deadline 2 Submission - Updated Explanatory Memorandum
REP2-007	Highways England Deadline 2 Submission - Draft Statement of Common Ground - Defence Infrastructure Organisation
REP2-008	Highways England Deadline 2 Submission - Draft Statement of Common Ground - Historic England
REP2-009	Highways England Deadline 2 Submission - Draft Statement of Common Ground - Church Commissioners for England
REP2-010	Highways England Deadline 2 Submission - Draft Statement of Common Ground - Parish Councils (West Camel, Queen Camel and Sparkford)
REP2-011	Highways England Deadline 2 Submission - Draft Statement of Common Ground - Mr and Mrs Walton
REP2-012	Highways England Deadline 2 Submission - Draft Statement of Common Ground - Somerset County Council and South Somerset District Council
REP2-013	Highways England Deadline 2 Submission - Draft Statement of Common Ground - Somerset Drainage Board Consortium
REP2-014	Highways England Deadline 2 Submission - Draft Statement of Common Ground - Environment Agency
REP2-015	Highways England Deadline 2 Submission - Draft Statement of Common Ground - Natural England
REP2-016	South Somerset District Council Deadline 2 Submission - Written Representation
REP2-017	South Somerset District Council Deadline 2 Submission - Response to Examining Authority's (ExA) first round of Written Questions
REP2-018	South Somerset District Council Deadline 2 Submission - Response to Examining Authority's (ExA) first round of Written Questions - ExQ1 1.9.2 & 1.9.5
REP2-019	South Somerset District Council Deadline 2 Submission - Joint Council Local Impact Report
REP2-020	South Somerset District Council Deadline 2 Submission - Comments on draft ASI itinerary
REP2-021	South Somerset Bridleways Association Deadline 2 Submission -Response to Examining Authority's (ExA) first round of Written Questions

REP2-022	Southern Electric Power Distribution plc (SSE) - Withdrawn Submission withdrawn via letter on 07 June 2019
REP2-023	Mr James March Smith, Sparkford Hall Deadline 2 Submission- Written Representation
REP2-024	Mr James March Smith, Sparkford Hall Deadline 2 Submission -Response to Examining Authority's (ExA) first round of Written Questions - ExQ1 1.6.17
REP2-025	Bryan G Norman Deadline 2 Submission - Cover Email
REP2-026	Bryan G Norman Deadline 2 Submission - Summary of Mr B G Norman's Submission
REP2-027	Bryan G Norman Deadline 2 Submission - Formal Written Submission
REP2-028	Cllr Mike Lewis Deadline 2 Submission -Response to Examining Authority's (ExA) first round of Written Questions - ExQ1 1.6.35
REP2-029	Cllr Mike Lewis Deadline 2 Submission - Response to Examining Authority's (ExA) first round of Written Questions - ExQ1 1.8.5
REP2-030	Environment Agency Deadline 2 Submission - Response to Examining Authority's (ExA) first round of Written Questions
REP2-031	Friends of the Earth Deadline 2 Submission - Written Representation
REP2-032	Keith Tingey Deadline 2 Submission - Written Submission
REP2-033	Keith Tingey Deadline 2 Submission - Summary of Written Submission
REP2-034	Parish Councils of Queen Camel, West Camel and Sparkford Deadline 2 Submission - Joint response to Examining Authority's (ExA) first round of Written Questions
REP2-035	The National Trust Deadline 2 Submission - Response to Examining Authority's (ExA) first round of Written Questions
REP2-036	Paul Griffiths Deadline 2 Submission - Written Representation
REP2-037	Paul Griffiths Deadline 2 Submission- Summary of Written Representation
REP2-038	Paul Griffiths Deadline 2 Submission -Response to Examining Authority's (ExA) first round of Written Questions -ExQ1 1.4.24
REP2-039	Historic England Deadline 2 Submission - Written Representation & suggested locations for site inspection
REP2-040	Historic England Deadline 2 Submission - Summary of Written Representation

REP2-041	Historic England Deadline 2 Submission - Response to Examining Authority's (ExA) first round of Written Questions
REP2-042	Alan and Pamela Walton, Long Hazel Park Deadline 2 Submission - Response to Examining Authority's (ExA) first round of Written Questions & Written Representation
REP2-043	West Camel Parish Council Deadline 2 Submission - Further Written Submission
REP2-044	Cliff Baker Deadline 2 Submission - Response to Examining Authority's (ExA) first round of Written Questions - ExQ1 1.7.10
REP2-045	John Peiser JP(ret'd) FRICS Deadline 2 Submission - Written Representation
REP2-046	Phil Gamble Deadline 2 Submission - Written Representation
REP2-047	Somerset Ramblers Deadline 2 Submission - Written Representation - Accepted at the discretion of the Examining Authority
REP2-048	Somerset County Council Deadline 2 Submission - Cover letter
REP2-049	Somerset County Council Deadline 2 Submission - Joint Local Impact Report
REP2-050	Somerset County Council Deadline 2 Submission- Response to Examining Authority's (ExA) first round of Written Questions
REP2-051	Queen Camel Parish Council Deadline 2 Submission - Written Representation
Deadline 3 - 08 February 2019 • Comments on WRs • Comments on Local Impact Reports • Comments on SoCGs • Comments on responses to the ExA's Written Questions • Comments on applicant's first revised draft DCO • Notification of wish to attend an ASI • Comments on any additional information/submissions received by D2 • Responses to any further information requested by the ExA for this deadline	
REP3-001	Highways England Deadline 3 Submission - Cover email
REP3-002	Highways England Deadline 3 Submission - 2.4 Rights of Way and Access Plans (Sheets 1 to 3 updated)
REP3-003	Highways England Deadline 3 Submission - 9.11 Responses to the Local Impact Report, Written Representations and comments on responses to the ExA's Written Questions
REP3-004	Highways England Deadline 3 Submission - 9.12 Summary of Temporary / Permanent and Long Term / Short Term Environment Effects
REP3-005	Highways England

	Deadline 3 Submission - 9.13 Summary of In-combination Effects on Cultural Heritage
REP3-006	Highways England Deadline 3 Submission - 9.14 Topic Paper: Right of Way Y30-28 (Eastmead Lane)
REP3-007	Alan and Pamela Walton, Long Hazel Park Deadline 3 Submission - Comments on Local Impact Reports and SoCG . Additional layout of approved development to assist the ExA in response to further information requested
REP3-008	Bryan G Norman Deadline 3 Submission - Further information relating to Bryan G Norman's Deadline 2 Formal Written Submission
REP3-009	Environment Agency Deadline 3 Submission - Comments on the Applicant's first revised draft DCO
REP3-010	Historic England Deadline 3 Submission - Comments on the Applicant's response to the ExA's Written Questions and the Applicant's first revised draft DCO
REP3-011	Les Stevens on behalf of Queen Camel, West Camel & Sparkford Parish Council Deadline 3 Submission - Comments on ASI
REP3-012	NATS Safeguarding Deadline 3 Submission
REP3-013	Phil Gamble Deadline 3 Submission - Comments on the Applicant's response to the ExA's Written Questions
REP3-014	Somerset County Council Deadline 3 Submission - Comments on the Applicant's response to the ExA's Written Questions and the Applicant's first revised draft DCO, and notification of wish to attend ASI
REP3-015	South Somerset District Council Deadline 3 Submission - Comments on the Applicant's response to the ExA's Written Questions and the Applicant's first revised draft DCO
Deadline 4 - 08 March 2019 • Post Hearing submissions including written submissions of oral case • SoCG's between the Applicant and Statutory Undertakers • Any revised/updated SoCG (if any) • Comments on any additional information/submissions received by D3 • Responses to any further information requested by the ExA for this deadline	
REP4-001	Highways England Deadline 4 Submission - 2.17 Engineering Sections
REP4-002	Highways England Deadline 4 Submission - 3.2 Explanatory Memorandum (Revision D)
REP4-003	Highways England Deadline 4 Submission - 3.2 Explanatory Memorandum (Tracked Changes) (Revision D)
REP4-004	Highways England Deadline 4 Submission - 4.3 Book of Reference (Revision C)

REP4-005	Highways England Deadline 4 Submission - 4.3 Book of Reference - (Tracked Changes) (Revision C)
REP4-006	Highways England Deadline 4 Submission - 8.1 Statement of Common Ground Between Highways England and Environment Agency (Revision B)
REP4-007	Highways England Deadline 4 Submission - 8.2 Statement of Common Ground Between Highways England and Natural England (Revision B)
REP4-008	Highways England Deadline 4 Submission - 8.3 Statement of Common Ground Between Highways England and Historic England (Revision A)
REP4-009	Highways England Deadline 4 Submission - 8.6 Statement of Common Ground Between Highways England and Somerset Drainage Board Consortium (Revision B)
REP4-010	Highways England Deadline 4 Submission - 8.8 Statement of Common Ground Between Highways England and The Defence Infrastructure Organisation (Revision B)
REP4-011	Highways England Deadline 4 Submission - 8.13 Statement of Common Ground Between Highways England and Openreach
REP4-012	Highways England Deadline 4 Submission - 8.14 Statement of Common Ground Between Highways England and Sky
REP4-013	Highways England Deadline 4 Submission - 8.15 Statement of Common Ground Between Highways England and Southern Electric Power Distribution plc
REP4-014	Highways England Deadline 4 Submission - 8.16 Statement of Common Ground Between Highways England and Virgin Media
REP4-015	Highways England Deadline 4 Submission - 8.17 Statement of Common Ground Between Highways England and Wessex Water
REP4-016	Highways England Deadline 4 Submission - 8.18 Statement of Common Ground Between Highways England and Long Hazel Park (Revision 1)
REP4-017	Highways England Deadline 4 Submission - 9.16 Biodiversity Offsetting Report (Revision A)
REP4-018	Highways England Deadline 4 Submission - 9.17 Deadline 4 Report - Supporting Information (Revision A)
REP4-019	Highways England Deadline 4 Submission - 9.18 Joint note setting out CRTN approach as to effect of wind direction and speed on noise effects (Revision A)
REP4-020	Highways England Deadline 4 Submission - 9.19 Highways England's Written

	Submission of Oral Case at Hearings (Revision A)
REP4-021	Alan and Pamela Walton, Long Hazel Park Deadline 4 Submission
REP4-022	Alan and Pamela Walton, Long Hazel Park Deadline 4 Submission - Updated SoCG
REP4-023	Allan Keith Tingey Deadline 4 Submission
REP4-024	Bryan G Norman Deadline 4 Submission - Comments on additional information
REP4-025	Bryan G Norman Deadline 4 Submission - Email from Hazlegrove School
REP4-026	Bryan G Norman Deadline 4 Submission - Traffic Data Diagram
REP4-027	Clare & Charles Garrard, The Red Lion Inn Deadline 4 Submission - Response to Examining Authority's (ExA's) first round of Written Questions
REP4-028	Environment Agency Deadline 4 Submission - Response to ExA's Further Written Questions
REP4-029	Historic England Deadline 4 Submission - Response to Further Information Requested by the ExA
REP4-030	James March Deadline 4 Submission - Comments on Additional Information
REP4-031	Mr James March Smith, Sparkford Hall Deadline 4 Submission - Including Response to Hearing Action Points
REP4-032	Joy Whittington Deadline 4 Submission - Post Hearing Written Submission
REP4-033	Phil Gamble Deadline 4 Submission
REP4-034	Queen Camel Parish Council Deadline 4 Submission
REP4-035	Somerset County Council Deadline 4 Submission - Including Response to Hearing Action Points
REP4-036	South Somerset Bridleways Association Deadline 4 Submission - Comments on additional information
REP4-037	South Somerset District Council Deadline 4 Submission - Including Response to Hearing Action Points
REP4-038	Sparkford Parish Council Deadline 4 Submission - Post Hearing Written Submission
REP4-039	The British Horse Society Deadline 4 Submission - Comments on additional information
REP4-040	West Camel Community Steering Group Deadline 4 Submission
REP4-041	West Camel Parish Council Deadline 4 Submission - Correspondence from David Warburton MP
REP4-042	West Camel Parish Council

	Deadline 4 Submission - Post Hearing Written Submission
REP4-043	Highways England Deadline 4 Submission - Non-Material Change Request Letter
REP4-044	Highways England Deadline 4 Submission - Non-Material Change Plans (Revision C03)
REP4-045	Highways England Deadline 4 Submission - Non-Material Change Book of Reference (Revision C1)
REP4-046	Highways England Deadline 4 Submission - Non-Material Changes Book of Reference (Tracked Changes) (Revision C1)
REP4-047	Highways England Deadline 4 Submission - Accompanied Site Inspection pack shared with attendees at the ASI
REP4-048	Defence Infrastructure Organisation Deadline 4 Submission
Deadline 5 - 05 April 2019 • Responses to the ExA's further Written Questions (if required) • Applicant's revised draft DCO • Comments on any revised/updated SoCGs • Comments on any additional information/submissions received by D4 • Responses to any further information requested by the ExA for this deadline	
REP5-001	Highways England Deadline 5 Submission - Cover Email
REP5-002	Highways England Deadline 5 Submission - 2.2 Land Plans (Revision C04)
REP5-003	Highways England Deadline 5 Submission - 2.3 Works Plans (Revision C02 & C05)
REP5-004	Highways England Deadline 5 Submission - 2.4 Rights of Way and Access Plans (Revision C02 & C03)
REP5-005	Highways England Deadline 5 Submission - 3.1 Draft Development Consent Order (Clean) (Revision 0.4)
REP5-006	Highways England Deadline 5 Submission - 3.1 Draft Development Consent Order - 0.2 to version 0.5 (Tracked Changed)
REP5-007	Highways England Deadline 5 Submission - 3.2 Explanatory Memorandum (Clean) (Revision E)
REP5-008	Highways England Deadline 5 Submission - 3.2 Explanatory Memorandum (Tracked Changes) (Revision E)
REP5-009	Highways England Deadline 5 Submission - 4.1 Statement of Reasons (Revision 2)
REP5-010	Highways England Deadline 5 Submission - 4.2 Funding Statement (Revision 1)
REP5-011	Highways England Deadline 5 Submission - 4.3 Book of Reference (Clean) (Revision

	D)
REP5-012	Highways England Deadline 5 Submission - 4.3 Book of Reference (Tracked Changes) (Revision D)
REP5-013	Highways England Deadline 5 Submission - 6.7 Outline Environmental Management Plan (Clean) (Revision A)
REP5-014	Highways England Deadline 5 Submission - 8.1 Statement of Common Ground with Environment Agency (Revision C)
REP5-015	Highways England Deadline 5 Submission - 8.2 Statement of Common Ground with Highways England and Natural England (Revision C)
REP5-016	Highways England Deadline 5 Submission - 8.3 Draft Statement of Common Ground with Historic England (Revision B)
REP5-017	Highways England Deadline 5 Submission - 8.4 Draft Statement of Common Ground with Somerset County Council and South Somerset District Council (Revision B)
REP5-018	Highways England Deadline 5 Submission - 8.6 Draft Statement of Common Ground with Somerset Drainage Board Consortium (Revision C)
REP5-019	Highways England Deadline 5 Submission - 9.10 Table of Amendments to the Draft Development Consent Order Revision 0.2 to Revision 0.4 as Submitted at Deadline 5
REP5-020	Highways England Deadline 5 Submission - 9.20 Responses to Action Points for Deadline 5 (Revision A)
REP5-021	Highways England Deadline 5 Submission - 9.21 Environmental Mitigation Route Map (Revision A)
REP5-022	Highways England Deadline 5 Submission - 9.22 Chronology of Hazelgrove House Registered Park and Garden (Revision A)
REP5-023	Highways England Deadline 5 Submission - 9.23 Guide to the Application (Revision A)
REP5-024	Highways England Deadline 5 Submission - 9.24 Land Use and Economic Development Topic Paper (Revision A)
REP5-025	Highways England Deadline 5 Submission - 9.25 Responses to the Examining Authority's Second Round of Written Questions (Revision A)
REP5-026	Highways England Deadline 5 Submission - 9.26 Draft Development Consent Order Validation Report (Revision 0)
REP5-027	Alex Murphy Deadline 5 Submission
REP5-028	Environment Agency

	Deadline 5 Submission - Response to ExA's Further Written Questions
REP5-029	Historic England Deadline 5 Submission - Response to ExA's Further Written Questions
REP5-030	Joy Whittington Deadline 5 Submission
REP5-031	Natural England Deadline 5 Submission - Response to ExA's Further Written Questions
REP5-032	Somerset County Council Deadline 5 Submission
REP5-033	South Somerset District Council Deadline 5 Submission
REP5-034	Queen Camel, West Camel & Sparkford Parish Council Deadline 5 Submission - Response to ExA's Further Written Questions
REP5-035	Queen Camel, West Camel & Sparkford Parish Council Deadline 5 Submission
REP5-036	Mr B G Norman Deadline 5 Submission
Deadline 6 - 01 May 2019 • Comments on responses to the ExA's further Written Questions, issued on 22 March 2019 • Comments on applicant's revised draft DCO • Comments on any additional information/submissions received by D5 • Responses to any further information requested by the ExA for this deadline	
REP6-001	Highways England Deadline 6 Submission - Cover Email
REP6-002	Highways England Deadline 6 Submission - 2.3 Works Plans - Non-Material Change Request
REP6-003	Highways England Deadline 6 Submission - 6.9 Outline Heritage Written Scheme of Investigation (Revision A)
REP6-004	Highways England Deadline 6 Submission - 8.13 Final Statement of Common Ground with Openreach (Revision B)
REP6-005	Highways England Deadline 6 Submission - 9.2 Environmental Statement Table of Errata (Revision B)
REP6-006	Highways England Deadline 6 Submission - 9.23 Guide to the Application (Revision B)
REP6-007	Highways England Deadline 6 Submission - 9.27 Deadline 6 Report (Revision A)
REP6-008	Highways England Deadline 6 Submission - 9.28 Main Compound Gradiometer Survey Report (Revision A)
REP6-009	Highways England Deadline 6 Submission - 9.29 Main Compound Full Archaeological

	Evaluation Report (Revision A)
REP6-010	Highways England Deadline 6 Submission - 9.30 Cumulative Effects Assessment Technical Note (Revision A)
REP6-011	Highways England Deadline 6 Submission - 9.31 Noise and Vibration Updates (Revision A)
REP6-012	Highways England Deadline 6 Submission - 9.32 Updated Individual Farm Drawings (Revision A)
REP6-013	Highways England Deadline 6 Submission - Consultation Statement and associated annexes relating to the non-statutory consultation carried out on the Supplementary Environmental Information
REP6-014	Highways England Deadline 6 Submission - Non-Material Change Request Letter
REP6-015	Highways England Deadline 6 Submission - Historic England's Comments on Non-Material Change Request
REP6-016	Highways England Deadline 6 Submission - South Somerset District Council's Response to Non-Material Change Request
REP6-017	Environment Agency Deadline 6 submission - Comments on the Applicant's revised draft DCO
REP6-018	Queen Camel, West Camel & Sparkford Parish Councils Deadline 6 Submission
REP6-019	Somerset County Council Deadline 6 Submission
REP6-020	South Somerset Bridleways Association Deadline 6 Submission - Comments on Applicant's revised draft DCO
REP6-021	South Somerset District Council Deadline 6 Submission - Comments on the Applicant's revised draft DCO
REP6-022	South Somerset District Council Deadline 6 Submission - Comments on Submissions received by Deadline 5
REP6-023	Wessex Water Deadline 6 Submission
REP6-024	Phil Gamble Deadline 6 Submission
REP6-025	Mr B G Norman Deadline 6 Submission
REP6-026	Allan Keith Tingey Deadline 6 Submission
REP6-027	Alan & Pamela Walton - Long Hazel Park Deadline 6 Submission - Comments on the Applicant's revised draft DCO
Deadline 6a - 03 May 2019	

• Responses to the ExA's Additional Written Questions	
REP6a-001	Defence Infrastructure Organisation Deadline 6a Submission - Response to the ExA's Additional Written Questions
REP6a-002	Highways England Deadline 6a Submission - Response to the ExA's Additional Written Questions
REP6a-003	Historic England Deadline 6a Submission - Response to the ExA's Additional Written Questions
REP6a-004	Public Health England Deadline 6a Submission - Response to the ExA's Additional Written Questions
REP6a-005	Queen Camel, West Camel & Sparkford Parish Councils Deadline 6a Submission - Response to the ExA's Additional Written Questions
REP6a-006	Somerset County Council Deadline 6a Submission - Response to the ExA's Additional Written Questions
REP6a-007	Somerset Internal Drainage Board Deadline 6a Submission - Response to the ExA's Additional Written Questions
REP6a-008	South Somerset District Council Deadline 6a Submission - Response to the ExA's Additional Written Questions
REP6a-009	Sparkford Parish Council Deadline 6a Submission - Response to the ExA's Additional Written Questions
Deadline 7 - 30 May 2019 • Post Hearing submissions including written submissions of oral case (if required) • Comments on the RIES • Written Representations on the proposed provision to amend the application and include additional land • Comments on responses to the ExA's Additional Written Questions, issued on 25 April 2019 • Applicant's revised draft DCO (if required) • Comments on any additional information/submissions received by D6 • Responses to any further information requested by the ExA for this deadline	
REP7-001	Highways England Deadline 7 Submission - Cover Email
REP7-002	Highways England Deadline 7 Submission - 2.2 Land Plans (Revision C05)
REP7-003	Highways England Deadline 7 Submission - 2.3 Works Plans (Revisions C03, C05 & C07)
REP7-004	Highways England Deadline 7 Submission - 2.4 Rights of Way and Access Plans (Revisions C03, C04 & C05)
REP7-005	Highways England Deadline 7 Submission - 2.5 Permanent Speed Limit Plans (Revision C02)

REP7-006	Highways England Deadline 7 Submission - 2.7 Classification of Roads Plans (Revision C02)
REP7-007	Highways England Deadline 7 Submission - 2.10 Traffic Regulation Measures Plans (Revision C02)
REP7-008	Highways England Deadline 7 Submission - 2.11 Outline Drainage Works Plans (Revision C02)
REP7-009	Highways England Deadline 7 Submission - 2.12 Crown land Plan (Revision C02)
REP7-010	Highways England Deadline 7 Submission - 2.13 Red Line Boundary Plan (Revision C02)
REP7-011	Highways England Deadline 7 Submission - 2.16 De-trunking Works Plans (Revisions C01 & C02)
REP7-012	Highways England Deadline 7 Submission - 2.17 Engineering Sections (Revisions C01, C02 & C03)
REP7-013	Highways England Deadline 7 Submission - 3.1 draft Development Consent Order (Clean) (Revision 0.5)
REP7-014	Highways England Deadline 7 Submission - 3.1 draft Development Consent Order (Tracked Changes) (Revision 0.5)
REP7-015	Highways England Deadline 7 Submission - 3.2 Explanatory Memorandum (Clean) (Revision F)
REP7-016	Highways England Deadline 7 Submission - 3.2 Explanatory Memorandum (Tracked Changes) (Revision F)
REP7-017	Highways England Deadline 7 Submission - 4.1 Statement of Reasons (Revision 3)
REP7-018	Highways England Deadline 7 Submission - 4.3 Book of Reference (Clean) (Revision E)
REP7-019	Highways England Deadline 7 Submission - 4.3 Book of Reference (Tracked Changes) (Revision E)
REP7-020	Highways England Deadline 7 Submission - 6.7 Outline Environmental Management Plan (Revision B)
REP7-021	Highways England Deadline 7 Submission - 8.17 Final Statement of Common Ground with Wessex Water (Revision B)
REP7-022	Highways England Deadline 7 Submission - 9.2 Environmental Statement Table of Errata (Revision C)
REP7-023	Highways England Deadline 7 Submission - 9.16 Biodiversity Offsetting Metric

	(Revision B)
REP7-024	Highways England Deadline 7 Submission - 9.21 Environmental Mitigation Route Map (Revision B)
REP7-025	Highways England Deadline 7 Submission - 9.23 Guide to the Application (Revision C)
REP7-026	Highways England Deadline 7 Submission - 9.26 DCO Validation Report for draft Development Consent Order (Revision 0.5)
REP7-027	Highways England Deadline 7 Submission - 9.36 Responses to Action Points for Deadline 7 (Revision A)
REP7-028	Highways England Deadline 7 Submission - 9.37 The Applicant's Written Submissions of Oral Case at Second Round of Hearings (Revision A)
REP7-029	Highways England Deadline 7 Submission - 9.38 Joint Note from Highways England and Somerset County Council - Maintenance of Drainage Assets (Revision A)
REP7-030	Highways England Deadline 7 Submission - Figure A2.4 Environmental Masterplan (Revisions C03 & C04)
REP7-031	British Horse Society Deadline 7 Submission
REP7-032	Public Health England Deadline 7 Submission
REP7-033	Queen Camel Parish Council Deadline 7 Submission
REP7-034	Queen Camel, West Camel & Sparkford Parish Councils Deadline 7 Submission - Post Hearing Submission
REP7-035	Somerset County Council Deadline 7 Submission - Cover Letter
REP7-036	Somerset County Council Deadline 7 Submission - Appendix 1 Bridleway Y 30/28 mitigation options plan
REP7-037	Somerset County Council Deadline 7 Submission - Appendix 2 Potential legacy issues from partial revocation of 1996 SRO
REP7-038	Somerset County Council Deadline 7 Submission - Appendix 3 A303 Modifications plan (updated)
REP7-039	Somerset County Council Deadline 7 Submission - Appendix 4 Routes affected by partial revocation of A303 Trunk Road
REP7-040	Somerset County Council Deadline 7 Submission - Appendix 5 1996 SRO
REP7-041	Somerset County Council Deadline 7 Submission - Appendix 6 Statement of Priorities
REP7-042	Somerset County Council Deadline 7 Submission - Appendix 7 Joint note Maintenance of

	Drainage Assets
REP7-043	Somerset County Council Deadline 7 Submission - Appendix 8 Plan showing extent of Local Highway Network
REP7-044	Somerset County Council Deadline 7 Submission - Appendix 9 Protective Provisions based on Local Highway Authority being the approving authority
REP7-045	Somerset County Council Deadline 7 Submission - Appendix 10 Note to accompany Protective Provisions
REP7-046	Somerset County Council Deadline 7 Submission - Appendix 11 Protective Provisions based on SoS being the approving authority
REP7-047	South Somerset Bridleways Association Deadline 7 Submission
REP7-048	South Somerset District Council Deadline 7 Submission - Response to documents submitted at Deadline 6 & 6a
REP7-049	South Somerset District Council Deadline 7 Submission - Economic Development Strategy, February 2019
REP7-050	South Somerset District Council Deadline 7 Submission - SoCG with Highways England, outstanding matters
REP7-051	South Somerset District Council Deadline 7 Submission - Response to Action Points arising from ISH 5 & 6
REP7-052	Phil Gamble Deadline 7 Submission
REP7-053	Mr B G Norman Deadline 7 Submission - Response to further information requested by the ExA
REP7-054	Joy & Victor Whittington Deadline 7 Submission
Deadline 8 – 10 June 2019 • Response to comments on the RIES • Final DCO to be submitted by the applicant in the SI template with the SI template validation report • Final updated Book of Reference • Final SoCGs • Final Compulsory Acquisition Schedule • Final updated Guide to the Application • Comments on any additional information/submissions received by D7 • Responses to any further information requested by the ExA for this deadline	
REP8-001	Highways England Deadline 8 Submission - 2.4 Rights of Way and Access Plans
REP8-002	Highways England Deadline 8 Submission - 2.6 General Arrangement Plans
REP8-003	Highways England Deadline 8 Submission - 2.16 De-trunking Works Plans

REP8-004	Highways England Deadline 8 Submission - 3.1 Draft Development Consent Order - Clean
REP8-005	Highways England Deadline 8 Submission - 3.1 Draft Development Consent Order - Tracked
REP8-006	Highways England Deadline 8 Submission - 4.1 Statement of Reasons - Tracked
REP8-007	Highways England Deadline 8 Submission - 6.7 Outline Environmental Management Plan - Tracked
REP8-008	Highways England Deadline 8 Submission - 6.7 Annex B.5 Outline Traffic Management Plan - Tracked
REP8-009	Highways England Deadline 8 Submission - 8.3 Statement of Common Ground with Historic England
REP8-010	Highways England Deadline 8 Submission - 8.4 Statement of Common Ground with Somerset County Council and South Somerset District Council
REP8-011	Highways England Deadline 8 Submission - 8.8 Draft Statement of Common Ground with Defence Infrastructure Organisation
REP8-012	Highways England Deadline 8 Submission - 8.11 Statement of Common Ground with the Church Commissioners for England
REP8-013	Highways England Deadline 8 Submission - 8.14 Statement of Common Ground with Sky
REP8-014	Highways England Deadline 8 Submission - 8.15 Statement of Common Ground with Southern Electric Power Distribution
REP8-015	Highways England Deadline 8 Submission - 8.16 Statement of Common Ground with Virgin Media
REP8-016	Highways England Deadline 8 Submission - 9.2 Environmental Statement Table of Errata - Tracked
REP8-017	Highways England Deadline 8 Submission - 9.3 Equality Impact Assessment
REP8-018	Highways England Deadline 8 Submission - 9.10 Table of Amendments to the Draft Development Consent Order Revision 0.4 to Revision 0.5 as Submitted at Deadline 7
REP8-019	Highways England Deadline 8 Submission - 9.16 Biodiversity Offsetting Metric - Tracked

REP8-020	Highways England Deadline 8 Submission - 9.23 Guide to the Application
REP8-021	Highways England Deadline 8 Submission - 9.26 DCO Validation Report - Rev.06
REP8-022	Highways England Deadline 8 Submission - 9.39 Deadline 8 Report
REP8-023	Highways England Deadline 8 Submission - 9.40 Deadline 8 Response to Action Point 18 - Legal Submission
REP8-024	Highways England Deadline 8 Submission - 9.41 Statement of Final Position
REP8-025	Somerset County Council Deadline 8 Submission - Cover Letter
REP8-026	Somerset County Council Deadline 8 Submission - Appendix 1 - Response to Action Point 17 (23 May) and response to the Applicant's comments on Action Point 64 (14 & 15 May)
REP8-027	Somerset County Council Deadline 8 Submission - Appendix 2 - Response to Action Point 18
REP8-028	Somerset County Council Deadline 8 Submission - Appendix 3 - Response to Action Point 19
REP8-029	Somerset County Council Deadline 8 Submission - Appendix 4 - Response to Action Point 44
REP8-030	Somerset County Council Deadline 8 Submission - Appendix 5 - Response to Action point 49
REP8-031	Somerset County Council Deadline 8 Submission - Appendix 6 - Response to Action Point 16
REP8-032	Somerset County Council Deadline 8 Submission - Appendix 7 - Note on Latest Changes to the dDCO submitted by the Applicant for Deadline 7
REP8-033	South Somerset District Council Deadline 8 Submission - Responses to Highways England's response to Action Points arising from Issue Specific Hearings 5 and 6 and the draft Development Consent Order revision 0.5 (May 2019)
REP8-034	South Somerset District Council Deadline 8 Submission - Tree Preservation Order - 7th June 2019
REP8-035	Queen Camel, West Camel & Sparkford Parish Councils Deadline 8 Submission
REP8-036	Defence Infrastructure Organisation Deadline 8 Submission
REP8-037	Allan Keith Tingey Deadline 8 Submission
REP8-038	Alan and Pamela Walton - Long Hazel Park Deadline 8 Submission
REP8-039	Alan and Pamela Walton - Long Hazel Park Deadline 8 Submission- Notice of Commencement

REP8-040	Les Stevens on behalf of Mr B G Norman Deadline 8 Submission - Part 1
REP8-041	Les Stevens on behalf of Mr B G Norman Deadline 8 Submission - Part 2
REP8-042	Les Stevens on behalf of Mr B G Norman Deadline 8 Submission - Traffic Audit Report A359 High St, Queen Camel 16th May 2019
Other Documents	
OD-001	Regulation 32 Transboundary Screening
OD-002	Highways England Section 56 Notification
OD-003	Highways England Section 56, Section 59 and Regulation 16 Certificates of Compliance
OD-004	Highways England 3.1 - Draft Development Consent Order - Rev 0.3 with Tracked Changes
OD-005	Highways England 3.2 - Explanatory Memorandum - Rev C with tracked changes
OD-006	Highways England 4.4 - Funding Statement Addendum
OD-007	Highways England 4.5 - Statement of Reasons Addendum
OD-008	Highways England 4.7 - Supplemental Book of Reference
OD-009	Highways England 6.4 - Environmental Statement Non-Technical Summary Updated
OD-010	Highways England 6.8 - Environmental Statement Addendum Main Text
OD-011	Highways England 6.8 - Environmental Statement Addendum Appendix A
OD-012	Highways England 6.8 - Environmental Statement Addendum Appendix B
OD-013	Highways England 9.15 - Schedule of Application Documents and Plans
OD-014	Highways England Additional Land Application
OD-015	Highways England Updated Land Plan - Land Plans for Re-consultation Regulation 5(2)(i) SHEET 1 OF 2
OD-016	Highways England Updated Land Plan - Land Plans for Re-consultation Regulation 5(2)(i) Sheet 2 OF 2
OD-017	Highways England

	Response to Rule 17 letter – Request for Further Information
OD-018	Highways England Response to Rule 17 letter – Request for clarification
OD-019	Highways England Regulation 9a Notice
OD-020	Highways England Regulation 9b Certificate
OD-021	Southern Electric Power Distribution plc (SSE) Withdrawal of Southern Electric Power Distribution plc (SSE) representation in respect to the DCO application

APPENDIX C: LIST OF ABBREVIATIONS

Appendix C: Bodies and Persons

Abbreviation or usage	Reference
AADT	Annual Average Daily Traffic
AAWT	Annual Average Weekday Traffic
AEP	Annual Exceedance Probability
AOD	Above Ordnance Datum
AP	Affected Person
AQMA	Air Quality Management Area
ARN	Affected Road Network
ASI	Accompanied Site Inspection
BoR	Book of Reference
BOCC	Birds of Conservation Concern
CA	Compulsory Acquisition
CAH	Compulsory Acquisition Hearing
CA Regulations	Infrastructure Planning (Compulsory Acquisition) Regulations 2010
CCfE	Church Commissioners for England
CEMP	Construction Environmental Management Plan
Chronology	Chronology of Hazelgrove House RPG
CNG	World Health Organisation Guidelines for Community Noise
CO ₂	Carbon Dioxide
CO ₂ e	Carbon Dioxide equivalent
COMMA	Combined Modelling and Appraisal
Consortium	Somerset Drainage Board Consortium
CRTN	Calculation of Road Traffic Noise
CRWA	Countryside and Rights of Way Act
D	Deadline
DBA	Desk Based Assessment
DCLG	Department for Communities and Local Government
DCLG Guidance	'Planning Act 2008: Guidance Related to Procedures for Compulsory Acquisition of Land
DCO	Development Consent Order
dDCO	draft Development Consent Order
Decisions Regulations	The Infrastructure Planning (Decisions) Regulations 2010
Defra	Department for Environment, Food and Rural Affairs
Detrunking Order	The A303 Trunk Road (Sparkford To Ilchester Improvement and Slip Roads) (Detrunking) Order 1996
DFRDBA	Development and Flood Risk in Drainage Board Areas
DfT	Department for Transport
DIO	Defence Infrastructure Organisation
DMRB	Design Manual for Roads and Bridges
DoS	Degree of Saturation
EA	Environment Agency
EIA	Environmental Impact Assessment
EIA Regulations	The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (as amended)

Abbreviation or usage	Reference
ENG	World Health Organisation Environmental Noise Guidelines for the European Region
EPR	Examination Procedure Rules
ERT	Emergency Roadside Telephones
ES	Environmental Statement
EU	European Union
EU Air Quality Directive	Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe
EUWA2018	European Union (Withdrawal) Act 2018
ExA	Examining Authority
ExQ1	First written question(s)
ExQ2	Further written question(s)
ExQ3	Additional written question(s)
Framework	National Planning Policy Framework
GCN	Great Crested Newt
GHG	Greenhouse Gas
ha	hectare
Habitats Regulations	Conservation of Habitats and Species Regulations 2017 (as amended)
HBMCE	Historic Buildings and Monuments Commission for England
HE	Highways England
HEMP	Handover Environmental Management Plan
HGV	Heavy Goods Vehicle
HRA	Habitats Regulations Assessment
IAN	Interim Advice Note
Improvement Order	The A303 Trunk Road (Sparkford to Ilchester Improvement and Slip Roads) Order 1996
Inspectorate	Planning Inspectorate
IP	Interested Party
ISH	Issue Specific Hearing
km	Kilometre
LCA	Landscape Character Area
LEMP	Landscape and Ecological Management Plan
LFRMS	Local Flood risk Management Strategy
LGS	Local Geological Site
LIR	Local Impact Report
LLFA	Local Lead Flood Authority
LOAEL	Lowest Observed Adverse Effect Level
Local Plan	South Somerset Local Plan 2006-2028
LV	Limit Values
LWS	Local Wildlife Sites
m	metre
MfS2	Manual for Streets 2
MHCLG	Ministry of Housing, Communities and Local Government
MoD	Ministry of Defence
mph	miles per hour

Abbreviation or usage	Reference
NE	Natural England
NERCA	Natural Environment and Rural Communities Act 2006
NIDP	National Infrastructure Delivery Plan
NMU	Non-Motorised User
NNG	World Health Organisation Night-time Noise Guidelines for Europe
NNNPS	National Networks National Policy Statement
NO ₂	Nitrogen Dioxide
NO _x	Nitrogen Oxide
NOEL	No Observed Effect Level
NPA	Neighbourhood Planning Act 2018
NPS	National Policy Statement
NPSE	Noise Policy Statement for England
NSIP	Nationally Significant Infrastructure Project
OEMP	Outline Environmental Management Plan
OFH	Open Floor Hearing
OHWSI	Outline Heritage Written Scheme of Investigation
OP	Other Persons
PA2008	Planning Act 2008 (as amended)
PC	Parish Council
PM	Preliminary Meeting
PM ₁₀	Particulate Matter which is 10 micrometres or less in diameter
PPs	Protective Provisions
PPG	Planning Policy Guidance
PPV	Peak Particle Velocity
PRoW	Public Right of Way
PSED	Public Sector Equality Duty
QCCA	Queen Camel Conservation Area
R	Requirement
RFC	Ratio to Flow Capacity
RIES	Report on the Implications for European Sites
RIS	Road Investment Strategy
RNAS	Royal Naval Air Station
RPG	Registered Park and/or Garden
RR	Relevant Representation
RTA	Road Traffic Accident
s	section
SAC	Special Area of Conservation
SCC	Somerset County Council
Side Roads Order	The A303 Trunk Road (Sparkford to Ilchester Improvement and Slip Roads) (Side Roads) Order 1996
SM	Scheduled Monument
SO ₂	Sulphur Dioxide
SOAEL	Significant Observed Adverse Effect Level
SoCG	Statement of Common Ground
SoR	Statement of Reasons

Abbreviation or usage	Reference
SoS	Secretary of State
SoSEFRA	Secretary of State for Environment, Food and Rural Affairs
SoST	Secretary of State for Transport
SPA	Special Protection Area
SRN	Strategic Road Network
SSDC	South Somerset District Council
SSSI	Site of Special Scientific Interest
TCPA1990	Town and Country Planning Act 1990
TMP	Outline Traffic Management Plan
TP	Temporary Possession
TPO	Tree Preservation Order
UK	United Kingdom
USI	Unaccompanied Site Inspection
WCA	Wildlife and Countryside Act 1981
WCCA	West Camel Conservation Area
WFD	Water Framework Directive
WHO	World Health Organisation
WR	Written Representation
ZoI	Zone of Influence
ZTV	Zone of Theoretical Visibility

APPENDIX D: ERRORS AND OMISSIONS TO PREFERRED DCO

APPENDIX D**Table setting out typographic errors and agreed matters not included in final draft DCO.**

Reference	Amendment recommended	Comment
Cover page	Delete	Typographic change.
Title page with version numbers	Delete	Typographic change.
Article 1(1)	Replace the definition of "the book of reference" with ""the book of reference" means the book of reference document reference TR010036/APP/4.3 Revision E;"	To ensure full document referencing
Article 1(1)	Replace the definition of "the classification of roads plans" with ""the classification of roads plans" means the plans of that description (document reference TR010036/APP/2.7) as set out in Part 1 of Schedule 9 "	To ensure full document referencing
Article 1(1)	Replace the definition of "the Crown land plans" with ""the Crown land plans" means the plan reference HE5510507-MMSJV-LSI-000-DR-UU-2021 Revision C02splans certified by the Secretary of State as the Crown land plans for the purposes of this Order;"	To ensure full document referencing and resolve typographic error.
Article 1(1)	Replace the definition of "the de-trunking plans" with ""the de-trunking plans" means the plans set out in Part 2 of Schedule 9;"	To ensure full document referencing
Article 1(1)	Replace the definition of "the engineering sections" with ""the engineering sections" means the	To ensure full document referencing

Reference	Amendment recommended	Comment
	documents as set out in Part 3 of Schedule 9;”	
Article 1(1)	Replace the definition of “the environmental statement” with ““the environmental statement” means the documents set out in Part 4 of Schedule 9;”	To ensure full document referencing
Article 1(1)	Replace the definition of “the general arrangement plans” with ““the general arrangement plans” means the plans set out in Part 5 of Schedule 9;”	To ensure full document referencing
Article 1(1)	Replace the definition of “the lands plans” with ““the land plans” means the plans set out in Part 6 of Schedule 9;”	To ensure full document referencing
Article 1(1)	Replace the definition of “the outline environmental management plan” with ““the outline environmental management plan” means the document of that description (document reference TR010036/APP/6.7 Revision B”	To ensure full document referencing
Article 1(1)	After the definition of “the outline environmental management plan” insert a new definition ““the outline written heritage scheme of investigation” means document reference TR010036/6.9 Revision A”	To ensure full document referencing
Article 1(1)	Replace the definition of “the permanent speed limits plans” with ““the permanent speed limit plans” means	To ensure full document referencing

Reference	Amendment recommended	Comment
	the plans set out in Part 7 of Schedule 9;"	
Article 1(1)	Replace the definition of "the rights of way and access plans" with ""the rights of way and access plans" means the plans set out in Part 8 of Schedule 9;"	To ensure full document referencing
Article 1(1)	Delete the definition of "the speed limits plans"	To avoid confusion with the definition of "the permanent speed limits plans"
Article 1(1)	Replace the definition of "the traffic regulation measures plans" with ""the traffic regulation measures plans" means the plans set out in Part 9 of Schedule 9;"	To ensure full document referencing
Article 1(1)	In definition of "trunk road" reidentify (c) to (f) as (a) to (d) respectively	Typographic change
Article 1(1)	Replace the definition of "the works plans" with ""the works plans" means the plans set out Part 10 of Schedule 9."	To ensure full document referencing
Article 10(4)(b)	Replace "(company number 02366648 , whose registered office is at Wessex Water Operations Centre, Claverton Down Road, Claverton Down, Bath, BA2 7WW;" with (company number 02366648, whose registered office is at Wessex Water Operations Centre, Claverton Down Road, Claverton Down, Bath, BA2 7WW);	Typographic changes

Reference	Amendment recommended	Comment
Article 14(1)	Replace "... complete and open for traffic ..." with "... completed ..."	The phrase "and open to traffic" has been deleted from 13(3) and (4) (see Amendment 6 of Table of Amendments to the Draft Development Consent Order Revision 0.4 to Revision 0.5 as Submitted at Deadline 7 [REP8-018]). The removal of the "d" is a typographic change and accords with the definition in Article 2
Article 14(3)	Replace "... completed ..." with "... complete ..."	Typographic change
Article 14(4)	Replace "... completed ..." with "... complete ..."	Typographic change
Article 16(3), (4) and (5)	Replace "... street or private ..." with "...highway, street or private ..." each time it occurs	The Applicant changed the title of Article 16 and Article 16(1) to include "highways" (see paragraph 2.1.185 of [REP7-027] submitted at D7) but did not make these equivalent changes.
Article 43(1)	Redraft whole as below	The Applicant was asked to update this with the final version of the relevant drawings in ExQ1 [PD-009] 1.10.18 and agreed to do so [REP2-004]. However, this was not done.
Article 43(3)	Replace "...paragraph (1) until ..." with "...paragraph (1) until ..."	Typographic change regarding spacing
Schedule 1. Work 2.	After "Railway Bridge." add "To include;"	Typographic change to make consistent across works.
Schedule 2. Requirement 1.	Delete definition of "County Archaeologist"	See response to ExQ2 2.10.22 [REP5-025]

Reference	Amendment recommended	Comment
Schedule 2. Requirement 1.	After definition of "Ecological Clerk of Works" insert: ""European protected species" has the same meaning as in Regulations 42 (European protected species of animals) and 46 (European protected species of plants) of the Conservation of Habitats and Species Regulations 2017;"	See response to ExQ3 3.10.9 [REP6a-002]
Schedule 2. Requirement 1.	After definition of "LEMP" insert: ""priority species" has the same meaning as given in Article 1(h) of the Habitats Directive (Council Directive 92/43/EEC)".	See response to ExQ3 3.10.9 [REP6a-002]
Schedule 2. Requirement 1.	After definition of "Protected species" insert: ""Schedule 1 birds" means those birds listed within Schedule 1 of the Wildlife and Countryside Act 1981; "Somerset County Council's archaeological advisor" means the individual appointed as such by the relevant planning authority;"	See response to ExQ3 3.10.7 [REP6a-002] and response to ExQ2 2.10.22 [REP5-025]
Schedule 2. Requirement 1.	Before definition of "written" remove extra space	Typographic change regarding spacing
Schedule 2. Requirement 3.	Replace "Friday" with "Fridays".	Typographic change.
Schedule 2. Requirement 6(2).	Replace "undertake" with "undertaken"	Typographic change.

Reference	Amendment recommended	Comment
Schedule 2. Requirement 9(3).	Replace "contaminated land" with "contaminated land"	Typographic change regarding spacing.
Schedule 2. Requirement 13(2)(i) (line 1)	Replace "required, shown" with "required, shown"	Typographic change regarding spacing
Schedule 2. Requirement 13(2)(i) (line 3)	Replace "maintaining any" with "maintaining any"	Typographic change regarding spacing
Schedule 2. Requirement 13(3)	Replace "of the listed features" with "features in any manner which would affect its character as a building of special architectural or historic interest"	See response to ExQ3 3.10.14 [REP6a-002]
Schedule 2. Requirement 13(6)	Add after "members of the public" "and shall be notified by means of electronic transmission to the Environment Agency, the local highway authority, the relevant planning authority, and where works relate to the Hazlegrove House Registered Park and Garden, the Historic Buildings and Monuments Commission for England"	See response to ExQ3 3.10.15 [REP6a-002]
Schedule 2. Requirement 14(6)	Replace "QBAR or 2 l/s/ha.." with "Qbar or 2 l/s/ha."	Typographic changes.
Schedule 2. Requirement 17(1) main text last line	Replace "complete" with "completed"	Typographic change.
Schedule 2. Requirement 17(1)(c)	Replace "mitigation approved" with "mitigation approved"	Typographic change regarding spacing

Reference	Amendment recommended	Comment
Schedule 3	Replace "meters" with "metres" wherever it occurs.	Typographic changes.
Schedule 3 Part 10. Penultimate row.	Replace "Y 30/29" with "Y 30/UN"	Typographic change as SCC have amended reference
Schedule 3 Part 12	Replace paragraph number "23" with "1.—(1)"	Typographic change.
Between Schedules 3 and Schedule 4	Add page break	Typographic change.
Schedule 5	Replace "Ref" in title with "Article 26"	Typographic change
Schedule 5. Plot 5/9b.	Replace "apparatus including" with "apparatus including"	Typographic change regarding spacing
Schedule 6. Paragraph 2(2). In insert paragraph (b)	Replace "(the [•] Order))" with "(the [•] Order))"	Typographic change regarding spacing.
Schedule 6 page 1 footer	Remove "WORK/343660049 v2" and "15536.28 Classification: Confidential"	Typographic change.
Schedule 8. Paragraph 31.	Remove " " at end.	Typographic change regarding spacing.
Schedule 8. Paragraph 35(1)	Before "which may affect" insert "(b)".	Typographic change.
Schedule 8. Paragraph 35(2) Fifth line.	Replace "...practicable. Notwithstanding the foregoing, the local highway authority have full power ..." with "... practicable. Notwithstanding the foregoing, the local highway authority has full power ..."	Two typographic changes, one regarding spacing
Schedule 8. Paragraph 35(3)	replace "... any local highway ... " with "... any local highway ... "	Typographic change regarding spacing.

Reference	Amendment recommended	Comment
Schedule 8. Paragraph 37	Replace "... vehicles and plant. The operational ..." with "... vehicles and plant. The operational ..."	Typographic change regarding spacing.
Schedule 8. Paragraph 40.	Replace "caused, seek" with "caused, seek" and remove " " at end.	Typographic changes regarding spacing.
Schedule 8. Paragraph 45.	Replace " ... authority harmless ..." with " ... authority harmless ..."	Typographic change regarding spacing.
Schedule 8. Paragraph 46(2).	Remove extra line at end	Typographic change.
Schedule 8. Paragraph 56	Replace " ... authority harmless ..." With " ... authority harmless ..."	Typographic change regarding spacing.
At end before Explanatory Text	Insert Schedule 9 as below	For clarity pursuant to Article 43(1)

Article 43(1) to read:

- (1) The undertaker must, as soon as practicable after the making of this Order, and within ten working days, submit to the Secretary of State copies of—
 - (a) the book of reference;
 - (b) the classification of roads plans;
 - (c) the Crown Land Plan;
 - (d) the detrunking plans;
 - (e) the engineering sections;
 - (f) the environmental statement (document reference TR010036/APP/6.1) including with the environmental statement addendum (document reference TR010036/APP/6.8 Revision A) and environmental statement table of errata (document reference TR010036/APP/6.8/9.2 Revision C);
 - (g) the general arrangement plans;
 - (h) the land plans;
 - (i) the outline environmental management plan;
 - (j) the outline written heritage scheme of investigation;
 - (k) the permanent speed limit plans;
 - (l) the rights of way and access plans;
 - (m) the traffic regulation measures plans;

- (n) the works plans; and
- (o) any other plans or documents referred to in this Order as requiring certification,
for certification that they are true copies of the documents referred to in this Order.

SCHEDULE 9

Article 43

DOCUMENTS TO BE CERTIFIED

The reference to a document in the table with a numbered regulation is a reference to the regulation as numbered in the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009

PART 1

CLASSIFICATION OF ROADS PLANS

<i>(1)</i> <i>Title</i>	<i>(2)</i> <i>Drawing number</i>	<i>(3)</i> <i>Revision</i>
Classification of Roads Plan Regulation 5(2)(o) Key Plan	HE5510507-MMSJV-LSI-000-DR-UU-2071	C02
Classification of Roads Plan Regulation 5(2)(o) Sheet 1 of 4	HE5510507-MMSJV-LSI-000-DR-UU-2072	C02
Classification of Roads Plan Regulation 5(2)(o) Sheet 2 of 4	HE5510507-MMSJV-LSI-000-DR-UU-2073	C02
Classification of Roads Plan Regulation 5(2)(o) Sheet 3 of 4	HE5510507-MMSJV-LSI-000-DR-UU-2074	C02
Classification of Roads Plan Regulation 5(2)(o) Sheet 4 of 4	HE5510507-MMSJV-LSI-000-DR-UU-2075	C02

PART 2

DETRUNKING PLANS

<i>(1)</i> <i>Title</i>	<i>(2)</i> <i>Drawing number</i>	<i>(3)</i> <i>Revision</i>
De-trunking works Key Plan	HE5510507-MMSJV-LSI-000-DR-UU-2061	C02
De-trunking works Sheet 1 of 3	HE5510507-MMSJV-LSI-000-DR-UU-2062	C01
De-trunking works Sheet 2 of 3	HE5510507-MMSJV-LSI-000-DR-UU-2063	C02
De-trunking works Sheet 3 of 3	HE5510507-MMSJV-LSI-000-DR-UU-2064	C02

PART 3

THE ENGINEERING SECTIONS

<i>(1)</i> <i>Title</i>	<i>(2)</i> <i>Drawing number</i>	<i>(3)</i> <i>Revision</i>
Engineering Sections Mainline Sheet 1	HE5510507-MMSJV-LSI-000-DR-UU-2171	C01
Engineering Sections Mainline Sheet 2	HE5510507-MMSJV-LSI-000-DR-UU-2172	C01
Engineering Sections Slip Roads	HE5510507-MMSJV-LSI-000-DR-UU-2173	C01
Engineering Sections Structures	HE5510507-MMSJV-LSI-000-DR-UU-2174	C01
Engineering Sections Bunds And False Cuttings	HE5510507-MMSJV-LSI-000-DR-UU-2175	C02
Engineering Sections Local Roads Sheet 1	HE5510507-MMSJV-LSI-000-DR-UU-2176	C01

Engineering Sections Local Roads Sheet 2	HE5510507-MMSJV-LSI-000-DR-UU-2177	C01
Engineering Sections Multiple Use Tracks Sheet 1	HE5510507-MMSJV-LSI-000-DR-UU-2178	C03
Engineering Sections Multiple Use Tracks Sheet 2	HE5510507-MMSJV-LSI-000-DR-UU-2179	C02
Engineering Sections Roundabouts	HE5510507-MMSJV-LSI-000-DR-UU-2180	C01
Engineering Sections Retention Of Existing Roads	HE5510507-MMSJV-LSI-000-DR-UU-2181	C02
Engineering Sections Ponds Sheet 1	HE5510507-MMSJV-LSI-000-DR-UU-2182	C01
Engineering Sections Ponds Sheet 2	HE5510507-MMSJV-LSI-000-DR-UU-2183	C01
Engineering Sections Ponds Sheet 3	HE5510507-MMSJV-LSI-000-DR-UU-2184	C01
Engineering Sections Bunds And False Cuttings Cross Sections Sheet 1	HE5510507-MMSJV-LSI-000-DR-UU-2185	C01
Engineering Sections Bunds And False Cuttings Cross Sections Sheet 2	HE5510507-MMSJV-LSI-000-DR-UU-2186	C01
Engineering Sections Bunds And False Cuttings Cross Sections Sheet 3	HE5510507-MMSJV-LSI-000-DR-UU-2187	C02
Engineering Sections Bunds And False Cuttings Cross Sections Sheet 4	HE5510507-MMSJV-LSI-000-DR-UU-2188	C02
Engineering Sections Bunds And False Cuttings Cross Sections Sheet 5	HE5510507-MMSJV-LSI-000-DR-UU-2189	C02

PART 4

THE ENVIRONMENTAL STATEMENT

<i>(1)</i> <i>Title</i>		<i>(2)</i> <i>Document reference</i>
The Environmental Statement (subject to the amendments set out below)		6.1
The Appendices and Figures accompanying the Environmental Statement (subject to the amendments set out below)		6.3
The Environmental Statement Non-Technical Summary (Revision B)		6.4
The Environmental Statement – Statement of Statutory Nuisances		6.5
The Environmental Statement – Habitats Regulations Assessment of No Significant Effects Report		6.6
The Environmental Statement – Outline Environmental Management Plan (Revision B)		6.7
The Environmental Statement Addendum and accompanying Appendices		6.8
The Environmental Statement Outline Heritage Written Scheme of Investigation (Revision A)		6.9
The Environmental Statement Table of Errata (Revision C)		9.2
Environmental Statement Addendum Appendix B Figure A2.4 Environmental Masterplan consisting of:		
<i>(1)</i> <i>Title</i>	<i>(2)</i> <i>Drawing number</i>	
Environmental Masterplan Sheet 1 of 7	HE551507-MMSJV-ELS-000-DR-LL-0129	
Environmental Masterplan Sheet 2 of 7	HE551507-MMSJV-ELS-000-DR-LL-0130	
Environmental Masterplan Sheet 3 of 7	HE551507-MMSJV-ELS-000-DR-LL-0131	

Environmental Masterplan Sheet 4 of 7	HE551507-MMSJV-ELS-000-DR-LL-0133	C03	
Environmental Masterplan Sheet 5 of 7	HE551507-MMSJV-ELS-000-DR-LL-0134	C04	
Environmental Masterplan Sheet 6 of 7	HE551507-MMSJV-ELS-000-DR-LL-0136	C04	
Environmental Masterplan Sheet 7 of 7	HE551507-MMSJV-ELS-000-DR-LL-0137	C03	

PART 5

GENERAL ARRANGEMENT PLANS

<i>(1)</i> <i>Title</i>	<i>(2)</i> <i>Drawing number</i>	<i>(3)</i> <i>Revision</i>
General Arrangement Plans Regulation 5(2)(o) Key Plan	HE5510507-MMSJV-LSI-000-DR-UU-2061	C02
General Arrangement Plans Sheet 1 of 7	HE5510507-MMSJV-LSI-000-DR-UU-2062	C01
General Arrangement Plans Sheet 2 of 7	HE5510507-MMSJV-LSI-000-DR-UU-2063	C02
General Arrangement Plans Sheet 3 of 7	HE5510507-MMSJV-LSI-000-DR-UU-2064	C02
General Arrangement Plans Sheet 4 of 7	HE5510507-MMSJV-LSI-000-DR-UU-2065	C02
General Arrangement Plans Sheet 5 of 7	HE5510507-MMSJV-LSI-000-DR-UU-2066	C03
General Arrangement Plans Sheet 6 of 7	HE5510507-MMSJV-LSI-000-DR-UU-2067	C02
General Arrangement Plans Sheet 7 of 7	HE5510507-MMSJV-LSI-000-DR-UU-2068	C02

PART 6

LAND PLANS

<i>(1)</i> <i>Title</i>	<i>(2)</i> <i>Drawing number</i>	<i>(3)</i> <i>Revision</i>
Land Plans Regulation 5(2)(i) Key Plan	HE5510507-MMSJV-LSI-000-DR-UU-2016	C05
Land Plans Regulation 5(2)(i) Plan 1 of 10	HE5510507-MMSJV-LSI-000-DR-UU-2017	C05
Land Plans Regulation 5(2)(i) Plan 2 of 10	HE5510507-MMSJV-LSI-000-DR-UU-2018	C05
Land Plans Regulation 5(2)(i) Plan 3 of 10	HE5510507-MMSJV-LSI-000-DR-UU-2019	C05
Land Plans Regulation 5(2)(i) Plan 4 of 10	HE5510507-MMSJV-LSI-000-DR-UU-2020	C05
Land Plans Regulation 5(2)(i) Plan 5 of 10	HE5510507-MMSJV-LSI-000-DR-UU-2021	C05
Land Plans Regulation 5(2)(i) Plan 6 of 10	HE5510507-MMSJV-LSI-000-DR-UU-2022	C05
Land Plans Regulation 5(2)(i) Plan 7 of 10	HE5510507-MMSJV-LSI-000-DR-UU-2023	C05
Land Plans Regulation 5(2)(i) Plan 8 of 10	HE5510507-MMSJV-LSI-000-DR-UU-2024	C05
Land Plans Regulation 5(2)(i) Plan 9 of 10	HE5510507-MMSJV-LSI-000-DR-UU-2025	C05
Land Plans Regulation 5(2)(i) Plan 10 of 10	HE5510507-MMSJV-LSI-000-DR-UU-2026	C05

PART 7

PERMANENT SPEED LIMITS PLANS

<i>(1)</i> <i>Title</i>	<i>(2)</i> <i>Drawing number</i>	<i>(3)</i> <i>Revision</i>
Permanent Speed Limit Order Plans Regulation 5(2)(o) Key Plan	HE5510507-MMSJV-LSI-000-DR-UU-2051	C02
Permanent Speed Limit Order Plans Regulation 5(2)(o) Sheet 1 of 4	HE5510507-MMSJV-LSI-000-DR-UU-2052	C02

Permanent Speed Limit Order Plans Regulation 5(2)(o) Sheet 1 of 4	HE5510507-MMSJV-LSI-000-DR-UU-2053	C02
Permanent Speed Limit Order Plans Regulation 5(2)(o) Sheet 1 of 4	HE5510507-MMSJV-LSI-000-DR-UU-2054	C02
Permanent Speed Limit Order Plans Regulation 5(2)(o) Sheet 1 of 4	HE5510507-MMSJV-LSI-000-DR-UU-2055	C02

PART 8

RIGHTS OF WAY AND ACCESS PLANS

<i>(1)</i> <i>Title</i>	<i>(2)</i> <i>Drawing number</i>	<i>(3)</i> <i>Revision</i>
Rights of way and Access Plans Regulation 52(2)(k) and 5(2)(o) Key Plan	HE5510507-MMSJV-LSI-000-DR-UU-2041	C03
Rights of way and Access Plans Regulation 52(2)(k) and 5(2)(o) Sheet 1 of 4	HE5510507-MMSJV-LSI-000-DR-UU-2042	C05
Rights of way and Access Plans Regulation 52(2)(k) and 5(2)(o) Sheet 2 of 4	HE5510507-MMSJV-LSI-000-DR-UU-2043	C04
Rights of way and Access Plans Regulation 52(2)(k) and 5(2)(o) Sheet 3 of 4	HE5510507-MMSJV-LSI-000-DR-UU-2044	C06
Rights of way and Access Plans Regulation 52(2)(k) and 5(2)(o) Sheet 4 of 4	HE5510507-MMSJV-LSI-000-DR-UU-2045	C04

PART 9

TRAFFIC REGULATION MEASURE PLANS

<i>(1)</i> <i>Title</i>	<i>(2)</i> <i>Drawing number</i>	<i>(3)</i> <i>Revision</i>
Traffic Regulation Measures Plan Regulation 5(2)(o) Key Plan	HE5510507-MMSJV-LSI-000-DR-UU-2101	C02
Traffic Regulation Measures Plan Regulation 5(2)(o) Sheet 1 of 4	HE5510507-MMSJV-LSI-000-DR-UU-2102	C02
Traffic Regulation Measures Plan Regulation 5(2)(o) Sheet 2 of 4	HE5510507-MMSJV-LSI-000-DR-UU-2103	C02
Traffic Regulation Measures Plan Regulation 5(2)(o) Sheet 3 of 4	HE5510507-MMSJV-LSI-000-DR-UU-2104	C02
Traffic Regulation Measures Plan Regulation 5(2)(o) Sheet 4 of 4	HE5510507-MMSJV-LSI-000-DR-UU-2105	C02

PART 10

WORKS PLANS

<i>(1)</i> <i>Title</i>	<i>(2)</i> <i>Drawing number</i>	<i>(3)</i> <i>Revision</i>
Works Plans Regulation 52(2)(j) Key Plan	HE5510507-MMSJV-LSI-000-DR-UU-2031	C03
Works Plans Regulation 52(2)(j) Sheet 1 of 4	HE5510507-MMSJV-LSI-000-DR-UU-2032	C07
Works Plans Regulation 52(2)(j) Sheet 2 of 4	HE5510507-MMSJV-LSI-000-DR-UU-2033	C05
Works Plans Regulation 52(2)(j) Sheet 3 of 4	HE5510507-MMSJV-LSI-000-DR-UU-2034	C07

Works Plans Regulation 52(2)(j) Sheet 4 of 4	HE5510507-MMSJV-LSI-000-DR-UU-2035	C07

APPENDIX E: THE RECOMMENDED DCO IF THE SOS IS MINDED TO GRANT DEVELOPMENT CONSENT

201[] No. []

INFRASTRUCTURE PLANNING

The A303 Sparkford to Ilchester Dualling Development Consent Order 201[]

<i>Made</i>	- - - -	<i>[]</i>
<i>Laid before Parliament</i>		<i>[]</i>
<i>Coming into force</i>	- -	<i>[]</i>

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 - PART 10 — WORKS PLANS

An application has been made to the Secretary of State under section 37 of the Planning Act 2008^(a) (“the 2008 Act”) in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009^(b) for an Order granting development consent.

The application was examined by a Panel of 2 members (“the Panel”) (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 Panel, having considered the representations made and not withdrawn and the application together with the accompanying documents, in accordance with section 74 of the 2008 Act, has submitted a report and recommendation to the Secretary of State.

The Secretary of State, having considered the representations made and not withdrawn, and the report of the Panel, 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, 117, 120, 122, 123, 135, and 138 of, and paragraphs 1 to 3, 10 to 17, 19 to 23, 26, 33, 36 and 37 of Part 1 of Schedule 5 to, the 2008 Act, makes the following Order—

(a) 2008 c. 29. Parts 1 to 7 were amended by Chapter 6 of Part 6 of the Localism Act 2011 (c. 20).
 (b) S.I. 2009/2264, amended by S.I. 2010/439, S.I. 2010/602, S.I. 2012/635, S.I. 2012/2654, S.I. 2012/2732, S.I. 2013/522, S.I. 2013/755, S.I. 2014/2381, S.I. 2015/377, S.I. 2017/572; modified by S.I. 2012/1659.
 (c) S.I. 2010/103, amended by S.I. 2012/635.

PART 1

PRELIMINARY

Citation and commencement

1.—(1) This Order may be cited as the A303 Sparkford to Ilchester Dualling Development Consent Order 201[•] and comes into force on [•].

Interpretation

2.—(1) In this Order except where provided otherwise—

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

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

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

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

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

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

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

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

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

“adjacent land” means that land which is necessary to carry out the development of the Works or ensure the safe construction of any section or part of the Works;

“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) including all of the numbered Works;

“the book of reference” means the book of reference of document reference TR010036/APP/4.3 Revision E. certified by the Secretary of State as the book of reference for the purposes of this Order;

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

“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;

“the classification of roads plans” means the plans of that description (document reference TR010036/APP/2.7) as set out in Part 1 of Schedule 9 certified by the Secretary of State as the classification of roads plans for the purposes of this Order;

“commence” means beginning to carry out any material operation (as defined in section 56(4) of the 1990 Act) forming part of the authorised development other than operations consisting of archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, creation of working areas for remedial works, erection of any temporary means of enclosure, receipt and erection of construction plant and equipment, and the temporary display of site notices or advertisements, and “commencement” is to be construed accordingly;

-
- (a) 1961 c. 33.
(b) 1965 c. 56.
(c) 1980 c. 66.
(d) 1981 c. 66.
(e) 1984 c. 27.
(f) 1990 c. 8.
(g) 1991 c. 22.
(h) 2008 c. 29.

“complete” in relation to any works to highways under this Order means the date upon which the relevant part of the classification of roads under this Order takes effect or a public right of way on foot, by bicycle or with horses is created, which classification or creation of public rights may not take effect unless and until all works to the relevant section or part of the highway have been carried out in accordance with approved detailed design, the highway is open to public use and in the case of vehicular highways, the highway has been subject to road safety audit stage 3 and any works to be carried out as a consequence of that audit have been completed; and “completed” is to be construed accordingly;

“the Crown land plan” means plan reference HE5510507-MMSJV-LSI-000-DR-UU-2021 Revision C02 certified by the Secretary of State as the Crown land plan for the purposes of this Order;

“cycle track” has the same meaning as in section 329(1) (further provisions as to interpretation) of the 1980 Act^(a);

“the de-trunking plans” means the plans certified by the Secretary of State as the de-trunking plans for the purposes of this Order set out in Part 2 of Schedule 9;

“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 sections” means the documents certified by the Secretary of State as the engineering sections for the purposes of this Order set out in Part 3 of Schedule 9;

“the environmental statement” means the documents certified by the Secretary of State as the environmental statement for the purposes of this Order set out in Part 4 of Schedule 9;

“exempt vehicles” means: vehicles being used for the conveyance of goods or merchandise to or from any premises only reasonably accessible from the highway to which the restriction applies; vehicles being used in conjunction with any building operation or demolition on land in or adjacent to the highway to which the restriction applies; vehicles being used for the laying, erection, alteration or repair on land adjacent to the highway to which the restriction applies of any apparatus; a vehicle being used by the emergency services or on behalf of a local authority; and a bus.

“footpath” and “footway” have the same meaning as in the 1980 Act;

“the general arrangement plans” means the plans certified by the Secretary of State as the general arrangement plans for the purposes of this Order set out in Part 5 of Schedule 9;

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

“the land plans” means the plans certified by the Secretary of State as the land plans for the purposes of this Order set out in Part 6 of Schedule 9;

“the limits of deviation” means the limits of deviation referred to in article 8 (limits of deviation);

“the local highway authority” means Somerset County Council;

“maintain” includes, to the extent assessed in the environmental statement, inspect, repair, adjust, alter, remove, replace or reconstruct in relation to the authorised development and any derivative of “maintain” is to be construed accordingly;

“the 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 the land to be acquired or used permanently or temporarily shown on the land plans and works plans within which the authorised development may be carried out;

(a) The definition of “cycle track” was amended by section 1 of the Cycle Tracks Act 1984 (c. 38) and paragraph 21(2) of Schedule 3 to the Road Traffic (Consequential Provisions) Act 1988 (c. 54).

“the outline environmental management plan” means the document of that description (document reference TR010036/APP/6.7 Revision B) certified by the Secretary of State as the outline environmental management plan for the purposes of this Order;

“the outline written heritage scheme of investigation” means document reference TR010036/6.9 Revision A;

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

“the permanent speed limit plans” means the plans certified by the Secretary of State as the permanent speed limit plans for the purposes of this Order set out in Part 7 of Schedule 9;

“the relevant planning authority” means the local planning authority for the land and matter in question, being South Somerset District Council or Somerset County Council;

“the rights of way and access plans” means the plans certified by the Secretary of State as the rights of way and access plans for the purposes of this Order set out in Part 8 of Schedule 9;

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

“statutory undertaker” means any statutory undertaker for the purposes of section 127(8) (statutory undertakers’ land) of the 2008 Act;

“street” means a street within the meaning of section 48 (streets, street works and undertakers) 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;

“temporary working site” means any area within the Order limits which is occupied for the purposes of carrying out the works in the vicinity of that area and within which materials may only be temporarily stored;

“traffic authority” has the same meaning as in section 121A(b) (traffic authorities) of the 1984 Act;

“the traffic regulation measures plans” means the plans certified by the Secretary of State as the traffic regulation measures plans for the purposes of this Order set out in Part 9 of Schedule 9;

“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(c) (general provision as to trunk roads) or section 19(1)(d) (certain special roads and other highways to become trunk roads) of the 1980 Act;
- (b) an order made or direction given under section 10 of that Act;
- (c) an order granting development consent; or
- (d) any other enactment;

“the undertaker” means Highways England Company Limited, company number 09346363, whose registered office is at Bridge House, 1 Walnut Tree Close, Guildford, Surrey, GU1 4LZ;

“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 by the Secretary of State as the works plans for the purposes of this Order set out Part 10 of Schedule 9.

(a) 1981 c. 67. The definition of “owner” was amended by paragraph 9 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34). There are other amendments to section 7 which are not relevant to this Order.

(b) This section was inserted by section 168(1) of, and paragraph 70 of Schedule 8 to, the New Roads and Street Works Act 1991 (c. 22); and brought into force by S.I. 1991/2288.

(c) As amended by section 22(2) of the 1991 Act and paragraph 22 of Schedule 2 to the 2008 Act, and by section 1 of, and Schedule 1 to, the Infrastructure Act 2015 (c. 7).

(d) As amended by section 1 of, and Schedule 1 to, the Infrastructure Act 2015 (c. 7).

(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 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, areas and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised development are 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 are to be construed as references to points so lettered or numbered on the specified plan(s).

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

Disapplication of legislative provisions

3.—(1) The following provisions do not apply in relation to the construction of any work or the carrying out of any operation required for the purpose of, or in connection with, the construction of the authorised development—

- (a) the provisions of any byelaws made under, or having effect as if made under, paragraphs 5, 6 or 6A of Schedule 25 (bye-law making powers of the appropriate agency) to the Water Resources Act 1991;
- (b) section 23 (prohibition on obstructions etc. in watercourses) of the Land Drainage Act 1991(a);
- (c) section 32 (variation of awards) of the Land Drainage Act 1991; and
- (d) the provisions of any byelaws made under section 66 (powers to make byelaws) of the Land Drainage Act 1991.

(2) In so far as they relate to the temporary possession of land, the provisions of the Neighbourhood Planning Act 2017(b) do not apply in relation to the construction of any work or the carrying out of any operation required for the purpose of, or in connection with, the construction of the authorised development and any maintenance of any part of the authorised development.

Maintenance of drainage works

4.—(1) Nothing in this Order, or the construction, maintenance or operation of the authorised development under it, affects any responsibility for the maintenance of any works connected with the drainage of land, whether that responsibility is imposed or allocated by or under any enactment, or otherwise, unless otherwise agreed in writing between the undertaker and the person responsible.

(2) In this article “drainage” has the same meaning as in section 72 (interpretation) of the Land Drainage Act 1991.

(a) 1991 c. 59.

(b) 2017 c. 20

PART 2

PRINCIPAL POWERS

Development consent etc. granted by the Order

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

(2) Any enactment applying to land within the Order limits or adjacent land has effect subject to the provisions of this Order.

Maintenance of authorised development

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

Planning permission

7. If planning permission is granted under the powers conferred by the 1990 Act for development any part of which is within the Order limits following the coming into force of this Order that is—

- (a) not itself a nationally significant infrastructure project under the 2008 Act or part of such a project; or
- (b) required to complete or enable the use or operation of any part of the development authorised by this Order,

then the carrying out, use or operation of such development under the terms of the planning permission does not constitute a breach of the terms of this Order.

Limits of deviation

8. In carrying out the authorised development the undertaker 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—
 - (i) in respect of Works 81, 85 and 92 to a maximum of 1 metre upwards or 5 metres downwards; or
 - (ii) for all other Works to a maximum of 1 metre upwards or downwards.

except that these maximum limits of vertical deviation do not apply where it is demonstrated by the undertaker, after consultation with the relevant planning authority and the local highway authority, to the Secretary of State's satisfaction and the Secretary of State certifies accordingly that a deviation in excess of these limits would not give rise to any materially new or materially worse adverse environmental effects in comparison with those reported in the environmental statement.

Benefit of Order

9.—(1) Subject to article 10 (consent to transfer benefit of Order) and paragraph (2), the provisions of this Order conferring powers on the undertaker have effect solely for the benefit of the undertaker.

(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

10.—(1) The undertaker 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 undertaker and the transferee; or
- (b) grant to another person (“the lessee”) for a period agreed between the undertaker 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 undertaker, except in paragraph (3), include 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) is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

(4) The consent of the Secretary of State is required for a transfer or grant under this article, except where the transfer or grant is made to—

- (a) Southern Electric Power Distribution plc (company number 04094290, whose registered office is at No.1 Forbury Place, 43 Forbury Road, Reading, United Kingdom, RG1 3JH) for the purposes of undertaking Works No. 9, 35, 37, 38, 38a, 48, 70, 73, 76 and 79; or
- (b) Wessex Water Services Limited (company number 02366648, whose registered office is at Wessex Water Operations Centre, Claverton Down Road, Claverton Down, Bath, BA2 7WW); for the purposes of undertaking Works No. 32, 44, 46, 74 and 77; or
- (c) British Telecommunications (company number 01800000, whose registered office is at 81 Newgate Street, London, EC1A 7AJ), and Openreach Limited (company number 10690039, whose registered office is at Kelvin House, 123 Judd Street, London, WC1H 9NP); Sky Telecommunications Services Limited, company number 02883980, whose registered office is at Grant Way, Isleworth, Middlesex, TW7 5QD); Virgin Media Limited, company number 02591237, whose registered office is at Media House, Bartley Wood Business Park, Hook, RG27 9UP; Level 3 Communications Limited, (company number 03514850, whose registered office is at 7th Floor, 10 Fleet Place, London, EC4M 7RB); CenturyLink Limited (company number 09626356) whose registered office is at 230 Wharfedale Road, Winnersh Triangle, Wokingham, England, RG41 5TP, or O’Connor Utilities Limited, (company number 02916906, whose registered office is at 10 Sandfold Lane, Manchester, M19 3BJ) for the purposes of undertaking Works No 8, 13, 31, 33, 34, 36, 43, 45, 47, 69, 71, 72, 75, 78, 84, 96, 97 and 98.

PART 3

STREETS

Street works

11.—(1) The undertaker may, for the purposes of the authorised development, enter on so much of any of the streets as are within the Order limits and may—

- (a) break up or open the street, or any sewer, drain or tunnel under it;
- (b) tunnel or bore under the street;
- (c) place apparatus in the street;
- (d) maintain apparatus in the street or change its position; and
- (e) execute any works required for, or incidental to, any works referred to in sub-paragraphs (a), (b), (c) and (d).

(2) The authority given by paragraph (1) is a statutory right for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act.

(3) Subject to article 12 (application of the 1991 Act), the provisions of sections 54 to 106 of the 1991 Act apply to any street works carried out under paragraph (1).

Application of the 1991 Act

12.—(1) Works executed under this Order in relation to a highway which consists of or includes a carriageway are to be treated for the purposes of Part 3 (street works in England and Wales) of the 1991 Act 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)(a) of that Act; or
- (b) they are works which, had they been executed by the local highway authority, might have been carried out in exercise of the powers conferred by section 64(b) (dual carriageways and roundabouts) of the 1980 Act or section 184(c) (vehicle crossings over footways and verges) of that Act.

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

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

- (a) section 56(d) (directions as to timing);
- (b) section 56A(e) (power to give directions as to placing of apparatus);
- (c) section 58(f) (restrictions following substantial road works);
- (d) section 58A(g) (restriction on works following substantial street works); and
- (e) schedule 3A(h) (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 apply (with the necessary modifications) in relation to any stopping up, alteration or diversion of a street of a temporary nature by the undertaker under the powers conferred by article 15 (temporary stopping up and restriction of use 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(i) referred to in paragraph (4) are—

- (a) section 54 (advance notice of certain works), subject to paragraph (6);
- (b) section 55 (notice of starting date of works), subject to paragraph (6);
- (c) section 57 (notice of emergency works);
- (d) section 59 (general duty of street authority to co-ordinate works);
- (e) section 60 (general duty of undertakers to co-operate);
- (f) section 68 (facilities to be afforded to street authority);

-
- (a) Section 86(3) defines what highway works are major highway works.
 - (b) As amended by section 102 of, and Schedule 17 to, the Local Government Act 1985 (c. 51) and section 168(2) of, and Schedule 9 to, the New Roads and Street Works Act 1991 (c. 22).
 - (c) As amended by section 4 of, and paragraph 45 of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11); and section 18 of and Schedule 8 to, the New Roads and Street Works Act 1991 (c. 22).
 - (d) As amended by sections 40 and 43 of the Traffic Management Act 2004 (c. 18).
 - (e) Inserted by section 44 of the Traffic Management Act 2004.
 - (f) As amended by section 51 of the Traffic Management Act 2004.
 - (g) Inserted by section 52 of the Traffic Management Act 2004.
 - (h) Inserted by section 52 of, and Schedule 4 to, the Traffic Management Act 2004.
 - (i) All as amended by the Traffic Management Act 2004.

- (g) section 69 (works likely to affect other apparatus in the street);
- (h) section 75 (inspection fees);
- (i) section 76 (liability for cost of temporary traffic regulation); and
- (j) 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) 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 13 (construction and maintenance of new, altered or diverted streets and other structures)—

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

Construction and maintenance of new, altered or diverted streets and other structures

13.—(1) Any highway (other than a trunk road) to be constructed under this Order must be completed to the reasonable satisfaction of the local highway authority and, unless otherwise agreed in writing with the local highway authority, the highway including any culverts or other structures laid under it must be maintained by and at the expense of the local highway authority from its completion.

(2) Where a highway (other than a trunk road which is not de-trunked by this Order) is altered or diverted under this Order, the altered or diverted part of the highway must be completed to the reasonable satisfaction of the local highway authority and, unless otherwise agreed in writing with the local highway authority, that part of the highway including any culverts or other structures laid under it must be maintained by and at the expense of the local highway authority from its completion.

(3) Where a street which is not and is not intended to be a public highway is constructed, altered or diverted under this Order, the street (or part of the street as the case may be) must, when completed to the reasonable satisfaction of the street authority and unless otherwise agreed in writing with the street authority, be maintained by and at the expense of the undertaker for a period of 12 months from its completion and at the expiry of that period by and at the expense of the street authority.

(4) Where a highway is de-trunked under Part 2A of Schedule 3 to this Order—

- (a) section 265 (transfer of property and liabilities upon a highway becoming or ceasing to be a trunk road) of the 1980 Act applies in respect of that highway; and
- (b) any alterations to that highway undertaken under powers conferred by this Order prior to and in connection with that de-trunking must, unless otherwise agreed in writing with the local highway authority, be maintained by and at the expense of the local highway authority from the date of completion.

(5) Where a highway is de-trunked under Part 2B of Schedule 3 to this Order section 265 (transfer of property and liabilities upon a highway becoming or ceasing to be a trunk road) of the 1980 Act applies in respect of that highway, with the modification that subsection (7) is omitted.

(6) In the case of a bridge constructed under this Order to carry a highway (other than a trunk road) over or under a trunk road, the highway surface must from its completion be maintained by and at the expense of the local highway authority and the structure of the bridge must be maintained by and at the expense of the undertaker.

(7) In the case of a bridge constructed under this Order to carry a highway (other than a trunk road) over another highway which is not a trunk road, both the highway surface and the structure

of the bridge must be maintained by and at the expense of the local highway authority from their completion.

(8) In any action against the undertaker 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 undertaker 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.

(9) For the purposes of a defence under paragraph (8), the court must 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 undertaker 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; and
- (e) where the undertaker 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 undertaker 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 undertaker 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.

(10) Any way, street or highway formed on the Order land which is not open to vehicular use by the public, and which is to be used by the undertaker for the purposes of maintaining the authorised development, will be maintained by and at the expense of the undertaker or any successor in title as the landowner of the relevant land.

Classification of roads, etc.

14.—(1) From the date on which the roads described in Part 1 (trunk roads) of Schedule 3 are completed and open for traffic, they are to become trunk roads as if they had become so by virtue of an order under section 10(2)(a) (general provision as to trunk roads) of the 1980 Act specifying that date as the date on which they were to become trunk roads.

(2) Subject to the provisions of paragraphs (4) and (5) of article 13 (Construction and maintenance of new, altered or diverted streets and other structures), on such day as the undertaker may determine, the roads described in Part 2A (roads to be de-trunked and transferred to Somerset County Council) and 2B (roads to be de-trunked and remain under the control and management of the undertaker) of Schedule 3 are to cease to be trunk roads as if they had ceased to be trunk roads by virtue of an order made under section 10(2) of the 1980 Act specifying that date as the date on which they were to cease to be trunk roads.

(3) From the date on which the roads described in Parts 3 and 4 (classified roads) of Schedule 3 are completed, they are to become classified roads 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) (general provision as to principal and classified roads) of the 1980 Act.

(4) From the date on which the roads described in Part 5 (unclassified roads) of Schedule 3 are completed, they are to become unclassified roads for the purpose of any enactment or instrument which refers to unclassified roads.

(a) As amended by section 22 of the 1991 Act, and by section 1 of, and Schedule 1 to, the Infrastructure Act 2015.

(5) From the date on which the roads described in Part 6 (speed limits) of Schedule 3 are open for traffic, no person is to drive any motor vehicle at a speed exceeding the limit specified in column (3) of that Part along the lengths of road identified in the corresponding row of column (2) of that Part.

(6) Unless otherwise agreed with the local highway authority, the public rights of way set out in Part 11 (public rights of way) of Schedule 3 and identified on the rights of way and access plans and the bridleways referred to in Requirements 18, 19 and 20, are to be constructed by the undertaker in the specified locations and open for use no later than the date on which the authorised development is open for traffic.

(7) On such day as the undertaker may determine, the orders specified in column (3) of Part 10 (revocations and variations of existing traffic regulation orders) of Schedule 3 are to be varied or revoked as specified in the corresponding row of column (4) of that Part in respect of the lengths of roads specified in the corresponding row of column (2) of that Part.

(8) The application of paragraphs (1) to (6) may be varied or revoked by any instrument made under any enactment which provides for the variation or revocation of such matters, including by an instrument made under the 1984 Act where the matter in question could have been included in an order made under that Act.

(9) Any date which is determined under this article may not take effect unless the notification requirements set out in Part 12 of Schedule 3 have been complied with.

Temporary stopping up and restriction of use of streets and highways

15.—(1) The undertaker, during and for the purposes of carrying out the authorised development, may temporarily stop up, alter, divert or restrict the use of any street or highway and may for any reasonable time—

- (a) divert the traffic from the street or highway; and
- (b) subject to paragraph (3), prevent all persons from passing along the street or highway.

(2) Without limitation on the scope of paragraph (1), the undertaker may use any street or highway temporarily stopped up or restricted under the powers conferred by this article, and which is within the Order limits, as a temporary working site for the carrying out of the works.

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

(4) The undertaker must not temporarily stop up, alter, divert or restrict the use of any street or highway for which it is not the street or highway authority without the consent of the street or highway 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.

(6) If a street authority or local highway authority which receives an application for consent under paragraph (4) fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application was made, it is deemed to have granted consent.

(7) The undertaker will consult South Somerset District Council before seeking any consent under this article.

Permanent stopping up and restriction of use of highways, streets and private means of access

16.—(1) Subject to the provisions of this article, the undertaker may, in connection with the carrying out of the authorised development, stop up each of the highways, streets and private means of access specified in columns (1) and (2) of Parts 1, 2, 3 and 4 of Schedule 4 (permanent stopping up of highways and private means of access; provision of new highways and private

means of access) to the extent specified and described in column (3) of those Parts of that Schedule.

(2) No highway, street or private means of access specified in columns (1) and (2) of Parts 2 and 4 of Schedule 4 (being a highway, street or private means of access 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 highway, new street or private means of access to be constructed and substituted for it, which is specified in column (4) of those Parts of that Schedule, has been completed to the reasonable satisfaction of the street authority or local highway authority and is open for use; or
- (b) a temporary alternative route for the passage of such traffic as could have used the highway, street or private means of access to be stopped up is first provided and subsequently maintained by the undertaker, to the reasonable satisfaction of the street authority or local highway authority, between the commencement and termination points for the stopping up of the highway, street or private means of access until the completion and opening of the new highway, street or private means of access in accordance with sub-paragraph (a).

(3) No highway, street or private means of access specified in columns (1) and (2) of Parts 1 and 3 of Schedule 4 (being a highway, street or private means of access 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 highway, street or private means of access to be stopped up.

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

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

(5) Where a highway, street or private means of access has been stopped up under this article—

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

(6) The undertaker may, in connection with the carrying out of the authorised development, alter the private means of access specified in column (1) of Part 5 of Schedule 4 as specified in column (2) of that Part.

(7) 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.

(8) This article is subject to article 36 (apparatus and rights of statutory undertakers in stopped up streets).

Creation or improvement of means of access to works

17. The undertaker 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 undertaker reasonably requires for the purposes of the authorised development.

Clearways, prohibitions and restrictions

18.—(1) From such day as the undertaker may determine, except as provided in paragraph (4), no person is to cause or permit any vehicle to wait on any part of the lengths of road described in column (2) of Part 7 (traffic regulation measures (clearways and prohibitions)) of Schedule 3 (classification of roads, etc.), except upon the direction of, or with the permission of, a uniformed constable or uniformed traffic officer.

(2) From such a day as the undertaker may determine, except as provided in paragraph (4) no person may cause or permit any vehicle to use any part of the length of road described in column (2) of Part 8 (traffic regulation measures (weight restrictions)) of Schedule 3 (classification of roads etc.) where that vehicle exceeds the weight restriction specified in column (3) of that Part.

(3) From such a day as the undertaker may determine, except as provided in paragraph (4) no person may cause or permit any vehicle to wait on any part of the length of road described in column (2) of Part 9 (traffic regulation measures (waiting restrictions)) of Schedule 3 (classification of roads etc.) for a period exceeding two hours.

(4) Nothing in paragraphs (1), (2) or (3) applies—

(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 electronic communications apparatus as defined in Schedule 3A (the Electronic Communications Code) to the Communications Act 2003(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 Driver and Vehicle Standards 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 the person's control.

(5) No person is to cause or permit any vehicle to wait on any part of the roads described in paragraphs (1) and (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.

(6) Paragraphs (1), (2), (3), (4) and (5) 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.

(a) 2003 c. 21. Schedule 3A was inserted by paragraph 1 of Schedule 1 to the Digital Economy Act 2017 (c. 30).

(b) 1991 c. 56.

(c) 2000 c. 26.

(7) In this article, “traffic officer” means an individual designated under section 2 (designation of traffic officers) of the Traffic Management Act 2004(a).

Traffic regulation

19.—(1) This article applies to roads in respect of which the undertaker 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 must not be unreasonably withheld, the undertaker 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 undertaker.

(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 undertaker 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 undertaker must not exercise the powers conferred by paragraph (2) unless the undertaker has—

- (a) given not less than—
 - (i) 12 weeks’ notice in writing of the undertaker’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 undertaker’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 undertaker’s intention in such manner as the traffic authority may specify in writing within 28 days of its receipt of notice of the undertaker’s intention in the case of sub-paragraph (a)(i), or within 7 days of its receipt of notice of the undertaker’s intention in the case of sub-paragraph (a)(ii).

(6) Any prohibition, restriction or other provision made by the undertaker under paragraph (2)—

- (a) has 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 (power of local authorities to provide parking spaces) 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

(a) 2004 c. 18.

(b) is deemed to be a traffic order for the purposes of Schedule 7 (road traffic contraventions subject to civil enforcement) to the Traffic Management Act 2004(a).

(7) Any prohibition, restriction or other provision made under this article may be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers conferred by paragraph (2) within a period of 24 months from the opening of the authorised development.

(8) Before exercising the powers conferred by paragraph (2) the undertaker must consult South Somerset District Council and such other persons as the undertaker considers necessary and appropriate and must take into consideration any representations made to the undertaker by any such person.

(9) Expressions used in this article and in the 1984 Act have the same meaning in this article as in that Act.

(10) The powers conferred on the undertaker by this article with respect to any road have effect subject to any agreement entered into by the undertaker with any person with an interest in (or who undertakes activities in relation to) premises served by the road.

(11) If the traffic authority fails to notify the undertaker of its decision within 28 days of receiving an application for consent under paragraph (2) the traffic authority is deemed to have granted consent.

PART 4

SUPPLEMENTAL POWERS

Discharge of water

20.—(1) Subject to paragraphs (3) and (4), the undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out, maintenance or use 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 undertaker under paragraph (1) is to be determined as if it were a dispute under section 106 (right to communication with public sewers) of the Water Industry Act 1991(b).

(3) The undertaker 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 must not be unreasonably withheld.

(4) The undertaker 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 must not be unreasonably withheld; and

(b) where that person has been given the opportunity to supervise the making of the opening.

(5) The undertaker must take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain or to the ground under this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension or dissolved pollutants.

(6) In this article—

(a) 2004 c. 18.

(b) 1991 c. 56. Section 106 was amended by section 35(1) and (8) of, and Schedule 2 to, the Competition and Service (Utilities) Act 1992 (c. 43), sections 36(2) and 99 of the Water Act 2003 (c. 37) and paragraph 16(1) of Schedule 3 to the Flood and Water Management Act 2010 (c. 29).

- (a) “public sewer or drain” means a sewer or drain which belongs to Homes England, 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 Water Resources Act 1991(a) have the same meaning as in that Act.

(7) If a person who receives an application for consent under paragraph (3) or approval under paragraph (4)(a) fails to notify the undertaker of a decision within 28 days of receiving an application, that person is deemed to have granted consent or given approval, as the case may be.

Protective works to buildings

21.—(1) Subject to the following provisions of this article, the undertaker may at its own expense carry out such protective works to any building which may be affected by the authorised development as the undertaker 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 undertaker may (subject to paragraph (5)) enter and survey any building falling within paragraph (1) and any land within its curtilage.

(4) For the purpose of carrying out protective works to a building under this article the undertaker 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 undertaker 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 45 (arbitration).

(7) The undertaker must 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

(a) 1991 c. 57.

- (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 undertaker must compensate the owners and occupiers of the building for any loss or damage sustained by them.

(9) Nothing in this article relieves the undertaker from any liability to pay compensation under section 152(a) (compensation in case where no right to claim in nuisance) of the 2008 Act.

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

(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

22.—(1) The undertaker 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 (including any watercourses, ground water, static water bodies or vegetation on the land);
- (b) without limitation on the scope of sub-paragraph (a), make any excavations, trial holes and boreholes in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer, subsoil and ground water, remove soil samples and discharge water samples on to the land;
- (c) without limitation on the scope of sub-paragraph (a), carry out ecological or archaeological investigations on such land, including making any excavations or trial holes on the land for such purposes; 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 and boreholes.

(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 undertaker—

- (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 and boreholes.

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

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

but such consent must not be unreasonably withheld.

(5) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the powers conferred by this article, such

(a) As amended by S.I. 2009/1307.

compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(6) If either the local highway authority or a street authority which receives an application for consent fails to notify the undertaker of its decision within 28 days of receiving the application for consent—

(a) under paragraph (4)(a) in the case of the local highway authority; or

(b) under paragraph (4)(b) in the case of a street authority,

that authority is deemed to have granted consent.

PART 5

POWERS OF ACQUISITION

Compulsory acquisition of land

23.—(1) The undertaker may acquire compulsorily so much of the Order land as is required to carry out or to facilitate, or is incidental to, the authorised development.

(2) This article is subject to paragraph (2) of article 26 (compulsory acquisition of rights) and paragraph (8) of article 33 (temporary use of land for carrying out the authorised development).

Compulsory acquisition of land – incorporation of the mineral code

24. Parts 2 and 3 of Schedule 2 (minerals) to the Acquisition of Land Act 1981^(a) are incorporated into this Order subject to the modifications that—

(a) paragraph 8(3) is not incorporated;

(b) for “the acquiring authority” substitute “the undertaker”; and

(c) for “undertaking” substitute “authorised development”.

Time limit for exercise of authority to acquire land compulsorily

25.—(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 is to be executed under section 4 (execution of declaration) of the 1981 Act as applied by article 30 (application of the 1981 Act).

(2) The authority conferred by article 33 (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 undertaker from 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

26.—(1) The undertaker 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 23 (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 undertaker’s powers of compulsory acquisition are limited to the acquisition of such wayleaves, easements, new rights in the land or the imposition of restrictive

(a) 1981 c. 67.

covenants as may be required for the purpose specified in relation to that land in column (2) of that Schedule and relating to that part of the authorised development specified in column (3) of that Schedule.

(3) The power to impose restrictive covenants under paragraph (1) is exercisable only in respect of plots specified in column (1) of Schedule 5.

(4) Subject to Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act (as substituted by paragraph 10 of Schedule 6 (modification of compensation and compulsory purchase enactments for creation of new rights)), where the undertaker acquires a right over land or the benefit of a restrictive covenant, the undertaker 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.

Public rights of way

27.—(1) The public rights of way identified in columns (1) to (3) of Parts 1 and 2 of Schedule 4 (permanent stopping up of highways and private means of access; provision of new highways and private means of access) and shown on the rights of way and access plans are to be extinguished on the date of the expiry of the notice given under paragraph (2).

(2) Prior to the extinguishment of each of the public rights of way identified in columns (1) to (3) of Parts 1 and 2 of Schedule 4 and shown on the rights of way and access plans, the undertaker must erect a site notice at each end of the rights of way to be extinguished no less than 28 days prior to the extinguishment of that right of way.

Private rights over land

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

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

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

whichever is the earlier.

(3) Subject to the provisions of this article, all private rights over land owned by the undertaker within the Order limits which are required to be interfered with or breached 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 undertaker takes temporary possession under this Order are suspended and unenforceable for as long as the undertaker 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 (compensation

in case where no right to claim in nuisance) 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 (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) of the 2008 Act or article 35 (statutory undertakers) applies.

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

(a) any notice given by the undertaker 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 undertaker's appropriation of it;

(iii) the undertaker's entry onto it; or

(iv) the undertaker'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 undertaker 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) Reference 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.

(10) From such date as the undertaker may determine, which may not be later than the date on which the private means of access listed in column 2 of Part 4 of Schedule 4 is stopped up, the owners and occupiers, their agents contractors and any person with the permission of the owner or occupier of the land to be accessed by the private means of access to be created on the Order Land and listed in column 4 of Part 4 Schedule 4, will be entitled to take access to their land at all times with or without vehicles across or along the access tracks to be created on the Order Land listed in column 4 of Part 4 Schedule 4.

Modification of Part 1 of the 1965 Act

29.—(1) Part 1 of the 1965 Act, as applied to this Order by section 125 (application of compulsory acquisition provisions) of the 2008 Act, is modified as follows.

(2) In section 4A(1)(a) (extension of time limit during challenge) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 4” substitute “section 118 of the Planning Act 2008 (legal challenges relating to applications for orders granting development consent), the five year period mentioned in article 25 (time limit for exercise of authority to acquire land compulsorily) of the A303 Sparkford to Ilchester Development Consent Order 20[•]”.

(3) In section 11A(b) (powers of entry: further notice of entry)—

(a) in subsection (1)(a), after “land” insert “under that provision”;

(b) in subsection (2), after “land” insert “under that provision”.

(a) As inserted by section 202(1) of the Housing and Planning Act 2016 (c. 22).

(b) As inserted by section 186(3) of the Housing and Planning Act 2016 (c. 22).

(4) In section 22(2) (expiry of time limit for exercise of compulsory purchase power not to affect acquisition of interests omitted from purchase), for “section 4 of this Act” substitute “article 25 of the A303 Sparkford to Ilchester Development Consent Order 20[•].”

(5) In Schedule 2A (counter-notice requiring purchase of land not in notice to treat)—

(a) for paragraphs 1(2) and 14(2) substitute—

“(2) But see article 31(3) (acquisition of subsoil or airspace only) of the A303 Sparkford to Ilchester Development Consent Order 20[•], which excludes the acquisition of subsoil or airspace only from this Schedule;” and

(b) after paragraph 29, end insert—

“PART 4

INTERPRETATION

30. In this Schedule, references to entering on and taking possession of land do not include doing so under article 21 (protective works to buildings), 33 (temporary use of land for carrying out the authorised development) or 34 (temporary use of land for maintaining the authorised development) of the A303 Sparkford to Ilchester Development Consent Order 20[•].”

Application of the 1981 Act

30.—(1) The 1981 Act applies as if this Order were a compulsory purchase order.

(2) The 1981 Act, as applied by paragraph (1), has effect with the following modifications.

(3) In section 1 (application of Act), for subsection 2 substitute—

“(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 5 (earliest date for execution of declaration), in subsection (2), omit the words from “, and this subsection” to the end.

(5) Omit section 5A(a) (time limit for general vesting declaration).

(6) In section 5B(b) (extension of time limit during challenge) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), the three year period mentioned in section 5A” substitute “section 118(c) (legal challenges relating to applications for orders granting development consent) of the Planning Act 2008, the five year period mentioned in article 25 (time limit for exercise of authority to acquire land compulsorily) of the A303 Sparkford to Ilchester Development Consent Order 20[•].”

(7) In section 6(d) (notices after execution of declaration), in subsection (1)(b), for “section 15 of, or paragraph 6 of Schedule 1 to, the Acquisition of Land Act 1981” substitute “section 134(e) (notice of authorisation of compulsory acquisition) of the Planning Act 2008”.

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

(9) In Schedule A1(f) (counter-notice requiring purchase of land not in general vesting declaration) for paragraph 1(2) substitute—

(a) Inserted by section 182(2) of the Housing and Planning Act 2016 (c. 22).

(b) As inserted by section 202(2) of Schedule 3 to the Housing and Planning Act 2016 (c. 22).

(c) As amended by paragraphs 1 and 59 of Schedule 13, and Part 20 of Schedule 25, to the Localism Act 2011 (c. 20) and section 92(4) of the Criminal Justice and Courts Act 2015 (c. 2).

(d) As amended by paragraph 52(2) of Schedule 2 to the Planning (Consequential Provisions) Act 1990 (c. 11) and paragraph 7 of Schedule 15 to the Housing and Planning Act 2016 (c. 22).

(e) As amended by section 142 of, and Part 21 of Schedule 25 to, the Localism Act 2011 (c. 20) and S.I. 2012/16.

(f) As inserted by paragraph 6 of Schedule 18 to the Housing and Planning Act 2016 (c. 22).

“(2) But see article 31(3) (acquisition of subsoil or airspace only) of the A303 Sparkford to Ilchester Development Consent Order 20[•], which excludes the acquisition of subsoil or airspace only from this Schedule.”

(10) References to the 1965 Act in the 1981 Act are to be construed as references to the 1965 Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and as modified by article 29 (modification of Part 1 of the 1965 Act)) to the compulsory acquisition of land under this Order.

Acquisition of subsoil or airspace only

31.—(1) The undertaker may acquire compulsorily so much of, or such rights in, the subsoil of or the airspace over the land referred to in paragraph (1) of article 23 (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 undertaker acquires any part of, or rights in, the subsoil of or the airspace over the land referred to in paragraph (1), the undertaker is not required to acquire an interest in any other part of the land.

(3) The following do not apply in connection with the exercise of the power under paragraph (1) in relation to subsoil or airspace only—

- (a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act;
- (b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the Compulsory Purchase (Vesting Declarations) Act 1981; and
- (c) Section 153(4A) (blighted land: proposed acquisition of part interest; material detriment test) of the Town and Country Planning Act 1990.

(4) Paragraphs (2) and (3) are to be disregarded where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory or airspace above a house, building or manufactory.

Rights under or over streets

32.—(1) The undertaker 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 undertaker 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 undertaker acquiring any part of that person’s interest in the land, and who suffers loss as a result, is 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 a statutory undertaker to whom section 85 (sharing of cost of necessary measures) of the 1991 Act 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

33.—(1) The undertaker may, in connection with the carrying out of the authorised development, but subject to article 25(2) (time limit for exercise of authority to acquire land compulsorily)—

- (a) enter on and take temporary possession of—
 - (i) the land specified in column (1) of Schedule 7 (land of which only temporary possession may be taken) for the purpose specified in relation to that land in column (2) of that Schedule relating to the part of the authorised development specified in column (3) of that Schedule; and
 - (ii) any other Order land in respect of which no notice of entry has been served under section 11(a) (powers of entry) of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 (execution of declaration) 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; and
- (d) construct any permanent works specified in relation to that land in column (2) of Schedule 7 (land of which only temporary possession may be taken), or any other mitigation works in connection with the authorised development.

(2) Not less than 14 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land and explain the purpose for which entry is taken in respect of land specified under paragraph (1)(a)(ii).

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

- (a) in the case of 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 (3) of Schedule 7 (land of which only temporary possession may be taken); or
- (b) 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 undertaker 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 undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not required to—

- (a) replace a building removed under this article;
- (b) restore the land on which any permanent works (including ground strengthening works) have been constructed under paragraph (1)(d); or
- (c) remove any measures installed over or around statutory undertakers' apparatus to protect that apparatus from the authorised development.

(5) The undertaker 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 powers conferred by 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.

(a) Section 11 was amended by section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1) and S.I. 2009/1307.

(7) Nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act 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 undertaker may not compulsorily acquire under this Order the land referred to in paragraph (1)(a)(i) except that the undertaker is not to be precluded from—

- (a) acquiring new rights over any part of that land under article 26 (compulsory acquisition of rights); or
- (b) acquiring any part of the subsoil of or airspace over (or rights in the subsoil of or airspace over) that land under article 31 (acquisition of subsoil or airspace only).

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

(10) Section 13(a) (refusal to give possession to acquiring authority) of the 1965 Act 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 (application of compulsory acquisition provisions) of the 2008 Act.

(11) Paragraph (1)(a)(ii) does not authorise the undertaker to take temporary possession of any land which the undertaker is not authorised to acquire under article 23 (compulsory acquisition of land) or article 26 (compulsory acquisition of rights).

Temporary use of land for maintaining the authorised development

34.—(1) Subject to paragraph (2), at any time during the maintenance period relating to any part of the authorised development, the undertaker may—

- (a) enter upon and take temporary possession of any land within the Order limits if such possession is reasonably required for the purpose of maintaining the authorised development;
- (b) enter on any land within the Order limits for the purpose of gaining such access as is reasonably required for the purpose of maintaining the authorised development; and
- (c) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.

(2) Paragraph (1) does not authorise the undertaker to take temporary possession of—

- (a) any house or garden belonging to a house; or
- (b) any building (other than a house) if it is for the time being occupied.

(3) Not less than 28 days before entering upon and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(4) The undertaker may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised development for which possession of the land was taken.

(5) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(6) The undertaker 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 powers conferred by this article.

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

(a) Section 13 was amended by sections 62(3) and 139 of, and paragraphs 27 and 28 of Schedule 13, and part 3 of Schedule 23, to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(8) Nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the execution of any works, other than loss or damage for which compensation is payable under paragraph (6).

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

(10) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act 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 (application of compulsory acquisition provisions) of the 2008 Act.

(11) In this article “the maintenance period”, in relation to any part of the authorised development, means the period of 5 years beginning with the date on which that part of the authorised development is first opened for use.

Statutory undertakers

35.—(1) Subject to the provisions of article 26(3) (compulsory acquisition of rights), Schedule 8 (protective provisions) and paragraph (2), the undertaker may—

- (a) acquire compulsorily, or acquire new rights or impose restrictive covenants over, any Order land belonging to statutory undertakers; and
- (b) extinguish the rights of, or 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 (street works in England and Wales) of the 1991 Act; and
- (b) article 36 (apparatus and rights of statutory undertakers in stopped up streets).

Apparatus and rights of statutory undertakers in stopped up streets

36.—(1) Where a street is stopped up under article 16 (permanent stopping up and restriction of use of streets and private means of access), 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 16 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 undertaker 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 undertaker 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 undertaker, 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 (sharing of cost of necessary measures) of that Act and any regulations for the time being having effect under that section; and
- (b) the allowable costs are to be borne by the undertaker and the statutory utility in such proportions as may be prescribed by any such regulations.

(8) In this article—

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

“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

37.—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 35 (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 undertaker 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 35, 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 undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or

(a) 2003 c. 21.

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 36 (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) (interpretation of Chapter 1) of the Communications Act 2003; and

“public utility undertaker” means a gas, water, electricity or sewerage undertaker.

PART 6

OPERATIONS

Felling or lopping of trees and removal of hedgerows

38.—(1) Subject to paragraphs (6) and (7) of this article, the undertaker may fell or lop any tree or shrub, or cut back its roots, within or overhanging land within the Order limits 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
- (b) from constituting a danger to persons using the authorised development.

(2) In carrying out any activity authorised by paragraph (1), the undertaker must—

- (a) do no unnecessary damage to any tree or shrub;
- (b) pay compensation to any person for any loss or damage arising from such activity; and
- (c) take steps to avoid a breach of the provisions of the Wildlife and Countryside Act 1981^(a), the Conservation of Habitats and Species Regulations 2017^(b) and the Natural Environment and Rural Communities Act 2006^(c).

(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.

(4) The undertaker may, for the purposes of carrying out the authorised development but subject to paragraph (2), remove any hedgerow within the Order limits that is required to be removed.

(5) In this article “hedgerow” has the same meaning as in the Hedgerows Regulations 1997^(d) and includes important hedgerows.

(6) Except where necessary to prevent or remove a danger to persons using the authorised development, the powers set out in this article may not be used to remove any tree, shrub or hedgerow which is shown on the works plans or the approved detailed design for the authorised development as being retained.

(7) Except where the removal and replacement of any tree, shrub or other planting which fails to establish, dies or becomes diseased is required, the powers set out in this article may not be used to fell or lop any tree or shrub or remove any part of any hedgerow planted in accordance with the approved detailed design for the authorised development other than in accordance with the provisions of the LEMP or HEMP as applicable.

(a) 1981 c. 69.
(b) S.I. 2017/1012.
(c) 2006 c.16
(d) S.I. 1997/1160.

PART 7

MISCELLANEOUS AND GENERAL

Application of landlord and tenant law

39.—(1) This article applies to—

- (a) any agreement for leasing to any person the whole or any part of the authorised development or the right to operate the same; and
- (b) any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised development, or any part of it,

so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person's use.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants prejudices the operation of any agreement to which this article applies.

(3) No such enactment or rule of law applies in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

- (a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
- (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
- (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

Operational land for purposes of the 1990 Act

40. Development consent granted by this Order is to be treated as specific planning permission for the purposes of section 264(3)(a) (cases in which land is to be treated as operational land for the purposes of that Act) of the 1990 Act.

Defence to proceedings in respect of statutory nuisance

41.—(1) Where proceedings are brought under section 82(1) (summary proceedings by person aggrieved by statutory nuisance) of the Environmental Protection Act 1990^(a) in relation to a nuisance falling within paragraph (d), (fb), (g) or (ga) of section 79(1) (statutory nuisances and inspections therefor) of that Act 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 undertaker 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 sites), or a consent given under section 61 (prior consent for work on construction sites), 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
 - (iii) is a consequence of the use of the authorised development and that it cannot reasonably be avoided.

^(a) 1990 c. 43.

^(b) 1974 c. 40.

(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 does not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development.

Protective provisions

42. Schedule 8 (protective provisions) has effect.

Certification of plans etc.

43.—(1) The undertaker must, as soon as practicable after the making of this Order, and within ten working days, submit to the Secretary of State copies of—

- (a) the book of reference;
- (b) the classification of roads plans;
- (c) the Crown Land Plan;
- (d) the detrunking plans;
- (e) the engineering sections;
- (f) the environmental statement ;
- (g) the general arrangement plans;
- (h) the land plans;
- (i) the outline environmental management plan;
- (j) the outline written heritage scheme of investigation;
- (k) the permanent speed limit plans;
- (l) the rights of way and access plans;
- (m) the traffic regulation measures plans;
- (n) the works plans; and
- (o) any other plans or documents referred to in this Order as requiring certification,

for certification that they are true copies of the documents referred to in this Order.

(2) A plan or document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

(3) The undertaker must make copies of the certified plans available in electronic form to the public no later than 14 days after certification under paragraph (1) until no earlier than one year after the completion of all of the works.

Service of notices

44.—(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 (references to service by post) 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 is to 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) the notice or document is 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 must provide such a copy as soon as reasonably practicable and in any event within 10 working days of such a notification being received by the sender.

(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 is final and takes effect on a date specified by the person in the notice but that date must not be less than 7 days after the date on which the notice is given.

(9) This article does not 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

45. 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

(a) 1978 c. 30.

party (after giving notice in writing to the other) by the President of the Institution of Civil Engineers.

Appeals relating to the Control of Pollution Act 1974

46.—(1) The undertaker may appeal in the event that a local authority issues a notice under section 60 (control of noise on construction sites), or does not give consent or grants consent but subject to conditions, under section 61 (prior consent for work on construction sites) of the Control of Pollution Act 1974.

(2) The appeal process is as follows—

- (a) any appeal by the undertaker must be made within 42 days of the date of the notice of the decision, or the date by which a decision was due to be made, as the case may be;
- (b) the undertaker must submit the appeal documentation to the Secretary of State and must on the same day provide copies of the appeal documentation to the local authority and affix a notice to a conspicuous object on or near the site of the works which are the subject of such appeal, which must give details of the decision of the local authority and notice that an appeal has been made together with the address within the locality where the appeal documents may be inspected and details of the manner in which representations on the appeal may be made;
- (c) as soon as is practicable after receiving the appeal documentation, the Secretary of State must appoint a person to consider the appeal (“the appointed person”) and must notify the appeal parties of the identity of the appointed person, a start date and the address to which all correspondence for their attention should be sent;
- (d) the local authority must submit their written representations to the appointed person in respect of the appeal within 10 business days of the start date and must ensure that copies of their written representations and any other representations as sent to the appointed person are sent to each other and to the undertaker on the day on which they are submitted to the appointed person;
- (e) the appeal parties must make any counter-submissions to the appointed person within 10 business days of receipt of written representations under sub-paragraph (d); and
- (f) the appointed person must make a decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable.

(3) The appointment of the person under sub-paragraph (2)(c) may be undertaken by a person appointed by the Secretary of State for this purpose instead of by the Secretary of State.

(4) In the event that the appointed person considers that further information is necessary to enable the appointed person to consider the appeal, the appointed person must as soon as practicable notify the appeal parties in writing specifying the further information required, the appeal party from whom the information is sought, and the date by which the information is to be submitted.

(5) Any further information required under sub-paragraph (4) must be provided by the party from whom the information is sought to the appointed person and to other appeal parties by the date specified by the appointed person. The appointed person must notify the appeal parties of the revised timetable for the appeal on or before that day. The revised timetable for the appeal must require submission of written representations to the appointed person within 10 business days of the agreed date but must otherwise be in accordance with the process and time limits set out in sub-paragraphs (2)(c) to (e).

(6) On an appeal under this paragraph, the appointed person may—

- (a) allow or dismiss the appeal; or
- (b) reverse or vary any part of the decision of the local authority (whether the appeal relates to that part of it or not),

and may deal with the application as if it had been made to the appointed person in the first instance.

(7) The appointed person may proceed to a decision on an appeal taking into account such written representations as have been sent within the relevant time limits and in the sole discretion of the appointed person such written representations as have been sent outside the relevant time limits.

(8) The appointed person may proceed to a decision even though no written representations have been made within the relevant time limits, if it appears to the appointed person that there is sufficient material to enable a decision to be made on the merits of the case.

(9) The decision of the appointed person on an appeal is final and binding on the parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for judicial review.

(10) Except where a direction is given under sub-paragraph (11) requiring some or all of the costs of the appointed person to be paid by the local authority, the reasonable costs of the appointed person must be met by the undertaker.

(11) The appointed person may give directions as to the costs of the appeal and as to the parties by whom such costs are to be paid. In considering whether to make any such direction and the terms on which it is to be made, the appointed person must have regard to the relevant Planning Practice Guidance published by the Ministry for Housing, Communities and Local Government or such guidance as may from time to time replace it.

Removal of human remains

47.—(1) In this article “the specified land” means the land within the Order limits.

(2) Before the undertaker carries out any development or works which will or may disturb any human remains in the specified land it must remove those human remains from the specified land, or cause them to be removed, in accordance with the following provisions of this article.

(3) Before any such remains are removed from the specified land the undertaker must consult with South Somerset District Council on the intended removal, following which the undertaker must give notice of the intended removal describing the specified land and stating the general effect of the following provisions of this article by—

- (a) publishing a notice once in each of two successive weeks in a newspaper circulating in the area of the authorised development; and
- (b) displaying a notice in a conspicuous place on or near to the specified land.

(4) As soon as reasonably practicable after the first publication of a notice under paragraph (3) the undertaker must send a copy of the notice to the relevant planning authority.

(5) At any time within 56 days after the first publication of a notice under paragraph (3) any person who is a personal representative or relative of any deceased person whose remains are interred in the specified land may give notice in writing to the undertaker of that person’s intention to undertake the removal of the remains.

(6) Where a person has given notice under paragraph (5), and the remains in question can be identified, that person may cause such remains to be—

- (a) removed and re-interred in any burial ground or cemetery in which burials may legally take place; or
- (b) removed to, and cremated in, any crematorium,

and that person is to, as soon as reasonably practicable after such re-interment or cremation, provide to the undertaker a certificate for the purpose of enabling compliance with paragraph (11).

(7) If the undertaker is not satisfied that any person giving notice under paragraph (5) is the personal representative or relative as that person claims to be, or that the remains in question can be identified, the question is to be determined on the application of either party in a summary manner by the county court, and the court may make an order specifying who must remove the remains and as to the payment of the costs of the application.

(8) The undertaker must pay the reasonable expenses of removing and re-interring or cremating the remains of any deceased person under this article.

(9) If—

- (a) within the period of 56 days referred to in paragraph (5) no notice under that paragraph has been given to the undertaker in respect of any remains in the specified land; or
- (b) such notice is given and no application is made under paragraph (7) within 56 days after the giving of the notice but the person who gave the notice fails to remove the remains within a further period of 56 days; or
- (c) within 56 days after any order is made by the county court under paragraph (7) any person, other than the undertaker, specified in the order fails to remove the remains; or
- (d) it is determined that the remains to which any such notice relates cannot be identified,

subject to paragraph (10) the undertaker is to remove the remains and cause them to be re-interred in such burial ground or cemetery in which burials may legally take place as the undertaker thinks suitable for the purpose; and, so far as possible, remains from individual graves are to be re-interred in individual containers which are to be identifiable by a record prepared with reference to the original position of burial of the remains that they contain.

(10) If the undertaker is satisfied that any person giving notice under paragraph (5) is the personal representative or relative as that person claims to be and that the remains in question can be identified, but that person does not remove the remains, the undertaker must comply with any reasonable request that person may make in relation to the removal and re-interment of cremation of the remains.

(11) On the re-interment or cremation of any remains under this article—

- (a) a certificate of re-interment or cremation is to be sent to the Registrar General by the undertaker giving the date of re-interment or cremation and identifying the place from which the remains were removed and the place in which they were re-interred or cremated; and
- (b) a copy of the certificate of re-interment or cremation and the record mentioned in paragraph (9) is to be sent by the undertaker to the relevant planning authority mentioned in paragraph (4).

(12) The removal of the remains of any deceased person under this article must be carried out in accordance with any directions which may be given by the Secretary of State for Justice.

(13) Any jurisdiction or function conferred on the county court by this article may be exercised by the district judge of the court.

(14) Section 25 of the Burial Act 1857^(a) (bodies not to be removed from burial grounds, save under faculty, without licence of Secretary of State) does not apply to a removal carried out in accordance with this article.

Crown rights

48.—(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 —

- (a) to use, enter upon or in any manner interfere with any land or rights of any description—
 - (i) belonging to Her Majesty in right of the Crown and forming part of The Crown Estate without the consent in writing of the Crown Estate Commissioners;
 - (ii) belonging to Her Majesty in right of the Crown and not forming part of The Crown Estate without the consent in writing of the government department having the management of that land; or
 - (iii) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of that government department.

(a) 1978 c.30. There are amendments to this Act which are not relevant to this Order.

(b) Paragraph (1) does not apply to the exercise of any right under this Order for the compulsory purchase of any interest in any Crown land (as defined in the 2008 Act) for the time being held otherwise than by or on behalf of the Crown.

(2) A consent under paragraph (1) may be given unconditionally or subject to terms and conditions; and is deemed to have been given in writing where it is sent electronically.

Signed by authority of the Secretary of State for Transport

Address
Date

Name
Parliamentary Under Secretary of State
Department for Transport

SCHEDULES

SCHEDULE 1

Article 2

AUTHORISED DEVELOPMENT

In the administrative areas of Somerset County Council and South Somerset District Council

The authorised development is a nationally significant infrastructure project as defined in sections 14 and 22 of the 2008 Act^(a) and associated development within the meaning of section 115(2) of the 2008 Act, comprising—

Work No.1 – Shown on sheets 1, 2, 3 and 4 of the works plans is the construction of the A303 eastbound totalling 5590 metres in length, between point E 300 metres east of Higher Farm Lane Overbridge and point F 550 metres west of the Sparkford Railway Bridge. To include;

- (a) Construction of a new compact junction at Downhead to connect the A303 to the ‘Downhead Junction Link’ (Work No.18).

Work No.2 – Shown on sheets 1, 2, 3 and 4 of the works plans is the construction of the A303 westbound totalling 5606 metres in length, between point E 300 metres east of the Higher Farm Lane Overbridge and point F 550 metres west of the Sparkford Railway Bridge. To include;

- (a) Construction of a new compact junction at Camel Cross to connect the A303 to the ‘Camel Cross Link’ (Work No.15).

Work No.3 – The construction of new multi-purpose ‘Track 1’, shown on sheet 1 of the works plans between points DA and DB. To include;

- (a) Access to land to the north of the new A303.

Work No.4 – The construction of new multi-purpose ‘Track 3’, shown on sheet 1 of the works plans between points DQ and DV. To include;

- (a) Accesses to land to the north of the new A303.

Work No.5 – Works associated with the closure of the existing slip road from the A303, shown on sheet 1 of the works plans between points G and H.

Work No.6 – The construction of ‘Pond 1’, shown on sheet 1 of the works plans. To include;

(a) Section 22 was substituted by article 3 of S.I. 2013/1883.

- (a) The construction of associated outfall works.

Work No.7 – The construction of ‘Pond 2’, shown on sheet 1 of the works plans. To include;

- (a) The construction of associated outfall works.

Work No.8 – The installation of new telecommunications cable and sub duct within existing duct, shown on sheet 1 of the works plans between points KR and JC.

Work No.9 – The decommissioning of 75 metres of electrical cable, shown on sheet 1 of the works plans between points JA and JB.

Work No.11 – The construction of new multi-purpose ‘Track 2’, shown on sheets 1 and 2 of the works plans between points DC and DD. To include;

- (a) Accesses to land to the north of the new A303.

Work No.12 – The construction of new multi-purpose ‘Track 4’, shown on sheet 2 of the works plans between points DE and DF.

Work No.13 – The diversion of 1370 metres of telecommunications apparatus, shown on sheets 1 and 2 of the works plans between points JC and JF.

Work No.14 – The construction of new access ‘Track 9’, shown on sheets 1 and 2 of the works plans between points DG and DH. To include;

- (a) Accesses to land to the south of the new A303.

Work No.15 – The construction of ‘Camel Cross link’, shown on sheet 2 of the works plans between points U and T.

Work No.16 – The construction of ‘B3151 link’, shown on sheet 2 of the works plans between points V and W. To include;

- (a) Access to properties known as ‘Hawk House’ and ‘The Bungalow’ at Camel Cross.

Work No.17 – The construction of ‘Downhead Lane’, shown on sheet 2 of the works plans between points X and Y. To include;

- (a) Access to the property known as ‘The Spinney’.
- (b) Access to land to the north of the A303.

Work No.18 – The construction of ‘Downhead Junction Link’, shown on sheet 2 of the works plans between points AA and Z.

Work No.19 – The construction of ‘Howell Hill Link (West)’, shown on sheet 2 of the works plans between points AP and AQ.

Work No.20 – The construction of ‘Stear Hill Link to Old A303’, shown on sheet 2 of the works plans between points AR and AS.

Work No.21 – The construction of ‘Stear Hill Overbridge’, shown on sheet 2 of the works plans between points BA and BB.

Work No.22 – The construction of ‘Bund 1’, shown on sheet 2 of the works plans between points CA and CB.

Work No.23 - The construction of ‘Bund 2’, shown on sheet 2 of the works plans between points CC and CD.

Work No.24 – The construction of new maintenance access ‘Track 5’, shown on sheet 2 of the works plans between points DI and DJ.

Work No.25 – Works associated with the retention of the former A303 (Camel Cross to Steart Hill), shown on sheet 2 of the works plans between points W and AR. To include;

- (a) Carriageway narrowing involving kerb re-alignment, repositioning of gullies and associated pipework and removal of redundant carriageway surfacing.
- (b) Removal of redundant traffic signs.
- (c) Modification of road markings.
- (d) Reprofilng of the carriageway surface.
- (e) Reprofilng of the adjacent existing footway.

Work No.26 – Works associated with the retention of the former A303 (West of Howell Hill), shown on sheet 2 of the works plans between points AQ and AF. To include;

- (a) Carriageway narrowing involving kerb re-alignment, repositioning of gullies and associated pipework and removal of redundant carriageway surfacing.
- (b) Removal of redundant traffic signs.
- (c) Modification of road markings.
- (d) Reprofilng of the carriageway surface.
- (e) Reprofilng of the adjacent existing footway.

Work No.27 – Works associated with the closure of local road at Downhead, shown on sheet 2 of the works plans between points EJ and EK. To include;

- (a) The construction of Downhead Turning Head.

Work No.28 – The construction of ‘pond 3’, shown on sheet 2 of the works plans. To include;

- (a) The construction of associated outfall works.

Work No.29 - The construction of ‘pond 4’, shown on sheet 2 of the works plans. To include;

- (a) The construction of associated outfall works.

Work No.30 – The construction of ‘Stear Hill Roundabout’, shown on sheet 2 of the works plans.

Work No.31 – The installation of new telecommunications cable and sub duct in existing ducting, shown on sheet 2 of the works plans between points JF and JQ.

Work No.32 – The diversion of 500 metres of water distribution apparatus, shown on sheet 2 of the works plans between points JD and JJ.

Work No.33 – The diversion of 295 metres of telecommunications apparatus, shown on sheet 2 of the works plans between points JE and JH.

Work No.34 – The installation of new telecommunications cable and sub duct in existing duct, shown on sheet 2 of the works plans between points JT and JU.

Work No.35 – Shown on sheet 2 of the works plans, the diversion of 170 metres of SSE low voltage cable electrical between points JL and JK.

Work No.36 – The diversion of 430 metres of telecommunications apparatus, shown on sheet 2 of the works plans between points JQ and JT.

Work No.37 – The diversion of 50 metres of electrical apparatus, shown on sheet 2 of the works plans between points KN and KO.

Work No.38 – The diversion of 500 metres of electrical apparatus, shown on sheet 2 of the works plans between points JG and JI.

Work No.38a – The decommissioning of 275 metres of electrical cable, shown on sheet 2 of the works plans between points JI and JW.

Work No.41 – The construction of ‘Stear Hill Link’, shown on sheets 2 and 3 of the works plans between points AB and AC. To include;

- (a) Access to land to the north of the A303.

Work No.42 – The construction of ‘Howell Hill Link (East)’, shown on sheets 2 and 3 of the works plans between points AF and AG. To include;

- (a) Access to the properties known as ‘Hill View’, ‘Crusty Cottage’, ‘Lamorna’ and ‘West Camel Methodist Church’ near Canegore Corner.

Work No.43 – The diversion of 1210 metres of telecommunications apparatus, shown on sheets 2 and 3 of the works plans between points JP, JO, JN and JM, and JP, JO and KA.

Work No.44 – The diversion of 1470 metres of water supply apparatus, shown on sheets 2 and 3 of the works plans between points JM, JO, JP and JS, between points JP to JR and between points JO to KA.

Work No.45 – The diversion of 560 metres of telecommunications apparatus, shown on sheets 2 and 3 of the works plans between points JU and JX, and JU and JY.

Work No.46 – The diversion of 250 metres of water distribution apparatus, shown on sheets 2 and 3 of the works plans between points JU and JX.

Work No.47 - The diversion of 340 metres of telecommunications apparatus, shown on sheets 2 and 3 of the works plans between points JU and JY.

Work No.48 – The diversion of 380 metres of electrical apparatus, shown on sheets 2 and 3 of the works plans between points JV and JW, and JV and KP.

Work No.49 – The construction of a temporary southern earthworks haul route, shown on sheets 2 and 3 of the works plans between points LA and LB.

Work No.50 – The construction of ‘Hazlegrove Junction Eastbound Off-Slip’, shown on sheet 3 of the works plans between points M and N.

Work No.51 – The construction of ‘Stear Hill (North)’, shown on sheet 3 of the works plans between points AD and AE.

Work No.52 – The construction of ‘Stear Hill (South)’, shown on sheet 3 of the works plans between points AH and AI. To include;

- (a) Access to the property known as ‘Bromar’ at Conegore Corner.

Work No.53 – The construction of ‘Vale Farm Link’, shown on sheet 3 of the works plans between points AL and AM. To include;

- (a) Access to the property known as ‘Pepper Hill Cottage’.
- (b) Access to land to the north of the new A303.

Work No.54 – The construction of ‘Hazlegrove Junction Underbridge’, shown on sheet 4 of the works plans between points BC and BD.

Work No.55 – The construction of ‘Bund 3’, shown on sheet 3 of the works plans between points CE and CF.

Work No.56 - The construction of ‘Bund 4’, shown on sheet 3 of the works plans between points CG and CH.

Work No.57 – The construction of new multi-purpose ‘Track 6’, shown on sheet 3 of the works plans between points DK and DL. To include;

- (a) Access to land to the south of the new A303.

Work No.58 – The construction of new multi-purpose ‘Track 7’, shown on sheet 3 of the works plans between points DM and DN. To include;

- (a) Access to land to the south of the new A303.

Work No.59 – Work number not used.

Work No.60 – Works associated with the retention of the former A303 (East of Steart Hill), shown on sheet 3 of the works plans between points AI and EA. To include;

- (a) Carriageway narrowing involving kerb re-alignment, repositioning of gullies and associated pipework and removal of redundant carriageway surfacing.
- (b) Removal of redundant traffic signs.
- (c) Modification of road markings.
- (d) Reprofilng of the carriageway surface.

Work No.61 – Works associated with the closure of former A303, shown on sheet 3 of the works plans between points EA and EE. To include;

- (a) Construction of Camel Hill Quarry Turning Head.

Work No.62 - Works associated with the closure of Traits Lane shown on sheet 3 of the works plans between points DN and EF. To include;

- (a) Construction of Traits Lane Turning Head.

Work No.63 – Works associated with the closure of Gason Lane shown on sheet 3 of the works plans between points EG and EH. To include;

- (a) The construction of Gason Lane turning head.

Work No.64 – Works associated with the closure of the former A303 on sheet 3 of the works plans between points EI and EB. To include;

- (a) The construction of Camel Hill Services Turning Head.

Work No.65 – The construction of Camel Hill Roundabout, shown on sheet 3 of the works plans.

Work No.66 – Works to local road at Camel Hill, shown on sheet 3 of the works plans between points AL and FA. To include;

- (a) Verge reinforcement.
- (b) Remedial work to carriageway surfacing.

Work No.67 – Works to access from local road at Camel Hill, shown on sheet 3 of the works plans between points FA, FB and FC.

Work No.68 – Works to the existing ‘Steart Hill’, shown on sheet 3 of the works plans between points AE and AH. To include:

- (a) Installation of surface water drainage.
- (b) Utilities diversions.

Work No.69 – The installation of new telecommunications cable and sub duct in existing duct, shown on sheet 3 of the works plans between points JY and KW and then between KX and KD.

Work No.70 – The diversion of 65 metres of electrical apparatus, shown on sheet 3 of the works plans between points JY and JZ.

Work No.71 – The diversion of 800 metres of telecommunications apparatus, shown on sheet 3 of the works plans between points KB and KC.

Work No.72 – The diversion of 920 metres of telecommunications apparatus, shown on sheet 3 of the works plans between points KD and KM.

Work No.73 – The diversion of 40 metres of electrical apparatus, shown on sheet 3 of the works plans between points KG and KJ.

Work No.74 – The diversion of 320 metres of public sewer, shown on sheet 3 of the works plans between points JX and KP.

Work No.75 – The diversion of 215 metres of telecommunications apparatus, shown on sheet 3 of the works plans between points JY and KQ.

Work No.76 – The diversion of 260 metres of electrical apparatus, shown on sheet 3 of the works plans between points KE and KF.

Work No.77 – The diversion of 50 metres of water distribution apparatus, shown on sheet 3 of the works plans between points KH and KI.

Work No.78 – The diversion of 40 metres of telecommunications apparatus, shown on sheet 3 of the works plans between points KJ and KK.

Work No.79 – The diversion of 275 metres of electrical apparatus, shown on sheet 3 of the works plans between points KJ and KL.

Work No.80 – The construction of a temporary northern earthworks haul route, shown on sheet 3 of the works plans between points LC and LD.

Work No.81 – The construction of ‘Camel Hill Link’, shown on sheets 3 and 4 of the works plans between points AJ and AK.

Work No.82 - The construction of ‘Bund 5’, shown on sheets 3 and 4 of the works plans between points CI and CJ.

Work No.83 – Works associated with the retention of the former A303 (West of Hazlegrove Roundabout), shown on sheets 3 and 4 of the works plans between points EB and AN. To include;

- (a) Carriageway narrowing involving kerb re-alignment, repositioning of gullies and associated pipework and removal of redundant carriageway surfacing.
- (b) Removal of redundant traffic signs.
- (c) Modification of road markings.
- (d) Reprofiting of the carriageway surface.

Work No.84 – The installation of new telecommunications cable and sub duct in existing duct, shown on sheets 3 and 4 of the works plans between points KM and KS.

Work No.85 – The construction of ‘Hazlegrove Junction Eastbound On-Slip’, shown on sheet 4 of the works plans between points AT and O.

Work No.86 – The construction of ‘Hazlegrove Junction Westbound On-Slip’, shown on sheet 4 of the works plans between points P and Q.

Work No.87 – The construction of ‘Hazlegrove Junction Westbound Off-Slip’, shown on sheet 4 of the works plans between points R and S.

Work No.88 – The construction of ‘Ridge Copse Link’, shown on sheet 4 of the works plans between points AN and AO.

Work No.89 - The construction of ‘Bund 6’, shown on sheet 4 of the works plans between points CK and CL.

Work No.90 - The construction of ‘Bund 7’, shown on sheet 4 of the works plans between points CM and CN.

Work No.91 - The construction of new maintenance access ‘Track 8’, shown on sheet 4 of the works plans between points DO and DP.

Work No.92 – The construction of ‘Hazlegrove School Access’, shown on sheet 4 of the works plans between points DT and DU.

Work No.93 – Works to the existing Hazlegrove Roundabout, shown on sheet 4 of the works plans. To include;

- (a) Removal of redundant traffic signs.

- (b) Modification of road markings.
- (c) Modification of splitter islands to accommodate public right of way.
- (d) Provision of a right of way facility around the southern and western perimeter of the roundabout.

Work No.94 - The construction of 'Pond 5', shown on sheet 4 of the works plans. To include;

- (a) The construction of associated outfall works.

Work No.95 – Works to the existing 'Pond 6', shown on sheet 4 of the works plans. To include;

- (a) The construction of associated outfall works.
- (b) Removal of existing vegetation from within the existing pond

Work No.96 – The installation of new telecommunications cable and sub duct in existing duct, shown on sheet 4 of the works plans between points KU and KV.

Work No.97 – The installation of new telecommunications cable and sub duct in existing duct, shown on sheet 4 of the works plans between points KT and KU.

Work No.98 – The installation of new telecommunications cable and sub duct in existing duct, shown on sheet 4 of the works plans between points KS and KT.

Work No.100 – The retention of a section of broadleaved woodland, shown on sheet 4 of the works plans.

Work No.101 – The retention of a section of broadleaved woodland, shown on sheet 4 of the works plans.

Work No.102 – The installation of new signage around Hazlegrove Roundabout to reflect new road layout.

Work No.103 – The installation of a new sign in the A303 Westbound verge.

Work No.105 – The construction of new multi-purpose 'Track 10', shown on sheet 3 of the works plans between points EL and EM.

Works comprising associated development within the meaning of section 115(2) of the 2008 Act comprising:

Work No.10 – Ecological mitigation area for Greats Crested Newts, shown on sheet 1 of the works plans. To include;

- (a) New wildlife pond.
- (b) Creation of a hibernacula.

Work No.39 – Ecological mitigation area for common reptiles, shown on sheet 2 of the works plans. To include;

- (a) Habitat improvement.
- (b) Creation of a hibernacula.
- (c) Installation of stock proof fencing.

Work No.40 – Ecological mitigation area for common reptiles, shown on sheet 2 of the works plans. To include;

- (a) Habitat improvement.
- (b) Creation of a hibernacula.

Work No.99 – Ecological mitigation area for Great Crested Newts, shown on sheet 4 of the works plans. To include;

- (a) Creation of a hibernacula.

Work No. 104 – Widening of the carriageway of the public highway at the junction between Traits Lane and Blackwell Road shown on sheet 3 of the works plans.

In connection with the construction of any of those works, further development within the Order limits consisting of—

- (a) alteration to the layout of any street permanently or temporarily, including but not limited to increasing or reducing the width of the carriageway of the street by reducing or increasing the width of any kerb, footpath, footway, cycle track or verge within the street; and altering the level of any such kerb, footpath, footway, cycle track or verge;
- (b) works required for the strengthening, improvement, maintenance or reconstruction of any street;
- (c) refurbishment works to any existing bridge;
- (d) the strengthening, alteration or demolition of any building;
- (e) works in the verges of public highways;
- (f) temporary diversions of public highways, including laying down or hard surfacing on any land to be used as a temporary diversion;
- (g) creation and removal of ramps, means of access, footpaths, cycle tracks, bridleways and crossing facilities, including the hard surfacing of ways;
- (h) embankments, viaducts, aprons, abutments, shafts, foundations, retaining walls, barriers, pumping stations, parapets, drainage, outfalls, ditches, wing walls, highway lighting, fencing and culverts;
- (i) street works, including breaking up or opening up a street, or any sewer, drain or tunnel under it; tunnelling or boring under a street;
- (j) works to place, alter, remove or maintain street furniture or apparatus in a street, or apparatus in other land, including mains, sewers, drains, pipes, cables, ducts and lights;
- (k) works to alter the course of or otherwise interfere with a watercourse;
- (l) landscaping, noise bunds and barriers, works associated with the provision of ecological mitigation and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised development;
- (m) works for the benefit or protection of land affected by the authorised development;
- (n) site preparation works, site clearance (including fencing, vegetation removal, demolition of existing structures and the creation of alternative footpaths); earthworks (including soil stripping and storage, site levelling); remediation of contamination;
- (o) the felling of trees;
- (p) construction compounds and working sites, storage areas, temporary vehicle parking, construction fencing, perimeter enclosure, security fencing, construction-related buildings, temporary worker accommodation facilities, welfare facilities, construction lighting, haulage roads and other buildings, machinery, apparatus, works and conveniences;
- (q) the provision of other works including pavement works, kerbing and paved areas works, signing, signals, gantries, road markings works, traffic management measures including temporary roads and such other works as are associated with the construction of the authorised development;
- (r) removal, alteration and creation of boundary features including fencing and hedgerows; and
- (s) such other works, working sites, storage areas and works of demolition, as may be necessary or expedient for the purposes of, or for purposes ancillary to, the construction of the authorised development.

SCHEDULE 2 REQUIREMENTS

Article 5

PART 1 REQUIREMENTS

Interpretation

1. In this Schedule—

“CEMP” means the construction environmental management plan;

“contaminated land” has the same meaning as that given in section 78A of the Environmental Protection Act 1990;

“Ecological Clerk of Works” means the individual appointed as such by the undertaker;

“European protected species” has the same meaning as in Regulations 42 (European protected species of animals) and 46 (European protected species of plants) of the Conservation of Habitats and Species Regulations 2017;

“HEMP” means the handover environmental management plan, being the CEMP, to be developed towards the end of the construction of the authorised development which is 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 authorised development; and
- (c) a record of the consents, commitments and permissions resulting from liaison with statutory bodies;

and the ongoing commitments and obligations in the LEMP;

“LEMP” means the landscape and ecological management plan, including a reptile mitigation strategy and mitigation measures for Schedule 1 birds;

“priority species” has the same meaning as given in Article 1(h) of the Habitats Directive (Council Directive 92/43/EEC);

“protected species” means species which are subject to protection under the laws of England or which are European protected species;

“Schedule 1 birds” means those birds listed within Schedule 1 of the Wildlife and Countryside Act 1981;

“Somerset County Council’s archaeological advisor” means the individual appointed as such by the relevant planning authority;

“written” includes plans, sections and drawings and any similar material which is submitted in compliance with any requirement.

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.

Construction Environmental Management Plan

3.—(1) No part of the authorised development is to commence until a CEMP has been prepared in consultation with the Environment Agency, the relevant planning authority and the local highway authority and submitted to and approved in writing by the Secretary of State.

(2) The CEMP must—

- (a) be substantially in accordance with the CEMP section of the outline environmental management plan certified under article 43 (certification of plans, etc.) including compliance with Table 3.1 (record of environmental actions and commitments) of that plan;
- (b) contain a record of all the sensitive environmental and cultural heritage features that have the potential to be affected by the construction of the proposed development;
- (c) incorporate the relevant measures detailed in the environmental statement;
- (d) include information on the control measures required to mitigate and reduce potential impacts which reflect the relevant mitigation measures included in the environmental statement;
- (e) require adherence to working hours of 07:00 to 18:00 on Mondays to Fridays and 07:00 to 13:00 on Saturdays, except for—
 - (i) works requiring the full or partial closure of, or otherwise adversely affecting the operation of, the A303 highway;
 - (ii) works associated with the diversion of existing utilities;
 - (iii) works associated with traffic management and signal changes;
 - (iv) works associated with tie-ins to existing highways;
 - (v) deliveries of abnormally large or indivisible loads; and
 - (vi) any emergency works;
- (f) include management plans, working methods and mitigation measures for each of the topics covered in the environmental statement, including—
 - (i) Arboricultural Method Statement;
 - (ii) Archaeological Written Scheme of Investigation;
 - (iii) Japanese Knotweed Management Plan;
 - (iv) Materials Management Plan;
 - (v) Soil Handling and Management Plan;
 - (vi) Site Waste Management Plan;
 - (vii) Community Relations Strategy;
 - (viii) Groundwater Monitoring Strategy;
 - (ix) Construction Lighting Plan;
 - (x) Asbestos Management Plan;
 - (xi) Pollution Incident Control Plan; and
 - (xii) Noise and Vibration Monitoring Strategy.

(3) The authorised development must be constructed in accordance with the approved CEMP.

(4) Upon completion of construction of the authorised development the CEMP and LEMP must be converted into the HEMP, and the authorised development must be operated and maintained in accordance with the HEMP.

Landscape and ecological management plan

4.—(1) No part of the authorised development is to commence until a LEMP has been prepared in consultation with Natural England and the relevant planning authority and has been submitted to and approved in writing by the Secretary of State.

(2) Where the LEMP to be submitted under sub-paragraph (1) relates or includes to any part of the Hazlegrove Registered Park and Garden, consultation must also be undertaken with the Historic Buildings and Monuments Commission for England in addition to the consultees set out in sub-paragraph (1).

(3) The LEMP must—

- (a) be substantially in accordance with the LEMP section of the outline environmental management plan certified under article 43 (certification of plans, etc.);
- (b) contain a record of all the sensitive environmental and cultural heritage features that have the potential to be affected by the construction of the proposed development;
- (c) incorporate the relevant measures detailed in the environmental statement; and
- (d) include information on the control measures required to mitigate and reduce potential impacts which reflect the mitigation measures included in the environmental statement.

(4) The authorised development must be constructed in accordance with the approved LEMP.

(5) Upon completion of construction of the authorised development the ongoing commitments and obligations in the LEMP must be incorporated into the HEMP required under Requirement 3(4) of this part of this schedule.

Details of consultation

5.—(1) With respect to any requirement which requires details to be submitted to the Secretary of State for approval under this Schedule after consultation with another party, the details submitted must be accompanied by a report setting out the consultation undertaken by the undertaker to inform the details submitted and the undertaker's response to that consultation, and enclosing a copy of all consultation responses received.

(2) At the time of submission to the Secretary of State for approval, the undertaker must provide a copy of the report referred to under sub-paragraph (1) to the relevant consultees referred to in the requirement in relation to which approval is being sought from the Secretary of State.

(3) The undertaker must ensure that any consultation responses which request alterations to the details proposed by the undertaker are addressed in the details submitted to the Secretary of State for approval under this Schedule, however the undertaker must amend the details proposed in response to consultation only where it is appropriate, reasonable and feasible to do so, taking into account considerations including, but not limited to, cost and engineering practicality.

(4) Where the requests made in consultation responses are not incorporated in the details submitted to the Secretary of State for approval, the undertaker must state in the report referred to under sub-paragraph (1) the reasons why any requests made in consultation responses have not been included in the submitted details. At the same time as sending that report to the Secretary of State for approval the undertaker must send a copy of that report by electronic transmission to any consultee who made representations on that matter.

Landscaping

6.—(1) No part of the authorised development is to commence until, after consultation with the relevant planning authority and the local highway authority, a written landscaping scheme for that part has been submitted to and approved in writing by the Secretary of State,

(2) Where the written landscaping scheme to be submitted under sub-paragraph (1) relates or includes to any part of the Hazlegrove Registered Park and Garden, consultation must also be undertaken with the Historic Buildings and Monuments Commission for England and the Gardens Trust in addition to the consultees set out in sub-paragraph (1).

(3) No part of the authorised development, including vegetation clearance, is to commence until an arboricultural walkover survey and tree survey for that part, taking due regard to the guidance in British Standard 5837:2012 or other recognised codes of good practice, have been undertaken to identify any significant constraints posed by trees.

(4) The landscaping scheme prepared under sub-paragraph (1) must be based on the environmental statement and the results of the surveys undertaken under sub-paragraph (3), and must be in accordance with the LEMP.

(5) The landscaping scheme prepared under sub-paragraph (1) must include details of hard and soft landscaping works, including—

- (a) surveys, assessments and method statements as guided by BS 5837:2012 and the Hedgerows Regulations 1997 (as amended);
- (b) location, species, size and planting density of any proposed planting;
- (c) cultivation, importing of materials and other operations to ensure plant establishment;
- (d) proposed finished ground levels and profiles of any proposed bunds and cuttings;
- (e) hard surfacing materials, including surfacing of access tracks and roads and surfacing or facing materials of bunds;
- (f) details of existing trees to be retained, with measures for their protection during the construction period;
- (g) details of boundary treatments, environmental barriers, stone walls, fencing, gates and stiles, and
- (h) implementation timetables for all landscaping works.

Implementation and maintenance of landscaping

7.—(1) All landscaping works must be carried out in accordance with the landscaping scheme approved under Requirement 6.

(2) 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.

(3) Any tree or shrub planted as part of the landscaping scheme that, within a period of 5 years after planting, is removed, dies or becomes, in the opinion of the relevant planning authority, seriously damaged or diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted.

Land and groundwater contamination

8.—(1) No part of the authorised development is to commence until a contamination risk assessment in respect of controlled waters has been produced which is to include details of—

- (a) any existing sources of contamination within the Order limits that may be affected by the carrying out of the authorised development;
- (b) any reasonably required protective measures to ensure that the carrying out of the authorised development does not make worse any adverse conditions or risks associated with such existing sources of contamination; and
- (c) appropriate remediation strategies and mitigation measures to address any historic contamination which is shown to be having significant, unacceptable effects on the environment within the context of the proposed works,

and, after consultation with the Environment Agency, the assessment has been submitted to and approved by the Secretary of State.

(2) The steps and measures that are identified as necessary for the purposes of carrying out the authorised development in the assessment referred to in sub-paragraph (1) must be implemented as part of the authorised development.

(3) In the event that contaminated land or material, including impacted groundwater, is found at any time when carrying out the authorised development, which was not previously identified in the environmental statement, the undertaker must cease construction of the authorised development in the vicinity of that contamination and must report it immediately in writing to the Secretary of State, the Environment Agency and the relevant planning authority, and in agreement

with the Environment Agency and the relevant planning authority undertake a risk assessment of the contamination, and sub-paragraphs (4) and (5) will apply.

(4) Where the undertaker 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, after consultation with the Environment Agency and the relevant planning authority, must be prepared submitted to and approved in writing by the Secretary of State.

(5) Remedial measures must be carried out in accordance with the approved scheme.

Archaeology

9.—(1) No part of the authorised development is to commence until a written scheme of investigation for the investigation and mitigation of areas of archaeological interest for each area and/or each phase in that part, has been prepared in consultation with the relevant planning authority and the local highway authority, agreed with Somerset County Council's archaeological advisor and submitted to and approved in writing by the Secretary of State. The written scheme of investigation must reflect the mitigation measures included in the environmental statement and the outline written scheme of investigation, and include provision for sub-schemes for specific works, areas or locations, which may include evaluation, detailed excavation or archaeological monitoring plans.

(2) The authorised development must be carried out in accordance with the archaeological framework strategy and written schemes of investigation referred to in sub-paragraph (1) unless otherwise agreed in writing by the Secretary of State.

(3) A programme of archaeological reporting, post excavation and publication required as part of the archaeological framework strategy and written schemes of investigation referred to in sub-paragraph (1) must be agreed with Somerset County Council's archaeological advisor and implemented within a timescale agreed with Somerset County Council's archaeological advisor and deposited with the Historic Environment Record of the relevant planning authority within two years of the date of completion of the authorised development or such other period as may be agreed in writing by the relevant planning authority.

(4) Any archaeological remains not previously identified which are revealed when carrying out the authorised development must be subject to appropriate mitigation as set out in the archaeological framework strategy and mitigation agreed with Somerset County Council's archaeological advisor.

(5) No construction operations are to take place within 10 metres of the remains referred to in sub-paragraph (4) for a period of 14 days from the date they are identified unless otherwise agreed in writing by the Secretary of State.

(6) Within 10 working days of the completion of the authorised development, suitable resources and provisions for long term storage of the archaeological archive will be agreed with Somerset County Council's archaeological advisor.

Ecology, Priority and Protected species

10.—(1) No part of the authorised development may be undertaken unless the ecological effects are supervised by an appropriately qualified person appointed by the undertaker, which person may be the Ecological Clerk of Works.

(2) In the event that any protected or priority species which were not previously identified in the environmental statement or nesting birds are found at any time when carrying out the authorised development the undertaker must cease construction works near their location and report it immediately to the Ecological Clerk of Works.

(3) The undertaker must prepare a written scheme for the protection and mitigation measures for any protected species that were not previously identified in the environmental statement or nesting birds found when carrying out the authorised development. Where nesting birds are identified works should cease within the evidenced zone of likely disturbance of the nest for that species until birds have fledged and the nest is no longer in use. Specific mitigation measures for Schedule

1 birds recorded within the proposed development site, comprising barn owl and hobby, must be set out in the LEMP. The LEMP will state that appropriate buffer zones for any other nesting bird species found during construction works will be determined by the Ecological Clerk of Works, dependent on the nesting bird species and nature of works in proximity to the nest.

(4) The undertaker must implement the written scheme prepared under sub-paragraph (3) immediately and construction in the area specified in the written scheme must not recommence until any necessary licences are obtained to enable mitigation measures to be implemented.

Traffic management

11.—(1) No part of the authorised development is to commence until, after consultation with the local highway authority and South Somerset District Council, a traffic management plan for the construction of the authorised development, substantially in accordance with the outline traffic management plan, has been submitted to and approved in writing by the Secretary of State.

(2) The authorised development must be constructed in accordance with the approved traffic management plan.

Detailed design

12.—(1) No part of the authorised development is to commence until, after consultation with the relevant planning authority and local highway authority on matters related to their functions, the detailed design of that part has been approved in writing by the Secretary of State.

(2) The details to be approved under this requirement must include:

- (i) plans, with annotations where required, showing the limits of responsibility for the operational maintenance of any work and which person or body is responsible for maintaining any part;
- (ii) a signage strategy for the authorised development, including information boards in laybys to set out the history of the road;
- (iii) the width and limitations of any public rights of way which are created or altered by this Order; and
- (iv) provision for a 6 metre wide maintenance track to Ponds 1, 3, 4, and 5 and a 4.5 metre maintenance track to Pond 2 as identified on the general arrangement plans.

(3) Where protective works under article 21 are required to a listed building within the meaning of the Planning (Listed Buildings and Conservation Areas) Act 1990, and such works would cause or require to be caused permanent change or alteration of the listed features in any manner which would affect its character as a building of special architectural or historic interest, the protective works must be set out in the detailed design submitted under sub-paragraph (1) and consultation on the relevant details must be undertaken with the Historic Buildings and Monuments Commission for England in addition to the bodies listed in sub-paragraph (1).

(4) Following approval of detailed design under sub-paragraph (1), the undertaker may, after further consultation with the relevant planning authority and local highway authority on matters related to their functions, submit amended detailed design for any part of the authorised development in writing to the Secretary of State.

(5) The details to be approved under sub-paragraph (1) or any subsequent amendment of those details approved under sub-paragraph (4) may depart from the preliminary scheme design shown on the works plans and the engineering section drawings only where the Secretary of State is satisfied that departures from the preliminary scheme design would not give rise to any materially new or materially worse adverse environmental effects in comparison with those reported in the environmental statement.

(6) Where amended details are approved by the Secretary of State under sub-paragraph (1), those details are deemed to be substituted for the approved details, corresponding works plans or engineering section drawings and the undertaker must make those amended details available in electronic form for inspection by members of the public and must be notified by means of

electronic transmission to the Environment Agency, the local highway authority, the relevant planning authority, and where works relate to the Hazlegrove House Registered Park and Garden, the Historic Buildings and Monuments Commission for England.

Surface water drainage

13.—(1) No part of the authorised development is to commence until, after consultation with the relevant planning authority, the Lead Local Flood Authority, the local highway authority and the Environment Agency, written details of the surface water drainage system, reflecting the mitigation measures in the environmental statement and including means of pollution control, have been submitted to and approved in writing by the Secretary of State.

(2) Prior to consultation with the relevant planning authority, the Lead Local Flood Authority and the Environment Agency as required by sub-paragraph (1), the undertaker will carry out:

- (a) a CCTV survey of the location and condition of all drainage assets where:
 - (i) the existing A303 is to be de-trunked and retained; and
 - (ii) the existing A303 drainage is connecting into the proposed drainage network; and
- (b) A topographical and condition survey (i.e. visual inspection) of the extents of the ditches downstream of the proposed outfalls as follows:
 - (i) Outfall from Pond 1: up to and including culvert at Farm Lane overbridge (SMIS reference: 6245, culvert registration ID: 13795);
 - (ii) Outfall from Ponds 2 and 3: up to and including culvert at Royal Naval Air Station Yeovilton;
 - (iii) Outfall from Pond 4: up to culvert north of Frog Lane, West Camel (DRN ID: EAEW1001000000172218); and
 - (iv) Outfall from Pond 5 and 6: up to Dyke Brook; and
- (c) An assessment of the sustainability of the drainage proposals and of the opportunities to increase sustainable drainage provision.

The undertaker will make the results of the surveys and assessments undertaken in accordance with this requirement available to the relevant planning authority, the Lead Local Flood Authority, the local highway authority and the Environment Agency when undertaking any consultation required by sub-paragraph (1).

(3) The drainage system must be constructed in accordance with the approved details referred to in sub-paragraph (1) unless after consultation with the relevant planning authority, the local highway authority and the Environment Agency, otherwise agreed in writing by the Secretary of State.

(4) Runoff from natural catchments must be intercepted to prevent flooding of the carriageway in accordance with HA106/04

(5) Highway drainage will be designed in accordance with HD 33/16 Design of Highway Drainage Systems and any subsequent design manuals amending or replacing that. The system as a minimum will achieve;

- (a) No surcharge of the drainage system during the 100% Annual Exceedance Probability (AEP) storm event
- (b) No flooding from the drainage system during the 20% Annual Exceedance Probability (AEP) storm event
- (c) Design exceedance management during the 1% Annual Exceedance Probability (AEP) storm event
- (d) An allowance for the effects of climate change by allowing for a 40% increase in rainfall intensity.

(6) The highway drainage system off-site discharge will be limited, up to and including the 1% annual probability (1 in 100 year event) plus a 40% allowance for climate change, to no greater than the undeveloped rate of run-off as determined by the calculation of Q_{bar} or 2 l/s/ha.

Noise Mitigation

14.—(1) No part of the authorised development is to commence until, after consultation with the relevant planning authority, written details of proposed noise mitigation in respect of the construction, use and operation of that part of the authorised development have been submitted to and approved in writing by the Secretary of State.

(2) The scheme must include an assessment of the potential impacts on the consented residential development, including that at Long Hazel Park, situated between the A303 and Sparkford High Street, and provide for any necessary mitigation measures.

(3) The scheme should have regard to the thresholds for road traffic noise within the Environmental Noise Guidelines for the European Region 2018, published by the World Health Organisation, Section 3.1.

(4) The scheme referred to in sub-paragraph (1) must either reflect the mitigation measures included in the environmental statement or, where the mitigation proposed materially differs from the mitigation identified in the environmental statement, the undertaker must provide evidence with the written details submitted that the mitigation proposed would not give rise to any materially new or materially worse adverse environmental effects in comparison with those reported in the environmental statement taking into account the mitigation identified in it.

(5) In the event that the scheme identifies works which would give rise to any new or materially different adverse effects from those identified in the Environmental Statement, the undertaker must make a subsequent application to the Secretary of State and must follow the procedure set out in Regulations 22 to 25 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 to seek to permit the carrying out the identified works.

(6) In the event that the Secretary of State grants consent for the subsequent application the approved works must be undertaken by the undertaker prior to the part of works referred to in sub-paragraph (1).

(7) The noise mitigation must be constructed in accordance with the approved details referred to in sub-paragraph (1) and must be retained thereafter.

Highway lighting

15.—(1) No part of the authorised development is to commence until, after consultation with the South Somerset District Council and (in the case of proposed lighting for any highway for which the undertaker is not, or will not be following implementation of article 14(2), the highway authority) the local highway authority, a written scheme of the proposed highway lighting to be provided for that part of the authorised development has been submitted to and approved in writing by the Secretary of State.

(2) The scheme must include measures for lighting the Hazlegrove junction underbridge during hours of darkness for the benefit of pedestrians and other non-motorised users.

(3) The standard of the highway lighting to be provided by the scheme referred to in sub-paragraphs (1) and (2) must either reflect the standard of the highway lighting included in the environmental statement or, where the standard of the highway lighting proposed materially differs from the standard of the highway lighting identified in the environmental statement, the undertaker must provide evidence with the written scheme submitted for approval that the standard of the highway lighting proposed would not give rise to any materially new or materially worse adverse environmental effects in comparison with those reported in the environmental statement taking into account the lighting identified in it. The standard of the highway lighting must encompass the specification, level of provision, light spillage, intensity and brightness of the highway lighting.

(4) The authorised development must be carried out in accordance with the scheme approved under sub-paragraphs (1) and (2).

(5) Nothing in this requirement restricts the lighting of the authorised development during its construction or where temporarily required for maintenance.

Delivery approach plan

16.—(1) No part of the authorised development is to commence until, after consultation with the local highway authority and relevant planning authority, a delivery approach plan for the construction of the authorised development has been submitted to and approved in writing by the Secretary of State. The delivery approach plan must set how the authorised development will be delivered to ensure that mitigation works will be in place at the point when the works for which that mitigation is required are completed, which mitigation works include but are not limited to;

- (a) the landscaping approved under requirements 6 and 7;
- (b) the surface water drainage approved under requirement 14;
- (c) the noise mitigation approved under requirement 15; and
- (d) the highway lighting approved under requirement 16.

(2) Where any requirement refers to any part of the authorised development and discharge is sought for a part, the delivery approach plan must set out how that part fits into the overall plan and why it is appropriate for that part to commence as a part.

Provision of non-motorised user route at western end

17. No part of the authorised development is to commence until details of a scheme for a bridleway connecting Eastmead Lane at the point marked “JA” on Works Plan HE5510507-MMSJV-LSI-000-DR-UU-2032 Revision C07 with the southern side of the A303 by way of the Higher Farm Lane overbridge that, after consultation with Somerset County Council, has been submitted to and approved in writing by the Secretary of State. The route must be available for use prior to the stopping up of that part of Eastmead Lane to the south of the said point.

Bridleway at Hazlegrove roundabout

18. No part of the authorised development is to commence until a scheme for the provision of a bridleway connecting the points marked “BS” and “BU” on Rights of way and Access Plans Regulation 52(2)(k) and 5(2)(o) Sheet 4 of 4 HE5510507-MMSJV-LSI-000-DR-UU-2105 Revision C has, after consultation with Somerset County Council, been submitted to and approved in writing by the Secretary of State. The scheme shall also include provision for a ‘Pegasus crossing’ between the points marked “BS” and “BT” on the said drawing. The route must be available for use prior to the opening of the Hazlegrove junction westbound on slip to operational traffic.

Provision of bridleway between Traits Lane and Gason Lane

19. No part of the authorised development is to commence until a scheme for the provision of a bridleway connecting the points marked “EF” and “EG” on Works Plan HE5510507-MMSJV-LSI-000-DR-UU-2034 Revision C07 has, after consultation with Somerset County Council, been submitted to and approved in writing by the Secretary of State. The route must be available for use prior to the stopping up of the junctions of Traits Lane and Gason Lane with the A303.

No through road signs for Traits Lane and Gason Lane

20. Notwithstanding any provision in this Order the existing junctions of Traits Lane and Gason Lane with the A303 must not be closed to traffic until no through road signs have been installed at the southern junctions of these roads with Blackwell Road in accordance with a scheme that, after consultation with the traffic authority, has been submitted and approved in writing by the Secretary of State.

Speed limit on B3151

21. Notwithstanding any provision in this Order the existing junction of the B3151 with the A303 must not be reconfigured until a traffic regulation order under the 1984 Act amending the

speed limit of this road has come into force in accordance with a scheme that, after consultation with the traffic authority, has been submitted and approved in writing by the Secretary of State.

Traffic monitoring and mitigation in Sparkford and West Camel

22.—(1) No part of the authorised development is to commence until written details of a traffic impact monitoring and mitigation scheme for Sparkford High Street and West Camel has been submitted to and approved in writing by the local highway authority.

(2) The traffic impact monitoring and mitigation scheme must include—

- (a) a before and after survey to assess the changes in traffic;
- (b) the locations to be monitored and the methodology to be used to collect the required data;
- (c) the periods over which traffic is to be monitored;
- (d) the submission of survey data and interpretative report to the local highway authority; and
- (e) a mechanism for the future approval of mitigation measures together with a programme for their implementation.

(3) The scheme approved under sub-paragraph (1) must be implemented by the undertaker.

Approvals and amendments to approved details

23. 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 or agreed in writing by the Secretary of State.

PART 2

PROCEDURE FOR DISCHARGE OF REQUIREMENTS

Applications made under requirements

24.—(1) Where an application has been made to the Secretary of State for any consent, agreement or approval required by a requirement (including agreement or approval in respect of part of a requirement) included in this Order, the Secretary of State must give notice to the undertaker, the relevant planning authority and the local highway authority of the decision on the application within a period of 8 weeks beginning with—

- (a) the day immediately following that on which the application is received by the Secretary of State;
- (b) the day immediately following that on which further information has been supplied by the undertaker under paragraph 25; or
- (c) such longer period as may be agreed between the parties.

(2) Subject to sub-paragraph (3), in the event that the Secretary of State does not determine an application within the period set out in sub-paragraph (1), the Secretary of State is taken to have granted all parts of the application (without any condition or qualification) at the end of that period.

(3) Where—

- (a) an application has been made to the Secretary of State for any consent, agreement or approval required by a requirement included in this Order;
- (b) the Secretary of State does not determine such application within the period set out in sub-paragraph (1); and

- (c) the application is accompanied by a report that considers it likely that the subject matter of the application is to give rise to any materially new or materially worse environmental effects in comparison with the authorised development as approved,

then the application is taken to have been refused by the Secretary of State at the end of that period.

Further information

25.—(1) In relation to any part of an application made under this Schedule, the Secretary of State has the right to request such further information from the undertaker as is necessary to enable the Secretary of State to consider the application.

(2) In the event that the Secretary of State considers such further information to be necessary, the Secretary of State must, within 21 business days of receipt of the application, notify the undertaker in writing specifying the further information required and (if applicable) to which part of the application it relates. In the event that the Secretary of State does not give such notification within this 21 day period the Secretary of State is deemed to have sufficient information to consider the application and is not subsequently entitled to request further information without the prior agreement of the undertaker.

(3) Where further information is requested under this paragraph in relation to part only of an application, that part is treated as separate from the remainder of the application for the purposes of calculating the time periods referred to in paragraph 24 and in this paragraph.

(4) In this paragraph, “business day” means a day other than Saturday or Sunday which is not Christmas Day, Good Friday or a bank holiday under section 1 (bank holidays) of the Banking and Financial Dealings Act 1971(a).

Register of requirements

26.—(1) The undertaker must, as soon as practicable following the making of this Order, establish and maintain in an electronic form suitable for inspection by members of the public a register of those requirements contained in Part 1 of this Schedule that provide for further approvals to be given by the Secretary of State.

(2) The register must set out in relation to each such requirement the status of the requirement, in terms of whether any approval to be given by the Secretary of State has been applied for or given, providing an electronic link to any document containing any approved details.

(3) The register must be maintained by the undertaker for a period of 3 years following completion of the authorised development.

Anticipatory steps towards compliance with any requirement

27. If before this Order came into force the undertaker or any other person took any steps that were intended to be steps towards compliance with any provision of Part 1 of this Schedule, those steps may be taken into account for the purpose of determining compliance with that provision if they would have been valid steps for that purpose had they been taken after this Order came into force.

(a) 1971 c. 80.

SCHEDULE 3

CLASSIFICATION OF ROADS, ETC.

Articles 14 and 18

PART 1

TRUNK ROADS

Shown as dashed purple lines on the Classification of Roads Plans

<i>(1)</i> <i>Area (Parish)</i>	<i>(2)</i> <i>Length of road</i>
Yeovilton West Camel Queen Camel Sparkford	A303 eastbound between points A and B on sheets 1,2,3 and 4 of the Classification of Roads Plans, comprising of 5590 metres.
Yeovilton West Camel Queen Camel Sparkford	A303 westbound between points C and D on sheets 1,2,3 and 4 of the Classification of Roads Plans, comprising of 5606 metres.
West Camel	Camel Cross Westbound Merge between points H and I of sheet 2 of the Classifications of Roads Plans, comprising of 78 metres.
West Camel	Camel Cross Link between points T and H on sheet 2 of the Classification of Roads Plans, comprising of 83 metres.
West Camel	Camel Cross Westbound Diverge between points G and H of sheet 2 of the Classifications of Roads Plans, comprising of 58 metres.
West Camel	Downhead Junction Eastbound Diverge between points J and K on sheet 2 of the Classification of Roads Plans comprising of 38 metres.
West Camel	Downhead Junction Link between points K and Y on sheet 2 of the Classification of Roads Plans, comprising of 36 metres.
West Camel	Downhead Junction Eastbound Merge between points K and L on sheet 2 of the Classification of Roads Plans, comprising of 36 metres.
Queen Camel	Hazlegrove Junction Eastbound Off Slip between points M and N on sheet 3 of the Classification of Roads Plans, comprising of 228 metres.
Queen Camel Sparkford	Hazlegrove Junction Eastbound On Slip between points AT and O on sheet 4 of the Classification of Roads Plans, comprising of 431 metres.
Sparkford	Hazlegrove Junction Westbound On Slip between points P and Q on sheet 4 of the Classification of Roads Plans, comprising of 313 metres.
Sparkford	Hazlegrove Junction Westbound Off Slip between points R and S on sheet 4 of the Classification of Roads Plans, comprising of 340 metres.

PART 2A

ROADS TO BE DETRUNKED AND VESTED IN SOMERSET COUNTY COUNCIL

<i>(1)</i> <i>Area Parish</i>	<i>(2)</i> <i>Length of road</i>
West Camel	Former A303 from Camel Cross to Steart Hill between points W and AR on sheet 1 of the Detrunking plans, comprising of 535 metres.
West Camel	Former A303 West of Howell Hill between points AQ and AF on sheet 2 of the Detrunking plans, comprising of 120 metres.

West Camel Queen Camel	Former A303 east of Steart Hill between points AI and EA on sheet 2 of the Detrunking plans, comprising of 279 metres
Sparkford	Hazlegrove roundabout between points P, S, AO and AK on sheet 3 of the Detrunking plans comprising of 167 metres

PART 2B

ROADS TO BE DETRUNKED AND REMAIN UNDER THE CONTROL AND MANAGEMENT OF THE UNDERTAKER

Queen Camel Sparkford	Former A303 west of Hazlegrove roundabout between points AN and EI on sheet 3 of the Detrunking plans, comprising of 622 metres

PART 3

CLASSIFIED A ROADS

Shown as dashed blue lines on the Classification of Roads Plans

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Length of road</i>
Queen Camel	Camel Hill Roundabout on sheet 3 of the Classification of Roads Plans, circulatory carriageway length comprising of 113 metres.
Queen Camel Sparkford	Camel Hill Link, between points AJ and AK on sheets 3 and 4 of the Classification of Roads Plans, comprising of 687 metres.
Sparkford	Hazlegrove Roundabout on sheet 4 of the Classification of Roads Plans, circulatory carriageway length comprising of 167 metres.

PART 4

CLASSIFIED B ROADS

Shown as dashed green lines on the Classification of Roads Plans

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Length of road</i>
West Camel	B3151 Link between points V and W, on sheet 2 of the Classification of Roads Plans, comprising of 490 metres.
West Camel	Former A303 (Camel Cross to Steart Hill) between points W and AR on sheet 2 of the Classification of Roads Plans, comprising of 535 metres.
West Camel	Steart Hill Link to Old A303 between points AR and AS on sheet 2 of the Classification of Roads Plans, comprising of 210 metres.
West Camel	Downhead Junction Link between points Z and Y on sheet 2 of the Classification of Roads Plans, comprising of 305 metres.
West Camel	Steart Hill Roundabout on sheet 2 of the Classification of Roads Plans, circulatory carriageway length comprising of 88 metres.

PART 5

UNCLASSIFIED ROADS

Shown as dashed orange lines on the Classification of Roads Plans

(1) <i>Area</i>	(2) <i>Length of road</i>
West Camel	Howell Hill Link (West) between points AP and AQ on sheet 2 of the Classification of Roads Plans, comprising 180 metres.
West Camel	Former A303 (West of Howell Hill) between points AQ and AF on sheet 2 of the Classification of Roads Plans, comprising 120 metres.
West Camel	Howell Hill Link (East) between points AF and AG on sheets 2 and 3 of the Classification of Roads Plans, comprising 376 metres.
West Camel	Downhead Lane between points X and Y on sheet 2 of the Classification of Roads Plans, comprising 365 metres.
West Camel	Stear Hill Link between points AB and AC on sheets 2 and 3 of the Classification of Roads Plans, comprising 594 metres.
West Camel	Stear Hill (north) between points AD and AE on sheet 3 of the Classification of Roads Plans, comprising 54 metres.
West Camel	Stear Hill between points AE and AH on sheet 3 of the Classification of Roads Plans, comprising 72 metres.
West Camel	Stear Hill (south) between points AH and AI on sheet 3 of the Classification of Roads Plans, comprising 120 metres.
West Camel Queen Camel	Former A303 (East of Stear Hill) between points AI and EA on sheet 3 of the Classification of Roads Plans, comprising 235 metres.
Queen Camel	Camel Hill Quarry Turning Head between points EA and EE on sheet 3 of the Classification of Roads Plans, comprising of 44 metres.
West Camel	Downhead Turning Head between points EK and EJ on sheet 2 of the Classification of Roads Plans, comprising of 33 metres.
Queen Camel	Vale Farm Link between points AL and AM on sheet 3 of the Classification of Roads Plans, comprising 339 metres.
Queen Camel	Camel Hill Services Turning Head between points EI and EB on sheet 3 of the Classification of Roads Plans, comprising of 32 metres.
Queen Camel	Gason Lane Turning Head between points EG and EH on sheet 3 of the Classification of Roads Plans, comprising of 33 metres.
Queen Camel Sparkford	Former A303 (West of Hazlegrove Roundabout) between points EB and AN on sheets 3 and 4 of the Classification of Roads Plans, comprising 596 metres.
Sparkford	Ridge Copse Link between points AN and AO on sheet 4 of the Classification of Roads Plans, comprising 87 metres.
Queen Camel	Traits Lane Turning Head between points DN and EF on sheet 3 of the Classification of Roads Plans, comprising 39 metres.

PART 6

SPEED LIMITS

(1) <i>Area</i>	(2) <i>Road name, number and length</i>	(3) <i>Speed limit</i>
Yeovilton West Camel Queen Camel	A303 eastbound, comprising a length of 5590 metres Shown as a dashed purple line between	National Speed Limit

Sparkford	points A and B as shown on sheets 1,2,3 and 4 of the Permanent Speed Limit Order Plans.	
Yeovilton West Camel Queen Camel Sparkford	A303 westbound, comprising a length of 5606 metres Shown as a dashed purple line between points C and D as shown on sheets 1,2,3 and 4 of the Permanent Speed Limit Order Plans.	National Speed Limit
West Camel	B3151 Link shown as a dashed green line between points V and W on sheet 2 of the Permanent Speed Limit Order Plans, comprising 490 metres.	50 miles per hour
West Camel	Camel Cross Junction Westbound Merge shown as a dashed purple line between points H and I on sheet 2 of the Permanent Speed Limit Order Plans comprising of 78 metres.	National Speed Limit
West Camel	Camel Cross Link shown as a dashed purple line between points T and H on sheet 2 of the Permanent Speed Limit Order Plans, comprising 79 metres.	National Speed Limit
West Camel	Camel Cross Junction Westbound Diverge shown as a dashed purple line between points G and H on sheet 2 of the Permanent Speed Limit Order Plans, comprising of 58 metres.	National Speed Limit
West Camel	Downhead Turning Head shown as a dashed purple line between points EJ and EK on sheet 2 of the Permanent Speed Limit Order Plans, comprising 33 metres.	National Speed Limit
West Camel	Former A303 (Camel Cross to Steart Hill) shown as a dashed green line between points W and AR on sheet 2 of the Permanent Speed Limit Order Plans, comprising 535 metres.	50 miles per hour
West Camel	Downhead Lane shown as a dashed purple line between points X and Y on sheet 2 of the Permanent Speed Limit Order Plans, comprising 365 metres.	National Speed Limit
West Camel	Downhead Junction Eastbound Diverge shown as a dashed purple line between points J and K on sheet 2 of the Permanent Speed Limit Order Plans, comprising of 38 metres.	National Speed Limit
West Camel	Downhead Junction Link shown as a dashed purple line between points K and Z on sheet 2 of the Permanent Speed Limit Order Plans, comprising 338 metres.	National Speed Limit
West Camel	Downhead Junction Eastbound Merge shown as a dashed purple line between points K and L on sheet 2 of the Permanent Speed Limit Order Plans, comprising of 36 metres.	National Speed Limit
West Camel	Steart Hill Link to Old A303 shown as a	50 miles per hour

	dashed green line between points AR and AS on sheet 2 of the Permanent Speed Limit Order Plans, comprising 210 metres.	
West Camel	Stearth Hill Roundabout shown as a dashed green line on sheet 2 of the Permanent Speed Limit Order Plans, circulatory carriageway length comprising 88 metres.	50 miles per hour
West Camel	Stearth Hill Link shown as a dashed purple line between points AB and EL on sheets 2 and 3 of the Permanent Speed Limit Order Plans, comprising 417 metres.	National Speed Limit
West Camel	Howell Hill Link (West) shown as a dashed orange line between points AP and AQ on sheet 2 of the Permanent Speed Limit Order Plans, comprising 180 metres.	30 miles per hour
West Camel	Former A303 (West of Howell Hill) shown as a dashed orange line between points AQ and AF on sheet 2 of the Permanent Speed Limit Order Plans, comprising 120 metres.	30 miles per hour
West Camel	Howell Hill Link (East) shown as a dashed orange line between points AF and AG on sheets 2 and 3 of the Permanent Speed Limit Order Plans, comprising 376 metres.	30 miles per hour
West Camel	Stearth Hill Link shown as a dashed orange line between points EL and AC on sheet 3 of the Permanent Speed Limit Order Plans, comprising 174 metres.	30 miles per hour
West Camel	Stearth Hill (north) shown as a dashed orange line between points AD and AE on sheet 3 of the Permanent Speed Limit Order Plans, comprising 54 metres.	30 miles per hour
West Camel	Stearth Hill shown as a dashed orange line between points AE and AH on sheet 3 of the Permanent Speed Limit Order Plans, comprising 72 metres.	30 miles per hour
West Camel	Stearth Hill (south) shown as a dashed orange line between points AH and AI on sheet 3 of the Permanent Speed Limit Order Plans, comprising 120 metres.	30 miles per hour
West Camel Queen Camel	Former A303 (East of Stearth Hill) shown as a dashed orange line between points AI and EA on sheet 3 of the Permanent Speed Limit Order Plans, comprising 235 metres.	30 miles per hour
Queen Camel	Camel Hill Quarry Turning Head shown as a dashed orange line between points EA and EE on sheet 3 of the Permanent Speed Limit Order Plans, comprising 44 metres.	30 miles per hour
Queen Camel	Traits Lane Turning Head shown as a dashed purple line between points DN and EF on sheet 3 of the Permanent Speed Limit Order Plans, comprising 39 metres.	National Speed Limit
Queen Camel	Vale Farm Link shown as a dashed purple line between points AL and AM on sheet 3 of the Permanent Speed Limit Order	National Speed Limit

	Plans, comprising 339 metres.	
Queen Camel	Hazlegrove Junction Eastbound Off slip shown as a dashed purple line between points M and N on sheet 3 of the Permanent Speed Limit Order Plans, comprising 228 metres.	National Speed Limit
Queen Camel	Gason Lane Turning Head shown as a dashed purple line between points EH and EG on sheet 3 of the Permanent Speed Limit Order Plans, comprising 33 metres.	National Speed Limit
Queen Camel	Camel Hill Roundabout shown as a dashed purple line on sheet 3 of the Permanent Speed Limit Order Plans, circulatory carriageway length comprising 113 metres.	National Speed Limit
Queen Camel	Camel Hill Services Turning Head shown as a dashed purple line between points EI and EB on sheet 3 of the Permanent Speed Limit Order Plans, comprising 32 metres.	National Speed Limit
Queen Camel Sparkford	Camel Hill Link shown as a dashed purple line between points AJ and AK on sheets 3 and 4 of the Permanent Speed Limit Order Plans, comprising 687 metres.	National Speed Limit
Sparkford Queen Camel	Former A303 (West of Hazlegrove Roundabout) shown as a dashed purple line between points EB and AN on sheet 3 and 4 of the Permanent Speed Limit Order Plans, comprising 596 metres.	National Speed Limit
Queen Camel Sparkford	Hazlegrove Junction Eastbound On slip shown as a dashed purple line between points AT and O on sheet 4 of the Permanent Speed Limit Order Plans, comprising 431 metres.	National Speed Limit
Sparkford	Ridge Copse Link shown as a dashed purple line between points AN and AO on sheet 4 of the Permanent Speed Limit Order Plans, comprising 87 metres.	National Speed Limit
Sparkford	Hazlegrove Junction Westbound on slip shown as a dashed purple line between points P and Q on sheet 4 of the Permanent Speed Limit Order Plans, comprising 313 metres.	National Speed Limit
Sparkford	Hazlegrove Roundabout shown as a dashed purple line on sheet 4 of the Permanent Speed Limit Order Plans, circulatory carriageway length comprising 167 metres.	National Speed Limit
Sparkford	Hazlegrove Junction Westbound off slip shown as a dashed purple line between points R and S on sheet 4 of the Permanent Speed Limit Order Plans, comprising 340 metres.	National Speed Limit

PART 7

TRAFFIC REGULATION MEASURES (CLEARWAYS AND PROHIBITIONS)

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Road name, number and length</i>	<i>(3)</i> <i>Measures</i>
Yeovilton West Camel Queen Camel Sparkford	A303 eastbound shown as a dashed green line between points A and B on sheets 1,2,3 and 4 of the Traffic Regulation Measures Plans, comprising of 5590 metres.	Clearway (to include verges, hard shoulders and hard strips)
Yeovilton West Camel Queen Camel Sparkford	A303 westbound shown as a dashed green line between points C and D on sheets 1,2,3 and 4 of the Traffic Regulation Measures Plans, comprising of 5606 metres.	Clearway (to include verges, hard shoulders and hard strips)
West Camel	Camel Cross Westbound Merge shown as a dashed green line between points H and I of sheet 2 of the Traffic Regulation Measures Plans, comprising of 78 metres.	Clearway (to include verges, hard shoulders and hard strips)
West Camel	Camel Cross Link shown as a dashed green line between points T and H on sheet 2 of the Traffic Regulation Measures Plans, comprising 77 metres.	Clearway (to include verges, hard shoulders and hard strips)
West Camel	Camel Cross Westbound Diverge shown as a dashed green line between points G and H of sheet 2 of the Traffic Regulation Measures Plans, comprising of 58 metres.	Clearway (to include verges, hard shoulders and hard strips)
West Camel	Downhead Junction Eastbound Diverge shown as a dashed green line between points J and K on sheet 2 of the Traffic Regulation Measures Plans, comprising of 38 metres	Clearway (to include verges, hard shoulders and hard strips)
West Camel	Downhead Junction Link shown as a dashed green line between points K and Y on sheet 2 of the Traffic Regulation Measures Plans comprising 33 metres.	Clearway (to include verges, hard shoulders and hard strips)
West Camel	Downhead Junction Eastbound Merge shown as a dashed green line between points K and L on sheet 2 of the Traffic Regulation Measures Plans, comprising of 36 metres.	Clearway (to include verges, hard shoulders and hard strips)
Queen Camel	Hazlegrove Junction Eastbound Off Slip shown as a dashed green line between points M and N on sheet 3 of the Traffic Regulation Measures Plans, comprising of 228 metres.	Clearway (to include verges, hard shoulders and hard strips)
Queen Camel Sparkford	Hazlegrove Junction Eastbound On Slip shown as a dashed green line between points AT and O on sheet 4 of the Traffic Regulation Measures Plans, comprising of 431 metres.	Clearway (to include verges, hard shoulders and hard strips)
Sparkford	Hazlegrove Junction Westbound On Slip shown as a dashed green line between points P and Q on sheet 4 of the Traffic	Clearway (to include verges, hard shoulders and hard strips)

	Regulation Measures Plans, comprising of 313 metres.	
Sparkford	Hazlegrove Junction Westbound Off Slip shown as a dashed green line between points R and S on sheet 4 of the Traffic Regulation Measures Plans, comprising of 340 metres.	Clearway (to include verges, hard shoulders and hard strips)

PART 8

TRAFFIC REGULATION MEASURES (WEIGHT RESTRICTIONS)

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Road name, number and length</i>	<i>(3)</i> <i>Measures</i>
West Camel	Howell Hill Link (West) shown as a dashed purple line between points AP and AQ on sheet 2 of the Traffic Regulation Measures Plans, comprising 180 metres.	7.5 tonne weight restriction (except for loading and exempt vehicles)
West Camel	Former A303 (West of Howell Hill) shown as a dashed purple line between points AQ and AF on sheet 2 of the Traffic Regulation Measures Plans, comprising 120 metres.	7.5 tonne weight restriction (except for loading and exempt vehicles)
West Camel	Howell Hill Link (East) shown as a dashed purple line between points AF and AG on sheets 2 and 3 of the Traffic Regulation Measures Plans, comprising 376 metres.	7.5 tonne weight restriction (except for loading and exempt vehicles)

PART 9

TRAFFIC REGULATION MEASURES (WAITING RESTRICTIONS)

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Road name, number and length</i>	<i>(3)</i> <i>Measures</i>
West Camel	A303 eastbound, located at 1,210 metres in eastern direction from Higher Farm Lane Overbridge, layby shown coloured light blue on sheet 1 of the Traffic Regulation Measures Plans	Waiting restricted to two hours
West Camel,	A303 westbound, located at 3,477 metres in eastern direction from Higher Farm Lane Overbridge, layby shown coloured light blue on sheet 3 of the Traffic Regulation Measures Plans	Waiting restricted to two hours

PART 10

REVOCATIONS AND VARIATIONS OF ORDERS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Road name, number</i>	<i>(3)</i> <i>Title of Order</i>	<i>(4)</i> <i>Revocations or variations</i>

Yeovilton West Camel Queen Camel Sparkford	A303	The A303 Trunk Road (Sparkford to Podimore) (50 miles per hour speed limit) Order 1999	To be partially revoked to the extent shown as a dashed blue line on sheets 1, 2, 3 and 4 of the Traffic Regulation Measures Plans.
West Camel Queen Camel Sparkford	A303	The London-Penzance Trunk Road (A303) Tintinhull to West of Sparkford (Prohibition of Waiting) (Clearways) Order 1978	To be partially revoked between the junction of the A303 and the A359 (Hazlegrove Roundabout) and the junction of the A303 and the B3151 (Camel Cross) (as shown shaded pink on the Traffic Regulation Measures Plans sheets 2,3 and 4, comprising 3,490 metres.
Yeovilton West Camel Queen Camel Sparkford	A303	A303 Trunk Road (Sparkford To Ilchester Improvement And Slip Roads) (Detrunking) Order 1996	To be revoked in so far as it is in force and within the Order limits
Yeovilton West Camel Queen Camel Sparkford	A303	A303 Trunk Road (Sparkford to Ilchester Improvement and Slip Roads) Order 1996	To be revoked in so far as it is in force and within the Order limits
Yeovilton West Camel Queen Camel Sparkford	A303	Sparkford to Ilchester improvement and slip roads Side Roads Order 1996	To be revoked in so far as it is in force and within the Order limits.
West Camel	Howell Hill	The County Council of Somerset (Bridgchampton and West Camel) (Weight Restriction) Order 2007	To be revoked from the junction of Howell Hill and the existing A303 at Canegore Corner and point AG shown on Sheet 3 of the Traffic Regulatory Measures Plans

PART 11

PUBLIC RIGHTS OF WAY

(1) Area	(2) <i>Length of Footpath/Cycle track/Bridleway//Footway in verge</i>
West Camel	Footway in verge. Reference AN-AO shown on sheet 2 of the Rights of Way and Access Plans. 175m.
West Camel	Footway in verge. Reference AP-AQ-BV shown on sheet 2 of the Rights of Way and Access Plans. 230m.
West Camel	Bridleway. Reference AW-AX shown on sheets 2 and 3 of the Rights of Way and Access Plans. 370m
West Camel	Footway in verge. Reference AR-AV shown on sheet 2 of the Rights of

	Way and Access Plans. 40m.
West Camel	Bridleway in verge. Reference AV-AS shown on sheet 2 of the Rights of Way and Access Plans. 330m.
West Camel	Bridleway in verge. Reference AJ-BW shown on sheets 2 and 3 of the Rights of Way and Access Plans. 420m.
West Camel	Bridleway in verge. Reference AB-AK shown on sheet 2 of the Rights of Way and Access Plans. 40m.
West Camel	Bridleway. Reference AA-AB shown on sheets 1 and 2 of the Rights of Way and Access Plans. 1870m
West Camel	Bridleway. Reference AC-AD-AE-AF-AG-AH-AI-AJ shown on sheet 2 of the Rights of Way and Access Plans. 620m
West Camel	Bridleway. Reference AT-AU shown on sheet 2 of the Rights of Way and Access Plans. 360m
West Camel	Bridleway. Reference AV-AW shown on sheet 2 of the Rights of Way and Access Plans. 120m
West Camel	Footpath. Reference AL-AM shown on sheet 2 of the Rights of Way and Access Plans. 190m
West Camel Queen Camel	Bridleway. Reference AX-AY shown on sheet 3 of the Rights of Way and Access Plans. 930m
Queen Camel	Bridleway in verge. Reference BE-BF shown on sheets 3 and 4 of the Rights of Way and Access Plans. 140m.
Queen Camel	Footway in verge. Reference BC-BD shown on sheet 3 of the Rights of Way and Access Plans. 30m.
Queen Camel	Footpath. Reference AZ-BA-BB-CE shown on sheet 3 of the Rights of Way and Access Plans. 400m
Queen Camel	Bridleway. Reference BL-BK shown on sheet 3 of the Rights of Way and Access Plans. 60m
Queen Camel	Bridleway. Reference BD-BY shown on sheet 3 of the Rights of Way and Access Plans. 210m
Queen Camel	Bridleway. Reference BE-BY shown on sheet 3 of the Rights of Way and Access Plans. 20m
Queen Camel	Bridleway. Reference BI-BH shown on sheet 4 of the Rights of Way and Access Plans. 50m
Queen Camel	Bridleway in verge. Reference BH-BG shown on sheet 4 of the Rights of Way and Access Plans. 480m
Queen Camel Sparkford	Footway. Reference BI-BX-BQ-BH shown on sheet 4 of the Rights of Way and Access Plans. 200m.
Queen Camel Sparkford	Footpath. Reference BF-BM-BN-BO-BP shown on sheet 4 of the Rights of Way and Access Plans. 760m
Sparkford	Footway/cycleway in verge. Reference BT-BU shown on sheet 4 of the Rights of Way and Access Plans. 100m.
Sparkford	Footway/cycleway in verge. Reference BR-BS shown on sheet 4 of the Rights of Way and Access Plans. 30m.
Queen Camel Sparkford	Bridleway in verge. Reference BK-BJ-BI shown on sheets 3 and 4 of the Rights of way and Access Plans. 620m.
Sparkford	Footpath Reference BY-BN shown on sheets 3 and 4 of the Rights of Way and Access Plans. 260m

PART 12

NOTIFICATION OF DATES TO BE DETERMINED

1.—(1) Where in accordance with article 14 the date upon which any classification, speed limit, traffic regulation measure, restriction, revocation or variation or part thereof is to take effect from a date to be determined, the undertaker must notify of the date for each classification, speed limit, traffic regulation measure, restriction, revocation or variation or part thereof as follows:

- (a) Notice must be served no less than 14 days in advance of the date to be determined
- (b) Notice must be served on:
 - (i) The relevant highway authority in whose area the road is situated;
 - (ii) The traffic authority in whose area the road is situated;
 - (iii) South Somerset District Council: and
 - (iv) The Chief Constable of police.

(2) Notices served under paragraph 1 of this Part may include multiple dates for the coming into effect of more than one classification, speed limit, traffic regulation measure, restriction, revocation or variation or part thereof.

SCHEDULE 4

Articles 16, 27 and 28

PERMANENT STOPPING UP OF HIGHWAYS AND PRIVATE MEANS OF ACCESS; PROVISION OF NEW HIGHWAYS AND PRIVATE MEANS OF ACCESS

In relation to this Schedule to the rights of way and access plans, the provisions described in this Schedule are shown on the rights of way and access plans in the following manner—

- (a) Existing highways to be stopped up, as described in column (2) of Part 1 and Part 2 of this Schedule, are shown by thick black diagonal hatching (as shown in the key on the rights of way and access plans) over the extent of the area to be stopped up, which is described in column (3) of Part 1 and Part 2 of this Schedule.
- (b) New highways which are to be substituted for a highway to be stopped up (or which are otherwise to be provided), as are included in column (4) of Part 2 of this Schedule, are shown by red cross-hatching (for trunk roads) and blue cross-hatching (for other classified roads and highways) (as shown in the key on the rights of way and access plans), and will be a road unless the description ‘footpath’, ‘bridleway’, ‘footway’ or ‘cycle track’ is stated in column (4) of Part 2 of this Schedule.
- (c) Private means of access to be stopped up, as described in column (2) of Parts 3 and 4 of this Schedule, are shown by solid black shading (as shown in the key on the rights of way and access plans) over the extent of stopping up described in column (3) of Parts 3 and 4 of this Schedule, and are given a reference label (a capital letter B followed by the reference number for that access in a circle).
- (d) New private means of access to be substituted for a private means of access to be stopped up (or which are otherwise to be provided), as are included in column (4) of Part 4 of this Schedule, are shown by thin black line hatching (as shown in the key on the rights of way and access plans) and are given a reference label (a number in a circle).

PART 1

HIGHWAYS TO BE STOPPED UP FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Highway to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>
Yeovilton West Camel	Bridleway Y30/28	To be stopped up over distance of 27 metres northwards from its junction with the existing A303. Shown as a red dotted line in Inset C, sheet 1 of the Rights of Way and Access Plans.
Yeovilton West Camel	A303 westbound off slip at Podimore.	To be stopped up over a distance of 156 metres, eastwards from a point 775 metres east of the existing Higher Farm Lane Overbridge. Reference A1 shown as a black dashed hatch in Inset C, Sheet 1 of the Rights of Way and Access Plans.
West Camel	Footpath Y27/21	To be stopped up in its entirety. Shown as a red dotted line in Inset D, sheet 2 of the Rights of Way and Access Plans.
West Camel	Un-named road at Camel Cross	To be stopped up over a distance of 115 metres, northwards from its southern limits. Reference A4 shown as a black dashed hatch in Inset D, Sheet 2 of the Rights of Way and Access Plans.
Queen Camel	Traits Lane, Camel Hill	To be stopped up over a distance of 5 metres southwards from its junction with the existing A303. Reference A11 shown as a black dashed hatch in Inset G, Sheet 3 of the Rights of Way and Access Plans.
Queen Camel	Footpath WN23/32	To be stopped up over a distance of 131 metres northwards from its junction with the existing A303. Shown as a red dotted line in Inset G sheet 3 of the Rights of Way and Access Plans.
Queen Camel	Footpath WN23/10	To be stopped up over a distance of 66 metres southwards from its junction with the existing A303. Shown as a red dotted line in Inset G sheet 3 of the Rights of Way and Access Plans.
Queen Camel	Footpath WN23/33	To be stopped up over a distance of 60 metres northwards from its junction with the existing A303. Shown as a red dotted line in Inset G sheet 3 of the Rights of Way and Access Plans.
Queen Camel	Gason Lane, Camel Hill	To be stopped up over a distance of 21 metres southwards from its junction with the existing A303. Reference A13 shown as a black dashed hatch in Inset G, Sheet 3 of the Rights of Way and Access Plans.

PART 2

HIGHWAYS TO BE STOPPED UP FOR WHICH A SUBSTITUTE IS TO BE PROVIDED AND NEW HIGHWAYS WHICH ARE OTHERWISE TO BE PROVIDED

<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>

<i>Area</i>	<i>Highway to be stopped up</i>	<i>Extent of stopping up</i>	<i>New highway to be substituted/provided</i>
West Camel	A303 Trunk Road at Camel Cross	To be stopped up over a distance of 475 metres westwards from a point 585 metres west of the existing A303 / Plowage Lane junction. Reference A2 shown as a black dashed hatch in Inset D, Sheet 2 of the Rights of Way and Access Plans.	A303 Eastbound and A303 Westbound.
West Camel	A303 Trunk Road at Camel Cross	To be stopped up over a distance of 130 metres westwards from a point 417 metres west of the existing A303 / Plowage Lane junction. Reference A3 shown as a black dashed hatch in Inset D, Sheet 2 of the Rights of Way and Access Plans.	A303 Eastbound and A303 Westbound.
West Camel	Footpath Y27/29	To be stopped up over a distance of 27 metres northwards from its junction with the existing A303. Shown as a red dotted line in Inset D sheet 2 of the Rights of Way and Access Plans.	New footway AN-AO. Then Existing footway AO-AP. Then New footway AP-AQ. Then Road crossing AQ-AR. Then New footway AR-AV. Then New bridleway in verge AV-AS. Then Road crossing AS-AJ. Then New bridleway AJ-AI-AH-AG-AF-AE-AD-AC. Then Road crossing AC-AB. Then New bridleway in verge AB-AK. Then Existing footpath Y27/10.
West Camel	Footpath Y27/10	To be stopped up over a distance of 208 metres northwards from its junction with the existing A303. Shown as a red dotted line in Inset E sheet 2 of the Rights of Way and Access Plans.	New bridleway AT-AU. Then Road crossing AU-AV. Then New bridleway in verge AV-AS. Then Road crossing AS-AJ. Then

			New bridleway AJ-AI-AH-AG-AF-AE-AD-AC. Then Road crossing AC-AB. Then New bridleway in verge AB-AK.
West Camel	Un-named road at Plowage	To be stopped up over a distance of 165 metres northwards from its junction with the existing A303. Reference A5 shown as a black dashed hatch in Inset E, Sheet 2 of the Rights of Way and Access Plans.	Downhead Lane Downhead Junction Link Stear Hill Roundabout Stear Hill Link to Old A303
West Camel	Footpath Y27/UN	To be stopped up in its entirety. Shown as a red dotted line in Inset E sheet 2 of the Rights of Way and Access Plans.	New bridleway AF-AE-AD-AC Road crossing AC-AB
West Camel	Footpath Y27/9	To be stopped up over a distance of 245 metres northwards from its junction with the existing A303. As shown as a red dotted line in Inset E sheet 2 of the Rights of Way and Access Plans.	New bridleway AT-AU. Then Road crossing AU-AV. Then New bridleway in verge AV-AS. Then Road crossing AS-AJ. Then New bridleway AJ-AI-AH-AG-AF
West Camel	A303 Trunk Road at Canegore Corner	To be stopped up over a distance of 146 metres eastwards from a point 567 metres east of the existing A303 /Plowage Lane junction. Reference A6 shown as a black dashed hatch in Inset F, Sheet 3 of the Rights of Way and Access Plans.	A303 Eastbound and A303 Westbound.
West Camel	Stear Hill, near Canegore Corner	To be stopped up over a distance of 74 metres, northwards from a point 134 metres north of the Steart Hill junction with the existing A303. Reference A7 shown as a black dashed hatch in Inset F, Sheet 3 of the Rights of Way and Access Plans.	Stear Hill Link Stear Hill (North).
West Camel	Stear Hill, Canegore Corner	To be stopped up over a distance of 17m	A303

		northwards from its junction with the existing A303. Reference A8 shown as a black dashed hatch in Inset F, Sheet 3 of the Rights of Way and Access Plans.	
West Camel	Howell Hill, Canegore Corner	To be stopped up over a distance of 79 metres southwards from its junction with the existing A303. Reference A9 shown as a black dashed hatch in Inset F, Sheet 3 of the Rights of Way and Access Plans.	A303
Queen Camel	A303 Trunk Road at Camel Hill	To be stopped up over a distance of 232 metres westwards from a point 298 metres west of the existing A303 / Traits Lane junction. Reference A10 shown as a black dashed hatch in Inset F, Sheet 3 of the Rights of Way and Access Plans.	A303 Eastbound and A303 Westbound.
Queen Camel	Un-named road at Camel Hill	To be stopped up over a distance of 70 metres northwards from its junction with the existing A303. Reference A12 shown as a black dashed hatch in Inset G, Sheet 3 of the Rights of Way and Access Plans.	Vale Farm Link Camel Hill Roundabout Camel Hill Link
Queen Camel	A303 Trunk Road at Camel Hill	To be stopped up over a distance of 111 metres eastwards from a point 43 metres east of the existing A303 /Gason Lane junction. Reference A14 shown as a black dashed hatch in Inset G, Sheet 3 of the Rights of Way and Access Plans.	A303 Eastbound and A303 Westbound.
Queen Camel Sparkford	Footpath WN23/12	To be stopped up over a distance of 434 metres eastwards from its junction with the existing A303. Shown by a red dotted line in Inset H sheet 4.	New bridleway in verge BJ-BI. Then New bridleway BI-BH. Then New bridleway in verge BH-BG. Then

			Road crossing BG-BF. Then New footpath in verge BF-BM. Then New footpath BM-BN, New footpath BN-BO, then New footpath BO-BP
Sparkford	A303 Trunk Road eastbound carriageway at Hazlegrove	To be stopped up over a distance of 254 metres, eastwards from a point 38 metres east of its junction with the existing Hazlegrove Roundabout. Reference A15 shown by a black dashed hatch in Inset H, Sheet 4 of the Rights of Way and Access Plans.	A303 Eastbound.

PART 3

PRIVATE MEANS OF ACCESS TO BE STOPPED UP FOR WHICH NO SUBSTITUTE IS TO BE PROVIDED

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Private means of access to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>
Queen Camel	Access to land south of the A303 at Camel Hill.	Reference B16 shown in solid black in inset G of sheet 3 of the Rights of Way and Access Plans.
West Camel	Field access off the northern verge of the A303 near Steart Hill.	Reference B20 shown in solid black in inset E of sheet 2 of the Rights of Way and Access Plans.
West Camel	Field access off the northern verge of the A303 near Steart Hill.	Reference B21 shown in solid black in inset E of sheet 2 of the Rights of Way and Access Plans.
West Camel	Access to Annis Hill Farm off the northern verge of the A303 near Camel Cross.	Reference B22 shown in solid black in inset D of sheet 2 of the Rights of Way and Access Plans.
West Camel	Field access off the eastern verge of Downhead Lane.	Reference B27 shown in solid black in inset E of sheet 2 of the Rights of Way and Access Plans.
Queen Camel	Access to Camel Hill Cottage from the A303 opposite Traits Lane.	Reference B29 shown in solid black in inset G of sheet 3 of the Rights of Way and Access Plans.

PART 4

PRIVATE MEANS OF ACCESS TO BE STOPPED UP FOR WHICH A SUBSTITUTE IS TO BE PROVIDED AND NEW PRIVATE MEANS OF ACCESS WHICH ARE OTHERWISE TO BE PROVIDED

<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>

<i>Area</i>	<i>Private means of access to be stopped up</i>	<i>Extent of stopping up</i>	<i>New private means of access to be substituted/provided</i>
Yeovilton West Camel	Field access off the northern verge of the A303 at Eastmead Lane.	Reference B1 shown in solid black in Inset C of sheet 1 of the Rights of Way and Access Plans.	Reference 1 via Tracks 2 and 3 from Downhead Lane, shown on sheets 1 and 2 of the Rights of Way and Access Plans.
West Camel	Field access off the northern verge of the A303 near the slip road to Podimore.	Reference B2 shown in solid black in Inset C of sheet 1 of the Rights of Way and Access Plans.	References 2 and 2A via Tracks 2 and 3 from Downhead Lane, shown on sheets 1 and 2 of the Rights of Way and Access Plans.
West Camel	Field access off the northern verge of the A303 near the slip road to Podimore.	Reference B3 shown in solid black in Inset C of sheet 1 of the Rights of Way and Access Plans.	Reference 3 via Tracks 2 and 3 from Downhead Lane, shown on sheets 1 and 2 of the Rights of Way and Access Plans.
Yeovilton West Camel	Field access off the southern verge of the A303 near the slip road to Podimore.	Reference B4 shown in solid black in Inset C of sheet 1 of the Rights of Way and Access Plans.	References 4 and 5 via Tracks 4 and 9 from Camel Cross Link, shown on sheets 1 and 2 of the Rights of Way and Access Plans.
West Camel	Field access off the northern verge of the A303 near the slip road to Podimore.	Reference B5 shown in solid black in Inset C of sheet 1 of the Rights of Way and Access Plans.	References 6 and 6A via Tracks 2 and 3 from Downhead Lane, shown on sheets 1 and 2 of the Rights of Way and Access Plans.
West Camel	Field access off the northern verge of the A303 near Camel Cross.	Reference B6 shown in solid black in Inset D of sheet 2 of the Rights of Way and Access Plans.	Reference 7 via Track 2 from Downhead Lane, shown on sheet 2 of the Rights of Way and Access Plans.
West Camel	Field access off the northern verge of the A303 near Camel Cross.	Reference B7 shown in solid black in Inset D of sheet 2 of the Rights of Way and Access Plans.	Reference 8 via Track 2 from Downhead Lane, shown on sheet 2 of the Rights of Way and Access Plans.
West Camel	Field access off the western verge of the un-named local road at Plowage.	Reference B8 shown in solid black in Inset E of sheet 2 of the Rights of Way and Access Plans.	Reference 9 via Track 2 from Downhead Lane, shown on sheet 2 of the Rights of Way and Access Plans.
West Camel	Field access off the eastern verge of the un-named local road at Plowage.	Reference B9 shown in solid black in Inset E of sheet 2 of the Rights of Way and Access Plans.	Reference 10 shown on sheet 2 of the Rights of Way and Access Plans.
West Camel	Access to The Spinney, off the eastern verge of the un-named local road at Plowage.	Reference B10 shown in solid black in Inset E of sheet 2 of the Rights of Way and Access Plans.	Reference 11 shown on sheet 2 of the Rights of Way and Access Plans.

West Camel	Access to Hill View, off the southern verge of the A303 near Canegore Corner.	Reference B11 shown in solid black in Inset F of sheet 3 of the Rights of Way and Access Plans.	Reference 18 shown on sheet 3 of the Rights of Way and Access Plans.
West Camel	Field access off Slate Lane, Steart Hill.	Reference B12 shown in solid black in Inset F of sheet 3 of the Rights of Way and Access Plans.	Reference 30 shown on sheet 3 of the Rights of Way and Access Plans.
West Camel Queen Camel	Field access off the southern verge of the A303 near Canegore Corner.	Reference B13 shown in solid black in inset F of sheet 3 of the Rights of Way and Access Plans.	Reference 20 via Track 6 from Howell Hill Link (East), shown on sheet 3 of the Rights of Way and Access Plans.
Queen Camel	Field access off the southern verge of the A303 near Camel Hill.	Reference B14 shown in solid black in inset G of sheet 3 of the Rights of Way and Access Plans.	Reference 21 via Track 7 from Traits Lane Turning Head, shown on sheet 3 of the Rights of Way and Access Plans.
Queen Camel	Access off the northern verge of the A303 at Camel Hill.	Reference B15 shown in solid black in inset G of sheet 3 of the Rights of Way and Access Plans.	Reference 23 via local road at Camel Hill and Vale Farm Link, shown on sheet 3 of the Rights of Way and Access Plans.
Queen Camel	Access off the northern verge of the A303 to Pepper Hill Cottage.	Reference B17 shown in solid black in inset G of sheet 3 of the Rights of Way and Access Plans.	Reference 24, as shown on sheet 3 of the Rights of Way and Access Plans.
Queen Camel Sparkford	Access off the Hazlegrove Roundabout to Hazlegrove School.	Reference B18 shown in solid black in inset H of sheet 4 of the Rights of Way and Access Plans.	Reference 27 from Camel Hill Link, as shown on sheet 4 of the Rights of Way and Access Plans.
West Camel	Field access off the northern verge of the A303 near Steart Hill.	Reference B19 shown in solid black in inset F of sheet 3 of the Rights of Way and Access Plans.	Reference 14 as shown on sheet 2 of the Rights of Way and Access Plans.
Queen Camel	Field access off Traits Lane.	Reference B23 shown in solid black in inset G of sheet 3 of the Rights of Way and Access Plans.	Reference 22 as shown on sheet 3 of the Rights of Way and Access Plans.
West Camel	Field access off the northern verge of the B3151 near Camel Cross.	Reference B24 shown in solid black in inset D of sheet 2 of the Rights of Way and Access Plans.	Reference 31 as shown on sheet 1 of the Rights of Way and Access Plans.
West Camel	Field access off the southern verge of the A303 near Plowage.	Reference B25 shown in solid black in inset E of sheet 2 of the Rights of Way and Access Plans.	Reference 28 as shown on sheet 2 of the Rights of Way and Access Plans.

West Camel	Field access off the southern verge of the A303 near Plowage.	Reference B26 shown in solid black in inset E of sheet 2 of the Rights of Way and Access Plans.	Reference 29 as shown on sheet 2 of the Rights of Way and Access Plans.
West Camel	Field access off the eastern verge of Steart Hill near the garage.	Reference B28 shown in solid black in inset F of sheet 3 of the Rights of Way and Access Plans.	Reference 32 as shown on sheet 3 of the Rights of Way and Access Plans.

PART 5

ALTERATIONS TO PRIVATE MEANS OF ACCESS

(1) <i>Parish(es)</i>	(2) <i>Private Means of Access to be altered</i>
West Camel	Reference 12. Modified access to Hawk House across verge, shown on sheet 2 of the Rights of Way and Access Plans.
West Camel	Reference 13. Modified access to Hawk House / The Bungalow across verge, shown on sheet 2 of the Rights of Way and Access Plans.
West Camel	Reference 15. Modified access to Lamorna across verge, shown on sheet 2 of the Rights of Way and Access Plans.
West Camel	Reference 16. Modified access to West Camel Methodist Church across verge, shown on sheet 2 of the Rights of Way and Access Plans.
West Camel	Reference 17. Modified access to Crusty Cottage across verge, shown on sheet 2 of the Rights of Way and Access Plans.
West Camel	Reference 19. Modified access to Bromar across verge, shown on sheet 3 of the Rights of Way and Access Plans.
West Camel	Reference 26. Modified access to MOD land from Gason Lane Turning Head, shown on sheet 3 of the Rights of Way and Access Plans.
West Camel	Reference 33. Modified access north of Steart Hill Garage, shown on sheet 3 of the Rights of Way and Access Plans.
Queen Camel	Reference 34. Modified access to Camel Hill House shown on sheet 3 of the Rights of Way and Access Plans.

PART 6

NEW PRIVATE MEANS OF ACCESS

(1) <i>Parishes</i>	(2) <i>Private Means of Access to be created</i>
Queen Camel	Reference 25. Access to land to the east of Camel Hill Farm, shown on sheet 3 of the Rights of Way and Access Plans.
Queen Camel	Reference 35. Access to land adjacent to Gason Lane, shown on sheet 3 of the Rights of Way and Access Plans.

SCHEDULE 5

Article 26

LAND OF WHICH ONLY NEW RIGHTS ETC. MAY BE PERMANENTLY ACQUIRED

(1) <i>Plot reference number shown on land plans</i>	(2) <i>Purpose for which rights over land may be acquired</i>	(3) <i>Relevant part of the authorised development</i>
1/2b	To plant and maintain hedgerows and undertake and maintain landscaping.	Works 2 and 5
1/4a	To construct, operate and maintain a drainage outfall including access with or without vehicles.	Work 6
2/2e	To construct and maintain a boundary fence, plant and maintain hedgerows and undertake and maintain landscaping, including planting.	Work 11
3/1a	To undertake all works necessary to use the land for the ecological works including translocation of Great Crested Newts, reptiles and other species from the Order Land; and also including vegetation clearance, planting, landscaping, creation of a hibernacula, habitat improvement and the installation of fencing and access with or without vehicles to maintain the same. To impose a restrictive covenant that the owner may not remove, damage, obstruct or interfere with any works undertaken for the purposes of using the land for the translocation of species from the Order Land for a period of five years from the date of opening of the Scheme.	Work 39
3/1b	To undertake all works necessary to use the land for the ecological works including translocation of Great Crested Newts, reptiles and other species from the Order Land; and also including vegetation clearance, planting, landscaping, creation of a hibernacula, habitat improvement and the installation of fencing and access with or without vehicles to maintain the same. To impose a restrictive covenant that the owner may not remove, damage, obstruct or interfere with any works undertaken for the purposes of using the land for the translocation of species from the Order Land for a period of five years from the date of opening of the Scheme.	Work 40
3/2a	To construct, operate, access and maintain a way suitable for use by the public by bicycle and as a bridleway, including access with or without vehicles plant and machinery, and to designate that way as a Public Right of Way and allow public access over it. To transfer responsibility of maintenance of the way to Somerset County Council.	All works
4/1f	To construct, operate, access and maintain a way suitable for use by the public on foot, including access with or without vehicles plant and machinery, and to designate that way as a Public Right of Way and allow public access over it. To transfer responsibility of maintenance of the way to	Work 16

	Somerset County Council.	
4/2a	To construct, operate, access and maintain a way suitable for use by the public on foot, including access with or without vehicles plant and machinery, and to designate that way as a Public Right of Way and allow public access over it. To transfer responsibility of maintenance of the way to Somerset County Council.	Work 16
4/4b	To designate the road to be formed on part of the plot as public highway open to vehicular traffic. To transfer responsibility for maintenance of the public highway so designated to Somerset County Council. To construct, divert, use and maintain utility connections and equipment including electric cables, equipment and apparatus including access with or without vehicles.	Works 27, 38 and 38A
4/4g	To construct, operate, access and maintain a way suitable for use by the public by bicycle and as a bridleway, including access with or without vehicles plant and machinery, and to designate that way as a Public Right of Way and allow public access over it. To transfer responsibility of maintenance of the way to Somerset County Council.	All works
4/7a	To construct, operate, access and maintain a way suitable for use by the public by bicycle and as a bridleway, including access with or without vehicles plant and machinery, and to designate that way as a Public Right of Way and allow public access over it. To transfer responsibility of maintenance of the way to Somerset County Council.	All works
4/8b	To construct, operate and maintain a drainage outfall including access with or without vehicles.	Work 29
5/1b	To construct, operate, access and maintain a way suitable for use by the public by bicycle and as a bridleway, including access with or without vehicles plant and machinery, and to designate that way as a Public Right of Way and allow public access over it. To transfer responsibility of maintenance of the way to Somerset County Council.	All works
5/3j	To designate the road to be formed on the plot as public highway open to vehicular traffic To transfer responsibility for maintenance of the public highway so designated to Somerset County Council To construct, divert, use and maintain utility connections and equipment including electric cables, equipment and apparatus including access with or without vehicles.	Works 61 and 69
5/4c	To construct, divert, use and maintain utility connections and equipment including electric cables, equipment and apparatus including access with or without vehicles	Work 48
5/5c	To construct, divert, use and maintain utility connections and equipment including electric cables, equipment and apparatus including access with or without vehicles.	Work 48
5/8b	To construct, operate, access and maintain a private means of access including creation of vehicular rights of access to the property served thereby.	Work 52
5/9b	To construct, divert, use and maintain utility connections	Work 45, 46, 47,

	and equipment including telecommunication and electric cables, equipment and apparatus and water and sewerage pipes, equipment and apparatus including access with or without vehicles.	48 and 74
6/1e	To undertake works to the local road and Camel Hill. To construct, divert, use and maintain utility connections and equipment including telecommunication cables equipment and apparatus including access with or without vehicles.	Works 66 and 71
7/1c	To designate the road to be formed on the plot as public highway open to vehicular traffic. To transfer responsibility for maintenance of the public highway so designated to Somerset County Council.	Work 62
7/5a	To designate the road to be formed on the plot as public highway open to vehicular traffic. To transfer responsibility of maintenance of the public highway so designated to Somerset County Council. To construct, divert, use and maintain utility connections and equipment including electric cables and telecommunication cables equipment and apparatus including access with or without vehicles.	Works 63, 72 and 79
7/6a	To construct, operate, access and maintain a way suitable for use by the public as a footpath, including access with or without vehicles plant and machinery, and to designate that way as a Public Right of Way and allow public access over it. To transfer responsibility of maintenance of the way to Somerset County Council.	All works
7/7c	To designate the road to be formed on the plot as public highway open to vehicular traffic. To transfer responsibility of maintenance of the public highway so designated to Somerset County Council.	Work 63
7/7d	To designate the road to be formed on the plot as public highway open to vehicular traffic. To transfer responsibility of maintenance of the public highway so designated to Somerset County Council.	Work 63
7/8b	To construct, operate, access and maintain a way suitable for use by the public by bicycle and as a bridleway, including access with or without vehicles plant and machinery, and to designate that way as a Public Right of Way and allow public access over it. To create a private right of access with or without vehicles, plant and machinery in favour of the owners of Blackwell Farm to take access over the plot for the purposes of agriculture. To transfer responsibility of maintenance of the way to Somerset County Council. To construct, divert, use and maintain utility connections and equipment including electric cables and telecommunication cables equipment and apparatus including access with or without vehicles.	Works 72 and 105
7/8c	To designate the road to be formed on the plot as public highway open to vehicular traffic. To transfer responsibility for maintenance of the public highway so designated to Somerset County Council	Work 64

8/2a	To construct, operate and maintain a drainage outfall including access with or without vehicles	Work 94
8/3a	To construct, improve, operate, access and maintain a way suitable for use by the public on foot and by bicycle including access with or without vehicles plant and machinery, and to designate that way as a Public Right of Way and allow public access over it. To transfer responsibility for maintenance of the way to Somerset County Council.	All works

SCHEDULE 6

Article 26

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 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 or imposition of a restrictive covenant as they apply as respects compensation for the compulsory purchase of land and interests in land.

2.—(1) Without limitation on the scope of paragraph 1, the 1961 Act has effect subject to the modification set out in sub-paragraph (2).

(2) For section 5A(5A) (relevant valuation date) of the 1961 Act substitute—

“(5A) If—

- (a) the acquiring authority enters on land for the purposes of exercising a right in pursuance of a notice of entry under section 11(1) of the 1965 Act (as modified by paragraph 5(5) of Schedule 6 to the A303 Sparkford to Ilchester Development Consent Order 20[•] (the “[•] Order”));
- (b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A to the 1965 Act (as substituted by paragraph 5(8) of Schedule 6 to the A303 Sparkford to Ilchester Development Consent Order 20[•] (the “[•] Order”)) to acquire an interest in the land; and
- (c) the acquiring authority enter on and take possession of that land,
the authority is deemed for the purposes of subsection (3)(a) to have entered on that land when it entered on that land for the purpose of exercising that right.”

3.—(1) Without limitation on the scope of paragraph 1, the Land Compensation Act 1973(a) has effect subject to the modifications set out in sub-paragraph (2).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 (measure of compensation in case of severance) of the 1965 Act as substituted by paragraph 5(3)—

- (a) for “land is acquired or taken from” substitute “a right or restrictive covenant over land is purchased from or imposed on”; and
- (b) for “acquired or taken from him” substitute “over which the right is exercisable or the restrictive covenant enforceable”.

(a) 1973 c. 26.

Application of Part 1 of the 1965 Act

4. Part 1 of the 1965 Act, as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act (and modified by article 29 (modification of Part 1 of the 1965 Act)) to the acquisition of land under article 23 (compulsory acquisition of land), applies to the compulsory acquisition of a right by the creation of a new right, or to the imposition of a restrictive covenant under article 26(1) (compulsory acquisition of rights)—

- (a) with the modifications specified in paragraph 5; and
- (b) with such other modifications as may be necessary.

5.—(1) The modifications referred to in paragraph 4(a) are as follows.

(2) References in the 1965 Act to land are, in the appropriate contexts, to be 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 the restriction imposed or to be imposed; or
- (b) the land over which the right is or is to be exercisable, or the restriction is or is to be enforceable.

(3) For section 7 (measure of compensation in case of severance) of the 1965 Act substitute—

“7. In assessing the compensation to be paid by the acquiring authority under this Act, regard must 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 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.”

(4) 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),

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.

(5) Section 11 (powers of entry) of the 1965 Act is modified so as to secure that, where the acquiring authority has served notice to treat in respect of any right or restriction, as well as the notice of entry required by subsection (1) of that section (as it applies to a compulsory acquisition under article 23), 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; and sections 11A(a) (powers of entry: further notices of entry), 11B(b) (counter-notice requiring possession to be taken on specified date, 12 (unauthorised entry) and 13 (refusal to give possession to acquiring authority) of the 1965 Act are modified correspondingly.

(6) Section 20 (tenants at will, etc.) of the 1965 Act 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.

(7) Section 22 (interests omitted from purchase) of the 1965 Act as modified by article 29(4) is also modified so as to enable the acquiring authority in circumstances corresponding to those

(a) Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016 (c. 22).

(b) Section 11B was inserted by section 187(2) of the above Act.

referred to in that section, to continue to be entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

(8) For Schedule 2A of the 1965 Act substitute—

“SCHEDULE 2A

COUNTER-NOTICE REQUIRING PURCHASE OF LAND NOT

IN NOTICE TO TREAT

Introduction

1.—(1) This Schedule applies where an acquiring authority serves a notice to treat in respect of a right over, or a restrictive covenant affecting, the whole or part of a house, building or factory and have not executed a general vesting declaration under section 4 of the 1981 Act as applied by article 30 (application of the 1981 Act) of the A303 Sparkford to Ilchester Development Consent Order 20[•] in respect of the land to which the notice to treat relates.

(2) But see article 31(3) (acquisition of subsoil or airspace only) of the A303 Sparkford to Ilchester Development Consent Order 20[•] which excludes the acquisition of subsoil or airspace only from this Schedule.

2. In this Schedule, “house” includes any park or garden belonging to a house.

Counter-notice requiring purchase of land

3. A person who is able to sell the house, building or factory (“the owner”) may serve a counter-notice requiring the acquiring authority to purchase the owner’s interest in the house, building or factory.

4. A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

Response to counter-notice

5. On receiving a counter-notice, the acquiring authority must decide whether to—

- (a) withdraw the notice to treat,
- (b) accept the counter-notice, or
- (c) refer the counter-notice to the Upper Tribunal.

6. The authority must serve notice of their decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).

7. If the authority decides to refer the counter-notice to the Upper Tribunal they must do so within the decision period.

8. If the authority does not serve notice of a decision within the decision period it is to be treated as if it had served notice of a decision to withdraw the notice to treat at the end of that period.

9. If the authority serves notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner’s interest in the house, building or factory.

Determination by the Upper Tribunal

10. On a referral under paragraph 7, the Upper Tribunal must determine whether the acquisition of the right of the imposition of the restrictive covenant would—

- (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or
- (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

11. In making the determination, the Upper Tribunal must take into account—

- (a) the effect of the acquisition of the right or the imposition of the covenant,
- (b) the use to be made of the right or covenant proposed to be acquired or imposed, and
- (c) if the right or covenant is proposed to be acquired or imposed for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

12. If the Upper Tribunal determines that the acquisition of the right or the imposition of the covenant would have either of the consequences described in paragraph 10, it must determine how much of the house, building or factory the acquiring authority ought to be required to take.

13. If the Upper Tribunal determines that the acquiring authority ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.

14.—(1) If the Upper Tribunal determines that the acquiring authority ought to be required to take some or all of the house, building or factory, the acquiring authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

(2) If the acquiring authority withdraws the notice to treat under this paragraph it must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawing of the notice.

15. Any dispute as to the compensation is to be determined by the Upper Tribunal.”

SCHEDULE 7

Article 33

LAND OF WHICH ONLY TEMPORARY POSSESSION MAY BE TAKEN

<i>(1)</i> <i>Plot Reference</i> <i>Number shown on</i> <i>land plans</i>	<i>(2)</i> <i>Purpose for which temporary possession may be</i> <i>taken</i>	<i>(3)</i> <i>Relevant part of the</i> <i>authorised</i> <i>development</i>
1/3e	Working area and materials storage	All works
1/4c	Working area and materials storage, construction compounds	All works
1/5a	Working area and materials storage, including for removal of existing carriageway and reinstatement of land as arable field	Work 5
2/2b	Working area and materials storage	All works
2/2c	Decommissioning of 75 metres of electrical cable	Work 9

2/2d	Working area and materials storage	All works
2/4b	Working area and materials storage	All works
2/4c	The construction of B3151 link, works to the public highway, utility diversions under the public highway	Works 16, 32 and 33
2/5b	Access to working area, materials storage	All works
2/5e	Working area and materials storage, construction compounds	All works
3/2c	Working area and materials storage	All works
4/1c	Works associated with the closure of local road at Downhead, the construction of Downhead Turning Head, utility diversions	Works 27 and 38
4/1i	The construction of Downhead Lane and accesses, utility diversions	Works 17, 43 and 44
4/1j	Working area and materials storage	All works
4/4c	Working area and materials storage	All works
4/4d	Working area and materials storage	All works
4/5a	The decommissioning of overhead electrical cables	Work 38A
4/5b	The decommissioning of overhead electrical cables	Work 38A
4/8c	Temporary highway diversions	All works
4/8e	Temporary highway diversions Construction and use of a temporary southern earthworks haul route	All works Work 49
5/1a	Working area and materials storage	All works
5/3d	The construction of Steart Hill Link and Steart Hill North Utility diversions	Works 41,43, 44, 51 and 75
5/4a	Construction and use of a temporary southern earthworks haul route	Work 49
5/4b	Construction and use of a temporary southern earthworks haul route	Work 49
5/5b	The construction of Howell Hill Link (East)	Work 42
5/7a	Construction and use of a temporary northern earthworks haul route	Work 80
5/7b	Landscaping works and works to retain existing hedgerow	All works
5/7c	Working area for utility diversions	Works 45, 48 and 74
5/8c	Works to create alternative private means of access	Work 52
5/9c	Construction and use of a temporary southern earthworks haul route	Work 49
5/10a	Construction and use of a temporary northern earthworks haul route	Work 80
5/12a	Construction and use of a temporary northern earthworks haul route	Work 80
5/12b	Construction and use of a temporary northern earthworks haul route	Work 80
5/13b	Working area and materials storage	All works
6/1a	Works to local road junction at Camel Hill Construction and use of a temporary northern earthworks haul route	Works 67 and 80

6/1b	Construction and use of a temporary northern earthworks haul route	Work 80
6/1c	Works to local road junction at Camel Hill	Works 66 and 67
6/1d	Works to local road junction at Camel Hill	Work 66
6/2a	Works to local road junction at Camel Hill	Work 67
6/3a	Diversion of a public right of way in highway verge	All works
7/1b	Working area and materials storage	All works
7/4c	Working area for utility diversions	Work 77
7/5b	Construction of new multi-purpose Track 10 Diversion of a public right of way and utilities	Works 72 and 105
7/5c	Working area to widen existing highway junction	Work 104
8/1a	Diversion of a public right of way Utility diversions	All works Work 84
8/1c	Diversion of a public right of way Utility diversions	All works Work 84

SCHEDULE 8

PROTECTIVE PROVISIONS

Article 42

PART 1

FOR THE PROTECTION OF ELECTRICITY, GAS, WATER AND SEWERAGE UNDERTAKERS

1. For the protection of the utility undertakers referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and the utility undertaker concerned.

2. In this Part of this Schedule—

“alternative 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 utility 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(b) 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 utility undertaker for the purposes of water supply; and
- (d) in the case of a sewerage undertaker—
 - (i) any drain or works vested in the utility undertaker under the Water Industry Act 1991(c); and
 - (ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) (adoption of sewers and disposal works) of that Act or an

(a) 1989 c. 29.

(b) 1986 c. 44.

(c) 1991 c. 56.

agreement to adopt made under section 104 (agreement to adopt sewers, drains or sewage disposal works at future date) of that Act^(a),

and includes a sludge main, disposal main (within the meaning of section 219 (general interpretation) of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works,

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;

“plan” includes 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; and

“utility undertaker” means—

(e) any licence holder within the meaning of Part 1 of the Electricity Act 1989;

(f) a gas transporter within the meaning of Part 1 of the Gas Act 1986;

(g) a water undertaker within the meaning of the Water Industry Act 1991; and

(h) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991,

for the area of the authorised development, and in relation to any apparatus, means the utility 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 undertaker and the utility undertaker are regulated by the provisions of Part 3 (street works in England and Wales) of the 1991 Act.

Apparatus in stopped up streets

4.—(1) Where any street is stopped up under article 16 (permanent stopping up and restriction of streets and private means of access), any utility undertaker whose apparatus is in the street has the same powers and rights in respect of that apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to the utility undertaker legal easements reasonably satisfactory to the utility undertaker in respect of such apparatus and access to it, but nothing in this paragraph affects any right of the undertaker or of the utility undertaker to require the removal of that apparatus under paragraph 7 or the power of the undertaker to carry out works under paragraph 9.

(2) Regardless of the temporary stopping up or diversion of any highway under the powers conferred by article 15 (temporary stopping up and restriction of use of streets), a utility undertaker is at liberty at all times to take all necessary access across any such stopped up highway and 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 undertaker, in the case of the powers conferred by article 21 (protective work to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus.

(a) Section 104 was amended by section 42(3) of the Flood and Water Management Act 2010 (c. 29).

Acquisition of land

6. Regardless of any provision in this Order or anything shown on the land plans, the undertaker must 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 undertaker acquires any interest in any land in which any apparatus is placed or requires that the utility undertaker's apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of a utility undertaker to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the utility 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 undertaker requires the removal of any apparatus placed in that land, the undertaker must give to the utility undertaker in question 28 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 a utility undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to the utility undertaker the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker 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 undertaker, or the undertaker 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, the utility undertaker in question must, on receipt of a written notice to that effect from the undertaker, 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.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between the utility undertaker in question and the undertaker or in default of agreement settled by arbitration in accordance with article 45 (arbitration).

(5) The utility undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 45 (arbitration), and after the grant to the utility 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 undertaker to be removed under the provisions of this Part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if the undertaker gives notice in writing to the utility undertaker in question that the undertaker desires itself to execute any work, or part of any work in connection with the construction or removal of apparatus in any land of the undertaker, that work, instead of being executed by the utility undertaker, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the utility undertaker.

(7) Nothing in sub-paragraph (6) authorises the undertaker 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 300 millimetres of the apparatus.

Facilities and rights for alternative apparatus

8.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to a utility undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights are to be granted upon such terms and conditions as may be agreed between the

undertaker and the utility undertaker in question or in default of agreement settled by arbitration in accordance with article 45 (arbitration).

(2) If the facilities and rights to be afforded by the undertaker 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 utility 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 must make such provision for the payment of compensation by the undertaker to that utility 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 undertaker under paragraph 7(2), the undertaker must submit to the utility undertaker in question a plan of the works to be executed.

(2) Those works must 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 utility undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the utility undertaker is entitled to watch and inspect the execution of those works.

(3) Any requirements made by a utility undertaker under sub-paragraph (2) are to be made within a period of 21 days beginning with the date on which a plan under sub-paragraph (1) is submitted to it.

(4) If a utility undertaker, in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 3 and 6 to 8 apply as if the removal of the apparatus had been required by the undertaker under paragraph 7(2).

(5) Nothing in this paragraph precludes the undertaker 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 apply to and in respect of the new plan.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to the utility undertaker in question notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable subsequently and must 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 10 metres measured in any direction of any electricity apparatus, the plan to be submitted to the utility undertaker under sub-paragraph (1) must be detailed, include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which they 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 undertaker must repay to a utility undertaker all expenses reasonably incurred by that utility 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).

(2) The value of any apparatus removed under the provisions of this Part of this Schedule must be deducted from any sum payable under sub-paragraph (1), 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 undertaker or, in default of agreement, is not determined by arbitration in accordance with article 45 (arbitration) to be necessary then, if such placing involves cost 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 utility undertaker in question by virtue of sub-paragraph (1) must 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 must 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 must 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 a utility undertaker in respect of works by virtue of sub-paragraph (1), 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 undertaker any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, is to 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 any such works referred to in paragraphs 5 or 7 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 a utility undertaker, or there is any interruption in any service provided, or in the supply of any goods, by any utility undertaker, the undertaker must—

- (a) bear and pay the cost reasonably incurred by that utility undertaker in making good such damage or restoring the supply; and
- (b) make reasonable compensation to that utility undertaker for any other expenses, loss, damages, penalty or costs incurred by the utility 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 a utility undertaker on behalf of the undertaker or in accordance with a plan approved by a utility undertaker or in accordance with any requirement of a utility undertaker or under its supervision does not, subject to sub-paragraph (3), excuse the undertaker from liability under the provisions of sub-paragraph (1).

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of a utility undertaker, its officers, servants, contractors or agents.

(4) A utility undertaker must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made without the consent of the undertaker and, if such consent is withheld, the undertaker has the sole conduct of any settlement or compromise of any proceedings necessary to resist the claim or demand.

Cooperation

12. Where in consequence of the proposed construction of any part of the authorised development, the undertaker or a utility undertaker requires the removal of apparatus under paragraph 7(2) or a utility undertaker makes requirements for the protection or alteration of apparatus under paragraph 9, the undertaker must 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 utility undertaker's undertaking and each utility undertaker must use its best endeavours to co-operate with the undertaker for that purpose.

13. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and a utility undertaker in respect of any apparatus in land belonging to the undertaker 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 have effect, unless otherwise agreed in writing between the undertaker and the operator.

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 are to be construed in accordance with paragraph 1(3A) (interpretation of code) of that code;

“electronic communications apparatus” has the same meaning as in the electronic communications code;

“the electronic communications code” has the same meaning as in section 106(b) (application of the electronic communications code) of the 2003 Act;

“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 undertaker 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 conferred by article 35 (statutory undertakers) is subject to Part 10 (undertaker's works affecting electronic communications apparatus) of Schedule 1 to the Digital Economy Act 2017(c).

17.—(1) Subject to sub-paragraphs (2) to (4), if as a result of the authorised development or its construction, or of any subsidence resulting from the authorised development—

(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

(a) 2003 c. 21.

(b) Section 106 was amended by section 4 of the Digital Economy Act 2017.

(c) 2017 c. 30.

its intended removal for the purposes of the authorised development), or other property of an operator; or

(b) there is any interruption in the supply of the service provided by an operator, the undertaker must 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) imposes any liability on the undertaker 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 undertaker reasonable notice of any such claim or demand and no settlement or compromise of the claim or demand is to be made without the consent of the undertaker and, if such consent is withheld, the undertaker has the sole conduct of any settlement or compromise of any proceedings necessary to resist the claim or demand.

(4) Any difference arising between the undertaker and the operator under this Part of this Schedule must be referred to and settled by arbitration under article 45 (arbitration).

(5) This Part of this Schedule does not apply to—

- (a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by the provisions of Part 3 (street works in England and Wales) 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.
- (c) Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and an operator in respect of any apparatus in land belonging to the undertaker on the date on which this Order is made.

PART 3

FOR THE PROTECTION OF DRAINAGE AUTHORITIES

18. The provisions of this Part have effect for the protection of the drainage authority unless otherwise agreed in writing between the undertaker and the drainage authority.

19. In this Part—

“construction” includes execution, placing, altering, replacing, relaying and removal; and “construct” must be construed accordingly;

“drainage authority” means, the drainage board concerned within the meaning of section 23 of the Land Drainage Act 1991, being the Somerset Drainage Board Consortium or any body replacing that body under the Land Drainage Act 1991, or Somerset County Council as the case may be;

“drainage work” means any watercourse and includes any bank, wall, embankment or other structure, or any appliance, constructed or used for land drainage or flood defence which is the responsibility of the drainage authority subject to such changes as notified to the undertaker;

“ordinary watercourse” has the meaning given by section 72 of the Land Drainage Act 1991;

“plans” includes any information reasonably required by the drainage authority including location details, grid references, sections, drawings, specifications, assessments and method statements;

“specified work” means so much of any work or operation authorised by this Order as is in, on, under, over or within 9 metres of a drainage work or is otherwise likely to—

- (a) affect any drainage work or the volumetric rate of flow of water in or flowing to or from any drainage work;

- (b) affect the flow, purity or quality of water in any watercourse; or
- (c) affect the conservation, distribution or use of water resources.

20.—(1) Before commencing construction of a specified work, the undertaker must submit to the drainage authority plans of the specified work and such further particulars available to it as the drainage authority may within 28 days of the submission of the plans reasonably require.

(2) The undertaker must not commence construction of the specified work until approval, unconditionally or conditionally, has been given as provided in this paragraph.

(3) A specified work must not be constructed except in accordance with such plans as may be approved in writing by the drainage authority or determined under paragraph 11.

(4) Any approval of the drainage authority required under this paragraph—

- (a) must not be unreasonably withheld or delayed;
- (b) is deemed to have been given if it is neither given nor refused within 2 months of the submission of the plans for approval, or submission of further particulars (where required by the drainage authority under sub-paragraph (1)) whichever is the later; and
- (c) may be given subject to such reasonable requirements as the drainage authority may make for the protection of any drainage work, for the protection of any navigation work, for the protection of water resources, for the prevention of pollution or in the discharge of its environmental functions.

(5) Any refusal under this paragraph must be accompanied by a statement of the reasons for refusal.

21. Without limiting paragraph 20, the requirements which the drainage authority may make under that paragraph include conditions requiring the undertaker at its own expense to construct such protective works, whether temporary or permanent, during the construction of the specified work (including the provision of flood banks, walls or embankments or other new works and the strengthening, repair or renewal of existing banks, walls or embankments) as are reasonably necessary—

- (a) to safeguard any drainage work against damage by reason of any specified work; or
- (b) to secure that the efficiency of any drainage work for flood defence and land drainage purposes is not impaired, and that the risk of flooding is not otherwise increased, by reason of any specified work.

22.—(1) Subject to sub-paragraph (2), any specified work, and all protective works required by the drainage authority under paragraph 21, must be constructed—

- (a) without unreasonable delay in accordance with the plans approved or deemed to have been approved or settled under this Part; and
- (b) to the reasonable satisfaction of the drainage authority,

and an officer of the drainage authority is entitled to watch and inspect the construction of such works.

(2) The undertaker must give to the drainage authority—

- (a) not less than 14 days' notice in writing of its intention to commence construction of any specified work; and
- (b) notice in writing of its completion not later than 7 days after the date of completion.

(3) If the drainage authority reasonably requires, the undertaker must construct all or part of the protective works so that they are in place before the construction of the specified work.

(4) If any part of a specified work or any protective work required by the drainage authority is constructed otherwise than in accordance with the requirements of this Part, the drainage authority may by notice in writing require the undertaker at the undertaker's expense to comply with the requirements of this Part or (if the undertaker so elects and the drainage authority in writing consents, such consent not to be unreasonably withheld or delayed) to remove, alter or pull down

the work and, where removal is agreed, to restore the site to its former condition to such extent and within such limits as the drainage authority reasonably requires.

(5) Subject to sub-paragraph (6), if within a reasonable period, being not less than 28 days from the date when a notice under sub-paragraph (4) is served on the undertaker, the undertaker has failed to begin taking steps to comply with the requirements of the notice and subsequently to make reasonably expeditious progress towards their implementation, the drainage authority may execute the works specified in the notice and any expenditure incurred by it in so doing is recoverable from the undertaker.

(6) In the event of any dispute as to whether sub-paragraph (4) is properly applicable to any work in respect of which notice has been served under that sub-paragraph, or as to the reasonableness of any requirement of such a notice, the drainage authority must not except in an emergency exercise the powers conferred by sub-paragraph (5) until the dispute has been finally determined.

23.—(1) Subject to sub-paragraph (5), the undertaker must from the commencement of the construction of the specified work maintain in good repair and condition and free from obstruction any drainage work which is situated within the limits of deviation on land held by the undertaker for the purposes of or in connection with the specified work, whether or not the drainage work is constructed under the powers conferred by this Order or is already in existence.

(2) If any drainage work which the undertaker is liable to maintain is not maintained to the reasonable satisfaction of the drainage authority, the drainage authority may by notice in writing require the undertaker to repair and restore the work, or any part of the work, or (if the undertaker so elects and the drainage authority in writing consents, such consent not to be unreasonably withheld or delayed), to remove the specified work and restore the site to its former condition, to such extent and within such limits as the drainage authority reasonably requires.

(3) If, within a reasonable period being not less than 28 days beginning with the date on which a notice in respect of any drainage work is served under sub-paragraph (2) on the undertaker, the undertaker has failed to begin taking steps to comply with the reasonable requirements of the notice and has not subsequently made reasonably expeditious progress towards their implementation, the drainage authority may do what is necessary for such compliance and may recover any expenditure reasonably incurred by it in so doing from the undertaker.

(4) In the event of any dispute as to the reasonableness of any requirement of a notice served under sub-paragraph (2), the drainage authority must not except in a case of emergency exercise the powers conferred by sub-paragraph (3) until the dispute has been finally determined.

(5) This paragraph does not apply to—

- (a) drainage works which are vested in the drainage authority, or which the drainage authority or another person is liable to maintain and is not prevented by this Order from so doing; and
- (b) any obstruction of a drainage work for the purpose of a work or operation authorised by this Order and carried out in accordance with the provisions of this Part provided that any obstruction is removed as soon as reasonably practicable.

24. If by reason of the construction of a specified work or of the failure of any such work the efficiency of any drainage work for flood defence purposes or land drainage is impaired, or that drainage work is otherwise damaged, the impairment or damage must be made good by the undertaker as soon as reasonably practicable to the reasonable satisfaction of the drainage authority and, if the undertaker fails to do so, the drainage authority may make good the impairment or damage and recover from the undertaker the expense reasonably incurred by it in doing so.

25. The undertaker must indemnify the drainage authority in respect of all costs, charges and expenses which the drainage authority may reasonably incur, have to pay or sustain—

- (a) in the examination or approval of plans under this Part; and
- (b) in inspecting the construction of the specified work or any protective works required by the drainage authority under this Part; and

- (c) in carrying out any surveys or tests by the drainage authority which are reasonably required in connection with the construction of the specified work.

26.—(1) Without limiting the other provisions of this Part, the undertaker must indemnify the drainage authority from all claims, demands, proceedings, costs, damages, expenses or loss, which may be made or taken against, recovered from, or incurred by, the drainage authority by reason of—

- (a) any damage to any drainage work;
- (b) any raising or lowering of the water table in land adjoining the authorised project or any sewers, drains and watercourses; or
- (c) any flooding or increased flooding of any such lands,

caused by the construction of any specified work or any act or omission of the undertaker, its contractors, agents or employees whilst engaged on the work.

(2) The drainage authority must give to the undertaker reasonable notice of any such claim or demand, and no settlement or compromise may be made without the agreement of the undertaker which agreement must not be unreasonably withheld or delayed.

27. The fact that any work or thing has been executed or done by the undertaker in accordance with a plan approved or deemed to be approved by the drainage authority, or to its satisfaction, or in accordance with any directions or award of an arbitrator, does not relieve the undertaker from any liability under this Part.

28. Any dispute arising between the undertaker and the drainage authority under this Part, if the parties agree, is to be determined by arbitration under article 45 (arbitration), but otherwise is to be determined by the Secretary of State for Environment, Food and Rural Affairs and the Secretary of State for Business, Energy and Industrial Strategy acting jointly on a reference to them by the undertaker or the drainage authority, after notice in writing by one to the other.

PART 4

FOR THE PROTECTION OF THE LOCAL HIGHWAY AUTHORITY REGARDING VEHICULAR HIGHWAYS

29. The provisions of this Part of this Schedule have effect unless otherwise agreed in writing between the undertaker and the local highway authority.

30. In this Part of this Schedule—

“Committed Sum” means the sum to be paid by the undertaker to the local highway authority for the future maintenance of Non-standard Highway Assets not previously forming part of the local highway which will be transferred to the local highway authority, as calculated in accordance with paragraph 45 of this Part of this Schedule;

“Design Detailing” means any part of the authorised development approved by the Secretary of State pursuant to Requirement 13 of Schedule 2.

“Detailed Information” means the following drawings, specifications and other information relating to the local highway, which must be in accordance with the Design Detailing:

- (a) Boundary, environmental and mitigation fencing;
- (b) road restraint systems (vehicle and pedestrian);
- (c) drainage and ducting;
- (d) earthworks;
- (e) road pavements;
- (f) kerbs, footways and paved areas;
- (g) traffic signs and road markings;

- (h) road lighting (including columns and brackets);
- (i) electrical work for road lighting and traffic signs;
- (j) highway structures;
- (k) landscaping, planting and any boundary features which will form part of the local highway;
- (l) utility diversions;
- (m) a schedule of timings for the works, including dates and durations for any closures of any part of the local highway;
- (n) traffic management proposals including any diversionary routes;
- (o) a schedule of condition of all local highway within the order limits; and
- (p) where local highway is occupied under this Order in connection with any Works but is not itself subject to Works, specification of the condition in which the local highway will be returned post occupation.

“Detailed Local Operating Agreement” means the agreement agreed pursuant to paragraph 32 of this Part;

“Final Certificate” means a final certificate to be issued by the local highway authority when the provisions of paragraph 49 of this Part have been met;

“local highway” means any public, vehicular highway which vests or is intended at the completion of works to vest in or be otherwise maintainable by the local highway authority;

“local highway authority” means Somerset County Council;

“Non-standard Highway Assets” means highway assets which the local highway authority will become responsible for maintaining and which incur maintenance costs beyond the normal costs of maintaining the public highway having regard to the lists of standard and non-standard assets set out in paragraph 45(2) of this Part of this Schedule.

“Other Detailed Information” means:

- (q) a schedule of timings for the Works, including dates and durations for any closures of any part of the local highway;
- (r) traffic management proposals including any diversionary routes and a Detailed Local Operating Agreement;
- (s) a schedule of condition of the affected local highway within the order limits; and
- (t) where the local highway is occupied under this Order in connection with any Works but is not itself subject to Works, a specification of the condition in which the local highway will be returned post occupation.

“Provisional Certificate” means a certificate issued by the local highway authority to certify that the Works to which the certificate relates have been completed in accordance with this Part and are available for use by the public;

“Works” in this Part of this schedule means any works authorised by this Order undertaken on, to or under any local highway.

31. Before commencing the construction of, or the carrying out of any work authorised by this Order which involves interference with a local highway (including interference with the use by the public of a local highway and temporary or permanent stopping up of any part of a local highway), the undertaker must provide to the local highway authority the Detailed Information relating to the interference, and the Works must not be carried out except in accordance with the Detailed Information submitted to the local highway authority or as otherwise agreed between the undertaker and the local highway authority provided always that it will be the decision of the undertaker whether it implements the views of the local highway authority and for the avoidance of doubt any such view will not be an instruction, requirement or authorisation under this Order.

32.—(1) Before commencing the construction of, or the carrying out of any work authorised by this Order which involves interference with a local highway (including interference with the use

by the public of a local highway and temporary or permanent stopping up of any part of a local highway), the undertaker must agree with the local highway authority a Detailed Local Operating Agreement covering the following:

- (a) Communications and Customer Care: communication with stakeholders and identification of which party is responsible for each activity;
- (b) Operational Areas – Scheme Operational Areas: definitions and scheme extents for the works areas, zone of influence and Free Recovery Area;
- (c) Asset Handover: describing the scheme existing assets and activities to be undertaken to enable commencement and completion of Works, and the party responsible for each;
- (d) Asset Inspection;
- (e) Routine Maintenance and Repair;
- (f) Winter Maintenance and Severe Weather;
- (g) Continuity of Technology;
- (h) Occupancy Management;
- (i) Incidents;
- (j) Traffic Management: provides the key activities to be undertaken with regard to the design, installation, maintenance and removal of Traffic Management; and
- (k) Claims made by and against the undertaker.

(2) Any agreement completed under sub-paragraph (1) must continue in force until the completion of the Works or the removal of the undertaker from all local highways, whichever is the earlier.

(3) Where agreement cannot be reached under sub-paragraph (1), the terms of the detailed local operating agreement will be resolved by arbitration under article 45 (arbitration).

33.—(1) Before commencing the construction of, or the carrying out of any Works the undertaker must provide to the local highway authority the Design Detailing and the Other Detailed Information;

(2) The undertaker must not commence construction of the Works to which the Design Detailing relates until approval has been given by the local highway authority to the Other Detailed Information;

(3) The Works must not be constructed except in accordance with the Design Detailing and Other Detailed Information as may be approved in writing by the local highway authority or as otherwise agreed in writing between the undertaker and the local highway authority.

34. The undertaker will allow and facilitate an appropriately qualified officer of the local highway authority to participate in the design process for the detailed design of those parts of the authorised development which are local highway, and will have reasonable regard to any views of that officer in finalising the detailed design prior to any element reaching design fix or freeze; provided always that it will be the decision of the undertaker whether it implements such views and for the avoidance of doubt any such view shared by the officer will not be an instruction, requirement or authorisation under this Order.

35.—(1) Participation under sub-paragraph (1) will be in the form of invitations to attend design meetings not less than once per calendar month and the provision to the local highway authority of such drawings, cross sections and design proposals as are required to allow the local highway authority to provide views on detailed design proposals to the undertaker.

(2) Any participation by the local highway authority (or its appropriately qualified officer) in accordance with this paragraph will be at the cost of the local highway authority

36.—(1) Any officer of the local highway authority duly appointed for the purpose may at all reasonable times, subject to any necessary and reasonable health and safety restrictions imposed by the undertaker, enter upon and inspect any part of the authorised development which—

- (a) is in, over, under or adjacent to any local highway, or

- (b) which may affect any local highway or any property of the local highway authority, during the carrying out of the Works, and the undertaker must give to such officer all reasonable facilities for such inspection.

(2) The testing of materials used in any Works affecting local highways must be carried out at the expense of the undertaker in accordance with Manual of Contract Documents for Highway Works Appendix 1/5 (Specification for Highway Works). The local highway authority must receive copies of all test certificates and results which have been requested by it in writing as soon as reasonably practicable. Notwithstanding the foregoing, the local highway authority has full power to test all or any materials used or proposed to be used in any work to the local highway at its own expense and the undertaker must provide such information and materials as is reasonably necessary to facilitate such testing.

(3) The undertaker must not alter, disturb or in any way interfere with any property of the local highway authority on or under any local highway, or the access thereto (except to the extent authorised under the powers conferred by this Order), without the prior written consent of the local highway authority.

37.—(1) The undertaker must procure that an appropriately qualified safety auditor undertakes road safety audit stages 3 and 4 on the Works including any Works to local highways in accordance with DMRB Volume 5 Section 2 Part 2 (GG 119) or any replacement or modification of that standard and must provide copies of the reports of such audits to the local highway authority as soon as practicable.

(2) The local highway authority must be invited to participate in the stage 2, 3 and stage 4 road safety audits conducted under sub-paragraph (1).

(3) Where the report of the stage 3 road safety audit identifies any recommended works to the local highway, the undertaker must use reasonable endeavours to agree with the local highway authority which works or alternative proposals require to be implemented, provided that no works may be implemented which would give rise to any new or materially different adverse effects from those identified in the Environmental Statement.

(4) Where the report of the stage 4 road safety audit identifies any recommended works to the local highway, the undertaker must use reasonable endeavours to agree with the local highway authority which works or alternative proposals require to be implemented.

(5) Any works which the undertaker considers require to be carried out to the local highway in accordance with the report of the stage 3 or stage 4 road safety audit, which works may not give rise to any new or materially different adverse effects from those identified in the Environmental Statement, must be undertaken by and at the expense of the undertaker to the reasonable satisfaction of the local highway authority.

(6) Where either the stage 3 or stage 4 road safety audit identifies works which would give rise to any new or materially different adverse effects from those identified in the Environmental Statement, the undertaker must make a subsequent application to the Secretary of State and must follow the procedure set out in Regulations 22 to 25 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 to seek to permit the carrying out of the identified works.

(7) In the event that the Secretary of State grants consent for the subsequent application the approved works must be undertaken by the undertaker prior to the completion of works under this Order and prior to any local highway being transferred or returned to the control of the local highway authority. The undertaker must use reasonable endeavours to agree with the local highway authority a programme for any works to be carried out under sub-paragraphs (5) and (7), which programme must include timing of any closures of any part of the highway, traffic management arrangements, signage and diversion routes where required.

(8) The carrying out of works under sub-paragraphs (5) and (7) are works under this Order.

(9) Where agreement cannot be reached under this paragraph, the terms of the Detailed Local Operating Agreement will be resolved by arbitration under article 45 (arbitration).

38. Provision must be made in accordance with the local highway authority's reasonable requirements at the site of the Works to prevent mud and other materials from being carried on to

the adjacent highway by vehicles and plant. The operational highway in the vicinity of the site of the Works is to be swept as required to ensure its safe use as a public highway.

39. The undertaker must not, except with the consent of the local highway authority, erect or retain on or over a local highway to which the public continues to have access any scaffolding or other structure which obstructs the local highway.

40. Except in an emergency or where necessary to secure the safety of the public, no direction or instruction may be given by the local highway authority to the contractors, servants or agents of the undertaker regarding any highway operations without the prior consent in writing of the undertaker.

41. In exercising the powers conferred by the Order in relation to any local highway the undertaker must have regard to the potential disruption of traffic which may be caused, seek to minimise such disruption so far as is reasonably practicable and must at no time prevent or unreasonably impede access by emergency service vehicles to any property.

42. The undertaker must, if reasonably required by the local highway authority, provide and maintain during such time as the undertaker may occupy any part of a local highway for the purpose of the construction of any part of the authorised development, temporary ramps for vehicular or pedestrian traffic, or both, and any other traffic measures required to protect the safety of road traffic.

43.—(1) If reasonably requested by the local highway authority, the undertaker must execute and complete a transfer to the local highway authority of any land and rights within the local highway compulsorily acquired by the undertaker pursuant to articles 23 and 26 of the Order for the construction, operation and maintenance of the local highway or to facilitate it, or as is incidental to it, at nil consideration PROVIDED THAT the undertaker has completed all necessary works within the local highway for which that land and rights were compulsorily acquired.

(2) Paragraph (1) above does not apply in relation to any land within the local highway compulsorily acquired by the undertaker that has been or is proposed to be permanently stopped up and rights extinguished pursuant to article 16 of the Order.

44.—(1) Where the undertaker carries out any Works to any local highway it must make good any defects in those Works notified to it by the local highway authority within the period of 52 weeks after the date of the completion of the Works to that area of local highway to the reasonable satisfaction of the local highway authority.

(2) The carrying out of any remedial works required under sub-paragraph (1) are works under this Order.

(3) The carrying out of any remedial works required under sub-paragraph (1) requires the submission of such items of Detailed Information to the local highway authority as the undertaker deems to be reasonable in the circumstances but always including a description of the works to be carried out, a schedule of timings for the works, including dates and durations for any closures of any part of the local highway and traffic management proposals.

45.—(1) The Works must all be completed on a single date, which date will be notified by the undertaker to the local highway authority in writing. The completion of Works for the purposes of paragraph 43 of this Schedule will be the date notified under this paragraph.

(2) Prior to the completion of the Works, the undertaker must invite the local highway authority to participate in inspection of the Works to identify any defects or incomplete works. Any defects must be rectified and any incomplete works carried out prior to any notice of completion being issued under sub-paragraph (1).

46. The undertaker will hold the local highway authority harmless and indemnified from and against any liability, loss, cost or claim arising out of or incidental to the carrying out of the Works (other than those arising out of or in consequence of any negligent act, default or omission of the local highway authority) provided that no claim can be settled or liability accepted by the local highway authority without first obtaining the written approval of the undertaker, such approval not to be unreasonably withheld or delayed.

47. When the undertaker considers that the Works have reached completion (which must include the carrying out of a Stage 3 safety audit in accordance with GG19 of DMRB and the completion of works resulting the audit and in the case of those Works not subject to a safety audit the inspection of the works by the local highway authority and the completion of any further works required to address any safety deficiencies or defects) it must notify the local highway authority and must allow the local highway authority the opportunity to inspect the Works and the undertaker must give proper consideration to any representations that are made by the local highway authority.

48. Following completion of any Works necessary following proper consideration of the representations of the local highway authority and in accordance with this Part the local highway authority must issue the Provisional Certificate to the undertaker.

49. No earlier than 52 weeks from the date of issue of the Provisional Certificate and provided that:

- (a) all identified defects requiring remediation have been completed such that the local highway authority consider the Final Certificate may be properly issued;
- (b) a Stage 4 safety audit has been carried out (if such Stage 4 safety audit is required in accordance with GG19 of DMRB in connection with the Works), and following proper consideration of the representations of the local highway authority, any additional works, alterations or amendments to the Works as a result of the Stage 4 safety audit are to be completed to the reasonable satisfaction of the local highway authority;
- (c) the undertaker has given the local highway authority an opportunity to inspect the Works and has given proper consideration to any representations that are made by the local highway authority;
- (d) the undertaker has paid to the local highway authority any Commuted Sum due in relation to the local highway to which the Provisional Certificate relates;
- (e) the undertaker has provided the local highway authority with such detailed information as the local highway authority may reasonably require in relation to the Works as built; and
- (f) all costs charges, expenses payable to the local highway authority pursuant to this Part have been paid

50. The local highway authority must issue the Final Certificate.

51. The undertaker must indemnify the local highway authority in respect of all costs, charges and expenses which the local highway authority may reasonably incur, have to pay or sustain—

- (a) in the examination or approval of the Other Detailed Information under this Part; and
- (b) in inspecting the construction of the Works including any works required by the local highway authority under this Part; and
- (c) in carrying out any surveys by the local highway authority which are reasonably required in connection with the construction of the Works;
- (d) in the transfer pursuant to paragraph 43 to the local highway authority of the land and rights acquired by the undertaker.

52.—(1) The undertaker must, within 3 months of the date of approval of plans showing the limits of responsibility for the operational maintenance of the Works under requirement 13, prepare a list of assets not previously forming part of the local highway for which the local highway authority will be responsible for maintenance following completion of the Works.

(2) The undertaker must use reasonable endeavours to agree a schedule of items on the list agreed under sub-paragraph (1) which are Non-standard Highway Assets having regard to the following:

- (a) Standard highway assets include:
 - (i) Carriageways surfaced in concrete asphaltic materials (non-pigmented binder and non-coloured aggregates).

- (ii) Carriageways in shared surface roads, courtyards and housing squares surfaced in 200mm x 100mm x 80mm rectangular concrete block paving (optional).
- (iii) Footway surfaced in concrete asphaltic materials (non-pigmented binder or coloured aggregates).
- (iv) Footways adjacent to block paved carriageways also surfaced in 200mm x 100mm x 65mm thick concrete block paving (optional).
- (v) Cycleways surfaced in concrete asphaltic materials (red pigmented binders and/or aggregates).
- (vi) Pre-cast concrete kerbing.
- (vii) Gully drainage, connection pipes and gravity draining highway carrier drains.
- (viii) Galvanised pedestrian guard railing.
- (ix) Standard highway lighting layouts, columns and lanterns.
- (x) Standard illuminated and non-illuminated highway signs.
- (xi) Passively safe sign posts where required for road safety.
- (xii) Bollards and markers posts manufactured from plastic derivatives or recycled plastic/rubber.
- (xiii) Road markings.
- (xiv) Grass verges.
- (b) Non-Standard Highway Assets include:
 - (i) Any culvert, bridge, retaining wall or other structure
 - (ii) Special features such as noise fencing, vehicle restraint barriers, pedestrian guard railing, knee rails and fences, gates
 - (iii) Landscaping features such as planting, trees, hedging
 - (iv) Sustainable Drainage Systems (“SuDS”) or non-standard highway drainage features such as:
 - (aa) Flow control devices and attenuation storage
 - (bb) SuDS including maintenance of any landscaping
 - (cc) Oil or petrol interceptors including the disposal of contaminated waste
 - (dd) Pumping stations and their energy charges
 - (ee) Watercourses and swales

(3) Where the schedule prepared under paragraph (2) cannot be agreed, the determination of the schedule will be referred to arbitration under article 45 (arbitration).

(4) Following agreement of the schedule under sub-paragraph (2) or determination under sub-paragraph (3), the local highway authority must prepare a calculation of the Commuted Sum based on the maintenance the local highway authority considers to be required for the schedule of Non-Standard Highway Assets agreed under sub-paragraph (2) or determined under sub-paragraph (3) and must use reasonable endeavours to agree it with the undertaker.

(5) The undertaker must be provided with a complete breakdown of the calculation of the Commuted Sum by the local highway authority under sub-paragraph (4) including any assumptions used.

(6) Where the calculation prepared under sub-paragraph (4) cannot be agreed, the determination of the Commuted Sum will be referred to arbitration under article 45 (arbitration)

(7) The undertaker must pay the Commuted Sum to the local highway authority in one instalment within 10 working days of the later of:

- (a) The date of completion of the authorised development; or
- (b) The date of agreement of the value of the Commuted Sum under sub-paragraph (4) or determination under sub-paragraph (6).

53. Nothing in this Part of this Schedule prevents the local highway authority from carrying out any work or taking such action as deemed appropriate forthwith without prior notice to the undertaker in the event of an emergency or danger to the public.

54. Any difference arising between the undertaker and the local highway authority under this Part of this Schedule (other than in difference as to the meaning or construction of this Part of this Schedule) will be resolved by arbitration under article 45 (arbitration).

PART 5

FOR THE PROTECTION OF THE LOCAL HIGHWAY AUTHORITY REGARDING NON- VEHICULAR HIGHWAYS

55. The provisions of this Part of this Schedule have effect unless otherwise agreed in writing between the undertaker and the local highway authority.

56. In this Part of this Schedule—

57. “Design Detailing” means any part of the authorised development approved by the Secretary of State pursuant to Requirement 13 of Schedule 2.

58. “Detailed Information” means the following drawings, specifications and other information relating to the local highway, which must be in accordance with the Design Detailing:

- (a) The rights of way and access plans;
- (b) The schedule of widths and limitations, including details of any gates and stiles;
- (c) Details of surfacing, kerbs and drainage; and
- (d) Details of any signage to be altered or erected.

59. “local highway” means any public, non-vehicular highway which vests or is intended at the completion of works to vest in or be otherwise maintainable by the local highway authority being footpaths, footways, cycleways and bridleways.

60. Before commencing the construction of, or the carrying out of any work authorised by this Order which involves interference with a local highway (including interference with the use by the public of a local highway and temporary or permanent stopping up of any part of a local highway), the undertaker must provide to the local highway authority the Detailed Information relating to the interference, and the Works must not be carried out except in accordance with the Detailed Information submitted to the local highway authority or as otherwise agreed between the undertaker and the local highway authority.

61. Any officer of the local highway authority duly appointed for the purpose may at all reasonable times, subject to any necessary and reasonable health and safety restrictions imposed by the undertaker, enter upon and inspect any part of the authorised development which is in, over or under any local highway, or which may affect any local highway or any property of the local highway authority, during the carrying out of the Works, and the undertaker must give to such officer all reasonable facilities for such inspection.

62. The testing of materials used in any Works affecting local highways must be carried out at the expense of the undertaker in accordance with Manual of Contract Documents for Highway Works Appendix 1/5 (Specification for Highway Works). The local highway authority must receive copies of all test certificates and results which have been requested by it in writing as soon as reasonably practicable. Notwithstanding the foregoing, the local highway authority have full power to test all or any materials used or proposed to be used in any work to the local highway at its own expense and the undertaker must provide such information and materials as is reasonably necessary to facilitate such testing.

63.—(1) Where the undertaker carries out any Works to any local highway it must make good any defects in those Works notified to it by the local highway authority within the period of 52

weeks after the date of the completion of the Works to that area of local highway to the reasonable satisfaction of the local highway authority.

(2) The carrying out of any remedial works required under sub-paragraph (1) are Works under this Order.

(3) The carrying out of any remedial works required under sub-paragraph (1) requires the submission of such items of Detailed Information to the local highway authority as the undertaker deems to be reasonable in the circumstances but always including a description of the works to be carried out, a schedule of timings for the works, including dates and durations for any closures of any part of the local highway and traffic management proposals.

64. The undertaker must notify the local highway authority of the date of the completion of the works to any area of local highway within 5 working days of such completion.

65. The undertaker will hold the local highway authority harmless and indemnified from and against any liability, loss, cost or claim arising out of or incidental to the carrying out of the Works (other than those arising out of or in consequence of any negligent act, default or omission of the local highway Authority) provided that no claim can be settled or liability accepted by the local highway authority without first obtaining the written approval of the undertaker, such approval not to be unreasonably withheld or delayed.

66. The undertaker must indemnify the local highway authority in respect of all costs, charges and expenses which the local highway authority may reasonably incur, have to pay or sustain

- (a) in inspecting the construction of the Works including any works required by the local highway authority under this Part;
- (b) in carrying out any surveys by the local highway authority which are reasonably required in connection with the construction of the Works.

67. Nothing in this Part of this Schedule prevents the local highway authority from carrying out any work or taking such action as deemed appropriate forthwith without prior notice to the undertaker in the event of an emergency or danger to the public.

68. Any difference arising between the undertaker and the local highway authority under this Part of this Schedule (other than in difference as to the meaning or construction of this Part of this Schedule) will be resolved by arbitration under article 45 (arbitration).

SCHEDULE 9

Article 43

DOCUMENTS TO BE CERTIFIED

The reference to a document in the table with a numbered regulation is a reference to the regulation as numbered in the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009

PART 1

CLASSIFICATION OF ROADS PLANS

<i>(1)</i> <i>Title</i>	<i>(2)</i> <i>Drawing number</i>	<i>(3)</i> <i>Revision</i>
Classification of Roads Plan Regulation 5(2)(o) Key Plan	HE5510507-MMSJV-LSI-000-DR-UU-2071	C02
Classification of Roads Plan Regulation 5(2)(o) Sheet 1 of 4	HE5510507-MMSJV-LSI-000-DR-UU-2072	C02
Classification of Roads Plan Regulation 5(2)(o) Sheet 2 of 4	HE5510507-MMSJV-LSI-000-DR-UU-2073	C02

Classification of Roads Plan Regulation 5(2)(o) Sheet 3 of 4	HE5510507-MMSJV-LSI-000-DR-UU-2074	C02
Classification of Roads Plan Regulation 5(2)(o) Sheet 4 of 4	HE5510507-MMSJV-LSI-000-DR-UU-2075	C02

PART 2

DETRUNKING PLANS

<i>(1)</i> <i>Title</i>	<i>(2)</i> <i>Drawing number</i>	<i>(3)</i> <i>Revision</i>
De-trunking works Key Plan	HE5510507-MMSJV-LSI-000-DR-UU-2061	C02
De-trunking works Sheet 1 of 3	HE5510507-MMSJV-LSI-000-DR-UU-2062	C01
De-trunking works Sheet 2 of 3	HE5510507-MMSJV-LSI-000-DR-UU-2063	C02
De-trunking works Sheet 3 of 3	HE5510507-MMSJV-LSI-000-DR-UU-2064	C02

PART 3

THE ENGINEERING SECTIONS

<i>(1)</i> <i>Title</i>	<i>(2)</i> <i>Drawing number</i>	<i>(3)</i> <i>Revision</i>
Engineering Sections Mainline Sheet 1	HE5510507-MMSJV-LSI-000-DR-UU-2171	C01
Engineering Sections Mainline Sheet 2	HE5510507-MMSJV-LSI-000-DR-UU-2172	C01
Engineering Sections Slip Roads	HE5510507-MMSJV-LSI-000-DR-UU-2173	C01
Engineering Sections Structures	HE5510507-MMSJV-LSI-000-DR-UU-2174	C01
Engineering Sections Bunds And False Cuttings	HE5510507-MMSJV-LSI-000-DR-UU-2175	C02
Engineering Sections Local Roads Sheet 1	HE5510507-MMSJV-LSI-000-DR-UU-2176	C01
Engineering Sections Local Roads Sheet 2	HE5510507-MMSJV-LSI-000-DR-UU-2177	C01
Engineering Sections Multiple Use Tracks Sheet 1	HE5510507-MMSJV-LSI-000-DR-UU-2178	C03
Engineering Sections Multiple Use Tracks Sheet 2	HE5510507-MMSJV-LSI-000-DR-UU-2179	C02
Engineering Sections Roundabouts	HE5510507-MMSJV-LSI-000-DR-UU-2180	C01
Engineering Sections Retention Of Existing Roads	HE5510507-MMSJV-LSI-000-DR-UU-2181	C02
Engineering Sections Ponds Sheet 1	HE5510507-MMSJV-LSI-000-DR-UU-2182	C01
Engineering Sections Ponds Sheet 2	HE5510507-MMSJV-LSI-000-DR-UU-2183	C01
Engineering Sections Ponds Sheet 3	HE5510507-MMSJV-LSI-000-DR-UU-2184	C01
Engineering Sections Bunds And False Cuttings Cross Sections Sheet 1	HE5510507-MMSJV-LSI-000-DR-UU-2185	C01

Engineering Sections Bunds And False Cuttings Cross Sections Sheet 2	HE5510507-MMSJV-LSI-000-DR-UU-2186	C01
Engineering Sections Bunds And False Cuttings Cross Sections Sheet 3	HE5510507-MMSJV-LSI-000-DR-UU-2187	C02
Engineering Sections Bunds And False Cuttings Cross Sections Sheet 4	HE5510507-MMSJV-LSI-000-DR-UU-2188	C02
Engineering Sections Bunds And False Cuttings Cross Sections Sheet 5	HE5510507-MMSJV-LSI-000-DR-UU-2189	C02

PART 4

THE ENVIRONMENTAL STATEMENT

<i>(1)</i> <i>Title</i>		<i>(2)</i> <i>Document reference</i>
The Environmental Statement (subject to the amendments set out below)		6.1
The Appendices and Figures accompanying the Environmental Statement (subject to the amendments set out below)		6.3
The Environmental Statement Non-Technical Summary (Revision B)		6.4
The Environmental Statement – Statement of Statutory Nuisances		6.5
The Environmental Statement – Habitats Regulations Assessment of No Significant Effects Report		6.6
The Environmental Statement – Outline Environmental Management Plan (Revision B)		6.7
The Environmental Statement Addendum and accompanying Appendices		6.8
The Environmental Statement Outline Heritage Written Scheme of Investigation (Revision A)		6.9
The Environmental Statement Table of Errata (Revision C)		9.2
Environmental Statement Addendum Appendix B Figure A2.4 Environmental Masterplan consisting of:		
(1) Title	(2) Drawing number	
Environmental Masterplan Sheet 1 of 7	HE551507-MMSJV-ELS-000-DR-LL-0129	
Environmental Masterplan Sheet 2 of 7	HE551507-MMSJV-ELS-000-DR-LL-0130	
Environmental Masterplan Sheet 3 of 7	HE551507-MMSJV-ELS-000-DR-LL-0131	
Environmental Masterplan Sheet 4 of 7	HE551507-MMSJV-ELS-000-DR-LL-0133	
Environmental Masterplan Sheet 5 of 7	HE551507-MMSJV-ELS-000-DR-LL-0134	
Environmental Masterplan Sheet 6 of 7	HE551507-MMSJV-ELS-000-DR-LL-0136	
Environmental Masterplan Sheet 7 of 7	HE551507-MMSJV-ELS-000-DR-LL-0137	

PART 5
GENERAL ARRANGEMENT PLANS

<i>(1)</i> <i>Title</i>	<i>(2)</i> <i>Drawing number</i>	<i>(3)</i> <i>Revision</i>
General Arrangement Plans Regulation 5(2)(o) Key Plan	HE5510507-MMSJV-LSI-000-DR-UU-2061	C02
General Arrangement Plans Sheet 1 of 7	HE5510507-MMSJV-LSI-000-DR-UU-2062	C01
General Arrangement Plans Sheet 2 of 7	HE5510507-MMSJV-LSI-000-DR-UU-2063	C02
General Arrangement Plans Sheet 3 of 7	HE5510507-MMSJV-LSI-000-DR-UU-2064	C02
General Arrangement Plans Sheet 4 of 7	HE5510507-MMSJV-LSI-000-DR-UU-2065	C02
General Arrangement Plans Sheet 5 of 7	HE5510507-MMSJV-LSI-000-DR-UU-2066	C03
General Arrangement Plans Sheet 6 of 7	HE5510507-MMSJV-LSI-000-DR-UU-2067	C02
General Arrangement Plans Sheet 7 of 7	HE5510507-MMSJV-LSI-000-DR-UU-2068	C02

PART 6
LAND PLANS

<i>(1)</i> <i>Title</i>	<i>(2)</i> <i>Drawing number</i>	<i>(3)</i> <i>Revision</i>
Land Plans Regulation 5(2)(i) Key Plan	HE5510507-MMSJV-LSI-000-DR-UU-2016	C05
Land Plans Regulation 5(2)(i) Plan 1 of 10	HE5510507-MMSJV-LSI-000-DR-UU-2017	C05
Land Plans Regulation 5(2)(i) Plan 2 of 10	HE5510507-MMSJV-LSI-000-DR-UU-2018	C05
Land Plans Regulation 5(2)(i) Plan 3 of 10	HE5510507-MMSJV-LSI-000-DR-UU-2019	C05
Land Plans Regulation 5(2)(i) Plan 4 of 10	HE5510507-MMSJV-LSI-000-DR-UU-2020	C05
Land Plans Regulation 5(2)(i) Plan 5 of 10	HE5510507-MMSJV-LSI-000-DR-UU-2021	C05
Land Plans Regulation 5(2)(i) Plan 6 of 10	HE5510507-MMSJV-LSI-000-DR-UU-2022	C05
Land Plans Regulation 5(2)(i) Plan 7 of 10	HE5510507-MMSJV-LSI-000-DR-UU-2023	C05
Land Plans Regulation 5(2)(i) Plan 8 of 10	HE5510507-MMSJV-LSI-000-DR-UU-2024	C05
Land Plans Regulation 5(2)(i) Plan 9 of 10	HE5510507-MMSJV-LSI-000-DR-UU-2025	C05
Land Plans Regulation 5(2)(i) Plan 10 of 10	HE5510507-MMSJV-LSI-000-DR-UU-2026	C05

PART 7
PERMANENT SPEED LIMITS PLANS

<i>(1)</i> <i>Title</i>	<i>(2)</i> <i>Drawing number</i>	<i>(3)</i> <i>Revision</i>
Permanent Speed Limit Order Plans Regulation 5(2)(o) Key Plan	HE5510507-MMSJV-LSI-000-DR-UU-2051	C02
Permanent Speed Limit Order Plans Regulation 5(2)(o) Sheet 1 of 4	HE5510507-MMSJV-LSI-000-DR-UU-2052	C02
Permanent Speed Limit Order Plans Regulation 5(2)(o) Sheet 1 of 4	HE5510507-MMSJV-LSI-000-DR-UU-2053	C02
Permanent Speed Limit Order Plans Regulation 5(2)(o) Sheet 1 of 4	HE5510507-MMSJV-LSI-000-DR-UU-2054	C02
Permanent Speed Limit Order Plans Regulation 5(2)(o) Sheet 1 of 4	HE5510507-MMSJV-LSI-000-DR-UU-2055	C02

PART 8
RIGHTS OF WAY AND ACCESS PLANS

<i>(1)</i> <i>Title</i>	<i>(2)</i> <i>Drawing number</i>	<i>(3)</i> <i>Revision</i>
Rights of way and Access Plans Regulation 52(2)(k) and 5(2)(o) Key Plan	HE5510507-MMSJV-LSI-000-DR-UU-2041	C03
Rights of way and Access Plans Regulation 52(2)(k) and 5(2)(o) Sheet 1 of 4	HE5510507-MMSJV-LSI-000-DR-UU-2042	C05
Rights of way and Access Plans Regulation 52(2)(k) and 5(2)(o) Sheet 2 of 4	HE5510507-MMSJV-LSI-000-DR-UU-2043	C04
Rights of way and Access Plans Regulation 52(2)(k) and 5(2)(o) Sheet 3 of 4	HE5510507-MMSJV-LSI-000-DR-UU-2044	C06
Rights of way and Access Plans Regulation 52(2)(k) and 5(2)(o) Sheet 4 of 4	HE5510507-MMSJV-LSI-000-DR-UU-2045	C04

PART 9
TRAFFIC REGULATION MEASURE PLANS

<i>(1)</i> <i>Title</i>	<i>(2)</i> <i>Drawing number</i>	<i>(3)</i> <i>Revision</i>
Traffic Regulation Measures Plan Regulation 5(2)(o) Key Plan	HE5510507-MMSJV-LSI-000-DR-UU-2101	C02
Traffic Regulation Measures Plan	HE5510507-MMSJV-LSI-000-DR-UU-2102	C02

Regulation 5(2)(o) Sheet 1 of 4		
Traffic Regulation Measures Plan Regulation 5(2)(o) Sheet 2 of 4	HE5510507-MMSJV-LSI-000-DR-UU-2103	C02
Traffic Regulation Measures Plan Regulation 5(2)(o) Sheet 3 of 4	HE5510507-MMSJV-LSI-000-DR-UU-2104	C02
Traffic Regulation Measures Plan Regulation 5(2)(o) Sheet 4 of 4	HE5510507-MMSJV-LSI-000-DR-UU-2105	C02

PART 10

WORKS PLANS

<i>(1)</i> <i>Title</i>	<i>(2)</i> <i>Drawing number</i>	<i>(3)</i> <i>Revision</i>
Works Plans Regulation 52(2)(j) Key Plan	HE5510507-MMSJV-LSI-000-DR-UU-2031	C03
Works Plans Regulation 52(2)(j) Sheet 1 of 4	HE5510507-MMSJV-LSI-000-DR-UU-2032	C07
Works Plans Regulation 52(2)(j) Sheet 2 of 4	HE5510507-MMSJV-LSI-000-DR-UU-2033	C05
Works Plans Regulation 52(2)(j) Sheet 3 of 4	HE5510507-MMSJV-LSI-000-DR-UU-2034	C07
Works Plans Regulation 52(2)(j) Sheet 4 of 4	HE5510507-MMSJV-LSI-000-DR-UU-2035	C07

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises Highways England to construct the A303 Sparkford to Ilchester Dualling and carry out all associated works.

The Order permits Highways England 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 authorised development.

A copy of the plans, engineering drawings and sections, book of reference and environmental statement mentioned in this Order and certified in accordance with article 43 (certification of plans, etc.) may be inspected free of charge during working hours at Highways England, Bridge House, 1 Walnut Tree Close, Guildford, Surrey GU1 4LZ.