



The Planning Inspectorate
Yr Arolygiaeth Gynllunio

The Planning Act 2008

A47 North Tuddenham to Easton Dualling

Examining Authority's Report
of Findings and Conclusions

and

Recommendation to the Secretary of State for
Transport

Examining Authority

Adrian Hunter BA (Hons), BTp, MRTPI

12 May 2022

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OVERVIEW

File Ref: TR010038

The Applicant is National Highways (NH).

The application was accepted for Examination on 12 April 2021.

The Examination of the application began on 12 August 2021 and was completed on 12 February 2022.

The Proposed Development comprises an offline alignment running parallel to the north and south of the existing A47, with a length of approximately 9 kilometre (km). The proposed route would pass to the south of Hockering and to the north of Honingham, before connecting into the existing A47 to the west of Easton. The development would include two grade separated junctions (Wood Lane junction and Norwich Road junction) and associated side road alterations with provision of walking, cycling and horse-riding connections along the length of the Proposed Development.

Summary of Recommendation:

The Examining Authority recommends that, subject to the Secretary of State satisfying themselves on the points set out in section 10.3 of this Report, the Secretary of State should make the Order in the form attached.

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1. INTRODUCTION

1.1. INTRODUCTION TO THE EXAMINATION

- 1.1.1. The application for A47 North Tuddenham to Easton (the Proposed Development) TR010038 was submitted to the Planning Inspectorate (PINS) on 12 March 2021 under section 37 of the Planning Act 2008 (PA2008) and accepted for Examination under section 55 of the PA2008 on 12 April 2021 [PD-001].
- 1.1.2. At the time that the application was submitted, the Applicant's name was Highways England. On 23 November 2021, Highways England wrote [REP5-001] to inform me that on 8 September 2021, they changed their name to National Highways. References to the Applicant in this Report in relation to actions in the past refer to Highways England and also National Highways. References to the Applicant in this report in relation to actions in the future refer to National Highways.
- 1.1.3. The location of the Proposed Development is shown in the Environmental Statement (ES) [APP-040 to App-133] and Land Plans, final updated versions of which were received at Deadline 5 (D5) [REP5-002]. The site is wholly in England and lies in the administrative areas of Breckland Council (BC), Broadland District Council (BDC), South Norfolk Council (SNC) and Norfolk County Council (NCC).
- 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 Housing, Communities and Local Government (SoSHCLG¹) in its decision to accept the application for Examination in accordance with section 55 of PA2008 [PD-001].
- 1.1.5. In September 2021, HCLG, was renamed the Department for Levelling Up, Housing and Communities (DLUHC). References in this report to DLHUC, therefore import references to previous incarnations of the SoS and department.
- 1.1.6. On this basis, PINS agreed with the Applicant's view stated in the Application Form [APP-001] that the Proposed Development is an NSIP as it would comprise;
- the alteration of a highway which is located wholly within England;
 - the Applicant, as strategic highways company, would be the highway authority; the area of the development exceeds 12.5 hectares (ha); and
 - the speed limit would be in excess of 50mph [APP-001].
- 1.1.7. The Proposed Development therefore meets the definition of an NSIP set out in s14(1)(h) and 22(1)(b) of PA2008. As such, it therefore requires development consent in accordance with s31 of PA2008.

¹ Now the Department for Levelling Up, Housing and Communities

1.2. APPOINTMENT OF THE EXAMINING AUTHORITY

- 1.2.1. On 18 June 2021, I, Adrian Hunter, was appointed as the Examining Authority (ExA) for the application under s78 and s79 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) proposals made as part of the application and objected to it at any stage in the Examination.

1.4. THE EXAMINATION AND PROCEDURAL DECISIONS

- 1.4.1. The Examination began on Thursday 12 August 2021 and concluded on 12 February 2022.
- 1.4.2. Due to the public health situation arising from Covid-19 that existed throughout the Examination period, all hearings were conducted virtually.
- 1.4.3. The principal components of and events around the Examination are summarised below.

The Preliminary Meeting

- 1.4.4. On 6 July 2021, I wrote to all IPs, Statutory Parties and Other Persons under Rule 6 of the Infrastructure Planning (Examination Procedure) Rules 2010 (EPR) (The Rule 6 Letter) inviting them to the Preliminary Meeting (PM) [PD-005], outlining:
- the arrangements and agenda for the PM;
 - an Initial Assessment of the Principal Issues (IAPI);
 - the draft Examination Timetable;
 - availability of RRs and application documents; and
 - my procedural decisions.
- 1.4.5. As a result of the public health situation arising from Covid-19, the PM was undertaken virtually with participants able to join via computer, tablet or smart phone or aurally using a telephone. The PM was also livestreamed so that those who wished to observe could also do so. To ensure all those who wished to participate could, the PM was split into a Part 1 and Part 2.

- 1.4.6. Part 1 of the PM took place on Tuesday 3 August 2021. An audio recording [EV-002] and a note of the meeting [EV-004] were published on the Planning Inspectorate National Infrastructure website².
- 1.4.7. Following the adjournment of PM Part 1, I considered all information submitted to me at Procedural Deadline B (9 August 2021). It became apparent that no matters were in substantial contention, so I decided to conduct PM Part 2 as a written process. The PM was closed following my consideration of all oral submissions at Part 1 plus all written submissions to Procedural Deadlines A and B, on 12 August 2021.
- 1.4.8. My procedural decisions and the Examination Timetable took full account of matters raised at the PM. They were provided in the Rule 8 Letter [PD-006], dated 12 August 2021.

Key Procedural Decisions

- 1.4.9. The procedural decisions set out in Annex F of my Rule 6 Letter [PD-005] related to matters that were confined to the procedure of the Examination and did not bear on my consideration of the planning merits of the Proposed Development. Further, they were complied with by the Applicant and relevant IPs. Following Part 1 of the PM, I made a number of further procedural decisions as set out in my Rule 8 Letter [PD-006]. These also related to matters of procedure.
- 1.4.10. These decisions can be obtained from both the Rule 6 Letter [PD-005] and the Rule 8 Letter [PD-006] and I therefore see no need to reiterate them here.
- 1.4.11. In addition, I made a number of other procedural decisions during the Examination including:
- the acceptance of the Applicant's proposed non-material changes to the application [PD-015] (for further information see Section 2.3); and
 - the acceptance of a number of additional (and/ or late) submissions.

Site Inspections

- 1.4.12. Site Inspections are held in PA2008 Examinations to ensure that the ExA has an adequate understanding of the Proposed Development within its site and surroundings and its physical and spatial effects.
- 1.4.13. Where the matters for inspection can be viewed from the public domain and there are no other considerations such as personal safety or the need for the identification of relevant features, an Unaccompanied Site Inspection (USI) is held. Where an inspection must be made on land requiring consent to access or there are requests made to accompany an inspection, an Accompanied Site Inspection (ASI) is held.

² <https://infrastructure.planninginspectorate.gov.uk/projects/eastern/a47-north-tuddenham-to-easton/?ipcsection=overview>

- 1.4.14. I undertook the following USIs:
- USI1 - 12 and 13 July 2021; and
 - USI2 - 10 and 11 October 2021.
- 1.4.15. The main purpose of these USIs was to allow me to become familiar with the site, its setting and the surrounding area. I took the opportunity to walk a number of the footpaths within the surrounding and wider area.
- 1.4.16. I published a site note providing a procedural record of each USI after each visit [EV-001 and EV-001a].
- 1.4.17. I undertook the following ASI:
- ASI1, 16 November 2021 [REP3-021]. This enabled me to visit a number of locations which are in private ownership, including Berry Hall Estate (BHE); the proposed location for the crossing of the River Tud; Poppy Wood; and land on the Easton Estate.
- 1.4.18. I have had regard to the information obtained during these site inspections in all relevant sections of this Report.

Hearings

- 1.4.19. Hearings may be held in order to respond to specific requests from persons who have a right to be heard or to address matters where the ExA considers that a hearing is necessary to enquire orally into matters under examination.
- 1.4.20. I held a number of hearings to ensure a thorough examination of the issues raised by the application. In response to the on-going public health situation arising from the Covid-19 Pandemic, all hearings were held virtually. Parties had the choice of participating by video using a computer, tablet or smart phone or aurally using a telephone. The hearings were hosted in Microsoft Teams. There were no significant technology issues that affected any of the hearings and all agenda items were covered. A written deadline was provided after each event and in resolving matters raised in the hearings, I have had regard to these written submissions.
- 1.4.21. I am satisfied that the virtual procedure accorded all persons with a right to be heard, or those invited to participate, with a reasonable opportunity to be heard on all matters.
- 1.4.22. Issue Specific Hearings (ISHs) were held on the subject matter of the draft DCO on:
- ISH1, Tuesday 2 November 2021 [EV-011];
 - ISH3, Thursday 6 January 2022 [EV-036].
- 1.4.23. Audio recordings of these hearings can be found under the following references:
- ISH1 – [EV-014 and EV-015]; and

- ISH3 – [EV-039].
- 1.4.24. Action notes for ISH1 can be found at [EV-033] and those for ISH3 at [EV-047].
- 1.4.25. ISHs on other subject matters were held on:
- ISH2, Thursday 4 and Friday 5 November 2021, matters covered included Design; Transport and Traffic; Biodiversity; Climate; Heritage; Population and Human Health; and Landscape and Visual [EV-013] ; and
 - ISH3, Thursday 6 January 2022, matters covered included Biodiversity; Climate; Heritage; Flooding; Geology and soils; Landscape and visual; Noise; Population and Human Health; and Transport [EV-036].
- 1.4.26. Audio recordings of these hearings can be found under the following references:
- ISH2 - [EV-022, EV-023, EV-024 and EV-024a] ; and
 - ISH3 – [EV-039, EV-040, EV-041 and EV-042].
- 1.4.27. Action notes for ISH2 can be found at [EV-033] and those for ISH3 at [EV-047].
- 1.4.28. Compulsory Acquisition Hearings (CAHs), under s92 of PA2008, were held on:
- CAH1, Wednesday 3 November 2021 am [EV-012] covered the Applicant's strategic case for CA and TP;
 - CAH2, Wednesday 3 November pm [EV-012] covered individual objections; and
 - CAH3, Wednesday 5 January 2022 [EV-035] covered individual objections and final ExA questions to the Applicant.
- 1.4.29. Audio recordings of these hearings can be found under the following references:
- CAH1 – [EV-018];
 - CAH2 – [EV-020]; and
 - CAH3 – [EV-037].
- 1.4.30. Action notes for CAH1 and CAH2 can be found at [EV-033].
- 1.4.31. All persons affected by CA and TP proposals (APs) were provided with an opportunity to be heard. CAH1 was also used to examine the Applicant's overall case and justification for CA and TP.
- 1.4.32. A virtual Open Floor Hearing (OFH) was held under s93 of PA2008 on the evening of Thursday 12 August 2021 [EV-007]. All IPs were provided with an opportunity to be heard on any important and relevant subject matter that they wished to raise. An audio recording of the event is available at [EV-008].

- 1.4.33. Within the Examination Timetable, provision was also made between 5-7 January 2022 for a further OFH, if required. I found it unnecessary to hold a further OFH, with matters being considered via ISH3 and CAH3.

Written Processes

- 1.4.34. 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 A) and published online. For this reason, this Report does not contain extensive summaries of all documents and representations, although full regard has been had to them in my conclusions. I have considered all important and relevant matters arising from them.
- 1.4.35. Key written sources are set out further below.

Relevant Representations

- 1.4.36. Eighty-four RRs were received by the PINS [RR-001 to RR-084]. All makers of RRs received the Rule 6 Letter and were provided with an opportunity to become involved in the Examination as IPs. I have fully considered all RRs and the issues they raise are considered throughout this Report.

Written Representations and Other Examination Documents

- 1.4.37. The Applicant and IPs were provided with opportunities to:
- make Written Representations (WRs) (D1);
 - comment on WRs made by the Applicant and other IPs (D2 and D3);
 - 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 the Report on the Implications for European Sites (RIES) [PD-014] published on 17 December 2021.
- 1.4.38. All WRs and other Examination documents have been fully considered. The issues that they raise are considered throughout this Report.

Local Impact Reports

- 1.4.39. 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 Examination under s60 PA2008.
- 1.4.40. LIRs have been received during the Examination from the following relevant Local Authorities (LA):
- Breckland Council [REP2-017]; and
 - Norfolk County Council [REP2-022].
- 1.4.41. The LIRs have been taken fully into account and the issues that they raise are considered throughout this Report.

Statements of Common Ground

- 1.4.42. A Statement of Common Ground (SoCG) is a statement agreed between the Applicant and one or more IPs, recording matters that are agreed between them.
- 1.4.43. By the end of the Examination, the following bodies had concluded SoCGs with the Applicant:
- Environment Agency (EA) [REP9-015];
 - Historic England (HistE) [REP9-017];
 - Breckland Council [REP9-021];
 - Broadland District Council [REP9-022];
 - South Norfolk Council [REP9-025];
 - Anglian Water (AW) [REP9-029]; and
 - Berry Hall Estate (BHE) [REP10-002];
- 1.4.44. The Applicant submitted an unsigned SoCG with NCC dated February 2022 [REP9-017]. Whilst it is described as 'final', it is not signed by either the Applicant or NCC.
- 1.4.45. I accord some weight to the unsigned SoCG insofar as it records factual matters. However, there were unresolved issues in relation to the transfer of assets and the need for Protective Provision between the Applicant and NCC at the end of the Examination. Those issues are considered further in Chapter 8.
- 1.4.46. The SoCGs (other than unsigned one referred to above) have been taken fully into account by the ExA and the issues that they raise are considered throughout this Report.

Written Questions

- 1.4.47. During the course of the Examination I asked three rounds of written questions;
- First written questions (ExQ1) [PD-007] were issued on 18 August 2021;
 - Second written questions (ExQ2) [PD-009] were issued on 7 October 2021; and
 - Third written questions (ExQ3) [PD-012] were issued on 30 November 2021.
- 1.4.48. A request for further information and comments under Rule 17 of the EPR was issued on 2 February 2022 [PD-015], regarding matters in relation to climate change.
- 1.4.49. All responses to the written questions have been fully considered and taken into account and the issues that they raise are considered throughout this Report.

Requests to Join and Leave the Examination

- 1.4.50. The following persons who were not already IPs requested that the ExA should enable them to join the Examination at or after the PM:
- Hazel (Tilly) Taylor [PD-010]; and
 - Mr Chris Curson [PD-011].
- 1.4.51. At D10, National Grid Gas plc wrote to confirm that following discussions and agreement of Protective Provisions (PP), they withdrew their objections [REP10-011].
- 1.4.52. At D10, a joint letter from the Applicant and Ørsted [REP10-007], confirmed that all outstanding matters had been resolved and that Ørsted had no objections in relation to the application.
- 1.4.53. Anglian Water made representations in relation to protective provision [REP-039]. By the end of the Examination, there remained three areas of disagreement between the parties. I have considered these in Chapter 8.
- 1.4.54. No persons wrote to the ExA 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. On 23 September 2019, the Applicant submitted a Scoping Report to the SoSHCLG (as was then) under Regulation 10 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations) in order to request an opinion as to the scope, and level of detail, of the information to be provided in the ES (a Scoping Opinion). It follows that the Applicant is deemed to have notified the SoS under Regulation 8(2)(b) of the EIA Regulations that it proposed to provide an ES in respect of the Proposed Development.
- 1.5.3. On 1 November 2019, PINS provided a Scoping Opinion [APP-136]. 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.
- 1.5.4. On 18 June 2021 the Applicant provided PINS with certificates confirming that s56 and s59 of PA2008 and Regulation 13 of the EIA Regulations had been complied with [OD-004 and OD-005].
- 1.5.5. I have addressed questions in relation to the adequacy of the ES in Chapters 4 and 5.

1.6. HABITATS REGULATIONS ASSESSMENT

- 1.6.1. The Proposed Development is development for which a Habitats Regulations Assessment Screening Report (HRA Report) has been provided.
- 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 6 of this Report.

1.7. UNDERTAKINGS, OBLIGATIONS AND AGREEMENTS

- 1.7.1. By the end of the Examination, the following bodies had entered into formal undertakings, obligations and / or agreements with the Applicant that are important and relevant considerations for the SoS:
- The Applicant has signed a standard agreement and agreed protective provisions with National Grid Gas Ltd [REP9-026]; and
 - Joint co-operation agreement was issued between the Applicant and Ørsted [REP10-007].
- 1.7.2. Anglian Water requested an agreement in relation to access from Gypsy Lane and Church Lane to their operation sites. At the end of the Examination, the Applicant's view was that such an agreement not required. I have considered this matter in Chapter 8.
- 1.7.3. These undertakings, obligations and / or agreements have been taken fully into account by the ExA in all relevant Chapters of this Report.
- 1.7.4. A number of private land agreements were referred to during the Examination between the Applicant and various parties, although by the close of the Examination, I was not aware of any of these being completed.

1.8. OTHER CONSENTS

- 1.8.1. The application documentation and questions during this Examination have identified the following consents that the Proposed Development has obtained or must obtain, in addition to Development Consent under PA2008. The latest position on these is recorded in the Applicant's Consents and Agreements Position Statement [REP8-010]. In summary they comprise:
- Natural England
 - European Protected Species Licence for Bats, Great Crested Newts (GCN), Water Voles and Badgers under The Conservation of Habitat and Species Regulations 2017 (the Habitats Regulations); Wildlife and Countryside Act 1981 (as amended).
 - Environment Agency
 - Diversion of watercourses under the Water Resources Act 1991;

- Flood Risk Activity Permit (temporary and permanent works affecting a main rivers under the Environmental Permitting (England and Wales) Regulations 2016 Act (as amended) and Flood and Water Management Act (2010);
 - Impoundment of water bodies under the Water Resources Act 1991;
 - Abstraction licence for construction dewatering under the Water Resources (Abstraction and Impounding) Regulations 2008 and Water Abstraction and Impounding (Exemptions) Regulations 2017) and Discharge of water from dewatering operations (Environmental Permitting (England and Wales) Regulations 2016, as amended);
 - Water discharge permit under the Water Resources (Abstraction and Impounding) Regulations 2008 and Water Abstraction and Impounding (Exemptions) Regulations 2017). Discharge of water from dewatering operations (Environmental Permitting (England and Wales) Regulations 2016);
 - Environmental permit or registered exemption under the Environmental Permitting (England and Wales) Regulations 2016 (as amended);
 - Mobile plant permit under the Environmental Permitting (England and Wales) Regulations 2016 (as amended); and
 - CL:aire Materials Management Plan under the CL:aire (2001) Definition of Waste: Development Industry Code of Practice (V.2) (DoW COP).
- Lead Local Flood Authority (LLFA)(Norfolk County Council)
 - Ordinary Watercourse Consent (temporary and permanent works affecting ordinary watercourses) under the Flood and Water Management Act (2010) Land Drainage Act 1991 Section 23.
 - Norfolk Rivers Internal Drainage Board
 - Land Drainage Consent (temporary and permanent works affecting internal drainage board watercourses) under the Flood and Water Management Act (2010) Land Drainage Act 1991 Section 23.
 - Local Authority
 - Section 61 prior consent for work on construction sites under the Control of Pollution Act 1974 (COPA); and
 - Consent for felling of trees: Felling Licence under the Forestry Act 1967.

1.8.2. Further consideration of these consents is provided under the relevant topics in Chapter 5 and, particularly with regard to whether they represent a potential impediment to the Proposed Development, in Chapter 9.

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 SoST's decision.
- **Chapter 4** sets out the planning issues that arose from the application and during the Examination and sets out the structure of Chapter 5.
- **Chapter 5** reports on my findings on the planning issues in the Examination.
- **Chapter 6** considers effects on European Sites and Habitats Regulations Assessment (HRA).
- **Chapter 7** sets out the balance of planning considerations arising from Chapters 5, in the light of the factual, legal and policy information in Chapters 1 to 4.
- **Chapter 8** sets out my examination of the Applicant's CA and TP proposals.
- **Chapter 9** considers the implications of the matters arising from the preceding chapters for the Development Consent Order (DCO).
- **Chapter 10** summarises all relevant considerations and sets out my 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** – the Recommended DCO (rDCO).

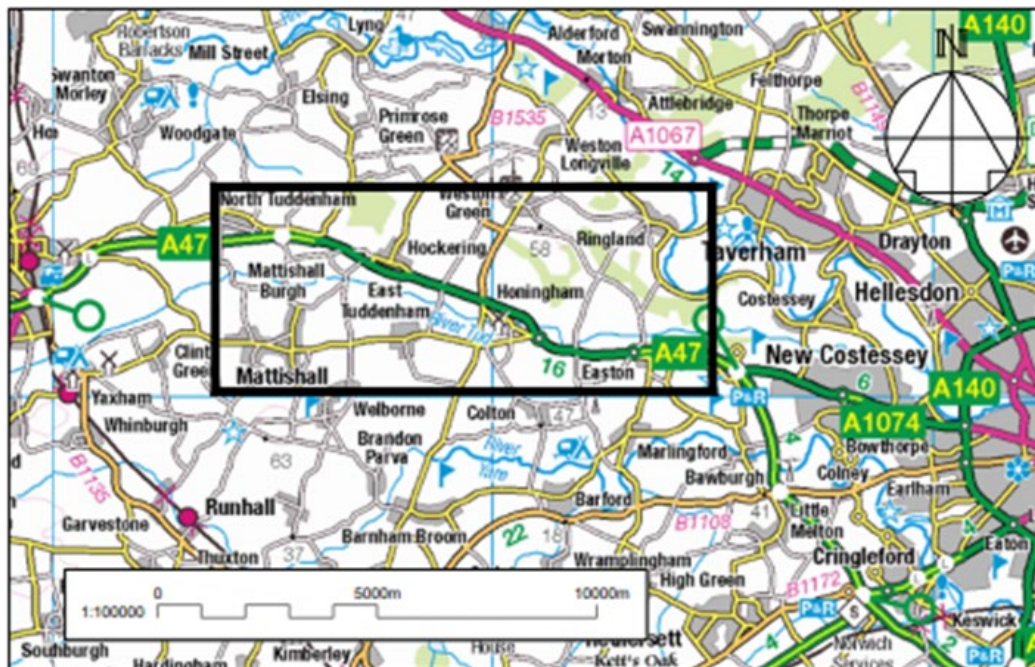
2. THE PROPOSAL AND THE SITE

2.1. THE PROPOSED DEVELOPMENT SITE AND SETTING

2.1.1. The Proposed Development is located within the administrative areas of Breckland Council, Broadland District Council and South Norfolk Council, all of which fall within the administrative boundary of Norfolk County Council.

2.1.2. The A47 from North Tuddenham to Easton is located to the west of Norwich and is part of the main arterial highway route that connects Norwich and Great Yarmouth to King's Lynn. The route also provides further links towards Peterborough, Leicester and the Midlands.

Figure 1 Location Plan



2.1.3. The North Tuddenham to Easton section of the A47 is located approximately 8km to the west of Norwich. The single carriageway section forms part of the main arterial highway route connecting Norwich to the west.

2.1.4. The single carriageway section between North Tuddenham and Easton lies between two dual carriageway sections. Submissions from the Applicant, in their Case for the Scheme [APP-140] identify that the single carriageway section acts as a bottleneck, resulting in congestion and leading to longer and unreliable journey times.

2.1.5. In their Case for the Scheme [APP-140] the Applicant identifies that this section of the A47 has a poor safety record. The A47 is ranked 2nd nationally for fatalities on A roads and the accident severity ratio is above average. During the period 2014 to 2018 a total of 2 fatal, 15 serious and 76 slight accidents were recorded along the section of highway.

Furthermore, due to a lack of nearby alternative routes, route resilience on this link is also an issue.

- 2.1.6. Within the Order Limits, there is little in the way of built development, although the existing A47 passes close to a number of settlements. At the western end is Hockering, which is located predominately on the northern side of the existing A47, with the southern extent of the village bounding the existing road. To the east is Honingham, which is located to the south and set mainly away from the existing A47. At the eastern end, is the village of Easton.
- 2.1.7. Along the A47, there are also a number of individual and groups of properties, which are predominately located around existing junctions along the road.
- 2.1.8. Land within the Order Limits is predominately rural in character and comprises mainly agricultural land that is enclosed by well-established hedgerows, along with pockets of established woodland and winding rural lanes that intersect with the existing road. The eastern parts are more gently undulating relative to the broadly flat landscape of the western element. However, the landscape is shaped by the presence of a number of existing river valleys. The most prominent of which is the River Tud which runs in a west-east direction through parts of the Order Land. Overall, the landscape is one of rural countryside with a long-settled agricultural character, interspersed with a number of historical villages.
- 2.1.9. There are a number of local roads which intersect with the existing A47. These routes all provide linkages to settlements and farms that lie to the north and south.

2.2. THE APPLICATION AS MADE

- 2.2.1. The Applicant submitted an application under s37 of the PA2008 for an Order granting development consent for what was described as the '*A47 North Tuddenham to Easton*' [APP-001]. The Applicant is appointed and licensed by the Secretary of State for Transport (SoST) as the strategic highways company for England. It is responsible for operating, maintaining and improving the Strategic Road Network (SRN) in England on behalf of the SoST.
- 2.2.2. The Applicant's high-level objectives for the Proposed Development include relieving congestion, reducing journey times, encouraging economic growth, improving road safety and improving customers' experience [APP-140].

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- 2.2.6. The existing Easton roundabout would be removed as part of the Proposed Development.
- 2.2.7. Chapter 2 of the ES [APP-041] provides a full description of the Proposed Development, however in summary it includes:
- 9km of new dual carriageway, running to the south of the existing A47 at Hockering and north of the existing A47 at Honingham;
 - Two new junctions where the A47 passes over the local roads - one where of Berrys Lane meets Wood Lane (Wood Lane junction) and one where Blind Lane meets Taverham Road (Norwich Road junction);
 - Removal of the existing roundabout at Easton to create a free-flowing road;
 - Building four bridges for the A47 to pass over or under - the new Mattishall Lane Link Road, the proposed Wood Lane junction, the River Tud and the proposed Norwich Road junction;
 - Two new lay-bys on the A47, between Fox Lane and the proposed Wood Lane junction;
 - Closure to through traffic of: Church Lane (East Tuddenham), Berrys Lane, Blind Lane and Church Lane (Easton), north of the A47;
 - Widening of the junction of Rotten Row and Church Lane (East Tuddenham);
 - Converting sections of the existing A47 for local needs, such as:
 - Converting to a Class B road north of Honingham, with a new cycle track between and the new Dereham Road link road and Honingham roundabout; and
 - Reducing to a single lane in front of St Andrews church, Honingham, with inclusion of passing places, parking places, turning area and security gate.
 - Alterations to existing PRow and provision of new segregated routes for walkers and cyclists, including:
 - A new route for walkers and cyclists linking Honingham with St Andrew's Church across the A47 via the proposed Honingham Church underpass; and
 - A new route for walkers and cyclists linking Easton with Lower Easton across the A47 via the proposed Easton footbridge.
 - New drainage systems, including:
 - New outfalls to the River Tud;
 - Dry culverts to maintain overland flow paths; and
 - New attenuation basins, with pollution control devices, to control discharges to local watercourses.
 - Compounds, material storage areas and temporary vehicle parking located within the scheme boundary when construction is taking place;
 - Diverting or installing new utilities infrastructure, such as gas pipelines, electricity cables, water pipelines and electronic communications cables;

- Environmental measures embedded into the Scheme design to reduce the environmental effects and deliver wider benefits, such as noise barriers, low noise road surfaces, permanent mammal crossings and new wetland habitats; and.
- Temporary closure of access (exit and entry) to Honingham Lane at the junction with Taverham Road, Weston Road and Telegraph Hill until NWL opens.

- 2.2.8. Boundary fencing in the form of timber post and rail, would be provided to delineate the highway boundary. Anti-glare screening would also be provided at a number of points to mitigate the effects of headlight glare between side roads and the proposed mainline. Safety barriers would be provided in the verge on both the mainline and side roads where necessary. A double-sided steel barrier would be provided in the central reserve with the central reserve construction make-up being unpaved.
- 2.2.9. Road signage, including warnings and regulatory signage, as well as informative and advanced direction signage would be provided.
- 2.2.10. No new lighting is proposed for the A47 mainline or existing or altered side roads. Lighting is proposed on the two new roundabouts with the approach and exit roads being lit to provide approximately five seconds of driving time at the expected traffic speed. Lighting would be provided by 10m high lighting columns with LED luminaires, located in verges or at the back of footways where applicable and oriented perpendicular to the carriageway.
- 2.2.11. For construction, the main construction compound is proposed off the existing Honingham roundabout, with three satellite compounds, located at Mattishall Lane, west of Wood Lane Junction and west of Easton [APP-142]. Each compound would include temporary site offices, parking and welfare facilities.
- 2.2.12. The lateral Limits of Deviation (LoD) would be the extent of the land to be acquired permanently. Vertically, there would be a 1m (plus or minus) limit of deviation as set out in Article 8 of the draft Development Consent Order (dDCO) [REF9-008].

2.3. THE APPLICATION AT THE CLOSE OF THE EXAMINATION

- 2.3.1. There were no material changes to the application proposal during the Examination. However, a non-material change was accepted [PD-015]. In summary these changes were:
- New ghost island³ at the proposed junction of Mattishall Lane Link Road and the detrunked A47;

³ This refers an at-grade junction, usually a T- or staggered junction, within which an area is marked on the carriageway, shaped and located so as to direct traffic movement.

- New ghost island at the proposed junction of the detrunked A47 and Dereham Road and alteration to the shape of the adjacent drainage basin;
- Extension of the proposed Highway Limits to include the existing drain on the eastern side of Berrys Lane;
- Adjustment to the proposed access to the proposed Lyng Road drainage basin; and
- Conversion of proposed Taverham Road drainage basin to a wetland area.

2.3.2. Several of the supporting documents, including parts of the ES, were also updated. Updates to the ES documents included:

- ES Chapter 2, The Proposed Scheme – [AS-005].
- ES Chapter 6, Cultural Heritage – [REP3-012].
- ES Chapter 9, Geology and Soils – [REP7-006].
- ES Chapter 14, Climate – [REP3-014].
- ES Chapter 15, Cumulative Effects – [REP6-030].
- ES Figures 7.1-7.5 – [REP2-012].
- ES Appendix 7.6, Arboricultural Impact Assessment (AIA) – [REP7-008].
- General Arrangement Plans – [AS-027].
- Works Plans – [AS-028].
- Land Plans – [REP5-002].
- Rights of Way and Access Plans – [REP8-004].
- Traffic Regulation Plans – [REP9-004].
- Engineering Drawing and Sections – [REP5-003].
- Drainage and Surface Water Plans – [AS-031].
- Classification of Road Plans – [REP9-005].
- Hedgerow Plans – [REP9-006].
- De-trunking Plans – [AS-033].
- Environmental Masterplan – [REP8-011].
- Report to Inform Habitats Regulations Assessment – [REP6-008].
- Scheme Design Report – [AS-009].
- Environmental Management Plan (EMP) – [REP7-035].

2.3.3. Other submissions were made by the Applicant during the Examination which clarified the findings of the ES. They included:

- Amendment to Compound 2 (adjacent to BHE) to be welfare only and provision of layout plan [REP7-017];
- Removal of silage clamp and associated access on BHE from Order Limits [REP7-017]; and
- Increase height of Hall Farm underpass from 4.5m to 5m [REP3-022 and REP5-003].

2.3.4. I have had regard to these changes and further information and, where necessary, further reference is made to them in Chapter 5. Schedule 10 of the rDCO (Appendix D), which specifies the documents to be certified, reflects these changes. I have however corrected a number of errors and omissions from Schedule 10 in the rDCO to ensure consistency with the above. Details of these amendments are provided in Chapter 9.

2.4. RELEVANT PLANNING HISTORY

- 2.4.1. The history of the Proposed Development is set out in Chapter 3 of the ES [APP-042].
- 2.4.2. In 2014 the Highways Agency, as it was then, commissioned the A47/A12 Corridor Feasibility Study (Feasibility Study). The purpose of this was to identify issues on the SRN on the A47/A12 Corridor between the A1 west of Peterborough and Lowestoft (south of the A47 junction with the A12).
- 2.4.3. This Feasibility Study identified twenty-two locations which were considered to have current or imminent problems. The Proposed Development was identified as one of those locations.
- 2.4.4. In December 2014 the Department for Transport (DfT) published the Road Investment Strategy (RIS) for 2015 to 2020. The RIS includes a package of six schemes to be developed and constructed during Roads Period 1 (2015 to 2020) and Roads Period 2 (2020 to 2025) to improve journeys on the A47 between Peterborough and Great Yarmouth. These schemes have been branded as the A47 Improvement Programme.
- 2.4.5. Following the publication of the RIS, a high-level appraisal of benefits for the identified schemes was undertaken. This concluded that whilst around half of the A47 is already built to dual carriageway standard, the North Tuddenham to Easton section is not, with the single carriageway section of the road no longer meeting the needs of its users. It concluded that it acted as a bottleneck, resulting in congestion, leading to longer journey times. It also highlighted that the section had a poor safety record.
- 2.4.6. In response, fourteen potential route options were identified and initially assessed in terms of their engineering, environmental, transportation and economic suitability. Four of the fourteen options were selected to be taken forward to public consultation. The four options were:
- Option 1 – offline dualling to the north of the existing A47, with appropriate junctions to the north of the existing A47 highway corridor.
 - Option 2 – online dualling with the single carriageway section of the A47 between North Tuddenham and Easton to be improved to dual carriageway standard by the construction of a new section of online dual carriageway with appropriate junction improvements.
 - Option 3 – offline dualling to the south and the north of the existing A47, with the proposed offline dualling south of the existing A47, for the western part of the route and to the north of the existing A47 for the eastern part of the route, with appropriate junction improvements.
 - Option 4 – offline dualling to the south of the existing A47 with appropriate junction improvements.
- 2.4.7. The four options were subject to public consultation between March and April 2017. The Applicant states that the purpose of the consultation was

to seek views on the outline proposals from the general public, statutory consultees, including LAs, and other interested bodies [APP-024].

- 2.4.8. Following the options consultation, the four options were subject to further detailed assessment, with the results presented in the Scheme Assessment Report December 2017 (SAR) [APP-024].
- 2.4.9. Following consultation feedback and consideration in the SAR, Options 1 and 4 were discounted due to their high impacts on the environment and the local community.
- 2.4.10. Of the remaining options, Option 2 was identified as the preferred route option due to the higher environmental impact of Option 3, combined with a higher public consultation preference for Option 2.
- 2.4.11. However, given the similarity between the two options, a further exercise was undertaken to refine the form of the Proposed Development. As a result, the alignment was adjusted so that the preferred route could be constructed with the least disruption to drivers during construction, allowing the existing A47 to remain open for local traffic movements, Walkers, Cyclists and Horse-riders (WCH).

OTHER STRATEGIC PROJECTS AND PROPOSALS

Other A47 Schemes

- 2.4.12. At the time of preparing this Report, three other NSIP proposals along the A47 corridor were being progressed by NH.
- 2.4.13. The first of these, Blofield to North Burlingham, is currently with the SoST for determination, with the ExA having submitted the Report on 22 March 2022.
- 2.4.14. The second project is for improvements to Thickthorn junction. The Examination for this application closed on 23 March 2022.
- 2.4.15. The third relates to the A47 at Wansford to Sutton, and the Examination into this DCO commenced on 12 January 2022.

Norwich Western Link

- 2.4.16. The NWL, which is being promoted by NCC, is a proposed new 3.8-mile-long dual carriageway between the western end of Broadland Northway and the A47.
- 2.4.17. The Proposed Development includes the provision for a 50m stub at the Wood Lane junction for the NWL to connect to the SRN.
- 2.4.18. In July 2019, the NWL was confirmed as a regional priority by Transport East, and a Strategic Outline Business Case (SOBC) was submitted to the DfT. The SOBC was approved on 15 May 2020 by the DfT giving provisional entry into the DfT's Large Local Majors programme alongside funding to support the submission of the Outline Business Case (OBC).

- 2.4.19. In terms of timing, the NWL is programmed to start on site in 2023 with the road completed and open to traffic in late 2025. The Proposed Development is programmed for a start date in 2023 and to be open for traffic in 2024 [APP-003].

Food Enterprise Park (FEP)

- 2.4.20. Food Enterprise Zones (FEZ) are a government initiative introduced by the Department for the Environment, Food and Rural Affairs (DEFRA). The Greater Norwich FEZ was designated in 2015, and a Local Development Order (LDO) was put in place by BDC in 2017.
- 2.4.21. The FEP is a 100 acre development site within the Greater Norwich FEZ, the first 46 acres of which benefits from the Local Development Order status to encourage and support food production, processing and agriculture through the co-location of commercial enterprises.
- 2.4.22. During the course of the Examination a planning application was submitted to BDC for the development of a new access into the FEZ, direct from the Proposed Development. At the close of the Examination, this application remained undetermined [REP10-009].

3. LEGAL AND POLICY CONTEXT

3.1. THE PLANNING ACT 2008

3.1.1. The Proposed Development is for a highway-related development that falls within s22 of the PA2008. Consequently, it is an application to which s104 of PA2008 is applicable because it is subject to policy in the designated National Policy Statement for National Networks (NPSNN). As a result, the SoST must consider:

- any National Policy Statement (NPS) which has effect in relation to development of the description to which the application relates;
- the appropriate marine policy documents (if any), determined in accordance with s59 of the Marine and Coastal Access Act 2009;
- any LIR submitted to the SoST before the specified deadline for submission;
- any matters prescribed in relation to development of the description to which the application relates; and
- any other matters which the SoST thinks are both important and relevant to the decision.

3.1.2. Section 104(3) of the PA2008 requires the SoST to decide the application in accordance with any relevant NPS. This creates a presumption in favour of NPS compliant development, unless one or more of the following exceptions applies:

- deciding the application in accordance with any relevant NPS would lead to the United Kingdom (UK) being in breach of any of its international obligations;
- deciding the application in accordance with any relevant NPS would lead to the SoST being in breach of any duty imposed on her/him by or under any enactment;
- deciding the application in accordance with any relevant NPS would be unlawful by virtue of any enactment;
- the adverse impact of the Proposed Development would outweigh its benefits; and/or
- any condition prescribed for deciding an application otherwise than in accordance with a NPS is met.

3.1.3. All of these are considered further in Chapter 5.

3.1.4. The NPSNN states that applicable policies from relevant development plans can be important and relevant matters. Such policies are identified later in this Chapter.

3.2. NATIONAL POLICY STATEMENT

3.2.1. The NPSNN has been designated as the NPS for roads for which the SoST is the Highway Authority.

3.2.2. The NPSNN (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 users. The Government has therefore concluded that at a strategic level there is a compelling need for the development of the national road network.

- 3.2.3. The NPSNN states that subject to the detailed policies and protections within it, and the legal constraints set out in the PA2008, there is a presumption in favour of granting development consent for national networks NSIPs that fall within the need for infrastructure established in the NPSNN.
- 3.2.4. The NPSNN states (Page 9) 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.
- 3.2.5. The NPSNN 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 and decisions by the SoS. It covers a range of topics, and these matters are addressed in detail in Chapter 5 of this Report.
- 3.2.6. No other NPSs are directly applicable to the Proposed Development.

3.3. UK LEGISLATION

Wildlife and Countryside Act 1981

- 3.3.1. The Wildlife and Countryside Act 1981 is the primary legislation which protects animals, plants, and certain habitats in the UK. It provides for the notification and confirmation of Sites of Special Scientific Interest (SSSIs). In England, these sites are identified for their flora, fauna, geological or physiographical interest by Natural England (NE). The Wildlife and Countryside Act contains measures for the protection and management of SSSIs.
- 3.3.2. The Act is divided into four parts: Part I relating to the protection of wildlife, Part II relating to designation of SSSIs and other designations, Part III on PRoW and Part IV containing miscellaneous provisions. If a species protected under Part I is likely to be affected by development, a protected species licence would be required from NE.

- 3.3.3. The Act is relevant to the Proposed Development in view of the sites and species identified in the Biodiversity chapter of the ES [APP-047]. Relevant considerations are discussed in Chapter 5.

Natural Environment and Rural Communities Act 2006

- 3.3.4. The Natural Environment and Rural Communities Act 2006 (NERCA) makes provision 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 is consistent with the proper exercising of those functions, to the conservation of biodiversity (the biodiversity duty). In complying with the biodiversity duty, regard must be had to the United Nations Convention on Biological Diversity of 1992.
- 3.3.5. I have had regard to NERCA and the biodiversity duty in all relevant sections of Chapter 5.

OTHER RELEVANT LEGAL PROVISIONS

- 3.3.6. The following legislative provisions have been taken into account in the Examination of the Proposed Development.

United Nations Convention on Biological Diversity 1992

- 3.3.7. 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 Government and beyond. The Convention is of relevance to biodiversity, ecology, landscape and visual matters, which are discussed in Chapter 5.

The UK Biodiversity Action Plan

- 3.3.8. Priority habitats and species are listed in the UK Biodiversity Action Plan, which is relevant to the Proposed Development in view of the biodiversity considerations discussed in Chapter 5.

Flood and Water Management Act 2010

- 3.3.9. Paragraph 5.100 of NPSNN advises that where construction work has drainage implications, approval for the project's drainage system will form part of any development consent issued by the SoST. The SoST will, therefore, need to be satisfied that the proposed drainage system complies with the National Standards published under Paragraph 5(1) of Schedule 3 to the Flood and Water Management Act 2010.

OTHER ENVIRONMENTAL LEGISLATION

- 3.3.10. Other relevant environmental legislation has been considered for this Report, include:
- the Protection of Badgers Act 1992;
 - the Environment Act 1995;

- the Hedgerows Regulations Act 1997;
- the Salmon and Freshwater Fisheries Act 1975;
- the COPA;
- the Pollution Prevention and Control Act 1999; and
- the Land Drainage Act 1991.

Marine legislation and policy

- 3.3.11. Having had regard to the application documents and evidence submitted during the Examination, I have considered whether the Proposed Development could affect the coastal or marine environment in a manner sufficient to invoke this body of legislation and policy, including with respect to the marine and coastal change matters identified in the NPSNN.
- 3.3.12. Given the inland location of the Proposed Development there would be no pathway to the marine environment. Consequently, I conclude that the Proposed Development would have no such effect. Therefore, no further consideration has been given to marine or coastal change legislation or policy in this Report.

Climate change

- 3.3.13. Section 10(3)(a) of the PA2008 requires the SoST to have regard to the desirability of mitigating, and adapting to, climate change in designating an NPS.
- 3.3.14. The United Nations Framework Convention on Climate Change (UNFCCC) is an international environmental treaty that was adopted in 1992 with the objective to *"stabilise greenhouse gas concentrations in the atmosphere at a level that would prevent anthropogenic interference with the climate system"*.
- 3.3.15. The Paris Agreement 2015 was adopted by the parties to the UNFCCC, including the UK, at a conference in Paris in December 2015, with the purpose of strengthening the global response to the threat of climate change. It provides a framework for keeping global warming well below 2°C and was ratified by the UK Government in November 2016.
- 3.3.16. The Climate Change Act 2008 establishes statutory climate change projections and carbon budgets. The Climate Change Act 2008 (2050 Target Amendment) Order 2019 came into force in May 2019.
- 3.3.17. The Climate Change Act 2008 sets legally binding targets for Green House Gas (GHG) emission reductions in the UK against a 1990 baseline. The coming into force of the Climate Change Act 2008 (2050 Target Amendment) Order 2019 confirmed the Government's commitment to cutting greenhouse gases to net zero by 2050 compared to 1990 levels and introduced a legally binding target of 100%.
- 3.3.18. Climate change issues are considered in Chapter 5.7.

Equalities Act 2010

- 3.3.19. The Equalities Act 2010 establishes a Public Sector Equality Duty (PSED) to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not.
- 3.3.20. The PSED is relevant to me in my conduct of the Examination and in my reporting to the SoST in decision-making. I had particular regard to the PSED, including in my decision to hold virtual hearings during the Examination period as well as in producing the advice associated with and the conduct of those hearings.

The historic built environment

- 3.3.21. When deciding an application which is likely to affect a Listed Building, a Conservation Area, a Scheduled Monument or their settings, the SoST must comply with the duties set out in Regulation 3 of The Infrastructure Planning (Decisions) Regulations 2010.
- 3.3.22. I have had regard to these matters in Section 5.9.

Other relevant legislation

- 3.3.23. Other relevant legislation which has been considered for this Report, includes:
- the Highways Act 1980;
 - the Town and Country Planning Act 1990;
 - the Countryside and Rights of Way Act 2000; and
 - the Health and Safety at Work Act 1974.

3.4. EUROPEAN LAW AND RELATED UK REGULATIONS

Leaving the European Union

- 3.4.1. The UK left the European Union (EU) as a member state on 31 January 2020. The EU (Withdrawal Agreement) Act of January 2020 set out transition arrangements. This provides for EU law to be retained as UK law and also to bring into effect obligations which may come into force during the transition period. This report has been prepared on the basis of retained law and references to European terms such as 'Habitats' have also been retained for consistency with the Examination documents. It will be a matter for the SoST to satisfy themselves as to the position on retained law, obligations and equivalent terms at the point of their decision.

The EIA Directive and the EIA Regulations

- 3.4.2. The EIA Directive defines the procedure by which information about the environmental effects of a development is collected and considered by the relevant decision-making body before consent can be granted. It applies to a wide range of public and private projects, which are defined

in Annexes I and II of the Directive. The most recent EIA Directive is 2014/52/EU, which came into force on 15 May 2014.

- 3.4.3. The EIA Directive is transposed into law for NSIPs in England and Wales by the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations), which came into force on 16 May 2017.
- 3.4.4. The EIA Regulations establish the minimum information to be supplied by an Applicant within an ES, as well as information that can be requested as being reasonably justified in the circumstances of the case. Regulation 14 and Schedule 4 of the EIA Regulations set out the information required in an ES. This is reinforced by Regulation 4(2), which sets out the core duty of the decision maker in deciding on EIA development. It states that the decision maker "*must not ... make an order granting development consent or ... grant subsequent consent unless an EIA has been carried out in respect of that application*".
- 3.4.5. The Proposed Development is EIA development under Schedule 2 of the EIA Regulations. The Applicant submitted a notification to PINS of its intention to submit an ES under Regulation 8(1)(b) and has provided an ES [APP-040 to APP-134] as part of the submitted application. As set out in Chapter 2, parts of the ES have been updated during the Examination.
- 3.4.6. All the submitted environmental information has been taken into consideration, as defined in Regulation 4 of the EIA Regulations, including the ES and all other information received during the Examination. The ES is addressed in Chapter 4.

The Habitats Directive, the Birds Directive and the Habitats Regulations

- 3.4.7. The Habitats Directive (92/43/EEC) and the Birds Directive (2009/147/EC) form a cornerstone of Europe's nature conservation policy. The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) are the principal means by which they are transposed into the law. The Habitats Directive is built around two pillars, a network of protected sites, along with species protection.
- 3.4.8. Habitat types requiring the designation of Special Areas of Conservation (SACs) are listed in Annex I of the Habitats Directive. Animal and plant species of interest whose conservation requires the designation of SACs are listed in Annex II. SACs form part of the Natura 2000 ecological network of protected sites. Annex IV lists animal and plants species of interest in need of legal protection. All species listed in these annexes are identified as European Protected Species (EPS).
- 3.4.9. The Birds Directive is a comprehensive scheme of protection for all wild bird species naturally occurring in the EU. It requires classification of areas as Special Protection Areas (SPAs) comprising all the most suitable territories for these species. All SPAs form part of the Natura 2000 ecological network.

- 3.4.10. Assessment processes taking place pursuant to the Habitats Regulations are referred to as Habitats Regulations Assessment (HRA). When determining this application, the SoST must consider whether the Proposed Development would have a significant effect on a European site of nature conservation importance alone or in combination with other plans or projects.
- 3.4.11. I have taken into account the Habitats Directive, Birds Directive and Habitats Regulations in considering the application.

The Water Framework Directive (WFD) and the WFD Regulations

- 3.4.12. Directive 2000/60/EC establishes a framework for community action in the field of water policy (the WFD) and includes objectives such as preventing and reducing pollution, environmental protection, improving aquatic ecosystems and mitigating the effects of floods. The WFD requires Member States to identify River Basin Districts.
- 3.4.13. The WFD is transposed into law by the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017. They require the 'appropriate agency' to prepare River Basin Management Plans (RBMP) for each River Basin District. The Order Land lies within the Anglian River Basin District.
- 3.4.14. Regulation 3 places a general duty on the SoST and the EA to exercise their 'relevant functions' to secure compliance with the WFD. Whilst the PA2008 is not a 'relevant function' for this purpose, the SoST and EA, together with public bodies, have a specific duty to have regard to the relevant RBMP and any supplementary plans made under it in exercising their functions, which would include functions under the PA2008.
- 3.4.15. The Applicant has prepared Water Framework Directive Assessment Reports and it is provided in ES Chapter 13 [APP-052].
- 3.4.16. The WFD is addressed in Section 5.17.

The Air Quality Directive, the UK Air Quality Strategy and the Clean Air Strategy

- 3.4.17. Directive 2008/50/EC on ambient air quality and cleaner air for Europe came into force on 11 June 2008. It sets limit values (LVs) for compliance and establishes control actions where LVs are exceeded with respect to sulphur dioxide (SO₂), nitrogen dioxide (NO₂) and mono-nitrogen oxides (NO_x), particulate matter (PM₁₀ and PM_{2.5}), lead, benzene and carbon monoxide. The Air Quality Standards Regulations 2010 give direct statutory effect to the Air Quality Directive (AQD).
- 3.4.18. The UK Air Quality Strategy (AQS) establishes the UK framework for air quality improvements. It establishes a long-term vision for improving air quality in the UK and 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. In turn, these plans set the framework for action in specific local settings where LV exceedances are found, including the designation of Clean Air Zones (CAZ) and more localised Air Quality Management Areas (AQMAs).

3.4.19. The Clean Air Strategy 2019, published on 14 January 2019, sets out actions required across government and society to improve air quality.

3.4.20. Air Quality is considered in Section 5.5.

3.5. NATIONAL PLANNING POLICY FRAMEWORK

3.5.1. The National Planning Policy Framework (July 2021) (NPPF) and its accompanying National Planning Practice Guidance (NPPG) set out the Government's planning policies for England and how these are expected to be applied for the particular purposes of making development plans and deciding applications for planning permission and related determinations under the Town and Country Planning Act 1990 (as amended).

3.5.2. The NPPF does not contain specific policies for NSIPs. These are determined in accordance with the decision-making framework in the PA2008 and relevant NPSs for major infrastructure, as well as any other matters that are important and relevant, which may include the NPPF.

3.5.3. Paragraphs 1.17 to 1.20 of the NPSNN further describe the relationship between the NPPF and the NPSNN. In summary, these paragraphs provide that:

- the NPPF may be an important and relevant consideration in decisions on NSIPs, but only to the extent relevant to a project;
- the NPPF is not intended to contain specific policies for individual NSIPs, where particular considerations can apply. The NPSNN performs that function; and
- the NPPF provides a framework within which responses to individual project effects can be considered, but that in relation to tests or standards to be met, these are normally derived from the NPSNN.

3.5.4. Where relevant, NPPF policies have been considered in respect of all planning issues addressed in Chapter 5.

3.6. MADE DEVELOPMENT CONSENT ORDERS

3.6.1. There is one made DCO whose limits fall within the Order Limits of the Proposed Development. A further made DCO has been identified where there may be construction impacts, with a further yet to be submitted DCO application also identified.

Ørsted's Hornsea Project Three Offshore Wind Farm

3.6.2. Ørsted's Hornsea Project Three is proposing a new offshore windfarm off the north Norfolk coast. The onshore cabling connection route to the National Grid substation crosses the Order Limits of the Proposed

Development, running in a north to south direction, located to the west of the existing Easton roundabout. Ørsted are planning to start construction of the onshore cabling in 2023. In their DCO they had originally planned to access their works areas north and south of the existing A47 via Church Lane from Easton roundabout. However, due to the proposed removal of the Easton roundabout as part of the Proposed Development, alternative provision is required.

- 3.6.3. The Applicant therefore identified and incorporated within the Proposed Development the provision of a 10m wide temporary haul route and long-term maintenance easement right for Ørsted from Taverham Road to the Ørsted works corridor north of the A47. The Applicant confirmed during the Examination that discussions have also taken place between the parties with regards to managing cumulative construction impacts and to work together to manage the implementation and phasing of the Ørsted temporary works to Taverham Road, and access across the respective sites so as to minimise disruption to their respective activities, neighbouring land uses, the local community and environmentally sensitive sites.

Vattenfall's Norfolk Boreas and Norfolk Vanguard offshore wind farms

- 3.6.4. Vattenfall's Norfolk Boreas and Norfolk Vanguard are proposed new offshore wind farms off the north Norfolk coast, with onshore cabling crossing the A47 west of Dereham and a new substation connecting into the A478 west of Dereham.
- 3.6.5. Whilst there is no direct interaction with the Proposed Development, there is potential for the construction programmes to overlap. As a result, it is possible that Vattenfall may be utilising the A47 for the delivery of materials. The Applicant has committed to working with Vattenfall to ensure any construction traffic impacts are managed through the TMP. This was confirmed by Vattenfall at D10 [REP10-012] who anticipate engaging further with the Applicant's TMP.

Equinor's Sheringham Shoal and Dudgeon Extensions

- 3.6.6. The existing Equinor's Dudgeon and Sheringham Shoal offshore wind farms are currently preparing to seek a DCO to extend their sites with an associated grid connection to the Norwich Main substation in Norfolk.
- 3.6.7. The proposed onshore cabling corridor would cross the A47 between the proposed new Norwich Road junction and Easton. However, as Equinor are yet to submit their DCO application, it is anticipated that they would need to design their proposal to accommodate the final design of the Proposed Development.

3.7. OTHER RELEVANT POLICY STATEMENTS

National Policies

Road Investment Strategy

- 3.7.1. In April 2020, the Department of Transport (DfT) published the Road Investment Strategy 2 (RIS2), which sets out a long-term programme for motorways and major roads with the stable funding needed to plan effectively. The vision for RIS2 seeks a SRN which supports the economy and is greener, safer and more reliable, more integrated and smarter. Amongst the environmental actions identified are reducing the impact of noise pollution, ensuring no net loss (NNL) of biodiversity, measures to reduce NO₂ exceedances and respect for protected wildlife sites.
- 3.7.2. The RIS2 lists schemes that are to be developed by HE in the period 2020-2025. In terms of the East of England projects, it includes: *"A47 North Tuddenham to Easton – dualling of the single carriageway section of the A47 between Norwich and Dereham, linking together two existing sections of dual carriageway"*.
- 3.7.3. Other relevant National Policy Statements include:
- Department for Transport Single Departmental Plan 2015–2020 (2015);
 - Highways England Delivery Plan 2015-2020 (2015); and
 - Noise Policy Statement for England (NPSE) (2010).

Local Transport Policy

- 3.7.4. Local transport policy is prepared by NCC. The relevant policy documents are:
- Norfolk County Council Local Transport Plan (LTP), 2011-2026;
 - Norwich Area Transport Strategy (NATS), 2004, updated 2013; and
 - Greater Norwich Infrastructure Plan, 2020.

3.8. LOCAL IMPACT REPORTS

- 3.8.1. Section 104 of the PA2008 states that in deciding the application the SoST must have regard to any LIR within the meaning of s60(3). There is also a requirement under s60(2) to give notice in writing to each LA falling under s56A inviting them to submit LIRs. This notice was given on 12 August 2021 [PD-006].
- 3.8.2. As set out at Chapter 1, LIRs were submitted by NCC and BC.

3.9. THE DEVELOPMENT PLAN

- 3.9.1. When deciding applications, s104(2)(d) of the PA2008 requires the SoST to have regard to any other matters considered both important and relevant. The NPSNN requires consideration to be given to policies and information in the development plan to matters including other developments which may give rise to cumulative impacts, non-

designated heritage assets, impacts on land use and the preclusion of other development, local transport networks and the management of travel demand.

- 3.9.2. As the Order Limits spans three separate District Council areas, BC, BDC and SNC, within the county of Norfolk, the development plans of these four authorities are relevant.
- 3.9.3. The Applicant's assessment of the development plan policies most relevant to the Proposed Development is set out in the Case for the Scheme [APP-140].
- 3.9.4. The LIR submitted by BC identifies the development plan policies considered to be relevant to the Proposed Development.
- 3.9.5. The development plan for the Order Limits comprises the following documents:
 - Joint Core Strategy for Broadland, Norwich and South Norfolk, 2011, amended 2014.

Broadland District Council

- Broadland District Council's Development Management DPD adopted August 2015;
- Broadland District Council's Site Allocations DPD, adopted May 2016;
- Broadland District Council's Supplementary Planning Documents; (SPD), including Landscape Character Assessment SPD September 2013; and
- Broadland District Council's Local Development Orders - Greater Norwich FEZ.

South Norfolk

- South Norfolk Council's Development Plan and Policies Document, adopted October 2015;
- South Norfolk Council's Site Specific Allocations and Policies Document, adopted October 2015;
- South Norfolk Council's Landscape Character Assessment Supplementary Planning Documents (SPD), September 2013; and
- Easton Neighbourhood Plan 2017 - 2042, adopted September 2017.

Breckland District

- Breckland District Local Plan, Adopted 2019.

- 3.9.6. BDC, Norwich City Council, SNC and NCC are working together to prepare the Greater Norwich Local Plan (GNLP). This Plan was not adopted at the time the Examination closed and I have not given detailed consideration to it.
- 3.9.7. Paragraphs 1.3 of the NPSNN refer to the status of development plans in the decision-making process. I have taken account of these in making my recommendations.

3.10. THE SECRETARY OF STATE'S POWERS TO MAKE A DCO

- 3.10.1. Throughout the Examination I have remained aware of the need to consider whether revisions to the application documents have changed the proposal to a point where it became a different application and, therefore, whether the SoST would have the power under s114 of the PA2008 to make a DCO having regard to the development consent applied for. PA2008: Guidance for the Examination of Applications for Development Consent (March 2015), provides guidance at paragraphs 109 to 115 in relation to changing an application post acceptance.
- 3.10.2. Having regard to this context, I consider that the changes to the application have not resulted in any significant changes to the proposals for which the application was originally made. The changes that have been taken into account in reaching this conclusion include those documented in Chapter 2.3.
- 3.10.3. It follows that I consider that the SoST has the power to make the DCO as recommended in Chapter 9 and provided in Appendix D of this Report.

4. THE PLANNING ISSUES

4.1. MAIN ISSUES IN THE EXAMINATION

4.1.1. My IAPI, prepared in accordance with s88 of the PA2008 and Rule 5 of the IPR, was published as an Annex to my Rule 6 letter [PD-005]. In preparing the IAPI, I had regard to the application documents, the NPSNN and relevant DLUHC guidance, along with RRs submitted by IPs.

4.1.2. I identified [PD-005] that my IAPI was not a comprehensive or exhaustive list and that inevitably some issues will overlap or interrelate, and that regard would be had to all relevant matters in reaching a recommendation after the conclusion of the Examination.

4.1.3. In no particular order, the issues identified in my IAPI were as follows:

- Air quality and emissions;
- Biodiversity, Ecology and the Natural Environment;
- Climate change;
- Geology and soils;
- Historic environment;
- Landscape and visual effects;
- Material assets and Waste;
- Noise and Vibration;
- Population and Human Health;
- Transportation and Traffic;
- Water environment;
- Scope of development and Environmental Impact Assessment;
- dDCO and other consents, permits and licenses; and
- Compulsory Acquisition and/or Temporary Possession.

4.1.4. The IAPI was the subject of a specific topic for discussion at the PM. Whilst no objections were made to its contents, a number of IPs raised further additional matters that they considered should be identified. The following comments were made:

- Climate Emergency Planning and Policy (CEPP) [PDA-002] that cumulative carbon emissions should be included under the Climate Change heading and [PDB-003] that cumulative effects with the NWL and the proposed scheme should be considered under Biodiversity, Ecology and the Natural Environment; Climate Change; and Air Quality and Emissions topics. Similar issues were also raised by Stop Wensum Link [PDB-009].
- NCC, as promoter of the NWL [PDA-003] considered that matters relating to the NWL should be addressed under the Transportation and Traffic topic and under the dDCO topic.
- Mr Richard Hawker [PDA-005] sought clarification that the following matters would be included:
 - Landscape and visual effects - the amount and quality of hedgerows and other features which are proposed to be removed and the adequacy of information on lighting.

- Noise and vibration – examination of the claimed benefit that the scheme would reduce noise from the existing road for residents. This topic was also raised by Lisa Tomlin [PDB-006].
- Scope of Development and EIA - alternatives put forward by correspondents should be assessed. The issue of alternatives, in particular in relation to the proposed Wood Lane junction was raised by both Mr Anthony Meynell, owner of BHE (BHE) [RR-075] and Weston Longville Parish Council (WLPC) [PDB-010].
- Transportation and traffic - effect on users of the bus services during operational and construction phases and non-road complementary public transport facilities.
- Water environment - whether adequate arrangements have been made to cope with increasingly heavy flash flooding.
- Economic Costs of and benefits of the Proposed Development.

4.1.5. In accordance with paragraphs 4.18 to 4.20 of the NPSNN, I also considered how best to handle matters where the details of the Proposed Development are yet to be finalised. This was particularly relevant in this case as the detailed design elements were yet to be completed. In such instances where details are still to be finalised, the NPSNN identifies that appropriate requirements should be secured in the DCO in the event of deciding to grant development consent.

4.1.6. Considering the nature and scale of the Proposed Development, I accept that, at this stage, not all details can be confirmed. Consequently, my assessment and consideration has been to satisfy myself that all details would be capable of resolution within the envelope defined in the ES and can be secured through the DCO requirements.

4.1.7. I have considered all the principal issues that were identified in my Rule 6 Letter [PD-005], along with the additional matters raised by IPs at the PM. My detailed findings and conclusions on all the relevant and important matters are set out in Chapter 5 of this Report.

4.1.8. Matters relating to Habitats Regulations Assessment, CA and TP and the dDCO are contained in Chapters 6, 8 and 9 respectively.

ISSUES ARISING IN WRITTEN AND ORAL SUBMISSIONS

Introduction

4.1.9. At the outset of the Examination, a range of issues and comments were raised. However, as the Examination proceeded, a number of key issues and specific components of the Proposed Development gained in prominence and provided the main focus for the Examination. I have summarised the matters raised in the following sections.

Relevant Representations

4.1.10. A number of the issues that were raised in the RRs fell within the topics identified in my IAPI or in the responses to it. Climate change, traffic and transport, effects on heritage assets and biodiversity were the most

frequently mentioned matters. In addition, a number of more detailed and site-specific issues were raised. I summarise these as follows:

- The assumptions made about the timing and overall delivery of the NWL, implications of additional traffic through local villages and approach should NWL be delayed or not be delivered.
- Additional traffic on surrounding side roads, in particular Taverham Road, and through Easton, Weston Longville and Honingham villages.
- The overall effectiveness of the side road strategy and potential severance issues effecting agricultural businesses, leading to longer journey times via unsuitable routes.
- The need for the Proposed Development, especially given the recently declared climate emergency, the Government's policy on modal shift, the need to reduce carbon emissions and increasing levels of home-working following the COVID-19 pandemic.
- The potential traffic impacts on the wider network.
- The impact upon a nationally important colony of Barbastelle bats found in the Lenwade/Ringland Hills/Weston Longville area and in combination effects with the NWL and other A47 schemes.
- The need for additional noise mitigation measures between Wood Lane and Honingham Church.
- Ensuring that Proposed Development does not prohibit or delay the construction and/or operation of Hornsea Three or result in Hornsea Three being in breach of the Hornsea Three Order.
- The inadequacy of Hall Farm underpass to allow agricultural vehicles to pass.
- The suitability and location of Wood Lane Junction, especially should the NWL not proceed.

4.1.11. The overall need for the Proposed Development was questioned by a number of IPs. Whilst I have considered the case for the Proposed Development in Section 5, in accordance with the guidance offered in Section 2 of the NPSNN, the need for the Proposed Development is not a matter for the Examination.

4.1.12. Other RRs highlighted the potential benefits that the Proposed Development would bring, including the removal of traffic from the existing A47 and surrounding roads, especially in locations close to existing residential properties.

4.1.13. There was some criticism of the Applicant's pre-application consultation process. There were a few IPs, such as BHE [RR-075] and Mr Richard Hawker [RR-071], who commented that they considered that the pre-application consultation undertaken by the Applicant had not been effective. This was on the basis that they felt the Applicant had failed to address what they considered to be legitimate concerns and had therefore not engaged constructively. From my reading, these criticisms were principally about the approach taken by the Applicant to the development of options, rather than the principle of the development.

4.1.14. From my review of the Applicant's submissions, I consider the level and amount of pre-application consultation appears to be adequate. I also note that the suitability of the consultation was considered as part of the

acceptance process, where it was deemed to be sufficient to enable the application to be accepted for Examination. On this basis, I have not considered the matter any further.

Written and oral submissions

- 4.1.15. The Examination process offered the opportunity for IPs to supplement their RRs and to respond to submissions by other IPs. I also exercised my discretion to accept additional written submissions from others who were not registered as IPs.
- 4.1.16. The substantive new matters to emerge from these contributions are set out below (together with the section of this Report where I address them):
- Climate change - this was identified in the IAPI, but changes to Government targets, the emergence of new guidance after the application was submitted, along with court judgements and other DCO applications, meant that these matters featured in submissions during the later stages of the Examination. Allied concerns included cumulative impacts with both the NWL and other A47 schemes that were running concurrently with the Proposed Development. These matters are dealt with in Section 5.7.
 - Impact upon BHE - submissions were made by the landowner at most deadlines and presented orally at both ISH2 and ISH3, along with CAH2 and CAH3. These submissions focused on the importance of BHE both from a heritage perspective and as a functioning business with a number of rural practices taking place, along with its landscape qualities. The main focus of these was on the design, location and overall approach to Wood Lane junction and its impact upon BHE. These matters are dealt with in Section 5.3 and 5.9. A further issue was on the impact of the Estate's designation under the Inheritance Tax Act 1984 (IHTA). I consider the issue of the IHTA, to be an important and relevant consideration and this is addressed in Section 5.18.
 - The overall loss of trees and hedgerows along the route of the Proposed Development. These matters are dealt with in Section 5.10.
 - The impact of the Proposed Development on the landscape, in particular on the River Tud from a number of footpaths in the locality. These matters are dealt with in Section 5.10.
 - The effect of the proposal on biodiversity, whether it offers sufficient biodiversity enhancement and whether the assessment methodology used in the ES is transparent and robust. These matters are dealt with in Section 5.6.
 - Overall suitability of Wood Lane junction, the approach taken to its design and configuration, along with potential alternative approaches. This is dealt with in Section 5.3.
 - Impact of construction noise on sensitive receptors. These matters are dealt with in Chapter 5.12.
 - The relationship of the Proposed Development with the NWL. Matters were related to the design issues associated with the proposed Wood Lane junction, along with inter-related issues, in particular climate

change, biodiversity impacts and the implications for the surrounding highway network, including the measures proposed by the Applicant should the NWL not be delivered or be delayed. These matters are dealt with in Sections 5.3, 5.7 and 5.16.

- The implications of the COVID-19 Pandemic on traffic survey results, but also on future modelling and need for the development. These matters are dealt with in Chapter 5.16.

4.1.17. I have considered all issues raised in the RRs and written and oral submissions. The matters are addressed in detail later in the relevant chapters.

4.2. ISSUES ARISING IN LOCAL IMPACT REPORTS

4.2.1. Two LIRs were received, one from NCC [REP2-022] and the other from BC [REP2-017].

4.2.2. In general, the majority of the principal matters raised in the submitted LIRs coincided with my IAPI and the matters raised by IPs in RR and WRs. Both LIRs expressed in principle support for the Proposed Development.

4.2.3. The general matters raised in the LIRs were:

- relevant national and local policies;
- the need for the Proposed Development having regard to its role in providing additional capacity on the highway network, which would facilitate local housing and economic development;
- environmental effects including the impacts on the highway network, flood risk, landscape and visual effects including trees, ecology, air quality, heritage and minerals and waste implications; and
- the economic, social and environmental sustainability of the Proposed Development.

4.2.4. Specific concerns raised in the LIRs included the following:

- NCC [REP2-022]: temporary cycle track between the realigned Wood Lane and Hall Farm Underpass, concern that local users would not appreciate its temporary nature and would expect NCC to provide a permanent crossing at this location as part of the NWL.
- NCC [REP2-022]: the overall capacity of the link road between the two roundabouts at the Wood Lane junction in terms of its long-term capacity and its resilience should there be an accident.
- NCC [REP2-022]: the adequacy of the interim solutions between the completion of the proposed scheme and the delivery of the NWL.
- NCC [REP2-022]: the need to consider the provision of a suitable access to the Food Enterprise Park.
- NCC [REP2-022]: requested amendments to the dDCO in relation to the Requirements to cover archaeology, road drainage and the water environment.

4.2.5. In preparing this Report, I have had full regard to the matters identified in the LIRs and, where relevant, these were further explored and considered during the course of the Examination.

- 4.2.6. Chapter 5 comprises my detailed consideration of each of the subject matters identified above in relation to the Proposed Development.

4.3. THE STRUCTURE OF THE REPORT IN CHAPTER 5

- 4.3.1. Chapter 5 is structured to firstly examine the case for the Proposed Development, to consider alternatives and to review the scheme's design, followed by an assessment of the effects of the Proposed Development in the order as they were presented in my IAPI. Thus, the structure is as follows:

- The principle of the Proposed Development
- Consideration of Alternatives
- Good Design
- Air quality
- Biodiversity
- Climate
- Geology and soils
- Historic Environment
- Landscape and visual
- Material assets and waste
- Noise and vibration
- Health
- Socio-economic
- Land use
- Traffic and transport
- Water environment
- Other important and relevant matters

- 4.3.2. In each section, I identify the policy position, followed by a summary of the application, including the findings of the ES. I then report on the main planning issues that were discussed during the Examination. I then provide my findings, before concluding whether I find a positive, neutral or negative planning effect, along with whether this carries low, moderate, or high weight in the planning balance, along with a justification.

4.4. CONFORMITY WITH THE NATIONAL POLICY STATEMENT

- 4.4.1. As identified in Chapter 3 of this Report, the Proposed Development falls to be considered against the NPSNN. Conformity with the NPSNN is a principal matter for consideration in the Examination, this is discussed in further detail in Section 5.2.

4.5. CONFORMITY WITH THE DEVELOPMENT PLANS

- 4.5.1. Section 3.9 of this Report sets out those plans and documents which comprise the development plans covering the Order Limits. The LIR received from BC sets out the relevant development plan policies which it considers applies to the Proposed Development [REP2-016].

- 4.5.2. No relevant planning authority identified any specific conflict against their respective development plans in either their LIR or within the signed SoCGs. Neither was any conflict with the Development Plan raised by any IPs.
- 4.5.3. Based on this, I do not consider the Proposed Development to conflict with the general aims and objectives of the relevant Development Plans.

4.6. CONFORMITY WITH OTHER RELEVANT POLICY STATEMENTS

Road Investment Strategy

- 4.6.1. The Proposed Development was included in RIS1 and was re-confirmed in RIS2 as a scheme which the Government expects to be built and funded in the period to 2025. Concern has been raised by a number of IPs with regard to the approach to assessing investment decisions in the RIS and the overall principle of road building. However, it is not for this Examination to review the methodology or assumptions underlying nationally published policies.
- 4.6.2. On this basis, I therefore find that the Proposed Development is supported by the RIS.

Local Transport Plans

- 4.6.3. The Proposed Development is not specifically referred to in the NCC LTP 2011-2026. The Plan identifies six objectives which are managing and maintaining the transport network; sustainable growth; strategic connections; transport emissions; road safety; and accessibility.
- 4.6.4. The Council are currently progressing an updated LTP and undertook consultation at the start of 2020. Policy 7 supports strategic connections to bring about an improvement in journey time reliability in and around Norfolk, requiring local agencies to work together to enhance the strategic network. Policy 8 prioritises the improvement of major road and rail connections between larger places in the county and notes the government commitment to over £300 million of investment for the A47 works.
- 4.6.5. Whilst not specifically identified in either the adopted or the emerging LTP, I find that the aims and objectives of the Proposed Development align with those of the adopted LTP. However, given the stage this plan has reached, little weight can be given to it.

4.7. ENVIRONMENTAL IMPACT ASSESSMENT

Policy position

- 4.7.1. Paragraph 4.15 of the NPSNN states that *"all proposals for projects that are subject to the European Union's Environmental Impact Assessment Directive and are likely to have significant effects on the environment, must be accompanied by an environmental statement, describing the*

aspects of the environment likely to be significantly affected by the project”.

- 4.7.2. Paragraph 4.16 deals with significant cumulative effects and advises that *“any environmental statement should provide information on how the effects of the Applicant’s proposal would combine and interact with the effects of other existing or consented development.”*

The Environmental Statement

- 4.7.3. As set out in Section 1.5 above, the application was supported by an ES, the scope of which had previously been agreed via a Scoping Opinion issued by PINS on 1 November 2019. The ES comprises 15 Chapters [APP-040 to APP-054] together with supporting Figures [APP-055 to APP-080] and Appendices [APP-081 to APP-133]. A Non-Technical Summary is also provided [APP-134].
- 4.7.4. In preparing the ES, the Applicant has confirmed that all assessments were undertaken following the most recent and relevant advice, guidance and best practice available. Where specific issues were raised by IPs in relation to the approach, I have considered these against the relevant topic in Section 5.

Rochdale Envelope

- 4.7.5. As discussed in Section 4.1.5 above, the Proposed Development has not yet been fully designed. As a result, to address these design uncertainties, the approach of the assessments within the ES was to use the Rochdale Envelope approach. This involved setting a LoD for both the horizontal and vertical alignment of the proposed carriageways.
- 4.7.6. In response to my ExQ1 [REP2-014], the Applicant provided details of the parameters against which the various ES Chapters had assessed the Proposed Development and its effects. The Applicant confirmed that the ES assumes a worst-case scenario for environmental effects within these limits. Conformity of the scheme with the LoD would be secured through rDCO (Appendix D).
- 4.7.7. This approach is supported by PINS Advice Note 9: Using the Rochdale Envelope. The effects assessed in the ES are also defined through the use of Environmental Masterplans [REP8-011], which detail the visual, landscape, built environment, biodiversity, noise and water quality measures incorporated into the Proposed Development.

Adequacy of the EIA

- 4.7.8. Dr Andrew Boswell made submissions that the Examination should be suspended [REP1-023 and AS-016] on the basis that there was significant and substantial data missing from the EIA. In particular, given the proximity of the Proposed Development to two other A47 schemes, the Applicant should have undertaken and presented the results of a detailed cumulative assessment. As a result, Dr Andrew Boswell considered that the ES was inadequate in its assessment of carbon

emissions and cumulative carbon emissions and failed to comply with both The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regulations) and the NPSNN. Dr Andrew Boswell made identical submissions and requests to the A47 Blofield to North Burlingham and A47/A11 Thickthorn Junction Examinations [AS-016].

- 4.7.9. Similar concerns were also raised by Mr David Pett of Stop Wensum link campaign [REP1-027], however, his issue related to the lack of information in relation to the impact of the Proposed Development upon barbastelle bats. Mr David Pett considered that, without further investigation and assessment, it was not possible to form a reliable baseline against which to make any informed decision on the adequacy or otherwise of the proposals for mitigation and compensatory measures. As a result, there can be no guarantee that the Proposed Development would not be detrimental to maintaining the barbastelle population at a favourable conservation status in their natural terrain.
- 4.7.10. The Applicant provided a response and set out its position at D4 [REP4-11 and REP4-015] to the submissions regarding GHG emissions. In relation to the issue of bats, the Applicant provided its response at D3 [REP3-022].
- 4.7.11. With regards to the issues raised by both Dr Andrew Boswell [REP1-023 and AS-016] and Mr David Pett [REP1-027] in relation to the adequacy of the ES, I considered that the issues raised were important matters to be considered as part of the Examination. Section 5.7 provides my consideration of the issue of climate issues and the cumulative impact of the Proposed Development. Chapter 5.6 considers the impact of the Proposed Development in relation to Biodiversity, including bats.
- 4.7.12. During the course of the Examination I asked questions around both these issues [PD-007 and PD-012]. The matters were discussed at ISH2 [EV-022] and ISH3 [EV-039]. In specific relation to GHG and cumulative assessment, I sought further clarification from the Applicant via my Rule 17 letter [PD-015].
- 4.7.13. On this basis, I therefore consider that, by the close of the Examination, the Applicant had provided the information necessary for the SoS to determine whether the effects of the Proposed Development upon these issues would be significant for the purposes of the EIA Regulations and the NPSNN.

Cumulative effects

- 4.7.14. Cumulative effects with other projects in the locality are considered in ES Chapter 15 [APP-054]. Chapter 15 was updated at D6 [REP6-030] to reflect the publication of the Scoping Opinion for the NWL.
- 4.7.15. A list of eighty developments [APP-133] was identified that had the potential to have cumulative effects with the Proposed Development. Following consultation with the relevant LPAs, those schemes which were shown to be subject to EIA were classed as Tier 1 developments. The remainder of the shortlisted developments were considered to be Tier 3

developments. In accordance with PINS Advice Note Seventeen, the Applicant undertook a very high level assessment.

- 4.7.16. As a result, the effects of the Proposed Development was assessed against the following:
- Ørsted Hornsea Project Three;
 - Vattenfall Norfolk Vanguard;
 - Vattenfall Norfolk Boreas;
 - Sherringham and Dudgeon Extension;
 - Norwich Western Link;
 - Easton Village Growth: Land North and South of Dereham Road; and
 - Food Enterprise Park.
- 4.7.17. With regards to other A47 road projects between Peterborough and Great Yarmouth, the Applicant confirmed [REP6-030] that these were initially considered following scoping opinion feedback, however, none were within the ZoI and therefore not progressed further in the assessment.
- 4.7.18. In their submissions, a number of IPs raised issues and questions around the adequacy of the cumulative assessment. In particular these matters related to climate change and emissions and the impact of the scheme with the NWL in relation to, but not limited to, matters of traffic and biodiversity. These cumulative effects are considered with the relevant sections in Chapter of this Report.
- 4.7.19. With regards to issues raised by Dr Andrew Boswell in relation to the cumulative assessment of GHG emissions with other A47 projects [REP1-023 and AS-016], I have addressed these, alongside my consideration of issues in relation to climate change, in Section 5.7.

Transboundary effects

- 4.7.20. On behalf of the SoSHCLG (as it was at the time), PINS carried out a screening exercise to determine whether the Proposed Development would result in any LSEs on the environment in another European Economic Area State. The transboundary screening on 26 June 2022 followed the Applicant's request for a scoping opinion.
- 4.7.21. Under Regulation 32 of the EIA Regulations and based on the information provided by the Applicant, PINS considered that the Proposed Development would be unlikely to have a significant effect either alone or cumulatively on the environment in another European Economic Area State.
- 4.7.22. In reaching this conclusion PINS identified and considered the Proposed Development's likely impacts including consideration of potential pathways and the extent, magnitude, probability, duration, frequency and reversibility of the impacts. PINS considered that the likelihood of transboundary effects resulting from the Proposed Development is so low that it does not warrant completion of a formal transboundary screening matrix.

- 4.7.23. I have had regard to the ongoing duty of the SoST under Regulation 32 to have regard to transboundary matters throughout the Examination. No new information or evidence has come before this Examination which gives rise to the need to reconsider the transboundary screening opinion.

Conclusions on the EIA and ES

- 4.7.24. I am satisfied that the ES, together with the other information submitted by the Applicant during the Examination, is adequate and meets the requirements under the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017. Full account has been taken of all environmental information in the assessment of the Proposed Development and in the recommendation to the SoST.
- 4.7.25. Considering the EIA process, the submitted and updated ES, the Works Plans and Environmental Masterplans, I conclude that:
- the Proposed Development is EIA development;
 - the submitted documents provide an adequate assessment of the environmental effects of the Proposed Development;
 - the Rochdale Envelope has been properly defined and considered within the ES;
 - the proposed mitigation identified through the ES been adequately incorporated into the Proposed Development, either within the Environmental Masterplan, or via the rDCO; and
 - the ES gives enough consideration to alternatives to the Proposed Development.

4.8. HABITATS REGULATIONS ASSESMENT

- 4.8.1. The application was accompanied by a report [APP-139] entitled Report to Inform Habitats Regulations Assessment (HRA Report). The HRA Report was updated at DL6 [REP6-008] to reflect issued raised at ExQ1 [PD-007] in relation to the lack of reference to the Sheringham and Dudgeon Extension Offshore Wind Farm.
- 4.8.2. In accordance with the Design Manual for Roads and Bridges (DMRB) LA 115, the Applicant used a study area of 2km from the DCO boundary of the Proposed Development to identify international sites likely to be affected. A study area of 30km from the Proposed Development boundary was used to identify international sites designated for bats. This identified the River Tud SAC, located 1.6km to the north-east of the Proposed Development and Paston Great Barn SAC 29.3km to the north.
- 4.8.3. Following assessment, the HRA Report concluded 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)).
- 4.8.4. The HRA Report identified that consultation had taken place between the Applicant and NE prior to the submission of the application. No final agreed SoCG was submitted during the Examination between NE and the

Applicant but the Statement of Commonality for SoCGs (Rev 3) [REP9-026] states (paras 6.2.2 and 6.2.3) that

"A draft SoCG has been developed by the Applicant and was issued to Natural England in February 2021, then an updated version was issued on 09 September 2021. The draft reflects the issues raised during statutory consultation and meetings/correspondence on the development of the Scheme design and Environmental Statement. The Applicant is awaiting comments from Natural England on the SoCG, but has received no feedback by Deadline 9 even after chasing emails on 16 September, 23 September, 08 October, 02 November and, 01 December 2021 and in January 2022." (and) "The Applicant can confirm the following communications with regards designated habitats and protected species:

- Natural England have confirmed that they are in agreement with the findings of this Habitats Regulations Assessment screening as evidenced in the Applicant's Response to Examining Authority's Further Written Questions, October 2021 (REP3-023)."*

- 4.8.5. The ExA issued a Report on the Implications for European Sites (REIS) [PD-014] on 17 December 2021. This is discussed further below in Chapter 6. Consequently, the consideration and conclusions on HRA are dealt with in that Chapter.

4.9. OUTSTANDING MATTERS AT THE CLOSE OF THE EXAMINATION

- 4.9.1. At the close of the Examination, there were very few matters which were either not resolved or where the ExA considers additional or updated information is required. These are discussed further in the relevant sections in Chapter 5 of the Report.
- 4.9.2. Where I consider the SoS may wish to consider seeking updated or additional evidence from IPs, I report these in the relevant sections and have also set these out in my overall conclusion in Chapter 10 of this Report for the SoST's ease of reference.

5. FINDINGS AND CONCLUSIONS IN RELATION TO THE PLANNING ISSUES

5.1. INTRODUCTION

- 5.1.1. This Chapter considers the main planning issues in the Examination.

5.2. THE PRINCIPLE AND CASE FOR THE PROPOSED DEVELOPMENT

INTRODUCTION

- 5.2.1. This section considers whether the principle of the Proposed Development complies with the requirements of the NPSNN. In doing so, it covers whether the need for the development has been established through the NPSNN and whether alternatives, including alternative approaches to the design of the Proposed Development have been properly considered.
- 5.2.2. Compliance with detailed policies on specific topic areas is dealt with in the remainder of this Chapter.

NEED FOR THE DEVELOPMENT

- 5.2.3. Paragraph 2.13 of the NPSNN establishes the importance of the national road network and identifies that they provide *"critical links between cities, joins up communities, connects our major ports, airports and rail terminals. It provides a vital role in people's journeys, and drives prosperity by supporting new and existing development, encouraging trade and attracting investment"*.
- 5.2.4. Paragraph 2.21 goes on to state that, whilst there are a number of options to meet identified need, such as maintenance and management or demand management and modal shift, relying solely on these alternatives is not viable or desirable as a means of managing need.
- 5.2.5. Paragraph 2.22 advises that without improved road networks, including performance, it will be difficult to support further economic development, employment and housing. On this basis, the Government concludes that, at a strategic level, there is a compelling need for development of the national road network. Paragraph 2.23 finds that works may take the form of *"improvements to trunk roads, in particular dualling of single carriageway strategic trunk roads and additional lanes on existing dual carriageways to increase capacity and to improve performance and resilience."*
- 5.2.6. Paragraph 2.27 identifies that to meet the need set out in the NPSNN, simply expanding capacity on the existing network may not be sufficient. In these circumstances it identifies that *"new road alignments and corresponding links, including alignments which cross a river or estuary, may be needed to support increased capacity and connectivity"*.

5.2.7. Paragraph 4.2 identifies that:

"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. The statutory framework for deciding NSIP applications where there is a relevant designated NPS is set out in Section 104 of the Planning Act."

EXAMINATION MATTERS

5.2.8. The Applicant evaluates the Proposed Development against relevant NPSNN policies in its Case for the Development [APP-140] and NPS Accordance Tables [APP-141].

5.2.9. The Applicant identifies that the Proposed Development is included within RIS2. RIS2 identifies the Proposed Development as: "A47 North Tuddenham to Easton – dualling of the single carriageway section of the A47 between Norwich and Dereham, linking together two existing sections of dual carriageway". The Applicant considers that there is a need for the Proposed Development as the existing single carriageway section currently acts as a bottleneck, resulting in longer and more unreliable journey times.

5.2.10. The Applicant considers [APP-140], that the Proposed Development would provide additional capacity along the A47, making journey times more reliable. This would assist in facilitating regeneration, development and economic growth on the western side of Norwich. The Applicant identifies that there is a forecast increase in traffic in the area with development at a number of locations along the A47 corridor, including Norwich, with several major proposed housing schemes close to the Proposed Development [APP-140 and REP1-013].

5.2.11. In their LIR [REP2-017], BC support the view that the Proposed Development will open up development opportunities for the north of their District and help it to meet its housing and employment growth requirements. Similarly, NCC identify [REP2-022] that wider economic benefits will also arise from the completed scheme, which, in their view, would include journey time savings and reliability improvements, benefitting businesses.

5.2.12. Clarion Housing Group [RR-079] in their RR, amongst other things, submit that the proposed scheme will enable growth in and around Norwich, specifically the FEP and the Honingham Thorpe Settlement which would deliver around 5,000 new homes.

5.2.13. In both their Case for the Scheme [APP-040] and in their submissions at ISH2 (REP4-015), the Applicant identified that the scheme would improve safety along the A47 by providing both an upgraded dual carriageway alignment and improved grade separated junctions. The Applicant drew my attention to the current accident record on the existing A47, which is ranked 2nd nationally for fatalities on A roads [REP4-015].

- 5.2.14. Covering the period 2014-2018, the Applicant provided figures to show that there had been a total of 2 fatal, 15 serious and 76 slight accidents recorded along the 11km length of the existing North Tuddenham to Easton section [REP1-013]. In this respect, the Applicant considered that, in total, over a 60-year timeframe, the Proposed Development's improvements will save a total of 291 accidents and 47 killed or seriously injured (KSIs) [REP1-013].
- 5.2.15. In their RR, Norfolk Constabulary [RR-060] reaffirmed that this particular stretch of road has a poor safety record and, as a consequence, they supported proposals to increase safety aspects along this stretch.
- 5.2.16. A number of IPs cast doubts on the need for additional road building, highlighting that it went against recent Government announcements in relation to the climate emergency, along with contrasting with Government policy towards achieving a modal shift away from the car. These policies suggested alternatives to building new roads which, in their view, would generate additional traffic.
- 5.2.17. The Applicant undertook an Economic Assessment (EconA), that considered the economic, environmental and social benefits and disbenefits of the Proposed Development [APP-140]. In response to questioning [REP4-015], they confirmed that the assumptions were based on the May 2019 Transport Appraisal Guidance (TAG) Databook, which was the latest version at the time the application was prepared, along with the HM Treasury's Green Book⁴.
- 5.2.18. The Applicant confirmed [APP-140] that the EconA was based on the assignment of a forecast core growth scenario, with sensitivity tests to include both high and low growth traffic scenarios.
- 5.2.19. The initial BCR for the Proposed Development [APP-140] was calculated to be 1.7, which represents medium Value for Money (VfM). With the inclusion of journey time reliability benefits and wider economic impacts, the Applicant considered that this would give an adjusted BCR of 2.2. This represents 'high' VfM.
- 5.2.20. The low growth scenario undertaken allowed for uncertainties in the future national trends, such as GDP growth, fuel prices etc, which may result in a reduction of traffic demand. Therefore, under the low growth scenario, which potentially could act as a proxy for uncertainties such as the impact of COVID-19, the Applicant considered that the scheme still represented medium value for money [APP-140].
- 5.2.21. No substantive comments were received from any of the statutory parties or the Local Authorities (LAs) in relation to the Applicant's economic assessment.

⁴ <https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government/the-green-book-2020>

- 5.2.22. At ISH3 and in subsequent submissions [REP6-020, REP7-028, REP8-024], Dr Andrew Boswell on behalf of CEPP, provided an indicative recalculation of the BCR for the Proposed Development following the publication by the Government of new carbon prices for policy and assessment. These were based on price updates to align with recent changes in national Climate Change policy. In these submissions, Dr Andrew Boswell submitted that the BCR for the Proposed Development scheme reduced to “medium” from “high” [REP7-028].

Figure 3 BCR calculation from Dr Andrew Boswell

		Indicative calculations based on HMT Green Book data Oct 2021			TAG Data Book v1.17 Nov 2021
	A47NTE, APP- 140, Table 5-1	Central	High	Central + Construction	
60 years carbon tCO ₂ e	596,790	596,777	596,777	596,777	596,777
Construction emissions (2024-2025) tCO ₂ e				87,727	
Total cost £CO ₂	-£21,610,000	-£48,476,081	-£72,714,121	-£62,348,930	-£38,974,769
ADJUSTED (* 97.27%) Total cost £CO ₂		-£47,155,044	-£70,732,566	-£60,649,840	-£37,912,655
Discounted Average cost carbon/tonne	-£36.21	-£79.02	-£118.52	-£88.60	-£63.53
NPV (Level 1)	£87,920,000	£62,374,956	£38,797,434	£48,880,160	£71,617,345
BCR (Level 1)	1.72	1.51	1.32	1.40	1.58
NPV (Level 1 & 2)	£143,700,000	£118,154,956	£94,577,434	£104,660,160	£127,397,345
BCR (Level 1 & 2)	2.17	<u>1.96</u>	1.77	<u>1.85</u>	2.04

- 5.2.23. In response to this, the Applicant identified that they would review the Scheme’s BCR in accordance with the Project Control Framework (PCF) governance process for Major Projects. This update for PCF Stage 4 would use the July 2021 TAG including a further sensitivity test with the latest November 2021 TAG release. These updates are in accordance with best practice and the required PCF governance for the Stage Gate Assessment Review (SGAR) at the end of each PCF Stage. The analysis will be further updated if there is another TAG release during PCF Stage 5.
- 5.2.24. At the end of the Examination, the position of the Applicant was that the sensitivity analyses to date indicate that the project would still deliver a sufficient positive BCR to support delivery [REP4-015].

EXA CONSIDERATIONS

- 5.2.25. On the basis of the evidence, I am satisfied that the Proposed Development would be likely to result in a reduction to delays and congestion that currently occurs along the existing single carriageway section. As such, these benefits would, in turn, add additional highway network capacity that would help to support housing and economic development in and around Norwich, along with providing improved links within the wider region and beyond. These are benefits of the Proposed Development.

- 5.2.26. There is clear evidence that there is currently a safety issue along the existing A47. The Proposed Development would address these and, at the same time, deliver improvements to highway safety in the future. This is a benefit of the Proposed Development.
- 5.2.27. In terms of the concerns expressed by a number of IPs with regards to the general principal of new road building proposals, I am mindful of the guidance contained at Paragraph 4.6 of the NPSNN, which clearly identifies that the ExA and the SoST do not need to be concerned with the national methodology and national assumptions around the key drivers of transport demand.
- 5.2.28. Issues in relation to climate and carbon emissions from the Proposed Development are addressed in Section 5.7.
- 5.2.29. I reviewed and questioned the Applicant on the economic case for the Proposed Development and the approach taken to the assessment [PD-007, EV-022 and EV-039]. Whilst the assessment complied with the requirements at the time of the submission, no further work has been undertaken by the Applicant to reflect changes that have occurred subsequently or those highlighted by Dr Andrew Boswell [REP6-020, REP7-028, REP8-024]. I note the Applicant's position at the end of the Examination and the requirement to undertake further economic work as the project progresses. I also note that the submissions of Dr Andrew Boswell, whilst providing alternative figures, do not question the overall benefits of the Proposed Development in that regard. I am therefore satisfied with the Applicant's response to my questions and the justification presented. I am therefore content that the costs and benefits of the proposal have been suitably assessed.
- 5.2.30. On this basis, I am satisfied that the approach taken to the economic assessment (EconA) is consistent with the advice at paragraph 4.5 of the NPSNN.

CONCLUSION

- 5.2.31. On the basis of the above, I therefore conclude that the need for the Proposed Development has been established in accordance with the requirements of the NPSNN and that the presumption in favour of development is engaged. This carries high, positive weight in favour of the Proposed Development.

5.3. CONSIDERATION OF ALTERNATIVES

ROUTE ALTERNATIVES

- 5.3.1. At the outset, the Applicant identified 14 potential route options for the Proposed Development [APP-024]. Of these, 4 options were shortlisted for further assessment and were subsequently subject to further environmental, economic, and technical assessment. Further consultation on the route options was also undertaken. All 4 options resolved the transport problem and allowed a safer, swifter movement of

traffic along the route corridor. The junction strategy was similar for all 4 options.

- 5.3.2. Following a review of the feedback and the route option assessments, a variation on Option 2 was taken forward as the preferred route [APP-024]. The variation included amending the alignment of Option 2 to ensure that the preferred route could be built with the least disruption to drivers during construction, allowing the existing road to remain open for local traffic movements, pedestrians, cyclists and equestrians. Following the identification of the preferred option, a number of further detailed refinements took place following feedback from the statutory consultation in 2020 [APP-024].

APPROACH TO JUNCTIONS

- 5.3.3. The existing single carriageway has a large number of junctions with both major and minor local roads, along with a number of direct accesses that serve existing properties and farms. The Proposed Development would contain two new junctions, Wood Lane junction and Norwich Road junction.
- 5.3.4. In terms of Wood Lane, the Applicant considered that a junction in this location would serve an important link for people seeking to access Hockering and Honingham. In terms of the Norwich Road junction, with the removal of the Easton roundabout, the Applicant considered that there was a need for a junction between Hockering and Easton. However, due to constraints beside the existing Easton roundabout, the decision to locate the Proposed Development's eastern junction at the current junction of Taverham Road and Blind Lane was taken [APP-142].
- 5.3.5. With regards to their design, the Applicant identified that both junctions were initially designed to be at grade roundabouts [APP-142]. However, following traffic capacity modelling, that showed unacceptable delays in the am peak at Norwich Road and pm delays at Wood Lane, both were changed to fully grade separation junctions [APP-142].
- 5.3.6. Traffic modelling and safety assessments confirmed that the existing Fox Lane junction at the western end of the Proposed Development required no improvement [REP6-018].

IP SUBMISSIONS

- 5.3.7. Whilst no substantive comments were received in relation to the overall alignment of the proposed route, a number of IPs, including BHE [RR-075, REP1-044, REP1-057] and WLPC [REP1-041], raised issues and concerns with regards to the location, design and size of the proposed Wood Lane junction. In all these submissions, they considered that alternative approaches existed to address the issues they had identified.
- 5.3.8. I address comments in relation to the inclusion of a 50m stub as part of the Wood Lane junction to serve the NWL in Chapter 5.16.

WLPC alternative to Wood Lane junction

- 5.3.9. The submission of WLPC [REP1-041] proposed an interchange rather than a roundabout. Their approach was to seek to separate Wood Lane from the roundabout, which would be achieved by moving the location of the roundabout and running Wood Lane under the new road to connect to the old A47.
- 5.3.10. Their view was that the approach taken by the Applicant resulted in an over engineered, sprawling design more appropriate to an urban setting rather than its rural location [REP1-041].
- 5.3.11. In response, the Applicant [REP3-025] identified that as the local highway authority's assigned HGV route, the disconnection of Wood Lane from the SRN was not something that they could influence. As part of the response to statutory consultation feedback [APP-024], the Applicant highlighted changes that had been made, which included moving the connection of Wood Lane from the northern roundabout and relocating it to the west to a T-Junction with the new side road.

Mr Mark Kenney changes to Norwich Road Junction

- 5.3.12. Mr Mark Kenney put forward proposals to extend and expand the footway underpass west of St Andrew's Church to provide a single lane access for local traffic rather than pedestrian/cycle only [REP4-034]. This would allow for the omission of the dumbbells on Norwich Road junction and allow for a smaller Norwich Road junction to be relocated eastwards. This would provide a new local road link between Easton Village and the Food Hub, along with a connection across a bridge to the junction of Ringland Road and Weston Road which would indirectly connect with Lower Easton and other local traffic from the north.
- 5.3.13. In response [REF5-016], the Applicant considered that the alternative arrangement would, amongst other things, not provide a connection to users south of A47, increase the harm to the setting of St Peter's Church and St Andrew's Church, result in additional environmental impacts and overlap with the Ørsted cable route.

Berry Hall Estate – amendments to Wood Lane junction

- 5.3.14. As part of his submissions Mr Meynell, the owner of BHE, submitted proposals for two alternative arrangements to the Wood Lane junction [REP1-057 and REP3-045]. The options proposed different roundabout configurations, along with alternative options for local traffic travelling east-west to either use the Wood Lane junction, or travel along the existing A47, and pass under a new underpass to the west of the junction.

Figure 4 Alternative 1

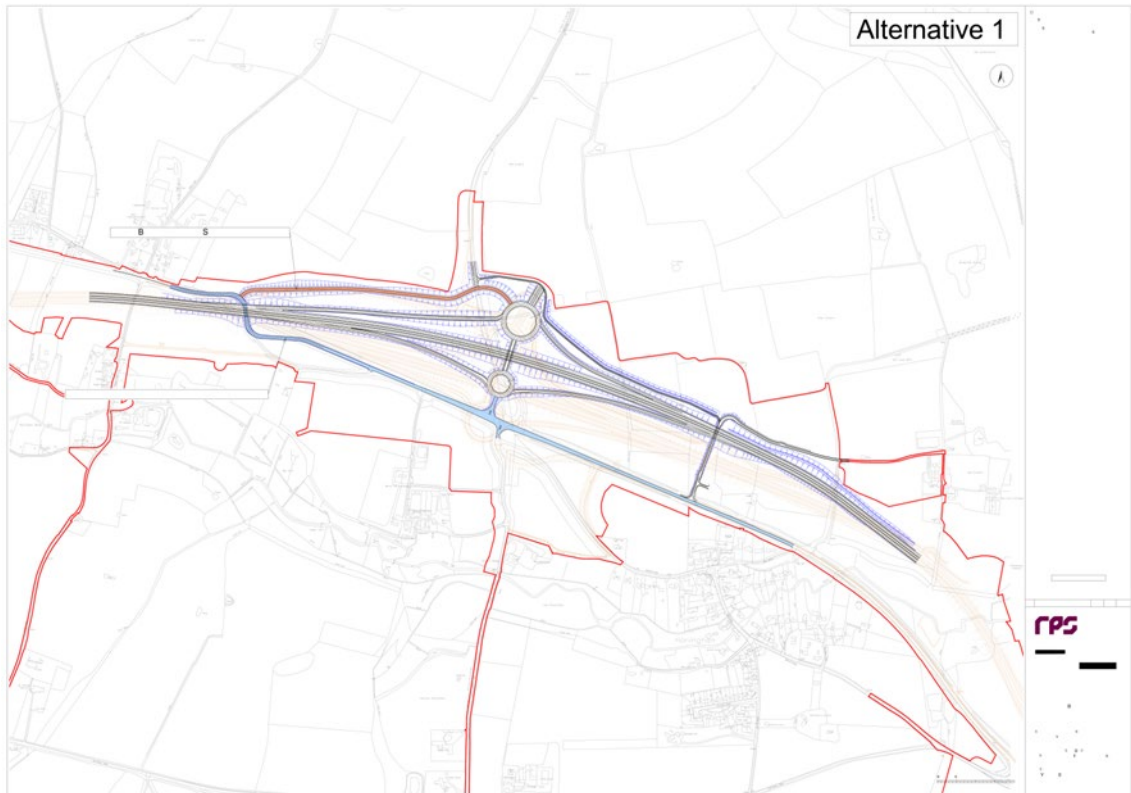


Figure 5 Alternative 2



- 5.3.15. The matter was also discussed at ISH2 [EV-022] where Mr Meynell's consultant team presented the options, along with the benefits they considered they had over the Proposed Development [REP4-023].
- 5.3.16. The alternatives put forward by Mr Meynell, were supported by a number of other IPs, including WLPC [REP4-041]. Objections were however made by Easton Estates [REP10-010], who own the majority of the land upon which the alternative junction would be located.
- 5.3.17. In response, the Applicant submitted an Options Appraisal at D4 [AS-022], which was further updated at D6 [REP6-015]. This concluded that, in the Applicant's view, each of the alternative options proposed had significant deficiencies across a range of key criteria. As a result, the Applicant concluded that the current Wood Lane junction, as proposed, remained their preferred junction arrangement with regards to location and layout and represented the appropriate solution [REP6-015].
- 5.3.18. In response to the alternative, I sought the view of NCC [EV-033]. In response, NCC provided comments at D6 [REP6-023], which whilst accepting that it had not undertaken a technical assessment of the alternatives, commented that both options would appear to increase the maintenance requirements by introducing an additional length of de-trunked road and a junction into the local highway network. In the case of Alternatives 1A and 2A, the introduction of a new underpass and an additional junction into the local highway network could provide an additional area of risk.

EXA CONSIDERATIONS

- 5.3.19. Paragraph 4.26 of the NPSNN requires Applicants to comply with all legal requirements and any policy requirements set out within it in relation to the assessment of alternatives. Paragraph 4.27 identifies that all projects should also be subject to an options appraisal which should consider viable modal alternatives. It goes on to advise that national road schemes will have been subject to a proportionate options appraisal as part of the investment decision making process. Further, that it is not necessary for the ExA to reconsider that process if it is satisfied that the assessment has been undertaken.
- 5.3.20. With regards to the alignment of the Proposed Development, I am satisfied from the evidence that reasonable alternatives were considered, assessed and subsequently refined, before the preferred option was identified. The application therefore meets the requirements of the NPSNN in respect to the consideration of alternatives for the general alignment of the Proposed Development.
- 5.3.21. In terms of viable modal alternatives, the road-based form of the Proposed Development would tackle the identified highway problems along the existing A47 directly. Whilst Government policy places increasing emphasis on walking, cycling and public transport, it also continues to support investment in the SRN. There is no evidence to

show that the Proposed Development would hamper the implementation of schemes to encourage travel by foot, cycle or public transport.

- 5.3.22. Limited evidence has been presented to the Examination to demonstrate that investment in those modes on a comparable scale to that of the Proposed Development would offer a viable alternative means of achieving the travel benefits of the Proposed Development. However, I am mindful of the advice in Paragraph 2.21 of NPSNN, that relying solely on alternatives such as demand management and modal shift is not viable or desirable to manage need. Therefore, I am satisfied that the appraisal of alternatives to a road-based scheme is sufficient to meet the requirements of the NPSNN.
- 5.3.23. From the Applicant's evidence [APP-024], it is clear that all options that included the provision of a junction in the vicinity of Wood Lane, were subject to consultation. Although in this respect, the early consultation comprised an indication of a junction, rather than a definitive design. The February 2020 Consultation [APP-024] makes clear reference to the Wood Lane junction and includes a layout. The December 2020 targeted consultation [APP-024] provides more information and includes details of proposed compounds, material storage areas and construction work areas. I also note that this identifies BHE as a Listed Building.
- 5.3.24. On this basis, I am satisfied that the provision of a junction in the vicinity of Wood Lane has been a part of the scheme since the preferred option was identified and was available for the local community to comment upon.
- 5.3.25. I note that work took place with regards to the design of both junctions, resulting in their change to a fully grade separated approach. However, despite this, there is little evidence to suggest that, once the decision had been made on the need for a junction at Wood Lane/Berrys Lane, any work took place to determine exactly what the best options were for its location. On this basis, it is not possible for me to conclude that the current proposed location represents the best position for the junction.
- 5.3.26. That said, whilst the BHE alternatives may have the potential to provide some benefits, it is clear from the Applicant's response [REP6-015] that there are a number of significant issues with the BHE alternatives. I concur with BHE that it would be unreasonable to expect IPs to produce fully detailed and assessed alternatives [REP4-023]. However, it is clear from the evidence that the BHE alternative would require substantial changes to both the Proposed Development and existing roads. It is not simply a case of amending the junction location and design. I am also mindful of the objections expressed by Easton Estates [REP10-010] and the views expressed by NCC [REP6-023].
- 5.3.27. Furthermore, my role is to consider the Proposed Development as submitted by the Applicant and any subsequent accepted changes made during the Examination. It was clear during the Examination that the Applicant was not intending to make any changes to either junction as a result of IPs comments and alternative arrangements. I have therefore

considered the Proposed Development on this basis. I have considered the matter of the design of the junctions in Section 5.16.

- 5.3.28. In relation to the alternatives submitted by WLPC and Mr Mark Kenney, I am satisfied with the responses from the Applicant with regards to the issues around these alternatives and find that, for those reasons, they do not represent viable propositions.

CONCLUSION

- 5.3.29. In accordance with paragraph 4.26 of the NPSNN, the Applicant has included within the ES an outline of the main alternatives studied [APP-042] and provided an indication of the main reasons for the identification of the preferred route, taking into account the environmental effects.
- 5.3.30. In accordance with paragraph 4.27 of the NPSNN, I am satisfied that the Proposed Development has been subject to an options appraisal in achieving its status within the Road Investment Strategy, and that proportionate option consideration of alternatives has been undertaken as part of the process of preparing this application.

5.4. GOOD DESIGN

RELEVANT POLICY

- 5.4.1. Paragraphs 4.28 and 4.29 of the NPSNN advise that Applicants should include design as an integral consideration from the outset and that visual appearance should be a key factor in considering the design of new infrastructure, as well as functionality, fitness for purpose, sustainability and cost. The outcome should be; *"sustainable infrastructure sensitive to place, efficient in the use of natural resources and energy used in their construction, matched by an appearance that demonstrates good aesthetics as far as possible"*. Paragraph 4.35 identifies that Applicants should be able to demonstrate how the design process was conducted and how the proposed design evolved.

EXAMINATION MATTERS

- 5.4.2. I raised the issue of design in ExQ1 [PD-007] and also questioned the Applicant on the matter at ISH2 [EV-022]. In both instances, I asked the Applicant to explain and justify their approach to design, how good design had influenced the evolution of the Proposed Development and provide evidence of instances of good design within the proposal.
- 5.4.3. In response to my questions [REP2-014], the Applicant advised that the design of the Proposed Development had been developed in accordance with the ten principles of good design as defined in HE's The Road to Good Design (2018). These Principles seek good road design which makes roads safe and useful, inclusive, understandable, fit their context, restrained, environmentally sustainable, thorough, innovative, long lasting and is designed in a collaborative process. In terms of the four National Infrastructure Commission's Design Principles for National Infrastructure, the Applicant confirmed [REP2-014] that these formed

part of the design. The Applicant has confirmed [REP2-014] that they had also applied the advice in Design Manual for Roads and Bridges (DMRB) standards for functionality.

- 5.4.4. In terms of the design process, the Applicant [REP2-014] highlighted that, in preparing the Proposed Development, it had worked closely with partners, Councils, safety engineering and standards teams. They had also received input from technical support covering road design, drainage, landscape and noise, along with consultation with statutory bodies. The design, including the form, appearance and detailed siting of its components, has been developed through an iterative process in parallel with the EIA.
- 5.4.5. At ISH2 [EV-022], representatives of BHE questioned the Applicant's approach towards design, in particular in the vicinity of BHE. My attention was drawn to Paragraph 4.34 of the NPSNN, and the requirement for the Applicant to demonstrate good design in terms of siting and design measures relative to existing landscape and historical character and function, landscape permeability, landform and vegetation. In the view of BHE, the Proposed Development failed to deliver this.
- 5.4.6. In response, the Applicant referred to ES Chapter 6 [REP3-012], where it considered that good design in terms of cultural heritage had been demonstrated, along with the measures that would be delivered through item CH1 of the EMP [REP7-035].

EXA CONSIDERATIONS

- 5.4.7. The Proposed Development comprises a linear development that is required to integrate into the existing highway network at a number of locations. In some ways, this constrains its siting and, to a degree, its layout. The setting for the development and its associated junctions is predominately rural in character. An Environmental Masterplan [REP8-011] was prepared and submitted, which included embedded mitigation and additional enhancement measures to deliver further integration. In this context, I consider that the form of the Proposed Development generally responds positively to its setting.
- 5.4.8. I am content with the Applicant's response to my questions in relation to their overall approach to design. I am also satisfied that the recommendations from the various ES chapters have been included in the design, either directly, or through the EMP [REP7-035].
- 5.4.9. It is also evident from the history of the Proposed Development [APP-042] that in developing it, the Applicant prepared a number of options, which evolved to account for responses to consultation. Changes were made once the final option was identified to further minimise the impact and ensure that positive elements of rejected options were included where possible. Furthermore, a number of the proposed structures, in particular the Easton Footbridge and the proposed underpasses at Hall Farm and Honingham, were subject to optioneering exercises to ensure well designed structures were proposed [APP-142]. The design of the

development around St Andrew's Church was also revised in response to the Listed Building.

- 5.4.10. Overall, little concern has been raised regarding the appearance of the Proposed Development and its associated structures. The exceptions to this are the design of the Wood Lane junction and the relationship of the road with the River Tud. I deal with issues in Sections 5.9 (Historic Environment), 5.10 (Landscape and Visual) and 5.16 (Traffic and Transport).
- 5.4.11. The final details of the Proposed Development has yet to be finalised. These include matters affecting the final appearance of development, in particular structures such as the Easton Footbridge. However, I am satisfied that the rDCO (Appendix D) and the EMP [REP7-035] provide sufficient controls and safeguards to ensure that the further details to be submitted would meet the NPSNN requirements for good design.
- 5.4.12. With these measures in place therefore, I find that the Proposed Development accords with the NPSNN in terms of good design.

5.5. AIR QUALITY

INTRODUCTION

- 5.5.1. This Chapter deals with the effects of the Proposed Development on air quality. In particular, it considers:
- Nitrogen Oxide (NO_x) and particulate emissions (PM₂ and PM₁₀); and
 - Construction emissions with a bearing on air quality including dust.
- 5.5.2. Air quality effects in relation to biodiversity and designated sites are covered in Section 5.6. Climate change, CO₂ and other greenhouse gas emissions (GHG) are dealt with in Section 5.7. Nuisance and health are discussed in Section 5.13 and traffic levels in Section 5.16.

POLICY AND LEGAL CONTEXT

NPSNN

- 5.5.3. Paragraph 2.16 of the NPSNN identifies that traffic congestion causes *"environmental problems, with more emissions per vehicle and greater problems of blight and intrusion for people nearby"*.
- 5.5.4. Paragraphs 3.6 to 3.8 consider the contribution of transport to the meeting of legally binding environmental targets, with Paragraph 3.7 identifying that the Government is committed to supporting the switch to ultra-low emission vehicles. Paragraph 3.8 states that the impact of road developments on aggregate emission levels is likely to be very small and that they need to be seen in the context of policies to meet legally binding air quality targets. It states that: *"Total PM₁₀ and NO_x might be expected to increase slightly, but this needs to be seen in the context of projected reductions in emissions over time. PM₁₀ and NO_x are expected to decrease over the next decade or so as a result of tighter vehicle*

emission standards, then flatten, with further falls over time due to greater levels of electric and other ultra-low emission vehicles."

- 5.5.5. Paragraph 4.50 states that in assessing proposals, the ExA and the SoS should consider the potential impacts of processes, emissions or discharges to inform decision making. However, this should be on the assumption that, in terms of the control and enforcement, the relevant pollution control regime would be properly applied and enforced.
- 5.5.6. Paragraph 4.55 refers to a need to ensure that the relevant pollution control authority is satisfied that potential releases can be adequately regulated under the pollution control framework. It states that it is important to ensure that the pollution released from a development would not make it unacceptable, particularly in relation to statutory environmental quality limits. Paragraph 4.56 states that consent should not be refused based on regulated impacts unless there is good reason to believe that relevant control permits, licenses or other consents will not subsequently be granted.
- 5.5.7. Paragraph 5.3 of the NPSNN states; *"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"*.
- 5.5.8. Paragraph 5.7 indicates that within the ES, Applicants 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"*.
- 5.5.9. For decision making, paragraph 5.10 identifies 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.
- 5.5.10. Paragraph 5.12 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"*.
- 5.5.11. Paragraph 5.9 requires the SoS to be provided with a judgement on the risk as to whether the project would affect the UK's ability to comply with the AQD. Paragraph 5.13 guides that: *"The Secretary of State should refuse consent where, after taking into account mitigation, the air quality effects of the scheme will:*
- *result in a zone/agglomeration which is currently reported as being compliant with the Air Quality Directive becoming non-compliant; or*

- *affect the ability of a non-compliant area to achieve compliance within the most recent timescales reported to the European Commission at the time of the decision."*

- 5.5.12. Paragraph 5.14 requires consideration to be given as to whether the mitigation measures proposed are acceptable. Paragraph 5.15 notes that: *"Mitigation measures may affect the project design, layout, construction, operation and/or may comprise measures to improve air quality in pollution hotspots beyond the immediate locality of the scheme. Measures could include, but are not limited to, changes to the route of the new scheme, changes to the proximity of vehicles to local receptors in the existing route, physical means including barriers to trap or better disperse emissions, and speed control. The implementation of mitigation measures may require working with partners to support their delivery."*
- 5.5.13. The AQD, AQS and the Clean Air Strategy 2019 (DEFRA) are described in Chapter 3 of this Report. The AQD sets Limit Values (LVs) for compliance and control actions in case of exceedance, including for NO₂ and PM₁₀ and PM_{2.5}. The AQS sets objectives for key pollutants and sets the framework for detailed local plans to address exceedances, including the designation of Clean Air Zones and AQMA.
- 5.5.14. Policy COM02 and Policy COM03 of the Breckland Local Plan 2019, seek to protect healthy lifestyles and protect amenity respectively.

THE APPLICATION

Relevant parts of the application

- 5.5.15. The main sections of the application relevant to air quality matters considered here are:
- ES Chapter 5 – Air Quality [APP-044];
 - ES Figures 5.1 to 5.4 [APP-057];
 - ES Figures 5.5 to 5.8 [APP-058];
 - Appendix 5.1 – Air quality dispersion modelling process [APP-082];
 - Appendix 5.2 – Air quality verification and model adjustment [APP-083];
 - Appendix 5.3 – Air quality receptor results [APP-084]; and
 - Environmental Management Plan [REP7-035].
- 5.5.16. ES Chapter 5 [APP-044] provides the Applicant's assessment of potential air quality effects during the construction and operational phases and compliance with the AQD. It states that the methodology for the air quality assessment follows the guidance set out in the DMRB LA105 Air Quality and associated Interim Advice Notes.

Overall approach

Baseline and study area

- 5.5.17. The Proposed Development is not located within an AQMA. The ES confirms that no exceedances of the AQS objectives have been measured.
- 5.5.18. Sensitive human receptors and designated sites within 200m of the road links, triggered by the screening criteria, were selected to be included in the air quality assessment. Sensitive receptors include residential properties, schools and hospitals closest to the road, junctions and roads anticipated to experience highest pollutant concentrations.
- 5.5.19. A dispersal model was prepared that assessed the following scenarios:
- baseline year 2015 - for model verification;
 - projected base year 2025 – for long term trends assessment;
 - opening year without the scheme – Do-Minimum (DM) 2025; and
 - opening year with the scheme – Do-Something (DS) 2025; and
- 5.5.20. A local air quality assessment has been undertaken for the opening year, which in the submission of the Applicant represents a worst-case scenario when pollutant levels are expected to be at their highest (APP-044].
- 5.5.21. The Applicant obtained additional baseline data from air quality information in annual status reports, published by the relevant LAs. Information provided in these reports includes historic monitoring data and current air quality concerns, such as pollution hotspots and reporting of any exceedance of NO₂ and PM₁₀ annual mean objectives. This information was used to map the current baseline pollutant concentrations.
- 5.5.22. Data on vehicle flows, speed bands and percentage heavy duty vehicles (HDV) were taken from the strategic transport model that was developed for the Proposed Scheme. The assessed scenarios were:
- AM peak period (07:00 to 10:00);
 - Inter-peak period (10:00 to 16:00);
 - PM peak period (16:00 to 19:00); and
 - Off-peak period (19:00 to 07:00).
- 5.5.23. The hourly diurnal traffic flow characteristics were used to estimate the emissions data. In addition, information on road alignment, road width and local meteorological data (taken from Norwich Airport for the base year 2015) were included within the dispersion model.
- 5.5.24. The output from the dispersion model provided estimates of the contribution from road traffic emissions to annual mean concentrations of NO_x and PM₁₀ at selected sensitive receptors. When combined with background concentration estimates, it provides a total annual mean concentration, which the Applicant compared against the relevant air quality objective.

5.5.25. The level of assessment was identified using guidance outlined in LA 105 and the flow diagram in Figure 2.10 of LA 105. The level of assessment is based on the risk of the project with the sensitivity of the receiving environment. In the view of the Applicant [APP-044], the project's risk potential was classified as high risk as the Proposed Development fell into the category of "*major bypass and motorway junction improvements*" given in LA 105. The receiving environmental sensitivity was also classified as "high" due to over 1000 sensitive receptors identified within 50m of the roads triggering the traffic screening criteria. Based on this it was determined that a detailed assessment was required.

5.5.26. All designated sites which include SACs, Ramsar sites and SPAs, Local Wildlife Sites (LWS), ancient woodland and veteran trees within 200m of the triggered links were identified.

Construction effects

5.5.27. As construction activities are programmed to last less than two years, the view of the Applicant was that these activities would be unlikely to have a significant effect on air quality or affect the UK's ability to comply with the AQD. The construction traffic assessment was therefore screened out of the assessment.

5.5.28. Based on a construction dust risk potential of high for the project, the following activities are proposed to monitor the effectiveness of the mitigation measures which will be included in the EMP [REP7-035]:

- Development of dust management plan with measures to monitor effectiveness of mitigation as part of the EMP [REP7-035];
- Daily onsite and off-site inspections to be included in EMP [REP7-035]; and
- Record of complaints/exceptional dust events to be included in EMP [REP7-035].

5.5.29. In the view of the Applicant, with these recommended best practice construction mitigation measures in place, the impact of construction dust is considered highly unlikely to trigger a significant air quality effect. Therefore, in accordance with LA 105, the Applicant identified no significant effects during construction.

Operational effects

5.5.30. The baseline desk study identified there were no AQMAs within close proximity to the Proposed Development, with the nearest being located over 3km to the north-east within Norwich City Centre. No exceedances of the annual mean NO₂ Air Quality Objective (AQO) was shown on the local data. There were no monitoring sites measuring PM₁₀ data within the study area. A six-month monitoring study was conducted to supplement current available monitoring data and identify pollutant conditions. There were no exceedances of the annual mean NO₂ AQO observed from the monitoring study.

- 5.5.31. The air quality assessment showed there to be no exceedances of the NO₂ annual mean objective at any of the selected sensitive human receptors in the opening year with and without the scheme. Annual mean NO₂ concentrations were well below the AQO of 40 µg/m³ across all modelled receptors in the DM 2025 and DS 2025 scenarios.
- 5.5.32. Out of 49 receptors, the model showed that 25 were expected to show a slight deterioration, with 24 showing an improvement in air quality with the Proposed Development in place. For the 25 receptors showing a deterioration, the model predicted air quality concentrations would be below the AQO at all receptors. The deterioration is predicted to occur due to flow changes at the eastern end of the scheme. For receptors that would experience an improvement, this was attributed to traffic being moved further away.
- 5.5.33. The Applicant acknowledges that since undertaking the assessment, new assessment tools have been made available. The Applicant is of the view that, had the assessment used these latest versions, it is unlikely to have changed the overall significance.
- 5.5.34. As baseline results showed that the annual mean PM₁₀ concentrations to be well below the AQO, PM₁₀ was not included in the opening year modelling scenarios. However, for the purpose of assessment, the Applicant assumed, as worst case, that all of the predicted PM₁₀ concentrations to be PM_{2.5} for the baseline scenario at all specified receptors, this would also indicate that there would be no exceedances of the PM_{2.5} AQO of 25 µg/m³.
- 5.5.35. The air quality assessment concluded that there are no significant adverse effects from the operation of the Proposed Development for human health receptors.

Ecological impacts

- 5.5.36. With regards to ecological receptors, one of the 12 ecological sites modelled in the assessment, Bawburgh County Wildlife Site (CWS) showed a predicted annual mean NO_x concentration which is greater than the annual mean NO_x objective of 30 µg/m³ in the Baseline, Do-Minimum and Do Something scenarios.
- 5.5.37. The nitrogen deposition assessment concluded the total nitrogen deposition rate with the project was above the applicable lower critical load for each designated site. However, the change in nitrogen deposition with and without the project was less than 1% of the lower critical load for most designated sites assessed.
- 5.5.38. At Bawburgh CWS, the change in nitrogen deposition was greater than 1% of the lower critical load. However, following a desk based review, it was concluded that due to an existing tree line, it was unlikely that species sensitive to nitrogen will be present in the 20m between the A47 and the tree line [APP-044]. Therefore, no further assessment was required.

PLANNING ISSUES

- 5.5.39. Air quality matters considered during the Examination included:
- Overall assessment methodology;
 - Baseline conditions;
 - Applicant's approach to construction assessment;
 - Construction dust, plant and vehicle emissions and vehicle emissions during the operational phase; and
 - Suitability of mitigation, in particular the need for future monitoring.
- 5.5.40. In my ExQ1 [PD-007], I raised a number of questions in relation to the proposed construction period and sought clarification and assurances with regards to the two-year period identified by the Applicant. In terms of the modelling, I raised concerns over the base date of 2015 and sought clarification and justification for this date [PD-007]. I also queried the Applicant's submission that their assessment at Year 1 was the worst-case scenario and sought evidence to demonstrate this [PD-007].
- 5.5.41. In terms of the proposed mitigation, I sought justification as to why no further monitoring was proposed by the Applicant, especially given the Government's aim to improve air quality [PD-007].
- 5.5.42. With regards to the impact upon Bawburgh CWS, I sought clarification [PD-007] in relation to the Applicant's assessment and conclusions, in particular with regards to the retention of the existing tree line.
- 5.5.43. In their LIR [REP2-022], NCC stated their support for the improvements to air quality and expressed a wish to see continued monitoring of the scheme, once operational. With regards to construction activities, NCC [REP2-022], expected to see the construction phases to be co-ordinated with the appropriate district councils and local highways teams to minimise, for example, dust, construction vehicle emissions (e.g. from engine idling) and any short-term impacts of increased stationary traffic close to any local populations.
- 5.5.44. In response to questions asked at ExQ1 [PD-007] with regards to the identified baseline conditions, both BDC and SDC confirmed [REP2-018 and REP2-023] that they were satisfied with the baseline assessment. However, BC [REP2-017] were of the view that predictions and modelling should be supported by localised monitoring. With regards to the approach to modelling and in particular the focus on reducing long term average concentrations of PM_{2.5}, BDC, SNC and BC [REP2-017, REP2-018 and REP2-023] were of the opinion that it would be helpful if the Applicant could use modelling to demonstrate the impact, if any, of the Proposed Development for this pollutant.
- 5.5.45. Whilst not featuring significantly in issues raised, a number of RRs highlighted the potential impact from changes to air quality. Glebe House [RR-035] considered that as a result of an increase in traffic from the Proposed Development, which amongst other things, would result in effects to the air quality of the region. Lisa Tomlin [PDB-006] raised

concerns in relation to construction impact and in particular the potential effect of dust from construction activity in close proximity to her home.

- 5.5.46. Further issues were raised by Mr R Hawker in his D1 submissions [REP1-037], where he commented that greater vehicle speeds will produce greater emissions, which would exceed any claimed 'excess emissions' due to current congestion, as engines produce much less pollution when stationary. He further commented that it will be years before electric power is used for most cars, and use of electric power is many years away for large diesel vans and probably many decades for large lorries [REP1-037].
- 5.5.47. Reference was made by Dr Andrew Boswell [REP6-020] to the issues in relation to the traffic model, which could have implications for the air quality assessment given its reliance upon the data and output from that model.
- 5.5.48. Following my questions in relation to the construction [PD-007], the Applicant confirmed [REP2-014] that they were confident it could be delivered within 23 months and that the timeline has sufficient contingency built in.
- 5.5.49. In relation to the need for additional monitoring, the Applicant [REP3-023] identified that the dispersion modelling of the baseline PM₁₀ has shown that the predicted concentrations are significantly below the AQO, and thus following DMRB methodology there is no need to further assess this pollutant. The ES [APP-044] has shown that there is no risk to the PM₁₀ objective being exceeded even if all of the PM₁₀ was PM_{2.5}. The Applicant submitted that the modelling confirms that there is also no risk to the current PM_{2.5} AQO and therefore, there is no requirement to undertake further monitoring [REP2-014].
- 5.5.50. In terms of the comments with regards to the timescale for the use of electric vehicles, the Applicant responded [REP2-014] to state that the local air quality assessment has been undertaken for the opening year, which is when pollutants are expected to be worst-case in terms of local air quality impacts, with continued improvements in emissions being expected in future years. Reference is also made to the approach outlined in LA 105, with the Applicant using the Interim Highways Agency Long Term Gap Analysis Calculator v1.1 (LTTE6).
- 5.5.51. The Applicant considered [REP2-014] this approach to be robust in projecting and estimating the future concentrations in 2025 and considers the uncertainty associated in long-term trends. These results have formed the basis in estimating the impact and significance of the Proposed Development on sensitive receptors, alongside determining compliance with the EU directive for annual mean NO₂ concentrations.
- 5.5.52. In the view of the Applicant [REP2-014], the traffic modelling therefore accounts for predicted proportions of the vehicle types, fuel type, forecast fuel consumption parameters and emission factors according to the DfT. These data tables include forward forecasting of different vehicle

types (such as electric) for future years. The use of these data tables are considered best practice for calculating end-user (traffic) air pollutant emissions.

- 5.5.53. In relation to traffic modelling, the Applicant identified that it was developed in line with the DfT's Transport Appraisal Guidance, as described in Chapter 4 'Transport Assessment' in the Case for the Scheme [APP-140].
- 5.5.54. In response to my questions about the use of the 2015 model [PD-007], the Applicant confirmed [REP2-014], that whilst there was a 2019 model its use had not yet been approved by the DfT. As a result, the 2015 NATS model remains the approved model and so was used in the Applicant's assessment as the baseline year. However, the Applicant confirmed [REP2-014] that it had undertaken a comparison between the NATS 2015 and 2019 traffic models based on the total annual average daily traffic (AADTs) summed across the major links within the Scheme area. In summary, the comparison indicates that there is a difference of 3.3% AADTs between the NATS 2015 model and the NATS 2019 model. Therefore, in their view [REP2-014], the comparison showed a good degree of consistency between the two models at an aggregate level and that there are no other substantial changes in the intervening period not accounted for.
- 5.5.55. With regards to the issue of the assessment being a worst case, the Applicant highlighted [REP2-014] that the pollutant emissions will reduce with time due to the electrification of the UK fleet and other national policy. Therefore, the Applicant's view was that emissions during the opening year will be greater than the design year (15 years from then).
- 5.5.56. In response to my questions about Bawburgh CWS, the Applicant confirmed [REP2-014], that it lies 3km to the south-east of the Proposed Development. The Applicant confirmed that the trees they identified as providing a barrier, are located within the protected conservation area and that the nitrogen sensitive wetland habitat within the CWS is located beyond these trees and outwith of the 20m impact zone.

EXA CONSIDERATIONS

- 5.5.57. I have had particular regard to the policies set out in the NPSNN in my consideration of the effects of the Proposed Development in relation to air quality. Consideration has been given to the relevant sections of the AQD, the AQS, the Clean Air Strategy, and to relevant local plans and policies.
- 5.5.58. The application site is not subject to any AQMA.
- 5.5.59. I received no substantive concerns from relevant pollution control authorities about their ability to regulate potential releases, neither did UK Health Security Agency⁵ make any comments or observations. I am

⁵ Formerly Public Health England

therefore content that paragraph 4.55 of the NPSNN is satisfied. Given the lack of comments, for the purposes of paragraph 4.56, it follows that I have no reason to believe that any relevant control permits, or licences or other consents would not subsequently be granted.

- 5.5.60. I am content that appropriate consideration has been given to the likely construction programme and predicted emissions from construction machinery. I am satisfied that suitable measures have been secured in the rDCO (Appendix D) and EMP [REP7-035]. I consider these measures are adequate to address unforeseen construction related events, on-going consultation, dust mitigation, along with monitoring for the duration of the construction phase. No substantive evidence was put before me to question the Applicant's construction programme or its duration.
- 5.5.61. Through their ES, the Applicant has clearly considered vehicle emissions, how tighter emission standards are expected to reduce PM₁₀ and NO₂ emissions, air quality effects over the wider area and relevant statutory air quality thresholds as required by paragraphs 2.16, 3.6-8, and 5.10-12 of the NPSNN.
- 5.5.62. No substantive evidence has been presented that gives me any reason to doubt that the suitability of the study area, the identification of receptors, the identified baseline conditions, the assumptions to changes to vehicle emission rates, factors considered for the assessment of significant effects, or the overall assessment methodology.
- 5.5.63. Whilst concerns were expressed by a number of IPs in relation to the 2015 modelling date, no substantive evidence was presented that leads me to bring this into doubt. Furthermore, I note that this was agreed as a suitable approach with the relevant LPAs. Therefore, I am content that the Applicant's approach to modelling is appropriate.
- 5.5.64. I am content with the Applicant's overall approach for air quality assessment and mitigation and for NO₂ monitoring during the operational phase.
- 5.5.65. The Applicant has demonstrated that appropriate consideration has been given to paragraph 5.15 of the NPSNN. I am satisfied that appropriate mitigation measures have been secured via Requirement 4 of the rDCO (Appendix D) and through AQ1 of the EMP [REP7-035]. It therefore follows that I am content that appropriate measures have been taken to avoid, mitigate and minimise adverse impacts and, where possible, to contribute to improvements.
- 5.5.66. I have had regards to the AQD and to the relevant provisions in the NPSNN, including paragraphs 5.9 and 5.13. From the evidence presented to me, my view is that the Proposed Development would be unlikely to cause any compliant areas to become non-compliant.
- 5.5.67. There is little in the way of detailed evidence with regards to the specific impact of increased use of electric vehicles upon local air quality, except for the assertions made by the Applicant that their use would increase,

which, in turn, would lead to an improvement in air quality. Given this uncertainty, the use of best practice methods and assessment tools with various assumptions appears to be the most appropriate method to undertake an assessment. I am content that this has been sufficiently undertaken within the assessment. In this regard, I also note the advice offered in NPSNN paragraph 3.8, with regards to emission reductions.

- 5.5.68. It is clear from the Applicants results that, due to the nature of the Proposed Development, there would be locations where local air quality would worsen. However, where the Proposed Development will result in a worsening of air quality, this would be below recognised limits and therefore unlikely to have a significant harmful effect on receptors, nor would it be likely to result in the breach of any international or statutory obligations.
- 5.5.69. It is also clear that both from the modelling results and Government legislation, that it is likely emissions will reduce and that by the Proposed Development's Design year, emissions are predicted to have fallen. On this basis, I am satisfied that the model provides a robust assessment of the issue and is likely to represent a worst-case scenario.
- 5.5.70. During construction, there would be the potential for dust to affect air quality at a number of receptors, mainly those in relatively close proximity to the Works. However, with the implementation of appropriate management regimes including best practice methods, which would be secured via the EMP [REP7-035] and Requirement 4 of the rDCO, I consider this could be mitigated to an acceptable level. This includes AQ1 from the REAC [REP7-035], which commits the Applicant to the preparation of a Dust Management Plan that will manage the risks to air quality, limit and control emissions to air during construction on sensitive receptors.
- 5.5.71. Furthermore, during the course of the Examination, the Applicant undertook to ensure that the compound located at Berrys Lane would be only a welfare compound, rather than a construction compound [REP7-017]. As a result, this removes a potential source of emissions that would affect nearby receptors.
- 5.5.72. Concerning Bawburgh CWS, I was presented with no substantive evidence to lead me to disagree with the Applicant's position that any increase in emissions would not be sufficient to adversely affect the reasons for its designation.
- 5.5.73. With regards to the issue of PM₁₀ modelling, I am content with the answer and additional clarification provided by the Applicant. Furthermore, I note that this is now an agreed matter within the SoCGs [REP-019, REP9-021, REP9-022 and REP9-025].

CONCLUSION

- 5.5.74. Taking all relevant documents and policies into account, I conclude as follows:

- The construction phase will result in localised, limited negative air quality effects, but these would be mitigated, and the mitigation is secured via the rDCO (Appendix D) and the EMP, in particular AQ1 of the REAC [REP7-035].
- During the operational phase, there would be localised net worsening in local air quality within the study area. However, the Proposed Development would not result in any new exceedances of the NO₂ or PM₁₀ annual mean air quality objectives.

5.5.75. Therefore, I conclude that air quality issues have a negative weighting against the Proposed Development. However given there would be no net worsening or new exceedances of objectives, I consider that this harm has a limited weight to be taken forward into the planning balance.

5.6. BIODIVERSITY

INTRODUCTION

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

- International/national (SSSIs, SACs, SPAs and Ramsar Sites) and local protected habitats (including designated LWSs);
- Ancient woodlands and protected trees; and
- Protected species.

5.6.2. Issues relating to HRA are addressed in Chapter 6.

POLICY AND LEGAL CONTEXT

NPSNN

5.6.3. NPSNN 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*"

5.6.4. The project should also take opportunities to conserve and enhance biodiversity conservation interests (paragraph 5.23). The NPSNN goes on to state that "*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.*"

5.6.5. Paragraph 5.26 advises that the SoS should attach appropriate weight 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.*" Paragraph 5.29 of the NPSNN

presumes against development which is likely to have an adverse effect on SSSIs either individually or in combination with other developments.

- 5.6.6. Paragraph 5.31 recognises that sites of regional and local biodiversity interest, including LWSs, have a fundamental role to play in meeting overall national biodiversity targets and in contributing to the quality of life and the wellbeing of the community. Nevertheless, whilst due consideration should be attached to such designations, given the need for new infrastructure, these designations should not be used in themselves to refuse development consent.
- 5.6.7. Paragraph 5.32 is clear that the SoS should not grant development consent where it *"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. Aged or veteran trees found outside ancient woodland are also particularly valuable for biodiversity and their loss should be avoided. 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."*
- 5.6.8. Paragraph 5.33 says that proposals may provide opportunities for building in beneficial biodiversity features as part of good design and the SoS should consider whether the Applicant has maximised such opportunities. Requirements or planning obligations can be used to deliver such beneficial features.
- 5.6.9. Many wildlife species receive statutory protection under a range of legislative provisions, whilst other species and habitats have been identified as being of principal importance for the conservation of biodiversity. Proposals should take measures to protect these species and habitats from any adverse effects. Where appropriate, requirements or planning obligations may be used in order to deliver this protection. Consent should be refused where there would be harm to these habitats or species and their habitats, unless the benefits of the development (including need) clearly outweigh that harm (paragraphs 5.33 and 5.34).
- 5.6.10. Paragraph 5.36 of the NPSNN states that appropriate mitigation measures should be an integral part of the proposals, and that applicants should identify where and how these will be secured. It goes on to state; *"the applicant should demonstrate that:*
- *during construction, they will seek to ensure that activities will be confined to the minimum areas required for the works;*
 - *during construction and operation, best practice will be followed to ensure that risk of disturbance or damage to species or habitats is minimised (including as a consequence of transport access arrangements);*
 - *habitats will, where practicable, be restored after construction works have finished;*

- *developments will be designed and landscaped to provide green corridors and minimise habitat fragmentation where reasonable;*
- *opportunities will be taken to enhance existing habitats and, where practicable, to create new habitats of value within the site landscaping proposals, for example through techniques such as the 'greening' of existing network crossing points, the use of green bridges and the habitat improvement of the network verge."*

- 5.6.11. Paragraph 5.38 advises that the SoS will need to take account of what mitigation measures may have been agreed between the applicant and NE and whether NE has granted or refused, or intends to grant or refuse, any relevant licenses, including protected species mitigation licenses.
- 5.6.12. NE should be consulted regarding the assessment of noise on designated nature conservation sites, protected landscapes, protected species or other wildlife (paragraph 5.192).

United Nations Convention on Biological Diversity 1992

- 5.6.13. As required by Regulation 7 of the Infrastructure Planning (Decisions) Regulations 2010, I have had regard to this Convention in my consideration of the likely impacts of the Proposed Development and appropriate objectives and mechanisms for mitigation and compensation. In particular, I find that compliance with the UK provisions on EIA and transboundary matters (referred to below) satisfy the requirements of Article 14 with regard to impacts on biodiversity.

THE APPLICATION

Relevant parts of the application

- 5.6.14. The main sections of the application relevant to biodiversity matters considered here are:
- ES Chapter 8, Biodiversity [APP-047];
 - Appendix 8.1: Botanical Survey Report [APP-096];
 - Appendix 8.2: Fungi Survey Report [APP-097];
 - Appendix 8.3: Terrestrial Invertebrate Survey Report [APP-098];
 - Appendix 8.4: River Tud Aquatic Invertebrate Survey Report [APP-099];
 - Appendix 8.5: White-clawed Crayfish Survey Report [APP-100];
 - Appendix 8.6: Great Crested Newt Survey Report [APP-101];
 - Appendix 8.7: Reptile Survey Report [APP-102];
 - Appendix 8.8: Breeding Bird Survey Report [APP-103];
 - Appendix 8.9: Barn Owl Survey Report [APP-104];
 - Appendix 8.10: Wintering Bird Survey Report [APP-105];
 - Appendix 8.11: Bat Hibernation Report [APP-106];
 - Appendix 8.12: Bat Survey Report [APP-107];
 - Appendix 8.13: Bat Crossing Point Report [APP-108];
 - Appendix 8.14: Otter and Water Vole Survey Report [APP-109];
 - Appendix 8.15: Confidential Badger Survey Report [APP-110];
 - Appendix 8.16: DMRB biodiversity evaluation assessment Methodology [APP-111];

- Appendix 8.17: Legislation and policy framework [APP-112];
- Figure 8.1: Designated sites and priority habitats [APP-071];
- Figure 8.2: Ecological Constraints [APP-071];
- Figure 8.3: Phase 1 Habitat Map [APP-071]; and
- Figure 8.4: Fungi Survey Map [APP-071].

5.6.15. Further information was submitted by the Applicant on 15 December 2021 [AS-026], in connection with the proposed change request. Of relevance to this section of the Report, this included:

- Implication of new County Wildlife Sites that were designated after the DCO application was submitted; and
- Review of cumulative risks to a bat colony known to be present at the Roarr!!! Dinosaur Adventure Park, in Moreton-on-the-Hill due to the overlapping Core Sustenance Zone (CSZ) for Barbastelle bats (*Barbastellus barbastella*) and proposed extension to the Roarr!!! Dinosaur Adventure Park.

Ecological Assessment

Introduction

5.6.16. The Applicant identified that the assessment methodology is based on guidance contained within DMRB Volume 11 Sections 2 (EIA assessment) and 3 (Ecology Nature Conservation), along with the Chartered Institute of Ecology and Environmental Management (CIEEM) Guidelines of Ecological Impact Assessment (EcIA) in the UK and Ireland (CIEEM Third Edition, 2018) (CIEEM guidelines).

5.6.17. The methodology assigns ecological importance, based on a geographical approach, to ecological features present within the identified study area. It goes on to characterise the ecological impacts on specific features and determine the significance of effects by consideration of the importance of the ecological feature. It then characterises the ecological impact on each specific feature.

5.6.18. For the purposes of the assessment, significant effects are taken to be moderate or greater. Slight and neutral effects are considered not significant. The Applicant took the view that significant adverse effects trigger the need for mitigation. Mitigation was also deemed by the Applicant to be required where the biodiversity resource is offered legal protection and a mandatory obligation is imposed to provide measures to ensure that an offence would not be committed and/or where impacts have been identified in the assessment process.

Nature conservation designations

5.6.19. The Applicant identified that there are three statutory designated sites within 2km and one statutory designated site notified for bats within 30km of the DCO boundary. The River Wensum SAC and Paston Great Barn SAC were assessed as being of international importance. River Wensum, Hockering Wood and Rosie Curston's Meadow SSSIs and Hockering Wood Ancient Woodland were assessed as being of national importance. There are also four unnamed parcels of ancient woodland

within 2km of the Proposed Development, with the Applicant deeming these to be of national importance.

5.6.20. In addition, 21 non-statutory designated CWSs plus one Proposed CWS lie within 2km of the DCO boundary. As identified in the Additional Environmental Information [REP6-019], following reconsultation in July 2021 with Norfolk Biodiversity Information Service (NBIS), a further 20 CWSs were identified, within 2km of the DCO boundary. In response to this, the detention basin at Taverham Road was amended to be a wetland area [PD-015]. No substantive comments in relation to ecology were received in relation to this change.

5.6.21. There were no LWS or Royal Society for the Protection of Birds (RSPB) sites identified within 2km of the DCO boundary.

Habitats

5.6.22. Norfolk Biodiversity Action Plan priority habitats that are present within 2km of the Order Limits that were identified by the Applicant include;

- hedgerows and defunct hedgerows;
- arable field margins;
- lowland;
- mixed deciduous woodland;
- ponds;
- fens;
- wet woodlands;
- coastal and floodplain;
- grazing marsh;
- churchyards and cemeteries; and
- lowland meadow and pasture.

5.6.23. The Applicant conducted a Phase 1 Survey of the Order Limits initially in 2016, which they subsequently reviewed and updated in 2017 and 2019. This identified the following habitats:

- Woodland including - broadleaved semi-natural, broadleaved plantation, coniferous semi-natural, coniferous plantation, mixed semi natural, mixed plantation and recently felled broadleaved.
- Scrub including - dense/continuous and scattered grassland including neutral unimproved, neutral semi-improved, improved, marsh/marshy.
- Tall ruderal.
- Standing water.
- Running water.
- Boundaries including - native species rich intact hedge, species poor intact hedge, native species rich defunct hedge, species poor defunct hedge, native species rich hedge with trees, species poor hedge with trees, dry ditch and earth bank.
- Arable land.
- Amenity grassland.
- Bare ground.
- Buildings.

- 5.6.24. A number of scarce plant species include sharp-leaved fluellin and species considered rare in the county include martagon lily and bee orchid were found within the Order Limits. Red Data Book species include common cudweed, wild basil, marjoram and pyramidal were also found.
- 5.6.25. In July 2019, the Applicant surveyed a total of twenty-six hedgerows for species richness, gathering sufficient information to judge whether the hedgerow was likely to be an important hedgerow under the Hedgerow Regulations 1997. Of these, fourteen were identified within the Order Limits, with a further hedgerow potentially having historic value. Ten of these hedgerows would be bisected by the Proposed Development. The Applicant has assessed these hedgerows as being of national importance. The remaining hedgerows are considered by the Applicant to be defunct and species poor.
- 5.6.26. A number of invasive species, as cited within Schedule 9 of the Wildlife and Countryside Act (1981) were recorded within or adjacent to the Order Land.

Statutory protected and other notable fauna species

- 5.6.27. In preparing the Assessment, the Applicant undertook surveys for a number of statutorily protected and other notable fauna species, including:
- Terrestrial and aquatic invertebrates;
 - White-clawed crayfish;
 - Great Crested Newt (GCNs);
 - Reptiles;
 - Breeding birds;
 - Wintering Birds;
 - Barn Owls;
 - Bats;
 - Otters;
 - Water vole; and
 - Badgers.
- 5.6.28. During the surveys common toad were recorded at locations south-west of Hockering and north-east of Easton. Brown Hare was recorded across the Proposed Scheme in all suitable habitat. The Applicant has also assumed that Hedgehog are likely to be present in suitable habitat.

Potential impacts

- 5.6.29. In terms of the potential impacts from the construction stage of the Proposed Development, the Applicant has identified the following [APP-047]:
- Site clearance and the land take of habitats;
 - Creation of barriers along habitats, decreasing site connectivity and increasing fragmentation;
 - Physical damage to on site vegetation from smothering via soil piles;
 - The damage to root systems;

- Changes to soil chemistry;
- Increase surface water run off changing hydrological quality through sedimentation;
- Damage of watercourses and habitats through accidental spillages of pollutants (chemical);
- The change in natural on-site hydrological flow;
- Loss of foraging habitats for breeding and wintering species due to fragmentation of the site and severance of linear biodiversity resources such as hedgerows;
- Increased atmospheric, noise and light pollution during construction;
- Noise and visual disturbance resulting in the dissipation of sensitive biodiversity resources within and adjacent to the construction footprint;
- Direct mortality of local fauna due to site plant collisions or earthworks; and
- Spreading of invasive species and disease through the movement of construction plant.

5.6.30. With regards to the impacts associated with the operational stage of the Proposed Development, the Applicant considers these to include;

- Air quality and noise effects upon biodiversity resources due to increase in use of the road by vehicles; and
- Barrier effect of new road caused by increased width of road.

Design of the proposals, mitigation measures and residual effects

5.6.31. The application proposals include a range of measures intended to either avoid or mitigate any likely adverse effects of the Proposed Development upon biodiversity. The mitigation is proposed to be detailed and implemented through the REAC, which are contained within the EMP [REP7-035]. With regards to newly created or enhanced habitats, the Applicant proposes that these will be managed and monitored for a period of five years after planting. Future management requirements are set out in the EMP [REP7-035].

Design measures

5.6.32. The Applicant has included a number of measures to avoid, mitigate or enhance Biodiversity and nature conservation interest as part of the Proposed Development. These would be secured through the EMP [REP7-035], in particular the biodiversity actions of the REAC, along with Requirement 4 of the rDCO (Appendix D).

5.6.33. As detailed in the REAC [REP7-035], a number of site wide measures include:

- Pollution during construction mitigated using best practice methods for pollution prevention and water management;
- Impacts of flood risk to be managed by the implementation of a construction phase drainage system;
- Drainage around the main compound to be collected in a ditch and directed to settlement ponds before discharge;

- The installation of outfalls into the River Tud to have in-river sediment controls to reduce sedimentation;
- Monitoring during construction to be implemented. Details to be included within the temporary surface water drainage strategy in the EMP [REP7-035];
- Any hedgerow deemed species rich or 'important' to be translocated. New species rich hedgerows to be planted, along with areas of deciduous woodland. Wetland areas, containing some permanently wet ponds to be created with riparian woodland and riparian seeding. Ponds are to be recreated with species-rich flora. Species-rich grassland areas are to be created;
- Water and air pollution events to be managed through best practice guidance and continually monitored throughout construction as part of the water drainage strategy and dust management plan within the EMP [REP7-035];
- Disturbance from noise to be mitigated by temporary noise barriers, quieter plant, buffer zones around sensitive biodiversity resources and reducing time on noisy activities. Monitoring to be undertaken where there as sensitive biodiversity resources;
- Avoid use of nutrient rich topsoil to enable a more diverse botanical population to colonise newly created bare ground;
- Construction vehicles to be excluded from driving over species rich grassland. If not possible, heavy duty ground protection to be installed;
- Night lighting during construction to be directed away from sensitive biodiversity resources;
- Operational lighting to be designed with backlight shields and LED bulbs, directional, and positioned so as to minimise light spill and disturbance for sensitive biodiversity resources including notable habitats; and
- All excavations to be covered at night or a ramp left in so animals can climb out.

5.6.34. As well as the above, the Applicant proposes a number of species-specific measures.

GCNs

5.6.35. Trapping and translocation into suitable receptor sites to be carried out under licence from NE to be undertaken prior to construction. Enhancement measures to encourage species back into the area including the creation of refuges, tree lines, hedgerows, copses, species-rich grassland and ponds with newly created wetland areas.

Reptiles

5.6.36. Suitable habitats to be searched by an Ecological Clerk of Works (ECoW) prior to vegetation clearance. Any found to be moved to a safe suitable area. Areas of temporary land clearance to be replanted with native trees and shrubs and species-rich grassland.

- 5.6.37. New underpasses to be included in the final designs to allow safe access. Enhancement of biodiversity in new habitats and refuges to compensate for loss of terrestrial habitat.

Breeding birds

- 5.6.38. Vegetation clearance works to take place outside of the bird nesting season. If not possible, areas to be cleared will be checked by an ECoW immediately prior to clearance, with any nests or young avoided until the birds have fledged.
- 5.6.39. Compound 3 (south of Honingham roundabout) is located 190m from a Schedule 1 nest site. Prior to commencement, ECoW to review works and nesting status to determine if additional mitigation measures are required to prevent disturbance.
- 5.6.40. Areas of temporary land clearance to be remediated with hedgerows, native trees, shrubs, wetland areas, ponds and species-rich grassland. Bird boxes to be installed on remaining trees at a density of between 10 and 40 nest boxes per hectare.
- 5.6.41. To minimise risk of mortality to birds, new and continuous habitat in the form of hedgerows, woodland, wetland areas, scattered broadleaved trees to include individual 'parkland' trees and species-rich grassland will be provided on both sides of the road as a refuge.

Wintering birds

- 5.6.42. To minimise risk of mortality to birds, new and continuous habitat in the form of woodlands, wetlands, hedgerows, scattered broadleaved trees to include individual 'parkland' trees and species-rich grassland will be provided on both sides of the road as a refuge. This planting will also aid the visual screening from the road.

Barn Owl

- 5.6.43. A total of eight barn owl boxes located close to the Proposed Development would be provided. Appropriate landscape planting to be installed to help prevent barn owl road casualties. This would consist of high hedges or tree screens being planted on raised banks (bunds) at locations where barn owls regularly cross the road.

Bats

- 5.6.44. Tree roost loss to be undertaken under licence from NE and at a time to avoid sensitive seasons for bats. Creation of artificial roosting habitat to be installed prior to the start of construction. Felling to be undertaken under the supervision of a registered bat licence holder. Works near trees and that may disturb roosting bats in buildings will be undertaken under supervision from a registered bat licence holder.
- 5.6.45. The Applicant considers that habitat loss and severance, due to the larger footprint of the Proposed Development cannot be mitigated at the start

of construction. The Applicant proposes that it will be compensated for as each phase of the road is completed. Compensatory planting to be provided along the verges of the Proposed Development to mitigate the loss of foraging habitats and to shield suitable habitat and roosts from disturbance. Copses of trees and woodland grassland mosaics to be provided along the scheme to act as 'stepping stones' between suitable roosting and foraging habitat.

- 5.6.46. The Applicant has designed hop-overs and targeted planting at underpasses and overpasses to encourage use by bats and to maintain connectivity and raise flight height above the carriageway. The bridge over the River Tud is low (2.7m) headroom, so bats currently flying over the road will be encouraged to fly high above traffic by planting high trees and fencing along the bridge.

- 5.6.47. Any bat roosts disturbed by construction activities and bat boxes erected will be monitored during operation. Crossing points and their mitigation in the construction phase to be monitored during operation and if required, mitigation will be altered.

Otters

- 5.6.48. Permanent fencing systems to be installed in key areas throughout the Proposed Development to mitigate for operational traffic mortality.

Water vole

- 5.6.49. Habitat enhancement and an increase in breeding area to be provided through the licence and will be sufficiently mature before operational phase.

Badger

- 5.6.50. Two badger tunnels will be installed, along with badger specific fencing. Prior to construction the ECoW will conduct a full resurvey of the site to identify any changes in the conditions on site. Under a NE licence, work will be undertaken to permanently close one sett and temporarily close another sett.
- 5.6.51. Permanent fencing systems will be installed at the location of the badger tunnels and 500m either side to mitigate for operational traffic mortality.

Other notable species

- 5.6.52. New and continuous habitat provided on both sides of the road as a refuge. New underpasses in the design will provide safe access to the other side of the road.

Habitats

- 5.6.53. Table 8-13 of the ES Chapter 8 [APP-047] identifies the habitat type and areas and amount of net gain or loss. In summary it shows:

Table 1 Habitat Type

Habitat type	Net gain or loss of habitat type
Broad-leaved seminatural woodland	Net gain of 7.4ha
Broadleaved plantation woodland	Net loss of 7.9ha
Mixed Semi-natural woodland	Net loss of 0.21ha
Plantation mixed woodland	Net loss of 1.2ha
Neutral unimproved grassland	Net loss of 5.2ha
Semi-improved neutral grassland	Net gain of 15ha
Marshy grassland	Net gain of 17.8ha
Arable	Net loss of 161.7ha
Amenity grassland	Net gain of 11.2ha
Scrub	Net gain of 9.25ha
Bare Ground	Net loss of 0.12ha
Hedgerow (species poor)	Net loss of 0.68ha
Native Hedgerow (species rich)	Net gain of 8.72ha
Scattered trees	Net gain of 2ha

Mitigation measures

- 5.6.54. The measures identified above are predominately contained within the EMP [APP-143] and [REP7-035] and the Environmental Masterplan [APP-138] and revisions [AS-007], [AS-037] and [REP8-011]. Implementation of the Proposed Development in accordance with these documents is secured by rDCO (Appendix D) and in particular Requirements 4 (EMP), 5 (Landscaping), 7 (Protected Species) and 12 (Ecological Works).

Assessment of effects

- 5.6.55. The Applicant concluded that the Proposed Development would have a neutral effect on European Designated Sites during construction and operation and a neutral residual effect on River Wensum, Hockering Wood and Rosie Curston's Meadow SSSIs. It is anticipated that there would be a neutral residual effect on Hockering Wood, Park Grove, Harman's Grove, Mouse Wood and Holly Wood and four unnamed parcels of ancient woodlands and all identified CWSs.
- 5.6.56. The priority habitats of intact hedgerows, deciduous woodland and coastal and floodplain grazing marsh will have direct impacts and additional indirect impacts will occur on lowland fens, traditional orchards, coastal and floodplain, grazing marsh, ponds, rivers, deciduous woodland and hedgerows. The Applicant acknowledges that it will take several years for deciduous woodland and hedgerows to reach their full former maturity. Grassland habitats and ponds mature quicker and pond

habitat will gain more species, but the floodplain grazing marsh wetland replacement will take longer.

- 5.6.57. Given the time taken for replacement habitats to reach their former maturity, the Applicant has assessed the effect upon woodland, hedgerows and grazing marsh to be significant moderate adverse. For grasslands and ponds, as they mature more quickly, the Applicant has assessed this to be a slight beneficial effect.
- 5.6.58. For protected species that are to be licensed (loss of bat roosts, water voles, GCNs and badgers), the Proposed Development would have neutral residual effects as mitigation within the licence method statements would remove any harm from occurring to them. Furthermore, replacement habitat would need to be required.
- 5.6.59. With regards to bats, the Applicant has concluded that the Proposed Development would result in a significant large adverse residual effect. This is principally due to the time lag between loss of habitat and the remediated habitats reaching maturity. This could result in the loss of foraging and commuting habitat and increased traffic mortality. It also recognises the presence of rare bats, leading to a national level of importance in the area.

PLANNING ISSUES

- 5.6.60. The biodiversity and nature conservation issues considered during the Examination included:
- Assessment methodology and overall approach;
 - Impact on bats;
 - Biodiversity net gain; and
 - Residual impacts on species.
- 5.6.61. NE are the statutory advisors on natural environment matters and, in specific relation to NSIPs, their role is to provide advice on impacts on protected nature conservation sites and designated landscapes within England. In my Rule 6 Letter [PD-005], I made a procedural decision that the Applicant should seek to prepare a SoCG with NE. I also sought their view at ExQ1 [PD-007] on their position in relation general matters and at ExQ3 [PD-012] in specific relation to impacts on bats. Despite these requests, NE failed to participate in the Examination.

Assessment methodology and overall approach

- 5.6.62. The issues considered were divided into two specific areas;
- Baseline, methodology and survey data; and
 - Impacts on protected species (other than bats, which I have addressed separately).
- 5.6.63. As part of my ExQ1 [PD-007], I sought clarification from the relevant authorities with regards to the overall accuracy and robustness of the baseline as set out by the Applicant. In response, BC confirmed [REP2-

016] that they were satisfied that the ES provided an accurate and robust assessment of the baseline conditions. Neither BDC nor SNC made any comments on this issue.

- 5.6.64. NCC in their LIR [REP2-022] commented that they considered that some of the survey data collected was out of date, when viewed against the Chartered Institute of Ecology and Environmental Management's (CIEEM's) advice note on the lifespan of ecological reports and surveys (CIEEM; 2019). They also recommended that the Applicant fully updates the desktop study with protected species data too. BC raised similar concerns with regards to protected species surveys [REP2-016].
- 5.6.65. NCC in their LIR [REP2-022] also raised a number of questions in relation to the protected species surveys and requested clarification on a number of issues.
- 5.6.66. The EA raised a number of issues, in particular with regards to the impact on the River Tud [RR-033]. During the Examination, the Applicant discussed these issues with the EA and by the end, all matters were agreed within the SoCG [REP9-015].
- 5.6.67. The potential impact of the Proposed Development upon biodiversity also featured prominently in a number of RR and WRs. Issues raised by a number of IPs included:
- the recent declaration of an ecological emergency and the loss of potential biodiversity habitat including trees, woodlands, grassland and marshland [RR-001, RR-004, RR-005, RR-017, RR-025, RR-026, RR-027, RR-037, RR-038, RR-043, RR-047, RR-051, RR-052, RR-056, RR-058, RR-073, RR-077, RR-081];
 - the effect upon the River Tud [RR-033 and RR-071];
 - the impact on the Wensum Valley including fragmentation and displacement issues [RR-025]; and
 - cumulative impacts with other surrounding developments.
- 5.6.68. A concern that was raised by a number of parties, and re-iterated throughout the Examination, was the impact of the Proposed Development upon bats and, in particular, the potential presence of a nearby super-colony of Barbastelle Bats. I detail the specific comments in relation to the colony later in this Section.
- 5.6.69. With particular regards to protected species surveys, both Mr Richard Hawker and Dr Andrew Boswell expressed concerns at ISH3 [EV-040] that the Applicant was still undertaking survey work. They expressed the view that, in their opinion, this work should be completed prior to the determination of the application. Mr Richard Hawker also questioned what the implications would be should this change significantly from the current baseline. Dr Andrew Boswell also raised a question in relation to the value attributed to bats and birds within the assessment.
- 5.6.70. Concern was expressed by Norfolk Wildlife Trust [REP4-045] in relation to the overall monitoring of mitigation. Their view was that given the scale of the development, a period of five years was not sufficient for the

successful establishment of new habitats, in particular the more complex habitats such as woodland and species-rich grassland. They considered that longer would be required. They referred to Table TS3-1 of the Technical Supplement to DEFRA's Biodiversity Metric version 3.0. This advises that good condition ponds can be established in 5 years, whilst neutral grassland can take 10 years, floodplain wetland mosaics can take 20 years and woodland at least 30 years to mature.

- 5.6.71. In response to my questions at ExQ1 [PD-007] about the age of protected species surveys, the Applicant referred to the CIEEM (2019) Guidelines for EcIA which requires ecological data to have been collected within one or two years prior to an EcIA being written [REP2-014]. They referred to Table 8-3 in ES Chapter 8 Biodiversity (APP-047) which shows the most recent surveys were completed in 2019 or 2020. In terms of additional desktop data, the Applicant considered that this was not required as field surveys have been completed since 2017, which, in their view, provides an accurate record of ecology baseline within the DCO boundary [REP2-014].
- 5.6.72. Following further discussion at ISH2 [EV-022], the Applicant confirmed that surveys will be updated in 2022 for habitats, invasive species, whiteclawed cray fish, reptiles, owls and badgers. This is to provide a more current baseline for biodiversity metrics using up to date methodology.
- 5.6.73. The mitigation licences to be applied for under the Habitat Regulations are for Bats and for GCNs. The Applicant confirmed that it was consulting with NE to determine the draft method statements for the licences and determine their approval of the draft method statement [REP9-027]. With respect to bats, the Applicant has carried out survey work of the potential roosts in 2019 (based on the 2017 surveys). These will be re-surveyed in 2022.
- 5.6.74. In response to questions about mitigation [REP1-013], the Applicant referred to the ES chapter and confirmed that this had been informed by extensive habitat and species surveys, along with consultation with key stakeholders. Section 8.9 of the ES [APP-047] identifies the measures proposed to minimise effects and maximise opportunities for biodiversity and to mitigate any impact on protected species.
- 5.6.75. Further reference was made to the scheme design report [AS-009], which highlights embedded mitigation within the scheme design, including measures to reduce habitat fragmentation such as safe mammal crossings and protection of flight and foraging bat routes; re-meandering and additional planting along Oak Farm and Hockering tributaries; the use of Sustainable urban Drainage Systems (SuDS) including wetland creation; and landscaping with sensitive planting.
- 5.6.76. The provisional design was presented in the Environmental Masterplan [REP8-011], with all mitigation detailed and to be implemented as part of the REAC [REP7-035]. Additional detail regarding the mitigation design will be presented in the Landscape and Ecology Management Plan

(LEMP). Delivery of these commitments, including consultation, would be secured through R4 and R5 of the rDCO (Appendix D).

5.6.77. In terms of monitoring, the Applicant responded [REP6-018] that this would be managed through the LEMP. They did however acknowledge that monitoring may extend beyond the five-year care period and would keep this under review. The statutory requirement to consult on the EMP [REP7-035], would provide an opportunity for their approach to monitoring durations to be challenged.

5.6.78. In response to the comments in relation to birds and bats [REP7-017], the Applicant highlighted that birds are not protected in the same way as bats. The Applicant confirmed that different levels of protection exist for birds, whereas all bats are fully protected under all aspects of habitats and species legislation in the UK. In their view the approach followed in the ES [APP-047] followed best practice.

Impact on bats

5.6.79. In their LIR [REP2-022], NCC identified that the ES should consider the known barbastelle maternity colony at ROARR! Dinosaur Park/Morton-on-the-Hill, which uses the woods between the A47 at Easton/North Tuddenham in the south, and the A1067 Fakenham Road to the north.

5.6.80. In a number of WR and RR (including Norfolk Barbastelle Study Group [RR-059] Wild Wings Ecology (WWE) [RR-084] and [REP6-029], David Pett [AS-015], [REP1-027] and [RR-025], and Bryan Robinson [AS-014]) the presence of a nationally important super-colony of barbastelle bats located to the north of the Proposed Development was highlighted. The comments referred to the Proposed Development being located within the 6km radius CSZ of a nationally important 'super-colony'. Some IPs considered it to be the largest known extant barbastelle roost in the country.

5.6.81. The comments sought very careful consideration to be given to how safe crossing over the road would be maintained. Reference was also made to failed standard mitigation approaches (green bridges, gantries, underpass) on the Norwich Northern Distributor Road (NDR). Comments also highlighted the need to consider the cumulative impacts with other developments, including, NWL and the off-shore windfarm cable route to avoid damaging their Favourable Conservation Status. As a result, the Proposed Development was likely to negatively impact on the nationally important population and no suitable, effective mitigation measures had been proposed.

5.6.82. A view was also expressed that the EIA, is incomplete, seriously flawed, and inadequate on the basis that it provides no evidence in relation to the bat colony [AS-015 and REP1-027]. Dr Andrew Boswell from CEPP [RR-018] expressed a view that without a complete and accurate baseline it will be difficult, if not impossible, for the SoST to fully assess the impact of construction and operation of the project on the conservation status of the local and regional population of this species of bat.

- 5.6.83. Furthermore, a number of the RRs submitted to the Examination that the colony should be assessed as a possible Special Area of Conservation (pSAC).
- 5.6.84. In response to these submissions, I asked further questions of the Applicant in both my ExQ1 [PD-007] and at ISH2 [EV-013]. During the Examination, in response to these discussions, further submissions were received from a number of IPs at subsequent deadlines, however none raised any new issues in relation to the topic, but re-iterated the importance of the colony and the need for bats to be protected.
- 5.6.85. In relation to the submission from WWE [RR-084], in my ExQ3 [PD-012] I requested the provision of the data to support their submissions, to enable this to be reviewed and considered during the Examination. By the close of the Examination, this data was not provided by WWE. In justification, at D6 [REP6-029], WWE identified that, having only completed data collection in September 2021, they were still analysing their data and writing-up their research findings from the last four years. As a result, they were unable to provide the full dataset to external parties at this stage, but highlighted that they would be submitting research papers for publication in peer-reviewed scientific journals. They did however provide an indication of their key research findings, including that Barbastelles from two maternity colonies within the super-colony (Weston Park (west) and the Ringland Woods) were recorded crossing the A47 east of Hockering (2020 and 2021 radio-tracking data).
- 5.6.86. In their response, NCC as promotor of the NWL [REP1-034] considered that the submission from a number of the IPs contained a number of errors. In particular they referred to an incorrect link provided by the IPs to NCC's submission to the on-going A47/A11 Thickthorn Junction Examination. Furthermore, they also highlight that their report had been subsequently updated to correct a number of factual errors and omissions, specifically in relation to bats. The corrective report sought to reflect more accurately the statements made in paragraph 8.4.20 of ES Chapter 8 [APP-047], in terms of how information has been shared between NCC and the Applicant in relation to barbastelle bat locations associated with the NWL and the Norwich Northern Distributor Road. NCC, as promoter of NWL, [REP1-034], also sought to make it clear that it is Dr Charlotte Packman from WWE, not NCC, who considers there to be a nationally significant breeding barbastelle colony present. NCC confirmed [REP1-034] that the area is not formally designated as a SSSI or SAC.
- 5.6.87. The Applicant provided a number of responses to both the issues raised by IPs, my questions and the discussions at both ISH2 and ISH3. In terms of their general approach towards bats, the Applicant highlighted [REP4-015] that the loss of 14 tree roosts would be mitigated through the European protected species mitigation licence method statement and that lost foraging habitat would be compensated for with increased and enhanced tree planting as a remediation measure. Compensatory planting would also be provided along the verges of the Proposed

Development that would both mitigate the loss of foraging habitats and shield suitable habitat and roosts from disturbance.

- 5.6.88. Copses of trees and woodland grassland mosaics are proposed to act as 'stepping stones' between suitable roosting and foraging habitat. Fragmentation of commuting routes (e.g. crossing points) and road mortalities would be mitigated through planting of standards (trees over about 2 metres) as 'hop overs' at crossing points, along with directional fencing and vegetation planting.
- 5.6.89. With regards to mitigation, the Applicant in their response to ExQ1 [REP2-014] referred to ES Appendix 8.13 Bat Crossing Point Report [APP-108], which highlighted that there were four particular bat crossing points that had the most bat traffic, therefore they were surveyed in full. The Environmental Masterplan [REP8-011], and ES Chapter 8 Biodiversity [APP-047] show that the mitigation proposals for these crossing points are the planting of mature tree standards (>4.25 m tall) either side of the new and existing A47, and in between, where required. In the view of the Applicant, this, along with fencing, will encourage bats to fly up and over traffic.
- 5.6.90. The Applicant does however acknowledge that there are limited studies assessing the effectiveness of such features and therefore there is some uncertainty in respect of their effectiveness. As a result, the Applicant considers the approach to represent a worst-case assessment. Other mitigation includes three underpasses and an overpass with directional fencing and vegetation planting and management to encourage bats through the pass rather than over the road. The Applicant accepted that there would be a time lag while planting matures, but this has been reflected in determining the significance of the impact.
- 5.6.91. The Applicant referred to its proposed monitoring at each of the crossing points and nearby underpasses/overpasses in years 1, 3, and 5 after Scheme completion. This would be a commitment under Action BD6 of the EMP [REP7-035] and secured via Requirement 4 of the rDCO (Appendix D). The Applicant is committed to engage with stakeholders including NE and NCC to discuss options and identify suitable additional mitigation, should this monitoring show a reduction in numbers. The Applicant identified that this could range from planting more trees to taking strategic actions within the wider areas to benefit the local/regional bat population.
- 5.6.92. The Applicant clarified that the main cause of the residual 'large adverse' impact of the Proposed Development was therefore due to the uncertainty around the use of hop-overs in bat mitigation at the existing crossing points.
- 5.6.93. In relation to the presence of the nearby barbastelle bat colony, the Applicant acknowledged at ISH2 that it had plans showing where the colony was [REP4-015], but detailed data about the location and the GPS data of the routes has not yet been received. The Applicant considered it would require this data to be included in the assessment. However, for

the known colony at ROARRR Dinosaur Park, the Applicant considered that the Proposed Development lies at the periphery of this core zone. In their view, the data on the bats is sufficiently robust to provide a good understanding of the bat assemblages in the vicinity of the site and to fully determine the impact of the Proposed Development on the bats [REP4-015].

- 5.6.94. The Applicant confirmed that it would be carrying out further survey work [REP7-017] and would ensure that the data is updated to ensure that the Applicant has the most up to date baseline with respect to crossing points. They envisaged that data from 2022 would provide a very good dataset to base that on and also to base the scope for future monitoring.
- 5.6.95. The Applicant acknowledged [REP7-017] that the main effect associated with the CSZ would be effects related to bats crossing the Proposed Development. In this respect, the Applicant highlighted that crossing points 1 and 9 lie 6km or more from the centre of the Roarr! Dinosaur Adventure Park, with crossing points 7 and 8 being approximately 5.5 km away [REP7-017]. In their view, the Proposed Development is therefore located on the extremities of the CSZs [REP7-017].
- 5.6.96. The Applicant submitted a plan [REP6-019] which showed the broad habitat types within 6km of the know colony at Roarr! Dinosaur Adventure Park. The Applicant's view was that this demonstrated that, due to the suitable habitat in the immediate vicinity, bats from that known colony would be more likely to use the valley corridor in an east-west direction, than travel to the edge of their CSZ, across large tracts of arable land, to access land to the south of the Proposed Development.
- 5.6.97. Overall, the Applicant considered that the submissions from IPs did not change their assessment of the Proposed Development having a large adverse, and therefore significant effect upon bats.

Biodiversity net gain

- 5.6.98. In my ExQ1 [PD-007], I sought clarification to the extent to which the Proposed Development would result in an overall biodiversity net gain. The matter was also the subject of questions at ISH2 and ISH3.
- 5.6.99. No comments were received from any of the statutory parties.
- 5.6.100. The matter was not directly raised by IPs in their RR or WR, although there were a number of references to improvement and enhancements to biodiversity as a result of the scheme. In response to the discussion at ISH2 the representative from BHE highlighted [REP4-023] that a number of previous DCOs had included Biodiversity Net Gain Assessments.
- 5.6.101. In their response [REP2-014], the Applicant considered that, at this current moment, there was no policy requirement to undertake an assessment as part of NSIP, however the scheme did align with Best Practice Principles, specifically those published by the CIEEM, in developing its landscaping and biodiversity proposals.

- 5.6.102. In response to further questioning on the matter at ISH2 [EV-022], the Applicant confirmed that in their view, it was difficult to quantify, but the Proposed Development would seek to maximise biodiversity delivery in accordance with the current statutory and policy requirements. This would be achieved through considered planting to create new or extended landscape and biodiversity elements including species rich grass land, hedgerows, trees, woodland and biodiversity wetlands. This is shown in the Environmental Masterplan (EnvMP) [REP8-011] and would be delivered through Requirement 5 of the rDCO (Appendix D).
- 5.6.103. In response to questions asked at ExQ1 [PD-007] and raised at ISH2, the Applicant produced a Technical Note on their approach to Biodiversity Net Gain [REP4-015].

Residual impacts on species

- 5.6.104. In my ExQ1 [PD-007], I sought clarification in relation to the Applicant's approach towards the translocation of GCNs and in particular, the timing of these and whether the Applicant had allowed for any contingency should this process take longer than anticipated. In response, [REP2-014], the Applicant identified that the population size class assessment surveys of ponds within 500m of the Order Limits, where GCNs are present, estimated populations were within the 'Small' size range.
- 5.6.105. In relation to timescales, the Applicant confirmed that relocation would commence the season prior to construction [REP2-014]. The Applicant will endeavour to remove all GCNs in this timeframe and is currently engaging with NE. However, if seasonal translocation restrictions mean some GCNs remain in the area when the main construction works need to commence, these will be isolated and protected from construction activities until translocation can be completed in that area [REP2-014].
- 5.6.106. In their LIR [REP2-022], NCC made a number of points in relation to the impact of the Proposed Development upon protected species and sought clarification on a number of matters.
- 5.6.107. By the end of the Examination, the majority of the identified issues had been addressed through discussions and agreed. This is evidenced through the SoCG with NCC [REP9-019]. However, a number of issues were still under discussion. These included:
- There have been no fish surveys carried out to date and only incidental records during other aquatic surveys recorded. NCC recommend the carrying out of fish surveys;
 - All reports need to be consistent and the recommendations in Chapter 8 of the ES need to be in-line with the recommendations of the targeted botanical and protected species reports; and
 - A need to undertake a desk study to support the Terrestrial Invertebrate Survey Report [APP-098], along with a need to revisit locations that were inaccessible.
- 5.6.108. In response to river impacts, the Applicant confirmed that it was currently liaising with the EA to agree a way forward. The Applicant has

commissioned accredited surveyors to undertake a river condition assessment survey and provide recommendations to compensate for any identified potential effect on the river, in particular the reduction in condition that will likely arise from the point of the new bridge crossing the River Tud. This assessment has identified stretches of river that could be subject to management to improve its condition and a copy of the report will be shared with NCC, when complete. Further agreement on what measures to be implemented will need to be reached and the Applicant will liaise with landowners and the EA to agree the detailed design and practical implementation of ecological enhancement measures in the detailed design.

- 5.6.109. In responses to the consistency, the Applicant highlighted that the supporting botanical and protected species reports were developed primarily to provide baseline survey data records from 2016 to 2020 to inform the main assessment in ES Chapter 8 [APP-047]. As a result, any recommendations were based on a less developed scheme design.
- 5.6.110. In response to the invertebrate survey, the Applicant acknowledged the comment regarding lack of invertebrate survey data for some parts of the site but identified that this was due to access restrictions due to the presence of livestock, or in 2020 due to both access and COVID restrictions.
- 5.6.111. The Applicant intends on integrating surveys into the detailed design stage. The Applicant is committed to developing a landscape design that is considerate of invertebrate habitat and provides adequate mitigation for the loss of part of Hall Meadows, required for the new River Tud crossing.

EXA CONSIDERATIONS

- 5.6.112. My consideration of this topic has had careful regard to the policies of the NPSNN on biodiversity and ecological conservation. I have also considered the NPPF and development plan policies insofar as they are applicable to an NSIP.

Overall assessment

- 5.6.113. The Applicant's overall approach to this topic, including the scope and content of baseline surveys, was mainly agreed by the relevant authorities. None raised any substantive concerns regarding the Applicant's findings. This is shown in the SoCGs [REP9-019, REP9-021, REP9-022 and REP9-025]. The matters raised during the Examination focussed on specific species and concerns, rather than the broader issue of biodiversity impact.
- 5.6.114. I am satisfied that the Applicant has undertaken a thorough and rigorous assessment of biodiversity matters that would be affected by the Proposed Development, both directly and indirectly. Therefore, I find that the Application accords with paragraph 5.22 of the NPSNN in its consideration of sites, habitats, species and potential impacts. I also find

the Applicant has adequately addressed the significance of these and accords with paragraph 5.26.

- 5.6.115. The Applicant's assessment takes into account the possible air quality and noise effects of the proposal on biodiversity during the construction and operational phases. I find that there is no substantive evidence to indicate that those effects would be significant. Further, I note that neither NE, NCC, SNC, BC or BDC raised any concerns in this regard. I am therefore satisfied that the Proposed Development would accord with paragraph 5.192 of the NPSNN.
- 5.6.116. In reference to the declared ecological emergency, I acknowledge that there are widely held concerns regarding the effects of major development proposals upon biodiversity, both at national and international levels. However, my task here is clear, which is to specifically consider the effects of the Proposed Development.
- 5.6.117. Little evidence was presented to me to support the concerns with regards to the effect of the Proposed Development upon specific species (other than bats). As I have already found that the Applicant's baseline information and assessments of the effect of the Proposed Development on those and other species are sound, it follows that I find no reason to call into question the relevant ES findings.
- 5.6.118. The Proposed Development is anticipated to have a neutral effect on nearby SSSIs, ancient woodland and nearby CWSs. Matters in relation to Habitat Regulations are dealt with in Chapter 6. From the evidence I have no reason to doubt these conclusions.
- 5.6.119. The Proposed Development would have a significant moderate adverse residual effect upon woodland, hedgerows and grazing marsh. This is due to the time lag taken for the replacement habitat to reach a level of maturity. I agree that, in the short term, the loss of this habitat is significant, however I am satisfied that, over time the proposed mitigation measures would provide more than sufficient compensatory habitat of equal, or potentially better quality. In this respect, I am also content that, through the EMP [REP7-035], relevant bodies will be provided with the opportunity to comment further upon the Applicant's mitigation measures.
- 5.6.120. In terms of protected species to be licenced, with the exception of bats, which I address separately, the Proposed Development is considered to have a neutral effect. This is principally justified on the basis of the licencing process and the overall need to avoid harm.
- 5.6.121. At a number of instances during the Examination, the Applicant highlighted that it intended on providing letters from NE to confirm that they saw no impediment to the granting of the required Licences. However, by the close of the Examination no evidence of NE's position had been submitted. Neither was a completed SoCG submitted. Whilst there is no evidence to suggest that NE have any objections to the scheme, the lack of any evidence to demonstrate their position, is far

from helpful. In this respect however, I acknowledge that the impact upon protected species, with the exception of bats, was an agreed matter between the Applicant and the County Ecologist.

- 5.6.122. The Proposed Development would have a slight adverse effect upon breeding birds, barn owls and wintering birds. This is also due to the time lag in the provision and establishment of replacement habitat, but also due to the permanent loss of arable farmland which is not being replaced. In terms of barn owls, further mitigation is proposed with the installation of new nest boxes. Whilst the Proposed Development would have an effect upon these species, this is not considered to be significant. Nonetheless, this carries limited weight against the Proposed Development.

Biodiversity Net Gain

- 5.6.123. The NPSNN is the primary source of policy guidance for the Proposed Development and provides clear guidance on the approach to biodiversity enhancement.
- 5.6.124. Paragraph 5.23 requires the Applicant to show how the proposal takes advantage of opportunities to enhance, as well as conserve biodiversity interests. Paragraph 5.33 requires the SoS to consider whether the Applicant has maximised opportunities to build in beneficial biodiversity features in and around developments.
- 5.6.125. I acknowledge the submissions from BHE that net gain has begun to become a feature of other NSIPs. However, in this instance, I find that S104 (2) (a) and (3) of PA2008 are clear, that the guidance contained within the NPSNN provides the framework for the consideration of this application. Consequently, I find that the lack of a BNG assessment does not weigh against the proposal. Nevertheless, from discussions in relation to other topics, such as design, there is a requirement upon the Applicant to deliver biodiversity enhancements, wherever possible.
- 5.6.126. I find that the Proposed Development has the potential to deliver enhancements in biodiversity. The mitigation measures necessary to achieve those enhancements are clearly set out in the EMP [REP7-035]. I consider these to be both achievable and deliverable.

Summary

- 5.6.127. In summary, I consider that in the short to medium term, moderate adverse construction effects on hedgerows, deciduous woodland and floodplain grazing marsh and the slight adverse effect upon breeding birds, barn owls and wintering birds, weigh against the DCO being made.
- 5.6.128. In relation to protected species, other than bats, I find that the proposal would result in no significant effects, and this weighs neither for nor against the making of the DCO.
- 5.6.129. Once operational and all mitigation, as set out in the EMP [REP7-035], has become established, the Proposed Development would result in an

enhancement of biodiversity. Despite the time lag for this to establish, this enhancement weighs in favour of the DCO.

- 5.6.130. To that extent, the Proposed Development would comply with paragraphs 5.23, 5.26, 5.29, 5.31, 5.33 and 5.34 of the NPSNN on conserving and enhancing biodiversity conservation interests and paragraphs 5.36 and 5.38 regarding the mitigation measures.
- 5.6.131. As identified earlier within this Section, NE failed to engage in the Examination. Their lack of non-participation may be indicative of a lack of fundamental concerns, however, given no evidence to support this, I have placed no weight on this. I do however note that NE are a consultee on the discharge of Requirement 7 (Protected Species) and Requirement 12 (Ecological Works). This, to some degree, would offer another opportunity to obtain their input at that stage.
- 5.6.132. Therefore, given the lack of a clear understanding of the position of NE, I recommend that the SoS may wish to consult NE before making a decision on the proposition and ensure that there are no impediments, that all mitigation is broadly adequate, and that NE is content with the provisions of R7 and R12.

Bats

- 5.6.133. There was a substantial amount of discussion during the Examination with regards to the effect of the Proposed Development upon bats. The main focus for these discussions revolved around the potential presence of a barbastelle super colony in woodland to the north of the site, close to the route of the proposed NWL.
- 5.6.134. A large number of RRs and WRs [RR-059, RR-084, REP6-029, AS-015, REP1-027 and RR-025] raised concerns about the impact of development upon this colony. I am satisfied that the Proposed Development would have no direct impact upon this colony as it lies beyond the Order Limits. However as it lies within the CSZ and potential foraging area, there is possible indirect impacts, along with incombination effects with NWL in particular.
- 5.6.135. Whilst a large number of comments were received, no additional survey data was provided by objecting IPs on this point. I have no reasons to doubt the presence nor the potential importance of the colony, however, without any specific data, I lack any substantive evidence to support assertions that the impact upon bats is more substantially adverse than the Applicant submits. I requested evidence from IPs during the Examination [PD-012], but this was not submitted.
- 5.6.136. Notwithstanding this, the Applicant has assessed the potential effects of the Proposed Development upon bats, which includes an assessment upon barbastelle bats at the known colony to the north. Therefore, whilst the assessment does not specifically highlight the colony referred to by IPs, the Applicant concludes that the Proposed Development would have a significant effect upon bats. This is principally due to issues around mitigation. Furthermore, I note the evidence submitted by the

Applicant which suggests that bats would be more likely to travel in an east-west direction along Wensum Valley, rather than in a north-south direction, was not specifically challenged or refuted by the IPs.

- 5.6.137. However, even if the data had been presented to show the nature and size of the potential colony identified by the IPs, I doubt this would have altered the Applicant's overall conclusion of a significant adverse effect. I find the evidence of the Applicant to be more compelling than that of the IPs.
- 5.6.138. In determining that the Proposed Development would have a significant adverse effect upon bats, the Applicant acknowledges that this, in part, is due to concerns raised by parties over the adequacy of the proposed mitigation and in particular the form, function and performance of the proposed cross-over points. I see no reason to disagree with this conclusion.
- 5.6.139. The provision of monitoring should provide a mechanism for assessing the performance of the mitigation. However, I share the concerns expressed by a number of IPs in terms of the lack of clarity on measures should additional mitigation be required. That said, I do however acknowledge that at this stage it may be difficult to fully scope these out, until the nature of the effect to be mitigated is fully understood.
- 5.6.140. In summary, there still remains some uncertainty around the impact of the Proposed Development upon bats, but this stems from a precautionary approach taken by the Applicant, rather than any specific gap in their analysis or assessment. In any event, the Applicant has assessed the impact to be significant. This weighs against the DCO being made.
- 5.6.141. The NPSNN requires such a significant effect to be balanced against the national need and benefits of the proposal.
- 5.6.142. In relation to the additional surveys referred to by WWE [REF6-029], should this data become available prior to the determination of DCO, it is recommended that the SoST should satisfy themselves that the Proposed Development can robustly demonstrate that the impacts on the favourable conservation status of bat species near the route can be avoided.

CONCLUSION

- 5.6.143. In relation to biodiversity, I find that the following weigh against the making of the DCO:
- Construction effects on hedgerows, deciduous woodland and floodplain grazing marsh – limited negative;
 - Construction effects upon breeding birds, barn owls and wintering birds – limited negative; and
 - Significant adverse effects upon bats – substantial negative.

- 5.6.144. The Proposed Development would, however, deliver benefits to other aspect of biodiversity once construction has been completed and proposed mitigation has become established. These enhancements weigh in favour of the DCO.
- 5.6.145. With regards to bats, given the residual impact and their protected status, I conclude that the Proposed Development has a significant effect. This carries substantial negative weight against the Proposed Development to be carried forward into the planning balance.
- 5.6.146. Given the lack of a clear understanding of the position of NE, I recommend that the SoS may wish to seek the views of NE before making a decision on the proposition and ensure that there are no impediments, that all mitigation is broadly adequate, and that NE is content with the provisions of R7 and R12.
- 5.6.147. In addition, should additional data with regards to Barbastelle bats become available prior to the determination of the Application, the SoS may wish to satisfy themselves that the Proposed Development can robustly demonstrate that the impacts on the favourable conservation status of bat species near the route can be avoided.

5.7. CLIMATE CHANGE INTRODUCTION

- 5.7.1. This section considers the effect of the Proposed Development in relation to climate change, including carbon emissions and the ability of the Proposed Development to adapt to changes in the climate.
- 5.7.2. Matters in relation to the following are covered in other sections of this Report:
- Air quality - Section 5.5;
 - Biodiversity – Section 5.6;
 - Health – Section 5.13;
 - Economic issues – Section 5.14;
 - Traffic and transport - Section 5.16 and
 - Flood risk – Section 5.17.

POLICY AND LEGAL CONTEXT

UK Legislation

- 5.7.3. Section 104(3) of the PA2008 states that the SoS must decide an application for a national networks NSIP in accordance with the NPSNN unless any of the sub-sections 104 (4) to (8) apply. These include where the SoS is:
- satisfied that the adverse impact of the Proposed Development would outweigh its benefits,
 - satisfied that deciding the application in accordance with the NPSNN would: lead to the UK being in breach of any of its international obligations; lead to the SoS being in breach of any duty imposed on

the SoS by or under any enactment; be unlawful by virtue of any enactment.

5.7.4. The Climate Change Act (Amendment) Order 2019 (CCAA2019) amends s1 of the Climate Change Act 2008 from *"it is the duty of the Secretary of State to ensure that the net UK carbon account for the year 2050 is at least 80% lower than the 1990 baseline"* to *"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."*

5.7.5. In relation to the Paris Agreement 2015, this provides a framework for keeping global warming well below 2°C and was ratified by the UK Government in November 2016, after the NPSNN was designated in December 2014.

NPSNN

5.7.6. The NPSNN addresses carbon emissions in paragraphs 5.16 to 5.19.

5.7.7. Paragraph 5.16 identifies that the Government has a legally binding framework to cut GHG emissions by at least 80% by 2050. It refers to a system of five-year carbon budgets that set a trajectory to 2050. It advises that these budgets and plans will include policies to reduce transport emissions, taking into account the impact of the Government's programme of new infrastructure as part of that. It states that *"the impact of road development on aggregate levels of emissions is likely to be very small"*.

5.7.8. Paragraph 5.17 identifies that carbon impacts will be considered as part of the appraisal of the scheme options, through the business case, prior to the submission of an application. Any subsequent application, which is subject to EIA, will need to describe an assessment of any likely significant climate factors, in accordance with EIA Directives. It states that: *"It is very unlikely that the impact of a road project will, in isolation, affect the ability of Government to meet its carbon reduction plan targets."* It goes on to state that Applicants for road projects should *"provide evidence of the carbon impact of the project and an assessment against the Government's carbon budgets"*.

5.7.9. Paragraph 5.18 identifies that the Government has an overarching national carbon reduction strategy, which is a credible plan for meeting carbon budgets, to which the Government is legally bound. It includes a range of non-planning policies which will ensure that any carbon increases from road development do not compromise its overall carbon reduction commitments. As a result, it considers that *"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 Government to meet its carbon reduction targets."*

5.7.10. Paragraph 5.19 requires evidence to be provided of mitigation measures in both design and construction. It requires the SoS to; *"consider the effectiveness of such mitigation measures in order to ensure that, in*

relation to design and construction, the carbon footprint is not unnecessarily high.”. It goes on to state that “the adequacy of the mitigation measures relating to design and construction will be a material factor in the decision making process.”

- 5.7.11. In relation to climate change adaptation, this is addressed in paragraphs 4.36 to 4.47. Broadly, these require applicants, when considering the design build and operation of schemes, to set out how they would respond to and accommodate and adapt to the potential effects of climate change using the latest UK climate projections.

THE APPLICATION

Relevant parts of the application

- 5.7.12. The main sections of the application relevant to the climate change matters considered here are:

- ES Chapter 14 – Climate [REP3-014];
- ES Appendix 14.1 – Embodied Carbon Assessment [APP-131];
- ES Chapter 5 – Air Quality [APP-044];
- ES Chapter 15 – Assessment of Cumulative Effects [REP6-030];
- Case for the Scheme [APP-140]; and
- EMP [REP7-035].

Overall approach

Methodology

- 5.7.13. ES Chapter 14, Climate [APP-053], provides the Applicant’s assessment of GHG impacts, climate change resilience and in-combination effects of a changing climate on the Proposed Development. This Chapter was updated during the course of the Examination at D3 [REP3-014], to provide an updated assessment to reflect the publication by the Government of the Sixth Carbon Budget in June 2021, which occurred after the submission of the application.
- 5.7.14. The Applicant confirmed that their approach follows the most up to date guidance and advice as provided within DMRB LA 114. In accordance with the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017, the NPSNN and DMRB LA 114, the assessment covers two separate aspects. Firstly, the effects of the Proposed Development on climate from carbon emissions arising from it, including whether the Proposed Development may affect the ability of the UK Government to meet its carbon reduction targets. The second aspect relates to the vulnerability of the Proposed Development to climate change, including the ability of the Proposed Development to operate as intended, despite climate change impacts and associated weather effects.
- 5.7.15. The Applicant considered that there was no specific guidance with regards to assessing significance levels for GHG emission impacts. There is currently no definitive EIA guidance on the assessment of significance based on quantified carbon emissions. However, the Applicant referred to DMRB LA 114 (paragraph 3.20) which states; *“The assessment of*

projects on climate shall only report significant effects where increases in [carbon] emissions will have a material impact on the ability of Government to meet its carbon reduction targets.” The Applicant therefore used this as the basis for their assessment.

- 5.7.16. The Applicant’s assessment of the effects of the Proposed Development on climate included the following:
- Estimation of the carbon emissions associated with the construction of the Proposed Development;
 - Estimation of the carbon emissions associated with the Proposed Development operational energy, principally lighting;
 - Estimation of the end user (vehicle) carbon emissions associated with the Proposed Development;
 - Comparison between estimated carbon emissions arising from the Proposed Development and UK carbon budgets; and
 - Opportunities for inclusion of mitigation in the design of the Proposed Development.
- 5.7.17. With regards to the vulnerability of the Proposed Development to climate change, the Applicant acknowledges that, whilst it may be subject to weather extremes (as opposed to extreme weather events) during construction, it is not anticipated that verifiable climate change will occur between the time of design assessment and the end of the construction period. As a result, they conclude that construction works are therefore not considered to be vulnerable to climate change, thus no associated mitigation, other than expected site practice, is required.
- 5.7.18. In line with DMRB LA 114, the Applicant prepared a qualitative methodology for assessing the vulnerability of the Proposed Development to climate change during its operation. The methodology considered its vulnerability to both normal weather and extreme weather. Following the identification of climate change impacts, the Applicant undertook a risk assessment of those impacts.

Study Area and baseline

- 5.7.19. For the construction phase of the Proposed Development, the Applicant considered the study area to comprise the physical infrastructure assets associated with the Proposed Development. This therefore included the embodied carbon of materials and emissions associated with construction activities.
- 5.7.20. For the operational phase, the study area was considered to be the operational energy requirements of the Proposed Development, such as road lighting, and the Affected Road Network (ARN) for road user carbon (vehicle emissions).
- 5.7.21. For the purposes of the climate change vulnerability assessment, the study area was considered to be the physical infrastructure assets associated with the Proposed Development. In line with WebTAG GHG Assessment and DMRB LA 114, the Applicant undertook the appraisal to cover a period in excess of 60.

- 5.7.22. In terms of the baseline for the GHG assessment, the Applicant took this to be the current situation in which no proposed additional infrastructure is built, considering existing travel and traffic patterns. Potential impacts from emissions associated with the construction and operation of the Proposed Development, were assessed against this baseline.
- 5.7.23. The baseline against which the Applicant has compared the Proposed Development is the Do-Minimum scenario, the future baseline without the Proposed Development in place. In the Do-Minimum scenario, the Applicant has included typical carbon emission sources including maintenance works, operational energy and end-user emissions. The baseline end-user carbon emissions were estimated from outputs from an appropriately validated traffic model for the existing road and wider network and comprised emissions for three key years: base year (2015), opening year (2025) and design year (2040).
- 5.7.24. In accordance with DMRB LA 114, the Applicant prepared a current climate baseline for the wider region using Met Office (2016) historical regional climate data.

Potential Impacts

Construction

- 5.7.25. The Applicant predicts that the construction period for the Proposed Development will be approximately 23 months. During the construction stage, embodied carbon emissions from construction materials are predicted to be the main contributor to climate change, with additional emissions arising from the direct use of plant and transport of materials.
- 5.7.26. Using the Highways England Carbon Tool (v2.3), the Applicant has estimated emissions of approximately 87,727 tonnes of carbon dioxide equivalent (tCO₂e) [REP3-014] in association with the construction of the Proposed Development.

Operational

- 5.7.27. For end user traffic emissions, the Applicant has undertaken a comparison between the DM (without the Proposed Development) and DS (with the Proposed Development in place) scenarios for both the opening year (2025) and the design year (2040).
- 5.7.28. The estimated DM emissions, for end user traffic emissions over the 60-year appraisal period is 53,142,467 tCO₂e [REP3-014], the corresponding Do Something emissions total is 53,650,750 tCO₂e [REP3-014]. Therefore, the total increase in vehicle carbon emissions associated with the Proposed Scheme (comparison of Do-Minimum and Do-Something scenarios) over the 60-year appraisal period (2025 to 2085) is estimated by the Applicant to be 508,283 tCO₂e [REP3-014].
- 5.7.29. With regards to emissions associated with operational energy use from the Proposed Development, the Applicant considers this to be 780tCO₂e, based on the annual electricity demand of lighting columns.

Design and mitigation

- 5.7.30. The Applicant outlined that they have adopted a hierarchical approach to carbon management [REP2-014], which involves build nothing, build less, build clever, build efficiently. As a result, the Applicant considered that, throughout the design of the project, opportunities for carbon reduction have been included within the Proposed Development.
- 5.7.31. In terms of reductions in carbon emissions, the Applicant highlights that a number of measures have already been made through their design process, including:
- Efficiencies associated with road surfacing, and seeking to maximise surface course replacement, as opposed to a full replacement of all layers of pavement;
 - Removal of one kilometre of earthworks has resulted in savings of general fill and topsoil; and
 - A design change to the Easton footbridge.
- 5.7.32. The Applicant has committed through the EMP [REP7-035], through Actions C1 and C2 of the REAC to both reduce carbon and evaluate final carbon emissions.
- 5.7.33. In terms of reducing emissions during construction, the Applicant highlighted [REP3-014] the following measures:
- Optimise re-use of existing site won and recycled materials;
 - Develop a comprehensive and holistic MMP;
 - Undertake an appropriate intrusive pavement survey and engagement with supply chain to implement best practice to optimise pavement construction for both the mainline and offline works; and
 - Use innovative applications to reduce the carbon emissions associated with construction compounds and support facilities, include options such as EcoSmart Welfare cabins which harness green energy and avoiding the use of conventional on-site power sources.
- 5.7.34. The Applicant considered [REP4-015] that the assessment represented a conservative approach as it had not taken into account carbon reductions that should be secured through implementation of the DfT's Transport Decarbonisation Plan (July 2021) and HE 2030/2040/2050 net zero Highways Plan (July 2021).
- 5.7.35. The Applicant concludes [REP10-005] that, in line with section 5.18 of NPSNN and sections 3.19 and 3.20 of DMRB LA114, it is considered that the magnitude of emissions from the Proposed Development, in isolation, would not have a material impact on the ability of the UK Government to meet its carbon budgets, and is not anticipated to give rise to a significant effect.

PLANNING ISSUES

- 5.7.36. The issue of climate change, and GHG emissions from the Proposed Development featured prominently throughout the Examination. To

provide a logical summary of the issues raised, I have structured the following section to outline my questions, then the responses from the LAs and then a summary of the issues raised by IPs throughout the Examination. Finally, I have outlined the Applicant's response to these issues.

EXA Questions

- 5.7.37. In my ExQ1 [PD-007], following the publication of the sixth Carbon Budget, I requested the Applicant provide the Examination with an assessment of the Proposed Development against this Budget. I also sought the Applicant's view in relation to a number of the assumptions and calculations made within their assessment.
- 5.7.38. Following a number of comments from IPs and the discussions at both ISH2 [EV-022] and ISH3 [EV-039], I issued a Rule 17 request [PD-015]. In this request, I sought a response from the Applicant in relation to the following:

Please can the Applicant provide (or, to the extent that any of the below has already been provided to the Examination, identify) its assessment of the cumulative effects of Greenhouse Gas emissions from the scheme with other existing and/or approved projects on a local, regional and national level on a consistent geographical scale (for example an assessment of the cumulative effects of the Roads Investment Strategy RIS 1 and RIS 2 at a national level).

Please can this take account of both construction and operational effects; identify the baseline used at each local, regional and national level; and identify any relevant local, regional or national targets/budgets where they exist and how the assessment complies with these (including the carbon budgets, the 2050 zero target under the Climate Change Act 2008, and the UK's Nationally Determined Contribution under the Paris Agreement).

It should be accompanied by reasoning to explain the methodology adopted, any likely significant effects identified, any difficulties encountered in compiling the information, and how the assessment complies with the Environmental Impact Assessment Regulations.

- 5.7.39. I sought clarification [EV-039] in relation to embedded carbon and in particular whether the Applicant had undertaken any benchmarking against other highway proposals. I also sought an understanding of what opportunities there would be during the design stage to further reduce carbon, along with an indication of how the Applicant would look to deliver these.

Position of LPAs

- 5.7.40. In their LIR [REP2-022], NCC confirmed that it had adopted its Environmental Policy at the end of 2019, which included a commitment to move towards carbon neutrality across all sectors by 2030. Emissions from the trunk road network would be included within this. In order to help meet the commitment in its environmental policies, NCC confirmed

that it wanted to work with NH to commit to undertaking work across the trunk road network to understand in more detail the carbon emissions arising from use of this network and how these might be mitigated. In particular, they wanted to work closely to identify measures to reduce carbon emissions on the trunk road network, e.g. by installation of Electric Vehicle charging points to encourage electric vehicles, and understand how these will be brought forward, their impact on emissions reduction and how they would fit with other local measures. They also welcomed the approach of the Applicant to reduce the emissions during the construction process.

- 5.7.41. No responses were made by any of the LPAs in relation to climate change or in response to my ExQ1 [PD-007].

IP responses

- 5.7.42. The issue of climate change was raised by a considerable number of IPs in their RR. These included, Howard Rees [RR-043], John Cummings [RR-048], Lesley Grahame [RR-052], Nick Bishop-Clarke [RR-058], Olivia Hanks [RR-065], Roc Sandford [RR-074], Anne Robinson [RR-005], Deepak Rughani [RR-026], Dr Larch Maxey [RR-027], Dr Matt Tomlinson [RR-028], Emma Tristram [RR-032], Joe McCarney [RR-047], John Greenway [RR-049], Mireille Heald [RR-055], Norwich Green Party Group of City and County Councillors [RR-064], Adrian Holmes [RR-001], Glebe House [RR-035], Hannah Hoechner – [RR-037], Hanne Lenne Schierff – [RR-038], Jonathon Maynard [RR-050], Laura Blake [RR-051], Norfolk Friends of the Earth [RR-063], Patricia Day [RR-067], Robert Palgrave – [RR-073], Alyson Lee – [RR-004], Christine Way – [RR-017], David Morton [RR-024], Gil Murray [RR-034], Jamie Osborn [RR-045], Jean Bishop [RR-046], Mair Bain [RR-053], Steve Hale [RR-077], David Pett – stop Wensum link [RR-025], Transport Action Network [RR-078], Victoria Rance [RR-081], Climate Emergency Planning and Policy (CEPP) [RR-018], Mr Andrew Cawdron [REP4-042] and Dr Iain Robinson [AS-013]. The issues that were raised in these submissions included:

- Scheme will lead to more traffic, accelerating the risk of climate induced societal collapse and increasing premature deaths from air pollution;
- Scheme breaches national policies from climate change and modal shift towards, walking, cycling and public transport. This matter was also raised by Mair Bain at ISH2 [EV-022];
- Carbon emissions need to be cumulatively assessed but locally within this area, and nationally with up to 100 other schemes planned. The recent judgement of *Pearce v Secretary of State BEIS* (2021) demonstrates that the Courts accept the importance of cumulative assessments with EIA;
- Carbon emissions should be tested against inter/national legislation and guidance including the Paris Agreement, the legally binding target under the Climate Change Act 2008 to meet net zero carbon emissions by 2050, the UK 6th Carbon Budget, science based carbon budgets from the Tyndall centre and NPPF paragraph 148 which

requires the planning system contributes to radical reductions of greenhouse gas emissions; and

- The relevant NPS requires that the scheme be assessed against national carbon reduction targets and the UK's international commitments in place at the time when a DCO application is determined.

5.7.43. Norwich Green Party Group of City and County Councillors [REP1-035] in their WR, raised similar issues, but also considered that the Applicant's assessment underestimates greenhouse gas emissions generated from the Proposed Development and that there was a lack of assessment of the cumulative impacts from three A47 schemes currently undergoing examination together with local road schemes being promoted by NCC.

5.7.44. Throughout the Examination, a number of submissions were received from Dr Andrew Boswell on behalf of CEPP [RR-018, REP1-023, REP6-020, REP7-028, REP7-029, REP8-024, AS-016, and AS-039]. In terms of the issues which the comprehensive and detailed submissions raise some are included in the above list, however I have summarised others below:

- The assessment of carbon emissions in the ES is inherently solus and no cumulative assessment has been made of carbon emissions with other A47 schemes;
- The ES does not demonstrate cumulative assessment of carbon emissions to comply with the EIA Regs and Design Manual for Roads and Bridges (DMRB) guidance;
- The lack of an assessment of the cumulative GHG emission means that the ES is unlawful, when considered against the Regulations;
- Lack of cumulative assessment could be resolved by a unified approach across all A47 schemes;
- The delivery of twelve A47 schemes, along with other local road schemes, such as NWL, would severely compromise the Net Zero strategy;
- The Applicant's use of the UK carbon budgets is not meaningful and that it focuses assessment into the lowest category; and
- The generation of additional carbon emissions without any mitigation is not acceptable in the Climate Emergency.

5.7.45. At ISH2 [EV-022], the Dr Andrew Boswell questioned as to whether they had updated the submitted benefit costs ratios to include recent policy updates on carbon. Mr Andrew Cawdron question why 750 acres of land to be used for the Proposed Development was not accounted for in the carbon budgets.

The Applicant's position

5.7.46. The Applicant provided responses to the written questions on this topic [REP2-014 and REP6-018]. They also [REP3-023] provided a response to statutory authorities answers to the first written questions. Oral and written responses were provided to questions raised in ISH1, ISH2 and ISH3 [REP4-014, REP4-015, REP4-016 and REP7-017].

- 5.7.47. The Applicant provided detailed responses to comments raised by Dr Andrew Boswell on their climate assessment and in regards to cumulative carbon emissions [REP3-022; REP4-011; REP7-015 and REP8-013].
- 5.7.48. During the Examination, the Applicant submitted an update to ES Chapter 14, Climate at D3 [REP3-014].
- 5.7.49. The Applicant provided a response to my Rule 17 Request at D10 [REP10-005].
- 5.7.50. The Applicant referred [REP10-005] to the approach to assessing and evaluating the CO₂e impacts associated as set out in DMRB LA 114 Climate, Section 3 Methodology. Within this it defines the reporting requirements for comparison against the relevant carbon budgets (in existence at the time of the assessment) and the evaluation criteria for significance, which is consistent with the decision making requirements set out in paragraphs 5.17 and 5.18 of the NPS NN.
- 5.7.51. The Applicant's position [REP10-005] was that ES Chapter 14 Climate, Rev.1 (REP3-014) sets out their climate assessment and concludes that the Proposed Development does not cause a significant effect for changes in CO₂e emissions when compared to carbon budgets.
- 5.7.52. The Applicant confirmed [REP10-005] that their assessment of GHG had assessed the construction and operational effects of the Proposed Development as follows:
- Construction – the materials and energy required to construct the Proposed Development;
 - Operational – emissions produced by vehicles using the completed Development and associated journeys from the wider road network that incorporate or have a change in their journey following opening of the Proposed Development; emissions produced by operational maintenance activities and energy use over its design life (i.e. 60 years).
- 5.7.53. The traffic modelling was undertaken in accordance with TAG published by the DfT. The traffic model used for the Proposed Development was developed in line with DfT requirements and, in the view of the Applicant was inherently cumulative [REP10-005]. This was because traffic models used to support the assessment of the Proposed Development contain data about the following:
- The Proposed Development and adjoining SRN and local road network;
 - Other proposed developments promoted by NH in the near vicinity of the Proposed Development with high certainty that they are to be progressed (i.e. progressed beyond preferred route announcement stage);
 - They are based on discussions with the relevant planning authority, of foreseeable developments promoted by third parties as likely to be developed in a similar timeline to the Proposed Development. Knowing where the proposed third party development is to be sited,

the extents and types of development, and the timescales of when it is to be completed are requirements to ensure that the third party developments can be reasonably described in the traffic model; and

- National government regional growth rates which include a representation of likely growth rates excluding known planning developments already included in the traffic model. This is represented by DfT's NTEM/TEMPRO5 growth factors for car usage, and growth in freight is derived from DfT's National Transport Model.

- 5.7.54. In terms of operational carbon, in evaluating the change in CO₂e emissions, the Applicant did so by comparing changes in the road traffic on the SRN and local road network between the 'without Proposed Development scenario' and the 'with Proposed Development scenario'. This takes into account the assessment of the Proposed Development and all other developments likely to have an influence on the proposed road development and on the area the proposed road development is likely to influence [REP10-005].
- 5.7.55. In essence, as both with and without scheme scenarios already include all likely developments and traffic growth factors, the Applicant considered that the assessment is therefore inherently cumulative as regards operational carbon emissions [REP10-005].
- 5.7.56. With regards to national carbon budgets, the Applicant submitted that these were also cumulative [REP10-005]; as they represent the sum of carbon emissions from a range of sectors between now and the end of the 6th carbon budget (2037). The Applicant considered that [REP10-005] the CCAA2019 does not impose a legal duty to set carbon budgets at a smaller scale i.e. at a regional or local level.
- 5.7.57. As a result, the Applicant's position [REP10-005] was that it was therefore unable to produce a baseline at a local or regional scale itself.
- 5.7.58. Furthermore, [REP10-005], the Applicant considered that there was no reasonable basis upon which to assess the carbon emissions impact of the Proposed Development at a local or regional level and it is not required to do so by the NPSNN. Accordingly, the most appropriate level, against which to assess the Proposed Development is the national level carbon budgets.
- 5.7.59. The Applicant submitted [REP10-005] that overall compliance with carbon budgets and 'the net zero target' under CCAA2019, and the Paris Agreement are the responsibility of Government to manage as they are matters of national policy and not policies set at an individual proposed development level. The NPSNN sets the framework against which decision makers can evaluate the outcomes of proposed road infrastructure projects. In the view of the Applicant [REP10-005], the NPSNN requires assessment against the Government's climate reduction targets; i.e. the carbon budgets which are set at a national geographical scale. It does not require assessment against any local or regional targets.

- 5.7.60. With regards to Embedded Carbon, the Applicant confirmed [REP7-017] that it incorporates emissions from extraction, refinement and processing of materials, as well as their transportation to site and emissions associated with fabricating or constructing the asset. The Applicant referred to its Embodied Carbon Assessment [APP-131] which provides more detail.
- 5.7.61. The Applicant confirmed that the assessment was based on the preliminary design at Stage 3, and includes emissions associated with materials, construction and transportation. The assessment used quantity data from bill of quantities provided by Discipline leads and the Highways England Carbon Tool (v2.3). The boundary of the assessment for emissions during construction was “the physical infrastructure asset associated with the Scheme” in accordance with DMRB LA 114 (Paragraphs 3.8 and 3.9).
- 5.7.62. The Applicant confirmed that the total emissions from construction are estimated to be 87,727 tCO₂e. The majority of emissions were associated with Earthworks (approx. 60%) and Bulk Materials (approx. 30%). The Applicant referred [REP3-014] to potential opportunities to reduce embodied emissions during the design process that will be undertaken in Stage 5. This will include value engineering opportunities. A carbon working group has also been set up across the A47 Schemes to consider how and where innovation can be incorporated to minimise emissions during construction.
- 5.7.63. By the end of the Examination, the Applicant’s position in relation to overall emissions was as follows [REP2-014]:

Table 2 Applicant’s Carbon emissions distributed per relevant carbon budget

Project Stage	Carbon emissions distributed per relevant carbon budget (tCO ₂ e)				Estimated total emissions over 60-year appraisal period (tCO ₂ e)
	Fourth (2023 to 2027)	Fifth (2028 to 2032)	Sixth (2033 to 2037)	2038 to 2087	
Baseline (DM)	2,848,032	4,640,659	4,508,084	41,145,692	53,142,467
Construction (DS)	87,727	-	-	-	87,727
Operation (DS)	2,871,931	4,681,354	4,549,858	41,548,386	53,651,530
Total (DS)	2,959,658	4,681,354	4,549,858	41,548,386	53,739,257
Difference (DS-DM)	+111,626	+40,695	+41,774	+402,694	+596,790

EXA CONSIDERATIONS

Introduction

- 5.7.64. I have considered the Proposed Development against the policies set out in the NPSNN in relation to climate change, carbon emissions and climate change resilience. I have also given consideration to the requirements of the CCAA2019, the Paris Agreement 2015 and Section 104 of the PA2008.

Policy framework

- 5.7.65. Section 104(4) of the PA2008 identifies that the SoST must decide the application in accordance with any relevant NPS, except where they are satisfied that deciding the application in accordance with any relevant NPS, would lead to the United Kingdom being in breach of any of its international obligations.
- 5.7.66. The Paris Agreement 2015 does not set out a specific commitment on carbon emissions for the UK. That is provided in the CCAA2019, which is considered below. Compliance with the CCAA2019 would provide a route towards compliance with the Paris Agreement 2015 and contribute towards avoiding a breach of the UK's international obligations. Nevertheless, noting the need to specifically address s104(4) of the PA2008 with respect to international obligations, it is necessary to address compliance with the Paris Agreement 2015 as well as compliance with the CCAA2019.

- 5.7.67. The CCAA2019 has raised the legally binding framework to cut GHGs from 80% to 100% of the 'net UK carbon account' (the amount of net United Kingdom (UK) emissions of targeted GHGs 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'.
- 5.7.68. In terms of the validity of the NPSNN, I am aware of the Government's position with regards to a review, but at this moment in time, the Government have re-iterated that the NPSNN remains relevant government policy for the determination of applications for national networks NSIPs and, therefore for the purposes of the PA2008 has effect. On this basis, the NPSNN therefore provides a proper basis on which PINS can examine, and the SoS can make decisions on, applications for development consent. I acknowledge the comments made by Mair Bain [EV-022], Dr Andrew Boswell [EV-022] and others, however I see no compelling reason to depart from the Government's position.
- 5.7.69. Therefore, in terms of the process for making a decision on this issue, the questions to be considered are, whether the carbon emissions from the Proposed Development be of such a level that it would result in the UK being in breach of any of its international obligations, and if not, whether the Proposed Development accords with the guidance in the NPSNN in respect of carbon emissions.

View on the Applicant's case

- 5.7.70. The UK's government approach is one of adopting carbon budgets to control carbon emissions and ensure compliance with agreed national targets. These are set by sector, with surface transport being specifically identified. The purpose of these budgets is to ensure that the net UK carbon account for a budgetary period does not exceed the set carbon budget. These budgets are set nationally, with no legal duty to set carbon budgets at a smaller scale. Furthermore, I note that the Government's overall strategy for meeting carbon budgets, along with the net zero target, should be viewed as part of an economy-wide transition.
- 5.7.71. Therefore, from the evidence before the Examination, I am satisfied that the national carbon budgets represent the most appropriate figures against which to assess the carbon emissions from the Proposed Development.
- 5.7.72. Whilst the application was submitted after the publication of the Sixth Carbon Budget in June 2021, I am satisfied that, through the submission of an updated ES Chapter [REP3-014], the Applicant has provided its assessment of the Proposed Development against this budget. Furthermore, I am satisfied that this was submitted to the Examination to allow adequate time for the matter to be examined and for IPs to provide their comments. The Applicant's approach of assessing emissions from the Proposed Development as a proportion of national budgets does not appear to conflict with current policy or guidance.

- 5.7.73. With reference to paragraph 5.17 of the NPSNN, the Applicant has identified that the increase in carbon emissions resulting from the Proposed Development represents approximately 0.004% of the UK's Fourth, and Fifth and Sixth Carbon Budgets over their respective periods [REP3-014].
- 5.7.74. On the basis of the above, I therefore consider that the carbon emissions from the Proposed Development, on its own, would be unlikely to have a material impact on the UK Government meeting the carbon reduction targets in place at the time of the assessment.
- 5.7.75. A number of IPs suggested that the emissions from the Proposed Development would, in their view, amount to an increase that would be of such a level to conflict with Government policy. Having considered these submissions, whilst alternative approaches to the overall assessment and changes to the underlying assumptions may well produce different figures, I do not find that any of these to be of such a significant difference as to lead me to an alternative conclusion.

Achievement of Net Zero

- 5.7.76. As legislated for in s1 of the CCAA2019, the SoS is required to ensure attainment of the Net Zero 2050 target. Section 4 of the CA2008 requires the SoS to ensure attainment of the carbon budgets at the relevant carbon budget period dates. Therefore, delivery of the emissions reductions necessary to achieve net zero by 2050 is measured through the pathway provided by interim targets of the carbon budgets.
- 5.7.77. It is clear that the construction and operation of the Proposed Development would result in the generation of additional carbon emissions. This is acknowledged by the Applicant.
- 5.7.78. In this respect however, I am conscious of the Transport Decarbonising Plan to which the Applicant has referred [REP4-015], which, whilst recognising the role transport plays within the generation of emissions, accepts the importance of the transport network. It identifies that as part of the measures to reduce congestion and the associated carbon emissions, investment in road infrastructure will be needed.
- 5.7.79. It is clear from the Applicant's own traffic model that the Proposed Development, once operational, will support additional traffic movements and therefore, ultimately result in an increase in vehicle emissions. However, this needs to be viewed against long-term Government policy which aims to remove all road emissions at the tailpipe, through the gradual switch to low emission vehicles. This Policy is one part of the Governments approach towards achieving Net Zero and should not be discounted. I am also mindful of the Government's legally binding obligation to comply with its objectives under the Paris Agreement.
- 5.7.80. I also acknowledge the guidance offered in paragraph 3.8 of the NPSNN, which identifies that the impacts of road development need to be seen against significant projected reductions in carbon emissions as a result of

current and future policies to meet the Government's legally binding carbon budgets.

- 5.7.81. A number of parties questioned Government Policy and strategy (Mair Bain [EV-022], Dr Andrew Boswell [RR-018], Stop Wensum Link [RR-025] and referred to recent High Court Cases. However, from the evidence presented to the Examination, I see no compelling argument to lead me to a conclusion other than the Government policy and strategies on the delivery of Net Zero in the domestic transport sector is up-to-date.

Cumulative

- 5.7.82. I agree with Dr Andrew Boswell [REP6-020] and others that the emissions from the Proposed Development should not be viewed in isolation.
- 5.7.83. The Applicant did not provide a separate assessment of cumulative impacts of the Proposed Development with other highway developments, either locally or nationally. However, they considered that the Government's carbon budgets are themselves cumulative [REP10-005]. Furthermore, they identify that the traffic model used to assess the Proposed Development is also inherently cumulative for a number of reasons [REP10-005].
- 5.7.84. With regards to the cumulative emissions in relation to other A47 developments, [REP7-017], the Applicant referred to a working group to collectively look at projects, to highlight any potential areas for carbon emissions savings. By the close of the Examination, no further evidence was submitted to explain how this group would operate. As a result of the lack of detail around this, I have given this no weight in my considerations.
- 5.7.85. It is clear that there is no single or agreed approach towards the assessment of cumulative impacts of carbon emissions. There are a number of ways such an assessment can acceptably be undertaken. I accept that the impact and effect of carbon emissions on climate change, is not limited to a specific geographical boundary and that a different approach needs to be taken to assess the cumulative impact of carbon emissions, than would be used to assessed cumulative impacts associated with other EIA topics.
- 5.7.86. On this basis, and given the lack of a defined boundary against which to assess the impact of carbon emissions, along with the advice contained within DMRB and the NPSNN, I consider that the approach taken by the Applicant is reasonable.
- 5.7.87. In terms of Carbon Budgets, the Applicant position is that the these are inheritably cumulative [REP10-005] as they include the total carbon emissions from a wide range of sectors. Due to the nature of the budgets and the lack of local figures, the Applicant was unable to produce a local, or regional baseline against which to assess the Proposed Development [REP10-005].

- 5.7.88. I accept that, the Carbon Budgets represent the only statutory targets in relation to carbon emissions. This approach is advocated by the NPSNN. Furthermore, I also accept that the Applicant's traffic model includes traffic generated from other developments and allows for growth in traffic levels, although I acknowledge that this was less than clear from the submissions.
- 5.7.89. I acknowledge the submissions of Dr Boswell and others in relation to the Applicants' cumulative assessment and agree that there may be more suitable ways to undertake such an assessment. However, based on the current policy framework and guidance, it is my view that the Applicant's approach, through the use of carbon budgets, sufficiently considers the cumulative effects with other projects or programmes.

CONCLUSION

- 5.7.90. In summary, I conclude that:
- As measures to reduce emissions for vehicle usage are implemented and delivered, over time, its highly likely that carbon emissions, from the operation of the Proposed Development would reduce;
 - An assessment against national set carbon budgets is appropriate and there are policies in place, such as the Transport Decarbonation Plan and Net Zero Highway Plan, to ensure these carbon budgets are met; and
 - There are appropriate mitigation measures secured through the EMP [REP7-035] to ensure that at the detailed design stage, carbon emissions from construction activities are kept as low as possible.
- 5.7.91. On this basis, and having reviewed all the evidence submitted to the Examination, I conclude that the carbon emissions, either on their own or cumulatively from the Proposed Development, are not so significant that they would have a material effect on the Government's ability to meet its climate change targets and budgets.
- 5.7.92. It therefore follows that I find that, in respect of climate issues, the Proposed Development would be in accordance with Section 104 of PA2008 and paragraphs 5.16 to 5.19 of the NPSNN.
- 5.7.93. Notwithstanding this, the Proposed Development would result in an increase in carbon emissions. Given a need to reduce overall emissions, I conclude that this weighs against the Proposed Development. However, as it is likely that, due to Government's legally binding targets, operational emissions will reduce over the lifetime of the Proposed Development, along with mitigation measures to reduce emissions during construction, I have attributed limited weight to this harm to be carried forward to the planning balance.

5.8. GEOLOGY AND SOILS

INTRODUCTION

- 5.8.1. This Section considers the effect of the Proposed Development upon geology and soils. It considers agricultural land quality. Matters in relation to the effect upon agricultural businesses is considered in Section 5.14.

POLICY AND LEGAL CONTEXT

NPSNN

- 5.8.2. Paragraph 5.168 of the NPSNN states that applicants should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, applicants should seek to use areas of poorer quality land in preference to that of a higher quality.

THE APPLICATION

Relevant parts of the Application

- 5.8.3. The relevant parts of the Application includes:
- Chapter 9 of the ES [REP7-006];
 - Appendix 9.1 - Hierarchy of Screening Criteria for Generic Quantitative Risk Assessment [APP-113];
 - Appendix 9.2 - Agricultural Land Classification Report [APP-114]; and
 - ES Figures 9.1 to 9.3 [APP-072].
- 5.8.4. Following my questioning at ISH3 [EV-039] with regards to the totals provided by the Applicant in relation to the amount of agricultural land being lost to the Proposed Development, an updated ES Chapter 9 was submitted at D7 [REP7-006].

Overall Approach

Methodology and baseline

- 5.8.5. The Applicant states that the assessment has been undertaken using the framework for assessing and managing the effects on geology and soils as presented in DMRB LA 109 Geology and Soils. The assessment focuses on contamination and the effects on human health, surface water and groundwater from historical and ongoing potential sources of contamination and impacts to agricultural land as a soil resource.
- 5.8.6. In terms of the study area the following were identified for the different assessments:
- The contamination assessment considered all locations where physical works and ground disturbance would take place (the construction boundary (DCO boundary)).
 - For past pollution events that may have affected geology and soils within the area and sensitive off-site receptors that could be affected

by the Proposed Development, the study area extended to 1km beyond the construction boundary.

- For agricultural land this was the construction boundary.

5.8.7. The baseline assessment makes reference to data sources including:

- Envirocheck' Reports (Landmark Information Group);
- data from British Geological Survey Solid and Drift Geology Sheets;
- British Geological Survey borehole logs;
- available site investigation factual and interpretative report;
- human health and controlled waters risk assessments; and
- Agricultural land survey (ALS) [APP-114].

5.8.8. The assessment identifies that there are no designated geological sites located within the study area. Surrounding land is predominately agricultural with a number of small residential areas dispersed along the existing A47. The underlying geology is sands, gravels and clays with occasional peat over chalk bedrock.

5.8.9. In terms of agricultural land within the Order Limits, there are areas of Grade 2, Grade 3a, Grade 3b and Grade 4. The extent of each of these is shown in ALS [APP-114].

Potential construction impacts

5.8.10. The assessment identified the following potential negative contamination impacts from construction activities:

- potential emission / pollution from construction activities;
- potential to mobilise contaminants in soils and groundwater as a result of ground disturbance;
- generation of dust;
- alteration of potential for contaminants to mobilise (leach) from soils during construction;
- increased potential for contaminants to enter surface water through drainage or surface run-off;
- introduction of fuels, chemicals and fluids relating to construction activities;
- increased potential for exposure to contaminants to human health receptors due to exposure of contaminated materials during construction; and
- creation of preferential pathways such as piles penetrating through strata or via service corridors for migration of potential contaminants to groundwater

5.8.11. In terms of impacts upon geology and soil the following construction activities were considered to have potential negative impacts:

- creation of temporary access tracks and traffic diversions resulting in compaction or sealing of soils;
- land-take both temporary and permanent;
- impacts from proposed new / removed facilities such as severance of a path or habitat;

- stripping and storage of soils, topsoil and materials leading to damage of these resources; and
- loss of agricultural land.

Potential operational impacts

- 5.8.12. The Applicant's assessment acknowledges that agricultural land would be lost permanently due to the Proposed Development, however, no additional loss is expected beyond the construction phase. Therefore, the assessment concludes that, once operational, the Proposed Development would have limited future interaction with geology and soils.

Design, mitigation and enhancement measures

- 5.8.13. The assessment refers to the use of design and best practice techniques, and construction guidance, to mitigate and manage, as far as is practicable, potential impacts on geology and soils during construction activities.
- 5.8.14. The Applicant accepts that no measures can mitigate for the permanent land take required and the permanent loss of agricultural soils associated with the Proposed Development. However, to mitigate impacts on areas of temporary land take, a Soil Management Plan (SMP) [REP7-035] would be produced to ensure the use of best practice measures for soil handling. The SMP will ensure that soils are properly handled, stored and reinstated. The stripping and storage of topsoil is to be managed with regard to BS 3882:2015 utilising best practice. The SMP would also include a Soil Resource Plan and a Soil Handling Strategy.
- 5.8.15. A MMP [REP7-035] would be in place during construction to minimise over-excavation of soils and ensure that soils from permanent land take areas are reused as much as possible within the Proposed Development and that areas of temporary land take are restored back to their former condition.
- 5.8.16. The SMP and MMP will also:
- outline areas of soil to be protected from earthworks and construction activities;
 - the areas and types of topsoil and subsoil to be stripped, haul routes, stockpile locations;
 - the methods for stripping, stockpiling, re-spreading and ameliorating landscape soils and restoring temporary land take areas, and a cut and fill balance to ensure as much material as possible is reused in the Proposed Development.
- 5.8.17. Further measures are proposed within the REAC [REP7-035], in particular GS1 (risk associated with contamination) and GS2 (risks associated with made ground and organic deposits).

Residual effects

- 5.8.18. The assessment identifies that based on the ground conditions there is limited potential for construction activities to mobilise contaminants or to

introduce contaminants which may potentially harm human health or environmental receptors. The Applicant states that any risks identified can be mitigated by measures set out in the EMP.

- 5.8.19. Therefore, the assessment considers that slight adverse potential impacts from the Proposed Development are predicted during construction, however, the Applicant concludes that these are not considered significant and are of short duration
- 5.8.20. Only minor evidence of contamination from historical activities were recorded during the site investigation and, as a result, no special remedial activities are recommended for the Proposed Development.
- 5.8.21. The Assessment concludes that the Proposed Development is unlikely to give rise to any significant effects upon geology or soils during the operational phase.
- 5.8.22. In terms of agricultural land, provided that the mitigation measures are effective, and areas of temporary land take are restored back to their former condition, the assessment concludes that the long-term residual effects on agricultural soils would be limited to the permanent loss of agricultural land. Measures would be in place through the EMP [REP7-035] to deliver the mitigation for temporary land take areas.
- 5.8.23. With regards to permanent loss, the assessment concludes that the residual effects in this respect include:
- The permanent loss of 18.9ha of Grade 2 agricultural land - large adverse significance.
 - The permanent loss of 32.2ha of Grade 3a agricultural land - very large adverse significance.
 - The permanent loss of 6.2ha of Grade 3b agricultural land - moderate adverse significance.

PLANNING ISSUES

- 5.8.24. The main issue discussed at the Examination was in relation to the impact of the Proposed Development upon agricultural land. Matters in relation to the impact of the Proposed Development upon agricultural businesses are discussed in section 5.14.
- 5.8.25. No comments or observations were raised by NCC in their LIR or by any of the other LPAs on this topic.
- 5.8.26. Within RRs and WRs, comments were made in relation to the loss and use of agricultural land, and the impact of the Proposed Development both upon the availability of agricultural land and the need to minimise its loss (Mr David Hooker [RR-021] and Mr David Morton [RR-024]).
- 5.8.27. I asked questions at both ExQ1 [PD-007] and ISH3 [EV-039] in relation to the overall assessment methodology and assessment of significance. I further questioned the Applicant on what measures it proposed to use to minimise the overall effect upon soils [EV-039].

- 5.8.28. In response, the Applicant referred to the preparation of the SMP [REP7-035], which would be developed to preserve soil quality in temporary land take areas and to make effective use of the soils permanently taken. Mitigation and monitoring measures would ensure that temporary land is restored back to its former condition.
- 5.8.29. Following my questioning at ISH3 [EV-039] specifically in relation to the quantum of agricultural land, the Applicant provided an updated ES table [REP7-006] but confirmed that this did not change the overall conclusions of the ES.

EXA CONSIDERATIONS

- 5.8.30. My consideration of this topic has had careful regard to the policies of the NPSNN on geology and soils.
- 5.8.31. The matters considered in this section gave rise to very little discussion, with very little dispute raised by IPs during the Examination.
- 5.8.32. Whilst I raised initial concerns with regards to the approach taken by the Applicant to the assessment of significance, I am content with the clarification and explanation provided. I am therefore satisfied that the Applicant's assessment of the impact of the Proposed Development upon geology and soils is robust.
- 5.8.33. The NPSNN is clear in paragraph 5.168 that Applicant's should seek to use areas of poor quality land in preference to that of higher quality. In this instance, the Proposed Development would result in the loss of substantial areas of higher-grade agricultural land. Whilst the Applicant accepts this, their position is that the only residual aspect will be from the permanent land take, as temporary land will be returned to its current state, with suitable mitigation to be provided by the measures set out in GS3 of the REAC [REP7-035] and Requirement 4 of the rDCO (Appendix D).
- 5.8.34. In terms of temporary loss, no comments were raised by any parties with regards to the Applicant's approach to mitigation. On this basis, I have no reason to doubt that such an approach would not adequately mitigate the impact. Therefore, I am content that, whilst there will be some impact during construction, this will be temporary and can be adequately mitigated.
- 5.8.35. In terms of avoiding and minimising the use of agricultural land, whilst details of the various options which were initially assessed by the Applicant have been outlined [APP-024], no breakdown of the amount of agricultural land used for each option has been provided. That said, it is clear from the evidence that, given the nature of its surroundings, and the linear nature of the development, an effect upon agricultural land is inevitable. I therefore agree with the Applicant that it would not be possible to avoid the use of agricultural land of higher quality without causing other potential environmental impacts.

- 5.8.36. Based on the above, I conclude that the Proposed Development has sought to both minimise agricultural land take and avoid the use of higher-grade land where possible. As such, I am satisfied that the proposal would comply with paragraphs 5.168 of the NPSNN.
- 5.8.37. It is accepted by the Applicant that due to the permanent loss of agricultural land, the Proposed Development would result in a significant residual effect. Based on the updated information provided by the Applicant, I see no reason to disagree with this conclusion.

CONCLUSION

- 5.8.38. The permanent loss of a substantial amount of best and most versatile agricultural land weighs against the Proposed Development. Considering the finite nature of this resource and the inability to mitigate for its permanent loss, this has a moderate negative weight to be carried forward into the planning balance.

5.9. HISTORIC ENVIRONMENT

INTRODUCTION

- 5.9.1. This section considers the effect of the Proposed Development on archaeology and cultural heritage. In particular it deals with:

- Archaeology including Scheduled Monuments;
- Listed buildings; and
- Non-designated heritage assets.

POLICY AND LEGAL CONTEXT

NPSNN

- 5.9.2. NPSNN paragraphs 5.128 to 5.142 identify the historic environment decision-making considerations to be taken into account by the SoS.
- 5.9.3. Paragraph 5.122 of the NPSNN advises that heritage assets may be buildings, monuments, sites, places, areas or landscapes. The sum of the heritage interests held by a heritage asset is referred to as its significance. Significance derives not only from a heritage asset's physical presence, but also from its setting. The footnote to this paragraph explains that the setting of a heritage asset is "*the surroundings in which it is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.*"
- 5.9.4. Paragraph 5.128 requires the SoS to identify and assess the particular significance of any heritage asset or its setting affected by the Proposed Development, taking account of the available evidence and any necessary expertise. Paragraph 5.129 goes on to advise that the SoS should take into account the particular nature of the significance of the heritage asset and the value that it holds. This understanding should be

used to avoid or minimise conflict between the conservation of the asset and any aspect of the proposal.

- 5.9.5. 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"*.
- 5.9.6. Paragraph 5.131 states that when considering the impact of a 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"*.
- 5.9.7. 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"*.
- 5.9.8. 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"*.
- 5.9.9. There is no guidance in the NPSNN as to how significance is defined or how the level of harm to significance should be judged.

The Framework

- 5.9.10. The NPPF describes the setting of a heritage asset as the surroundings in which it is experienced. The NPPF recognises the need to conserve heritage assets in a manner appropriate to their significance, to which great weight is given.

- 5.9.11. The effect of a proposal on the significance of a non-designated heritage asset should be taken into account and a balanced judgement will be required having regard to the scale of any harm (paragraph 197).

THE APPLICATION

Relevant parts of the application

- 5.9.12. The main sections relevant to cultural heritage, include:

- ES Chapter 6: Cultural Heritage [REP3-012];
- ES Appendix 6.1 – Cultural Heritage Information [APP-085];
- ES Appendix 6.2 – A47 North Tuddenham to Easton, Geophysical Survey, Headland Archaeology (April 2020) [APP-086 and APP-087];
- ES Appendix 6.3 – A47 North Tuddenham to Easton, Archaeological Evaluation (PCA Report R14273, October 2020) [APP-088]; and
- ES Figures 6.1 to 6.4 [APP-059].

Overall Approach

Introduction and baseline

- 5.9.13. The Applicant identified that the methodology for the assessment has been undertaken in accordance with DMRB LA 104 for Environmental Assessment and LA 106 Cultural Heritage Assessment [REP3-012] and has considered the effects of the Proposed Development on designated and non-designated heritage assets. The assets considered include:
- Listed Buildings;
 - non-designated locally recorded historically important buildings and landscapes;
 - locally important buildings and structures identified during survey work; and
 - non-designated below ground archaeological remains.
- 5.9.14. The baseline for the assessment was gathered from published national and local information sources, non-intrusive and intrusive archaeological field investigations, review of historic maps and site visits to ground truth the sources.
- 5.9.15. For the purpose of the assessment, the Applicant confirmed that, in accordance with DMRB LA 106 the study area was defined as including:
- The footprint of the Proposed Development (DCO boundary) and areas which may be physically affected;
 - The Zone of Visual Influence (ZVI); and
 - Any heritage assets which may potentially be affected by noise, as per the Applicant's noise assessment.
- 5.9.16. With regards to archaeological potential and historic context, the Applicant gathered additional baseline information for the wider region. Following comments received in the Scoping Opinion for the Proposed Development [APP-136], the study area was expanded to designated

assets within the Zone of Theoretical Visibility (ZTV) that could have settings which may be sensitive to visual impacts.

- 5.9.17. Within the study area, the assessment identified a total of 277 heritage assets. These assets comprise:
- 26 Listed Buildings (4 Grade I, 3 Grade II* and 19 Grade II);
 - 244 non-designated assets including find spots; and
 - Seven non-designated historic landscape types in 182 individual parcels.
- 5.9.18. The Proposed Development does not lie within any Conservation Area, nor are there any Registered Parks and Gardens or Registered Battlefields within the study area.
- 5.9.19. The methodology categorised heritage assets as archaeological remains, historic buildings or historic landscapes. The significance of an effect was derived by combining the value of the asset with the magnitude of any impact. Whereas the NPSNN refers to the 'significance' of a heritage asset the Applicant's assessment used the term 'value'. All Listed Buildings have been assessed as being of high value (sensitivity). In accordance with DMRB, moderate, large or very large effects are considered significant.
- 5.9.20. Having identified the heritage assets, the Applicant then screened them using available construction information to exclude those assets from detailed assessment on which the Proposed Development would not have any impact. As a result, a number of key designated heritage assets were identified for inclusion in the assessment. These were:
- St Peter's Church – Grade I Listed.
 - St Andrew's Church – Grade II* Listed.
 - Church Farm House and Barn – Grade II Listed.
 - Berry Hall – Grade II Listed.
- 5.9.21. A similar exercise was undertaken for the non-designated heritage assets, with the Applicant identifying the following:
- Post Medieval Milestones;
 - Honingham Park;
 - Paleo-environmental archaeological potential;
 - Known archaeological remains, geophysical anomalies, cropmarks and findspots; and
 - Unknown archaeological remains.

Potential construction impacts

- 5.9.22. The Applicant identified a number of potential temporary impacts during the construction phase of the Proposed Development. These included:
- noise generated by construction work;
 - movement of construction plant within the setting of heritage assets;
 - siting of construction compounds, including the introduction of noise and lighting; and

- siting of haul routes and traffic diversions introducing traffic and plant movement deeper into the rural setting of heritage assets.

5.9.23. The Applicant identified a number of potential permanent impacts during the construction phase of the Proposed Development. These included:

- Earthworks required for construction of the Proposed Development which have the potential to permanently impact the setting of heritage assets;
- Structural damage to historic buildings due to proximity of works (vibration or other ground movement);
- Excavation required for construction of the Proposed Development, site compounds, and haul routes, which have the potential to permanently remove archaeological remains; and
- The appearance of the Proposed Development, including landscaping works and presence of structures and signage which have the potential to permanently alter the setting of heritage assets.

Potential operational impacts

5.9.24. The Applicant identified a number of potential operational impacts would arise for heritage assets from the use of the Proposed Development. These included:

- changes to traffic movements from the Proposed Development, which have the potential to alter the setting of heritage assets;
- road lighting around the altered junctions, which have the potential to alter the setting of heritage assets; and
- operational effects such as light and traffic noise on the setting.

Design, mitigation and enhancement measures.

5.9.25. Following the completion of the assessment, but prior to submission, the Applicant made a number of changes to the proposed scheme in response to the historic environment. These changes included:

- Removal of a retaining wall proposed immediately adjacent to St Andrew's Church;
- Relocation of proposed Norwich Road junction approximately 150m to the east, away from St Andrew's Church;
- Redesigned layout in the vicinity of Berrys Lane to remove an access road from the Wood Lane junction directly on to Berrys Lane; and
- Amending the proposed planting to the drainage on west side of Taverham Road to reduce the predicted adverse setting impact of the proposed Norwich Road junction.

5.9.26. The assessment identified that a number of design interventions were embedded into the Proposed Development to minimise physical impacts and conserve or enhance the setting of heritage assets. Scheme wide measures included:

- Sensitive design of planting to be in keeping with the current character;

- Removal of the screening layer of trees along the northern boundary of St Peter's Church and its replacement with new screen planting and a noise barrier;
- Provision of additional planting along the western and eastern sides of the St Peter's Churchyard to maintain its setting and reduce potential impact from Easton footbridge;
- Maintenance of the contextual link between St Andrew's Church and the village of Hockering via a new pedestrian footpath under the proposed A47;
- Exclusion of milestones opposite St Andrew's Church and on the south boundary of St Peter's Church from works area;
- Additional woodland planting to mitigate impact upon BHE; and
- The use of low noise surface along the entire length of the road to reduce overall noise impact.

5.9.27. The Applicant has confirmed [REP3-012] the construction will be carried out using industry best practice and in accordance with the implementation of the EMP [REP7-035] to minimise potential adverse effects from noise and vibration as well as dust and accidental damage. Compliance with the EMP will be secured by a requirement in the rDCO (Appendix D). The Applicant proposes no specific measures outside these best-practice measures for temporary effects on heritage assets.

5.9.28. As well as the above, the Applicant also proposes a number of location specific mitigation measures during the construction stage:

- At St Peter's Church and St Andrew's Church - condition survey and structural risk assessment of the buildings to be undertaken prior to construction;
- St Peter's Church and St Andrew's Church - to be monitored for vibration during construction;
- St Peter's Church - works to the north and north-east of churchyard to be archaeologically monitored during construction to deal with the occurrence of unexpected burials outside the current boundary of the churchyard;
- St Andrew's Church - milestone opposite church to be protected from accidental damage during construction with fencing and fully recorded, conserved and restored;
- Honingham Park - gateway piers and southern boundary to be recorded prior to any works taking place in this area; and
- Peat deposits affected by crossing of the River Tud and south of Hockering to be archaeologically sampled prior to construction.

5.9.29. With regards to archaeology, the Applicant proposes that all zones of identified archaeological potential will be subject to preservation by record, with precise scope of this work to be agreed with Norfolk County Council Environmental Services (NCCES) as per rDCO (Appendix D). During construction, the Applicant will prepare a protocol for unexpected archaeological discoveries as part of the EMP [REP7-035]. This protocol is to be agreed with Historic England (HistE) and NCCES.

5.9.30. All recording and conservation measures to be secured through rDCO requirements and captured within a Written Scheme of Investigation

(WSI) which will be agreed with HistE, NCCES and officers at BC, BDC and SNC as appropriate [REP7-035].

- 5.9.31. The Applicant considers that no specific operational mitigation measures are necessary beyond the design mitigation measures outlined above.

Residual effects

- 5.9.32. The conclusion of the Applicant's assessment is the impacts on heritage assets have largely been mitigated during the design process. Where impacts could not be fully designed out, the Applicant has made recommendations for the delivery of suitable mitigation measures as part of the EMP [REP7-035]. This mitigation is to be delivered through the EMP via the preparation and implementation of a DHWSI [REP7-035].

- 5.9.33. The assessment identifies a number of residual adverse effects as a result of construction and operation activities on the setting of the following designated heritage assets:

- St Peter's Church, Grade I Listed Building – Moderate.
- St Andrew's Church, Grade II* Listed Building – Large.
- Church Farm House, Grade II Listed Building – Slight.
- Berry Hall, Grade II Listed Building – Slight.

- 5.9.34. The Assessment also concludes that there are likely significant impacts for archaeological remains dating from the prehistoric to Post-medieval period, although the Applicant considers the assessment to be the most likely worst case. A programme of archaeological recording is proposed to mitigate these effects. As a result, the Applicant considers the residual effect to be neutral [REP3-021].

- 5.9.35. The Assessment has also concluded that there will be a number of moderate significant beneficial effects of the Proposed Development during construction on two milestones at St Peter's and St Andrew's Churches.

- 5.9.36. In addition, slight beneficial effects, have been identified for the Proposed Development during operation, which results from the positioning of the carriageway of the A47 further away from various assets. These include:

- St Michaels Church, Grade I Listed Building;
- Manor Farmhouse, Grade II Listed Building;
- Manor House, Grade II Listed Building; and
- Yew Tree Farmhouse, Grade II Listed Building.

PLANNING ISSUES

- 5.9.37. The Examination focused on the following issues:

- Baseline conditions and the assessment methodology;
- Effects upon specific designated heritage assets; and
- Effects upon BHE.

- 5.9.38. In my ExQ1 [PD-007], I sought clarification with regards to the archaeological evaluation work undertaken by the Applicant and sought clarification that the location and approach for this work had been agreed with relevant parties. I also questioned the potential for remains to be found in the unsurveyed areas and whether further information would be presented to the Examination [PD-007].
- 5.9.39. In response [REP2-014], the Applicant identified that the geophysical survey specification was approved by NCCES [REP2-014]. In relation to the unsurveyed areas, the Applicant confirmed that no further work was due to be undertaken and considered that the surveys undertaken to date were sufficient to characterise the archaeological potential of the land within the Order Limits [REP2-014].
- 5.9.40. In relation to St Peter's Church and the area of consecrated ground within the Order Limits, I sought further evidence to support the Applicant's case in this regard and what measures were proposed should unexpected burials be encountered [PD-007]. In terms of the impact upon St Peter's Church, I also requested justification in relation to the proposed Easton Footbridge and how an assessment was undertaken in the absence of a detailed design [PD-007].
- 5.9.41. In terms of unexpected burials, the Applicant highlighted [REP2-014] that it sought to rely upon professional experience that burials purposely placed outside a graveyard are less likely the further away from settlements the church is located. The development history of the Church is also a factor, with no indication of an earlier church immediately nearby or changes in the churchyard boundaries.
- 5.9.42. In terms of the footbridge, the Applicant confirmed that they had adopted a precautionary principle in lieu of detailed designs and referred to Annex A of their D2 submission [REP2-014], where they provided details of the maximum parameters of the Proposed Development as assessed within the ES.
- 5.9.43. The Applicant concluded that the Proposed Development would have a major adverse effect upon St Andrew's Church, I requested justification for this and details of what alternatives had been considered along with proposed mitigation [PD-007]. For similar reasons, I sought clarification in relation to the effects upon St Peter's Church [PD-007]. In relation to both Churches, I sought clarification in relation to lighting proposals in their vicinity [PD-007].
- 5.9.44. In response [REP2-014], the Applicant identified that, following consultation, the alignment of the Proposed Development was moved 150m away from St Andrew's Church and a proposed north facing retaining wall replaced with a landscaped earth embankment.
- 5.9.45. With regard to mitigation for both Churches, the Applicant referred to the EMP [REP7-035]. Reference was also made to the use of low noise road-surface and a noise-barrier on the northern boundary of St Peter's Church [REP2-014].

- 5.9.46. In terms of lighting the Applicant confirmed that the closest luminaire to St Andrew's Church would be approximately 340m to the east and would form part of the new Norwich Road junction [REP2-014]. The Applicant confirmed that no additional lighting is proposed in the immediate vicinity of St Peter's Church [REP2-014].
- 5.9.47. With regards to proposed mitigation, I requested clarification on how these measures would be secured through the DCO [PD-007].
- 5.9.48. In response, the Applicant referred to the EMP [REP7-035] and the actions contained within the REAC that would be secured by Requirement 4 of the rDCO. These were:
- Action CH1 'To limit impacts on the setting and location of heritage assets and historic landscape'.
 - Action CH2 'Protection of heritage assets during construction'.
 - Action CH3 'Preservation in-situ of known and potential archaeological resources during the final design phase'.
 - Action CH4 'To deal with unexpected archaeological discoveries during construction'.
 - Action CH5 'To protect the potential heritage value of peat samples confirmed near the River Tud'.
 - Action CH6 'Mitigation of impact on known and potential archaeological remains'.
 - Action CH7 'Monitoring of archaeological mitigation strategy'.
 - Action CH8 'To limit the visual impact during construction activities'.
- 5.9.49. In relation to archaeology and heritage matters, BC, SNC, BDC all deferred to NCCES, which is a shared service with the local planning authorities providing County wide advice in relation to such issues.
- 5.9.50. Within the SoCG between NCC and the Applicant [REP9-019], matters in relation to archaeology were agreed.
- 5.9.51. In their RR, HistE [RR-044] raised a number of issues in relation to the effect of the Proposed Development upon designated heritage assets. During the Examination, these matters were discussed between the parties and by the close of the Examination all matters were agreed as part of a SoCG [REP9-017].
- 5.9.52. A significant amount of information was submitted to the Examination by BHE, in relation to the impact of the Proposed Development upon the Estate. The matter was extensively discussed both at ISH2 [EV-022] and ISH3 [EV-039]. During the course of the Examination, discussions took place between BHE and the Applicant and, by the end of the Examination a SoCG was agreed [REP10-002]. However, a number of matters in relation to heritage issues were not agreed and remained as issues between the parties [REP10-002]. These were:
- The relevance of the designation of BHE as being of outstanding interest under s31(1)(b) IHTA;
 - The Applicant failed to consider BHE in its entirety for its combined heritage and landscape qualities; and

- The Applicant's overall assessment was insufficient in respect of the extent of its curtilage and, in particular in relation to the crinkle crankle wall and the cobblestones in the main drive entrance.

- 5.9.53. With regards to the IHTA designation, I do not consider this to be solely a heritage matter and, from the submission of BHE, I consider that there is a need to consider the landscape qualities in conjunction with the heritage matters. Therefore, I have come to the view that the matter of the IHTA needs to be considered as an issue in its own right and is therefore an important and relevant matter. I provide a summary of the issue, the Applicant's response and my overall conclusions on this issue in Section 5.18.
- 5.9.54. In response [REP9-037], the Applicant considered that it had set out its approach towards the assessment of heritage matters within the ES Chapter 6 [APP-045] and that this was sufficient and appropriate. In relation to the impact upon the crinkle crankle wall, the Applicant responded at D3 [REP3-022]. They identified that no construction plant would use the access track past the wall, as it lies outside of the Order Limits. In relation to vibration, the Applicant identified that the DCO boundary was 30m away from the wall [REP3-022], with the main ground disturbing activities occurring around the proposed Wood Lane junction. Furthermore the Applicant referred to Action CH2 of the REAC [REP7-035], which would manage vibration risk to cultural heritage assets.
- 5.9.55. In terms of the cobblestones, the Applicant confirmed [REP3-022], that these would be covered under the WSI, which include pre-works recording and monitoring of features if they are to be disturbed. The proposed works are to install land drainage under the driveway, so the cobblestones would be returned in-situ [REP3-022].

EXA CONSIDERATIONS

- 5.9.56. My consideration of this topic has had regard to the policies of the NPSNN on heritage issues. Where relevant I have also had regard to the NPPF and development plan policies, in so much as they relate to an NSIP.
- 5.9.57. With regards to the issues raised by BHE in relation to its designation as a IHTA, these matters are dealt with in Section 5.18. This part of the Report deals with the issues arising from its status as a Grade II Listed Building.
- 5.9.58. The Applicant's assessment found that the Proposed Development would not affect any designated archaeological assets or non-designated archaeological assets. No comments or issues were raised during the Examination in relation to the impact of the Proposed Development upon archaeology. NCC as the statutory body, as shown by their SoCG [REP9-019], agreed with the Applicant's initial assessment of the sites potential and raised no comments in relation to proposed mitigation and future investigations that would be undertaken. This mitigation would be secured through the rDCO (Appendix D) and the EMP [REP7-035]. On this basis, I agree with the Applicant's assessment that the effect of the

Proposed Development on the archaeological resource would be neutral and not significant. I am content that appropriate measures are provided to ensure any discovered remains would be adequately protected during construction.

5.9.59. The Applicant's assessment found that the Proposed Development would have adverse effects on four designated heritage assets. With the exception of BHE, no substantive concerns were raised by any IPs in relation to the Applicant's assessment and conclusions.

5.9.60. I provide my own assessment of the effect of the Proposed Development upon each individual asset in the following sections.

St Andrew's Church – Grade II*

5.9.61. The Proposed Development would, with the de-trunking and closure of the existing A47, result in the relocation of traffic further away from both the existing building and its churchyard. However, despite being further away, the Proposed Development would be larger, both in scale and in the amount of traffic using it. It would introduce a substantial, urban form of development, into what is currently a rural area. As a result, the Proposed Development, due to its greater visual impact would cause harm to the significance of the Listed Building as a designated heritage asset.

5.9.62. The provision of landscape planting and low noise road surface would provide some mitigation. In addition, the closure of the existing A47 between St Andrew's Church and Honingham roundabout would reduce vehicle traffic passing directly in front of the Church. However, I do not consider that any of the measures, either on their own or together, would be sufficient to reduce the harmful effect of the Proposed Development to such a level as to remove the harm in its entirety. As such, the Proposed Development would cause harm to the overall setting and appearance of the Listed Building.

5.9.63. This harm is considered to be less than substantial, however due to the proximity of the Proposed Development to the Church and the level of change it would introduce, this is considered to be at the higher end of the scale.

St Peter Church – Grade I

5.9.64. To some degree, the existing Church is affected by the presence of the existing A47. The proximity of the Easton Roundabout also has an impact, although this is to be removed as part of the Proposed Development. Views of the Church and its associated churchyard are currently filtered by existing mature landscaping around its boundary. Whilst the alignment of the Proposed Development would be slightly further to the north, it would, nonetheless, introduce a larger form of development, which would have capacity for more traffic that would, with the removal of the roundabout, likely to be travelling at faster speeds. Furthermore, it is likely that there will also be glimpsed views from within

and across the churchyard of the proposed Easton Footbridge as it crosses above the Proposed Development.

- 5.9.65. To mitigate the impact, the Proposed Development would include the use of a low noise road-surface and an acoustic barrier along the northern boundary of the churchyard, in combination with additional planting and landscaping.
- 5.9.66. The provision of the additional landscape planting would, once matured, minimise the overall impact of the Proposed Development upon the setting of the listed building. As this landscaping matures, it has the potential to deliver an improvement to the setting. However due to the proximity to the Proposed Development, the operational effects, in particular traffic noise, are likely to cause harm to the overall setting of the Listed Building. Whilst the building is of high value as a Grade I Listed Building, with the provision of mitigation, I consider this harm to be less than substantial.

Berry Hall

- 5.9.67. The Proposed Development, in particular Wood Lane junction, would be located close to Berry Hall and would adversely affect it through its proximity and the noise and disturbance from increased traffic. Whilst the Listed Building itself would not be directly affected by the Proposed Development, the Estate would be. This would be through the encroachment of development into the north- eastern corner of the Estate and the subsequent loss of existing trees and woodland. Further impacts would be from the closure of Berrys Lane and the impact of installing drainage along its western side, although I acknowledge that discussions between the parties have potentially identified a solution that would avoid this [REP10-002].
- 5.9.68. To mitigate the impact, additional planting would be provided around the proposed Wood Lane junction [REP8-011]. Noise mitigation would be through low-noise surfacing of the Proposed Development [REP2-014].
- 5.9.69. In relation to the existing crinkle crankle wall, I am content that the Proposed Development is a sufficient distance away and appropriate mitigation is included, through the REAC, to minimise harm occurring to the feature. I am also satisfied that harm will be avoided to the existing cobblestones across the driveway through the WSI. In this regard I also note the potential for drainage to be routed along the eastern side of Berrys Lane, thereby avoiding the cobblestones entirely.
- 5.9.70. I also find that the presence of the construction compound would harm the setting of the Listed Building. Although, this would only be for the duration of the construction phase, with the land restored upon completion.
- 5.9.71. In terms of the Applicant's assessment and consideration of BHE, I note the extensive and comprehensive submissions from BHE. Whilst I would agree with BHE that the information presented with the ES in relation to BHE appears to be limited, especially when compared with the extensive

background knowledge of the current owner of BHE, I find that, overall, the level of assessment undertaken by the Applicant to be proportionate.

- 5.9.72. I concur with the Applicant's assessment that the proximity of the Proposed Development to the Wood Lane junction would adversely affect the setting of Berry Hall, although this harm would be reduced through mitigation [REP8-011]. Nonetheless, this amounts to harm to the setting of the listed building, which I consider to be less than substantial.

Church Farm

- 5.9.73. The Proposed Development would be located close to both Church Farm and the Barn at Church Farm and would adversely affect it through proximity and the noise and disturbance from increased traffic, and in particular the presence of the Norwich Road junction. Potential loss of the estate fencing and wall along the existing A47 belonging to Honingham Park (MNF49020) would also have an impact on their setting through removal of related features that, while not listed, give context to the assets.
- 5.9.74. To mitigate the impact, additional planting would be provided to the west of Taverham Road [REP8-011]. Noise mitigation would be through low-noise surfacing of the Proposed Development. The boundary will be reinstated after construction [REP3-012].
- 5.9.75. I would agree with the Applicant's assessment that light and traffic noise from the Proposed Development and the proximity to the Norwich Road Junction would adversely affect the setting of Church Farmhouse and Barn and, after mitigation, this would be slight adverse and would be less than substantial.

Summary

- 5.9.76. On the basis of my considerations, I see no reason to disagree with the Applicant's assessment of the effect of the Proposed Development on designated heritage assets. I am satisfied that it would, therefore, accord with paragraph 5.130 of the NPSNN.
- 5.9.77. In summary, I consider that the effects of the Proposed Development would amount to less than substantial harm to the following designated heritage assets for the purposes of paragraphs 5.134 and 5.135 of the NPSNN:
- St Peter's Church;
 - St Andrew's Church;
 - Berry Hall; and
 - Church Farmhouse and Barn.
- 5.9.78. In reaching this view, I have had regard to the very high significance of the designated heritage assets as required by paragraph 5.131 of the NPSNN. The harm to these designated heritage assets should be balanced against the public benefits of the proposal (paragraphs 5.132 and 5.134). I do this in Chapter 7.

- 5.9.79. In addition to the operational impacts described above, I agree with the Applicant that the Proposed Development would have minor beneficial effects upon the setting of four listed buildings in the village of Hockering. These benefits are due to the relocation of the main carriageway further away from these designated heritage assets, which are:
- St Michael's Church - Grade I Listed Building;
 - Manor Farmhouse - Grade II Listed Building;
 - Manor House - Grade II Listed Building; and
 - Yew Tree Farmhouse - Grade II Listed Building.
- 5.9.80. Honingham Park was identified by the Applicant as a non-designated heritage asset. The Proposed Development would result in the alteration of part of the south-eastern corner of the Park through loss of the estate fencing and wall alongside the existing A47 and Taverham Road. However, action CH2 of the EMP (REP7-035) requires the gateway piers and southern boundary of Honingham Park between St Andrew's Church and Taverham Road to be recorded prior to any works taking place and the gate piers protected during construction works. NCC were satisfied with these measures [REP9-019]. Therefore, I find that the effect of the Proposed Development on Honingham Park, a non-designated heritage asset would be slight adverse at worst and not significant. Nonetheless this amounts to less than substantial harm to the non-designated asset, albeit at the lower end of the scale.
- 5.9.81. The Applicant found that the Proposed Development would have moderate beneficial effects on two milestones, both of which are proposed to be recorded, conserved, restored and protected during works. They will then be proposed for Grade II listing. Based on the evidence presented in the Examination, I see no reason to disagree with that assessment.

CONCLUSION

- 5.9.82. Overall, I conclude that, in the planning balance the following weigh negatively against the DCO being made:
- less than substantial harm to the settings of four listed buildings; and
 - slight adverse effects on a non-designated heritage asset.
- 5.9.83. The identified benefits to the setting of the Listed Buildings in Hockering carry a limited positive weight in favour of the DCO being made in the planning balance.

5.10. LANDSCAPE AND VISUAL INTRODUCTION

- 5.10.1. This Section deals with the effects of the Proposed Development on the landscape and its visual effects. In particular it deals with:
- The effect upon landscape character; and
 - The effect upon visual receptors.

POLICY AND LEGAL CONTEXT

NPSNN

- 5.10.2. Paragraphs 5.144 to 5.146 of the NPSNN deal with the content of assessments. Amongst other things, they advise on the use of landscape assessment guidelines and local character studies and require relevant development plan policies to be considered. Landscape and visual effects should be considered at the construction and operational phases and the assessment should include any light pollution and local amenity effects.
- 5.10.3. Paragraph 5.149 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"*.
- 5.10.4. Paragraph 5.157 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"*.
- 5.10.5. As regards visual impact paragraph 5.158 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"*.
- 5.10.6. With regard to mitigation, paragraph 5.159 advises that changing the operation, or reducing the scale, of a proposal can help to avoid or mitigate visual and landscape effects, but that such changes may result in a significant operational constraint and reduction in function. However, there may be exceptional circumstances where significant benefits from mitigation warrant a small reduction in scale or function.
- 5.10.7. Paragraph 5.160 recognises that adverse landscape and visual effects can be minimised through the careful consideration of the siting, design, choice of materials and landscaping scheme for the proposal. Off-site landscaping such as filling in gaps in existing tree and hedge lines to mitigate impacts on more distant vistas may be appropriate.

THE APPLICATION

Relevant parts of the application

- 5.10.8. The parts of the application most relevant to the consideration of landscape and visual effects are:
- ES Chapter 7, Landscape and Visual effects [APP-046];
 - ES Appendix 7.1: Planning Policy context [APP-089];
 - ES Appendix 7.2: ZTV and Verified Photomontage Methodology [APP-090];

- ES Appendix 7.3: Landscape Character Areas [APP-091];
- ES Appendix 7.4: Visual Receptors [APP-092];
- ES Appendix 7.5: Representative Viewpoints [APP-093];
- ES Appendix 7.6: Arboricultural Impact Assessment [REP7-008];
- ES Appendix 7.7 Lighting Assessment [APP-095]
- ES Figures 7.1 to 7.5 [REP2-012];
- ES Figures 7.6.1 to 7.6.2 [APP-061];
- ES Figures 7.6.3 to 7.6.4 [APP-062];
- ES Figures 7.6.5 to 7.6.6 [APP-063];
- ES Figures 7.6.7 (A to D)[APP-064];
- ES Figures 7.6.8 (A to D) [APP-065];
- ES Figures 7.6.9 to 7.6.10 [APP-066];
- ES Figures 7.6.11 to 7.6.12 [APP-067];
- ES Figures 7.6.13 to 7.6.15 [APP-068];
- ES Figures 7.6.16 to 7.6.19 [APP-069];
- ES Figures 7.6.20 to 7.6.22 [APP-070];
- EMP [REP7-035]; and
- Environmental Masterplan [REP8-011].

Overall Approach

Landscape and Visual Assessment

- 5.10.9. The Applicant submitted that its assessment followed best practice guidance in the form of DRMB assessment standards, specifically LA107, and the Third Edition Guidelines for undertaking an assessment, produced by the Landscape Institute. In line with best practice it has been divided into an assessment of landscape and an assessment of visual effects.
- 5.10.10. In undertaking the assessment, desk-based studies and site surveys were carried out from publicly accessible locations. To support the assessment, the Applicant prepared a ZTV to identify the potential extents from which the Proposed Development may be visible. This was then verified from site visits to determine the overall visibility of the Proposed Development.
- 5.10.11. The Order Land lies outside any nationally designated landscapes.
- 5.10.12. The majority of the study area lies within National Character Area (NCA) 84: Mid Norfolk, with a small proportion at its eastern end located within NCA 78: Central North Norfolk.
- 5.10.13. The Proposed Development and the wider study area are located within three LA boundaries, within which the relevant authority has produced a Landscape Character Assessment (LCA). These are:
- BC (2007) Breckland LCA.
 - BC (2008 and 2013 update) Broadland LCA.
 - SNC (2001) South Norfolk LCA.
- 5.10.14. From these LCAs, the following five character areas have been used as the basis for the assessment of the Proposed Development:

- Breckland Character Areas:
 - LCA B6: River Wensum and Tud Tributary Farmland (Settled Tributary Farmland Type); and
 - LCA A5: Upper Tud (River Valleys Type)
- Broadland Character Areas:
 - LCA D2: Weston Green Tributary Farmland (Tributary Farmland Type).
- South Norfolk Character Areas:
 - LCA G1: Easton Fringe Farmland (Fringe Farmland Type); and
 - LCA A3: Tud Rural River Valley (Rural River Valley Type).

5.10.15. Following desk-top studies the Applicant identified 20 representative viewpoint locations, which, in turn were agreed with the host planning authorities [APP-046]. Following these discussions, the viewpoints were divided into 'visualisation' views and 'baseline' views. Whilst the assessment has considered visual effects on all viewpoints, visualisation views were afforded a more detailed consideration of the existing baseline and assessment of effects in recognition of the relative focus of interest in these particular views.

Potential impacts

5.10.16. The Applicant has identified the following temporary impacts on landscape character [APP-046]:

- The removal of existing woodland, individual trees and areas of linear highway planting and
- The presence of construction plant, materials, machinery, construction compounds and the provision of construction lighting.

5.10.17. The following principal potentially adverse impacts of the Proposed Development during its operation on landscape and visual receptors, prior to mitigation are considered likely by the Applicant [APP-046]:

- The potential loss of tree cover including the removal of mature specimen trees from roadsides and beside the River Tud in the vicinity of the bridge crossing;
- The height and potential visual prominence of some new infrastructure and landforms within the low-lying landscape;
- The potential erosion of rural character through the geometry and detailed design of new elements away from the main trunk roads; and
- Impact on the character of the River Tud through the introduction of a new bridge crossing.

5.10.18. A number of potentially beneficial impacts of the Proposed Development on landscape and visual receptors was highlighted by the Applicant [APP-046], including:

- Lowering of River Tud crossing to fit in with the landscape;
- Design of the flood attenuation basins; and

- The walking and cycling route between Norwich Road junction and Easton to allow for additional planting.

Design, mitigation and enhancement measures

5.10.19. The EMP [REP7-035] identifies a variety of measures that the Applicant would implement to minimise the landscape and visual effects of the construction works. These would include:

- sensitive colouring of welfare facilities and temporary office units within site compounds;
- keeping a tidy and organised site;
- ensuring materials are delivered on an 'as needed' basis to prevent unnecessary stockpiles;
- protection of retained vegetation; and
- minimising the luminosity and duration of lighting (subject to safety requirements).

5.10.20. The Applicant has sought to incorporate measures into the design to avoid or reduce the impact of the proposals [REP7-035 and REP8-011]. These include:

- Protection and enhancement of the landscape character and sense of place by:
 - retaining the pervading sense of an underlying peaceful, rural landscape;
 - creation of new compensatory areas of tree and woodland planting;
 - use of planting to contribute to visual screening;
 - reinforcing the existing linear and geometric character with woodland planting;
 - reinforcing existing field boundaries with individual trees and hedgerows;
 - retaining or replacing and reinforcing existing vegetation; and
 - selecting appropriate species.
- Acknowledgement of the landscape setting of cultural heritage assets, most notably two Listed churches, St Andrew's Church, Honingham and St Peter's Church, Easton.
- The alignment of fence lines to accommodate the extent of proposed planting areas.
- The alignment of fences for noise bunds and noise fences for noise mitigation.
- The location and extent of drainage soakaways and attenuation basins to avoid existing vegetation to accommodate the extent of proposed planting locations and to maximise biodiversity gain.
- Provision of a lighting strategy to help maintain the distinction between urban and rural areas.
- Consideration of future maintenance with inclusion of pull in lay-bys and gated access points and the selection of plant and grass types that would require limited maintenance resources.

- Building in resilience for climate change by including diversity within the plant and grass species mixes to ensure that a range of species types suitable for a range of conditions are incorporated.
- Sourcing plant and grass species of local provenance where possible.

5.10.21. The Proposed Development includes a number of earth bunds and acoustic barriers immediately adjacent to the Proposed Development that will provide additional visual screening at the following locations:

- A bund at Mattishall Lane, to the north of the Proposed Development and to the south of Hockering.
- A fence at Mattishall Lane, to the south of the Proposed Development and to the south of Hockering.
- A bund beside Church Lane, to the south of the Proposed Development and to the east of Hockering.
- A fence along the southern side of the Proposed Development, beside Church Lane, to the south of the Proposed Scheme and to the east of Hockering.
- A bund to the east of Wood Lane junction.
- A planted fence to the north east of St Peter's Church, at the eastern extent of the Proposed Development at Easton.

Residual effects

Construction

5.10.22. Overall, the Applicant's assessment considers that the removal of existing vegetation, earthworks and presence of construction plant, materials, machinery, construction compounds and construction lighting would have a moderate adverse (significant) effect on local landscape character during construction [APP-046].

5.10.23. The landscape character of the Order Limits and its immediate setting would be affected to the greatest degree within the two central character areas within the study area, namely LCA A5 and LCA D2. For the remaining character areas, the assessment concludes [APP-046] that the impact would not be significant.

5.10.24. During construction, the Applicant expects some visual receptors would be subject to large to moderate adverse (significant) visual effects, predominately associated with views of construction activities. However, in the view of the Applicant, given the context of the Proposed Development, only a limited number of residential receptors have been identified as experiencing significant visual effects. Notable areas in which visual effects have been identified [APP-046] during construction are:

- South and west of Hockering, such as at Oak Farm properties, Ash Lodge properties, Hill View properties, Newgate House, Sycamore Farm properties and properties beside Sandy Lane;
- in the vicinity of the proposed Wood Lane junction, such as at Berry Hall properties and Merrywood House. Also, footpaths to the south of the proposed junction in the vicinity of the River Tud;

- Property at western extent of Honingham, located directly to the south of construction operations associated with the proposed Wood Lane Junction;
- In the vicinity of the proposed Norwich Road junction, such as Hall Farm and Hall Farm Cottages;
- Properties opposite Church Plantation, located directly to the north of construction operations associated with the proposed Norwich Road Junction;
- Caravan site, Mattishall Lane, located directly south-east of the Proposed Scheme;
- Footpaths located to the north of the proposed Wood Lane junction looking in a southerly direction; and.
- Beside St Peter's Church, Easton, where clearance of mature trees would open up views of construction operations.

Operation

- 5.10.25. At Year 1, the Applicant expects [APP-046] there to be a significant effect on landscape character, which arises from the residual loss of vegetation and relative prominence of the Proposed Development. As with construction impacts, the majority of the effects would be located within LCAs A5 and D2. The significant effects would occur due to the introduction of a new road corridor and associated infrastructure, as well as the loss of existing field patterns and loss of some tree and hedgerow cover.
- 5.10.26. In the case of LCA D2, it has been assessed that at Year 1 [APP-046], there would be a large adverse level of effect, due mainly to the introduction of the two proposed junctions and bridge crossing over the River Tud.
- 5.10.27. At Year 1 the Applicant considers there would be a significant effect on a number of visual receptors. These include:
- Residential receptors to the south and west of Hockering, such as at Oak Farm properties, Ash Lodge properties, Hill View properties, Newgate House, Sycamore Farm properties and properties beside Sandy Lane;
 - In the vicinity of the proposed Wood Lane junction, such as at Berry Hall properties, Merrywood House, and property at western extent of Honingham. Also, footpaths to the south of the proposed junction in the vicinity of the River Tud;
 - Property at western extent of Honingham, located directly to the south of the proposed Wood Lane junction;
 - In the vicinity of the proposed Norwich Road junction, such as Hall Farm and Hall Farm Cottages;
 - Properties opposite Church Plantation, located directly to the north of the proposed Norwich Road junction;
 - Caravan site, Mattishall Lane, located directly south-east of the Proposed Scheme.
 - Footpaths located to the north of the proposed Wood Lane junction looking in a southerly direction; and

- Beside St Peter's Church, Easton, where clearance of mature trees to the north of the church would open up views.
- 5.10.28. After 15 years of operation, allowing for the establishment of the landscape mitigation, the Applicant considers [APP-046] that effects on landscape features would be neutral, with the effects on landscape character being slight adverse (not significant).
- 5.10.29. In terms of visual impacts, the establishment of the planting would contribute to screening and landscape integration, which the Applicant considers would result, overall, in the Proposed Development having a residual minor adverse visual effect.
- 5.10.30. There are however a number of residual moderate adverse (significant) effects upon five visual individual receptors. These are:
- Hill View properties, located directly to the north of the Proposed Development;
 - Newgate House, located directly to the north of the Proposed Development;
 - Sycamore Farm properties, located directly to the south of the Proposed Development; and
 - Properties beside Sandy Lane, located directly to the north of the Proposed Development.
- 5.10.31. Overall, the Applicant concludes that the Proposed Development would not result in an overall significant residual impact on landscape and visual amenity. Whilst a small number of residual significant visual effects have been identified, the Applicant considers that the proposed mitigation would successfully integrate the Proposed Development into the existing landscape and visual setting by year 15 of operation [APP-046].

PLANNING ISSUES

- 5.10.32. The Examination focused on the following issues:
- The general approach to LVIA, including assessment methodology;
 - Site-specific matters;
 - Impacts on vegetation including trees and hedgerows;
 - Other landscape and visual effects; and
 - Suitability of proposed mitigation.

The general approach to LVIA, including assessment methodology

- 5.10.33. At the start of the Examination [PD-007], I sought clarification on the overall approach adopted by the Applicant, in particular the definition of the baseline and the identification of viewpoints and photomontage locations, along with confirmation that the most recent guidance had been used. The matter featured in my ExQ1 [PD-007] and was discussed at ISH2 [EV-022].
- 5.10.34. In response to my ExQ1, BC confirmed [REP2-016] that it had agreed the viewpoints with the Applicant and was satisfied that they adequately

represented the Proposed Development. BDC and SNC were also satisfied [REP2-018 and REP2-023] that the viewpoints and photomontage locations selected were adequately representative of the Proposed Development. In relation to the baseline assessment, all three confirmed they felt it was correct [REP2-016, REP2-018 and REP2-023].

- 5.10.35. In their LIR, whilst raising a number of comments, NCC confirmed that [REP2-022] they were also content with the viewpoints, montages and the definition of the baseline.
- 5.10.36. BC in their LIR [REP2-017] commented that with appropriate mitigation, following the principles set out in the EMP [REP7-035] they considered that the landscape impacts can be adequately mitigated.
- 5.10.37. In response [REP2-014], the Applicant highlighted that the assessment followed best practice guidance and was in line with DRMB assessment standards and with the Third Edition Guidelines for undertaking such an assessment produced by the Landscape Institute.
- 5.10.38. Following ExQ1 [PD-007], the Applicant corrected a number of discrepancies between the ES Figures and the ES Chapter [APP-046], although this did not change the number of impacted properties or the Applicant's overall conclusions.

Site-specific location/issues

- 5.10.39. At ISH3, Mr Richard Hawker [EV-039] queried the lack of a specific photomontage or a viewpoint in relation to the proposed bridge over the River Tud. He also raised a similar question in relation to the vicinity of the public footpath network around this location. During the discussion at ISH3 [EV-039], Mr Richard Hawker also questioned why no detailed sections had been produced in either of these locations.
- 5.10.40. With regards to the representative viewpoints, the Applicant confirmed [REP2-014] that viewpoints were selected to represent the different types of visual receptors within the study area and key locations where effects of the Proposed Development was predicted to be experienced.
- 5.10.41. The Applicant referred to Figure 7.4: Visual Context [REP2-012] which illustrates the Proposed Development to the south of Hockering and includes visualisations and baseline photos. The Applicant confirms that landscape and visual effects in this location have been assessed and supporting illustrative information has been provided.
- 5.10.42. In response to Mr Richard Hawker's subsequent question regarding the lack of sections in the Hockering area, the Applicant referred again to the illustrative information and in particular Viewpoint C (APP-067), Viewpoint 3 (APP-062) and the EMP (REP7-035). In their view, these submissions showed the appearance of the Proposed Development and their proposed mitigation in these locations.
- 5.10.43. BHE expressed concern [REP4-023] with regards to the impact of the Proposed Development on identified receptors, in particular P12 (footpath

to south of BHE). BHE considered that the Applicant's assessment was inaccurate. They considered that a negative visual impact would occur due to the presence and prominence of the construction compound. BHE considered that, in their view, the Estate should have been identified as a specific receptor and assessed accordingly.

- 5.10.44. With regards to P12, the Applicant considered that the compounds would be suitably screened and that the material storage area would provide this screen. During the course of the Examination, and in response to other issues, the Applicant confirmed that the nature of this compound would be changed to be a welfare only compound [REP7-017].
- 5.10.45. In terms of the assessment of BHE, the Applicant highlighted their conclusions in relation to LCAs, which includes BHE. The overall assessment [APP-046] identified a significant impact during construction and Year 1. The Applicant was of the view that landscape value of BHE was therefore fully considered. The Applicant submitted [REP6-018] a number of cross-section through the Wood Lane junction to demonstrate how this would sit within the landscape. These were subsequently updated [REP7-017] to reflect comments made at ISH3 [EV-039].
- 5.10.46. Mr Richard Hawker [RR-071], amongst others, raised the issue of the effect of new lighting from the Proposed Development, in particular around the proposed junctions.
- 5.10.47. In response [REP2-014], the Applicant identified that lighting was proposed at the Wood Lane and Norwich Road junctions. The lighting design was prepared in accordance with the UK DMRB TA 501 – Road Lighting Appraisal. Lighting would be provided on the approach to the roundabout junctions for 5 seconds of driving distance at the expected speed to ensure a good visual guidance. Lighting to the Wood Lane junction is to be provided by 55 LED Luminaires, mounted on 10 metre columns. Lighting to the Norwich Road junction is to be provided by 48 LED Luminaires, mounted on 10 metre columns.
- 5.10.48. At both junctions, the Applicant confirmed [REP2-014] that the luminaires would focus light onto the ground, emitting no light above the horizontal plane. The luminaires proposed would have good optical control, along with the option for the installation of additional shields to limit potential light spill. The luminaires would emit warm white light.
- 5.10.49. The Applicant confirmed that all lighting associated with the existing at-grade Easton roundabout is to be removed as part of the Scheme [REP2-014].
- 5.10.50. The Applicant confirmed [REP2-014] that the final details of the lighting provision will be part of the detailed design, and approved through dDCO Requirement 3, in consultation with the relevant planning authority.

Other landscape impacts

Easton Bridge

- 5.10.51. In my ExQ1 [PD-007], I sought clarification from the Applicant with regards to the design approach towards the Easton Footbridge and, in particular, what level of detail had been assessed as part of the ES. I also sought further detail on how the design of the bridge would be seen to minimise its impact on the landscape [PD-007].
- 5.10.52. In response [REP2-014], the Applicant confirmed that the new bridge would comprise a steel concrete composite footbridge supported on reinforced concrete bankseats situated on reinforced earth approach embankments. In terms of the key elements to minimise its landscape and visual effects, the Applicant referred to:
- Its position to the west of residential properties within Easton to limit visual effects;
 - Its position beside retained tree cover on both sides of the A47 which provides a screen to views; and
 - Its simple form with no visually prominent features which protrude above the main structure.
- 5.10.53. In terms of the footbridge, the Applicant confirmed that they had adopted a precautionary principle in lieu of detailed designs and referred to Annex A of their answers to ExQ1 [REP2-014]. Here they provided details of the maximum parameters of the Proposed Development as assessed within the ES. The Applicant also referred to the proposed landscape and visual mitigation design, presented in the Environmental Masterplan [REP8-011] which will further minimise the landscape and visual effects of the new bridge and associated ramps. The final landscape planting design will be developed in consultation with the relevant planning authority, as per Requirement 5 'Landscaping' of the rDCO (Appendix D).

Impact on trees

- 5.10.54. NCC in their LIR [REP2-022] considered that, whilst the Arboricultural Assessment [APP-094] was adequate, it highlighted that a significant number of category A and B trees were to be removed. By examining the stem diameter measurements in the AIA Tree Survey Schedule [APP-094] and general observation notes, NCC considered that a number of these trees are either ancient, veteran or have veteran features [REP2-022].
- 5.10.55. In addition, NCC [REP2-022] considered that should the Proposed Development be approved, it should be conditioned and submitted for approval prior to works commencing, that the AIA will be updated to include a:
- Tree Constraints Plan;
 - Tree Protection Plan;
 - Arboricultural Method Statement; and
 - Timetable for Implementation of Tree Protection Works.

- 5.10.56. In response the Applicant [REP2-014] clarified that no ancient woodland or ancient trees were identified, and only one tree was identified as having veteran features (T13). The Applicant confirmed that this was to be retained [REP2-014].
- 5.10.57. In response to the comments of NCC, the Applicant agreed [REP2-014] to add an action to the 2nd iteration at the EMP [REP7-035] specifically mentioning this veteran tree and the need to apply measures to avoid affecting it. This commitment will be secured through the rDCO, Requirement 4. Following these clarifications, the issue of trees was an agreed matter in the SoCG [REP9-017]. In relation to the details to be conditioned and submitted, the Applicant referred to Action LV3 in the REAC [REP7-035].
- 5.10.58. In their submissions to ISH2 [REP4-023], BHE highlighted a number of errors they had identified within the Applicant's Arboricultural Assessment [APP-094], in particular, incorrect annotations in relation to hedgerows, trees and those to be removed.
- 5.10.59. In response [REP4-015], the Applicant confirmed that they are aware of some errors and would review the document. An updated report was submitted at D7 (REP7-008). Prior to submission of the updated Report, I questioned the Applicant on its progress at ISH3 [EV-039] and in particular whether the update would change their overall conclusions. In response, the Applicant confirmed that the Assessment had been reviewed in light of comments received. In their view the changes were not notable and did not change the conclusions of ES Chapter 7 [REP7-017].

Suitability of proposed mitigation

- 5.10.60. I sought clarification [PD-007] in relation to the Applicant's mitigation proposals and what measures would be in place to ensure that any new planting which fails to establish or dies would be replaced.
- 5.10.61. In response, the Applicant referred to Appendix B.5 of the EMP [REP7-035] which will contain a LEMP. This would be produced by the appointed Landscape Architect and Ecologist prior to construction. The LEMP will describe the proposed management and monitoring of the landscape and ecological mitigation and compensation features of the Proposed Development. The commitment to deliver the LEMP will be secured through dDCO Requirement 4 'Environmental Management Plan'.
- 5.10.62. The final detailed design and supporting landscape mitigation planting will be confirmed, in consultation with the relevant planning authority, pursuant to Requirement 3 'Detailed Design' and Requirement 5 'Landscaping' of the dDCO (REP1-004)
- 5.10.63. In terms of future monitoring of the mitigation and replacement of any plants which die, the Applicant referenced Requirement 5(f) (Appendix D), which identifies proposals for their replacement.

EXA CONSIDERATIONS

- 5.10.64. I have had regard to the policies set out in the NPSNN in my consideration of the impacts of the Proposed Development in relation to Landscape and visual effects, along with development plan policies, in so far as they are relevant to an NSIP.

Baseline and methodology

- 5.10.65. The SoCGs with NCC [REP9-022], SNC [REP9-025], BC [REP9-018] and BDC [REP9-021] indicated that the LPAs were satisfied that the landscape and visual effects of the Proposed Development had been properly assessed, the relevant guidance was used and that the mitigation measures were appropriate. The LPAs were also content with the landscape planting proposals in the Applicant's submissions, although they expressed a wish to be consulted during the detailed design stages.
- 5.10.66. At the start of the Examination there were a number of errors with regards to the Applicant's submissions, however during the course of the Examination these matters were satisfactorily addressed by the Applicant's updates. I am satisfied that these errors did not affect the Applicant's overall conclusions. I am therefore content that the methodology used by the Applicant is both robust and provides a proper consideration of the effects of the Proposed Development. As such I find the Applicant's assessment accords with paragraphs 5.144 to 5.146 of the NPSNN.

Landscape character and visual impacts

- 5.10.67. During construction, the Applicant predicts that the Proposed Development would have a large adverse effect upon one LCA and moderate adverse effect upon another. The construction stage would also have significant effects upon eight identified visual receptors. In respect of these effects, due to the nature of the Proposed Development and the location of these receptors in relation to it, these effects are, to some degree both inevitable and unavoidable. On that basis, I agree with the Applicant that, whilst these effects are significant, they will only be temporary for the duration of the construction phase or until the proposed mitigation has sufficiently matured. Nonetheless, these weigh against the making of the DCO.
- 5.10.68. During the operational phase, the Applicant predicts that the Proposed Development would have a large adverse effect upon one LCA and moderate adverse effect upon another during construction and at year 1. There are eight representative viewpoints in year 1 that would also be subject to significant effects. By year 15, once mitigation planting has become established, the effects on the LCA would be no more than slight adverse, and only two significant effects would remain for the identified viewpoints.
- 5.10.69. As such, whilst I agree with the Applicant's conclusion that in the long-term landscape and visual effects of the Proposed Development upon landscape character would not be significant, the harm during the

construction and at year 1, weigh against the Proposed Development. With regards to residual significant impacts upon the identified visual receptors, these weigh against the granting of the rDCO. In accordance with paragraph 5.158, these impacts need to be weighed against the benefits of the Proposed Development.

Lighting

- 5.10.70. The use of overhead lighting would be limited to only those parts of the Proposed Development that need to be lit for highway safety reasons [REP2-014]. Lighting would be provided in accordance with current guidance and would constitute the use of LED fittings to restrict light spillage. Requirement 4 of the rDCO (Appendix D) and EMP [REP7-035] would control the details of the lighting proposals, requiring them to be prepared in consultation with the relevant Local Planning Authority (LPA). Existing lighting around Easton roundabout would be removed.
- 5.10.71. As such, I am content that the proposals would be likely to minimise light spillage, and due to the use of modern installations, would be likely to represent an improvement to existing arrangements.

Trees

- 5.10.72. Concern emerged during the Examination with regards to the effect of the proposals upon trees within the Order Limits. Furthermore, a number of errors were identified with the Applicant's initial Arboricultural Assessment [APP-094]. These were amended during the course of the Examination with the submission of an updated Assessment [REP7-008].
- 5.10.73. From my visits to the area, both accompanied and unaccompanied, I agree that trees make a very significant and important contribution to the landscape character of the area. As such, I recognise that they are highly valued, irrespective of whether they have any statutory protection. The loss of trees during the construction phase, would cause harm to this character.
- 5.10.74. However, during the Examination, the proposals for tree loss and their replacement became clearer. Under LV4 of the REAC [REP7-035], the Applicant is undertaking to retain or replace and reinforce existing vegetation where this contributes to the distinctive qualities of the landscape.
- 5.10.75. In terms of quantities, in response to a question from Mr Mark Kenney [REP6-027], the Applicant indicated that, based on the EnvMP [REP8-011] provisional estimates are more than 200,000 trees and woody shrubs and hedge plants would be planted [REP7-015]. This is considerably more than the amount to be removed, which from the amended AIA [REP7-008] is 256 individual trees, 66 groups of trees and 27 hedgerows will require complete removal. In addition, 63 tree groups and 42 hedgerows will require partial removal.
- 5.10.76. The loss of trees on the scale proposed would inevitably have a significant effect. This is acknowledged in the Applicant's summary of

significant landscape and visual effects [APP-046]. Notwithstanding the Applicant's commitment to use some semi-mature planting, I consider it would take a reasonable amount of time for the replacement planting to ameliorate these effects. Adequate measures are in place through the rDCO to ensure replacement of any new trees or shrubs which die during the first five years. The Applicant's commitment to replacement planting, such as new hedgerow boundaries and woodland areas, as well as general landscape enhancements, are important considerations in favour of the DCO.

5.10.77. I am satisfied that no ancient woodlands or ancient trees will be lost and that the tree identified as having veteran features (T13), would be retained and adequately protected.

5.10.78. I am satisfied that the rDCO (Appendix D) contains adequate controls to limit the number of trees to be removed and secures protection and replacement planting of others and thus reduces the scale of harm. Requirement 5 provides sufficient detail to ensure the provision of replacement planting, new planting and its aftercare, including replacement if necessary.

Structures

Easton bridge

5.10.79. No specific concerns were raised by IPs with regards to the proposed landscape or visual effect of the Easton footbridge. At the start of the Examination [PD-007], I was concerned about the lack of information and detail with regards to its design. I considered that it was unclear how and what had been assessed as part of the Applicant's landscape and visual assessment. However, during the course of the Examination, details became clear and whilst there are no specific designs at this stage, I am content that sufficient additional information was provided by the Applicant [REP2-014]. Furthermore, I am content that sufficient measures are in place within the rDCO (Appendix D) to allow for the final design to be prepared in consultation with the relevant LPA.

Wood Lane junction

5.10.80. As part of my Accompanied Site Investigation (ASI) I visited the location of the proposed Wood Lane junction, including an extensive and comprehensive visit to BHE.

5.10.81. From my visit, it is clear that the immediate landscape around Berry Hall is attractive. In my view, it displays a number of different qualities and characteristics from the surrounding landscape. Views however are relatively well contained within the Estate, by established woodland, along with the topography of the land as it gently falls or rises as part of the River Tud valley. As a result, there is little in the way of long distance views either into, or out of the Estate. In this respect, I consider that BHE and its surrounding landscape is relatively self-contained.

- 5.10.82. There are attractive views from the south, in particular from Berrys Lane and visual receptor P12 on the edge of BHE, across the Tud Valley, over the Estate towards the proposed location of Wood Lane junction. Within these views, BHE is clearly visible and forms a distinct and obvious element in the landscape. Views from the north are limited, predominately due to the presence of trees and landscaping, a significant amount of which borders the existing A47.
- 5.10.83. Due to the position and location of the construction compound, notwithstanding the proposed mitigation, its presence would be noticeable in views from the south. As a result, views across the Tud Valley from the south would be harmed. During the Examination [REP7-017], the Applicant provided a drawing to demonstrate how measures would be implemented to minimise its impact. Whilst I accept that these measures would go some way to reduce the visual impact of the compound, nevertheless, the use and character of the land would change to such a degree that it would be adversely effected by the presence of the compound and its associated activity. However, this would only be for a temporary period, after which the land would be restored to its current. On this basis, I consider this harm to be limited and is off low weight in the overall planning balance.
- 5.10.84. The proposed junction would represent a considerable structure, which, given its scale, would appear as an urban feature in the rural landscape. At Year 1, the impact of the proposed junction upon the LCA is acknowledged by the Applicant as being significant [APP-046]. This reduces to slight adverse at Year 15 following the provision of landscaping around the junction [APP-046]. During construction the impact is considered also to be significant.
- 5.10.85. In this respect, BHE is not specifically identified as a receptor within either the Applicant's LCA assessment or as a specific viewpoint location. The opinion of BHE is that this is a significant omission from the Applicant's assessment.
- 5.10.86. In this respect, I note that BHE does not have any specific landscape designations. Therefore, I see no basis or justification as to why BHE should have been identified as a landscape receptor in its own right. Furthermore, I note that none of the LAs, through their development plans, have considered BHE or its wider environs to be worthy of specific designation. Neither was the omission of BHE as a receptor raised by the LPAs in their submissions to the Examination.
- 5.10.87. In contrast to the relatively visible nature of the construction compound, the proposed junction would be surrounded by extensive landscaping, some of which already exists and is well established and mature in parts. Although I acknowledge that some of this would be removed to facilitate the Proposed Development, the cross-section drawings submitted by the Applicant [REP6-018 and REP7-017], demonstrate that this would serve to minimise views of the junction. I also note that proposed lighting columns would, once the landscaping has matured, be screened.

5.10.88. I agree with the Applicant that in Year 1 of operation, due to the lack of maturity of the replacement planting, the impact of the junction will be significant. However, once this replacement planting matures, coupled with the retained existing planting, the proposed junction would not be readily visible in views from either within the Estate or higher land on the southern side of the valley. As such, once mature, the mitigation would largely restore the landscape character and would provide effective visual screening of the development in this respect.

5.10.89. In summary therefore, I conclude that once operational the Proposed Development, and in particular the Wood Lane junction, would cause only limited harm to the landscape of BHE, and this harm can be suitably mitigated.

Norwich Road junction

5.10.90. As with Wood Lane junction, the Norwich Road junction would represent a significant feature that would introduce a form of development with distinct urban characteristics, into essentially a predominately rural location.

5.10.91. The junction would be surrounded by mitigation planting. Notwithstanding the use of some semi-mature planting, it would however take time for this replacement planting to fully ameliorate the presence of the development. However, I find that the overall mitigation strategy and planting proposals to be well considered. Once mature, they would largely restore the landscape character around the junction and would provide effective visual screening of the development. As such, I am satisfied that the landscape and visual effects of the Norwich Road junction would be no worse than slight adverse in the long term.

Mitigation

5.10.92. I find that the landscaping proposals are well considered and would, once they have reached maturity, largely restore the landscape character of the area.

5.10.93. As such the Proposed Development meets the aim of paragraph 5.149 of the NPSNN which is to avoid or minimise harm to the landscape, providing reasonable mitigation where possible and appropriate.

CONCLUSION

5.10.94. Drawing these matters together, due to the nature of the Proposed Development, I consider that it would not be possible to avoid harm altogether to either the landscape or visual receptors. However, the Proposed Development has incorporated suitable design and mitigation which is secured through the EMP and rDCO Requirements, including the provision of after care.

5.10.95. Therefore, in respect of landscape and visual effects, I find that the following weigh against the making of the DCO;

- Temporary large adverse effects during the construction phase on two Landscape Character Areas (LCAs) and four representative viewpoints;
- Temporary effect upon views from south of BHE, due to presence of construction compound; and
- Significant adverse effects in Year 1 of the operational phase, reducing to moderate adverse by Year 15, on four receptors

5.10.96. I consider these effects to be limited in nature. They therefore carry a limited, negative weighting into the planning balance.

5.11. MATERIAL ASSETS AND WASTE

INTRODUCTION

5.11.1. This section considers the effect of the Proposed Development on material assets and waste.

POLICY AND LEGAL CONTEXT

NPSNN

5.11.2. Paragraph 5.42 of the NPSNN advises that the Applicant should set out the arrangements proposed for managing any waste produced. They should normally seek to minimise the volumes of waste produced and the amount sent for disposal.

5.11.3. Paragraph 5.43 requires the SoS to consider the extent to which the Applicant has proposed a process to ensure the effective management of hazardous and non-hazardous waste arising during the construction and operational phases. The process should ensure that waste would be properly managed, both on and off-site; that the waste from the proposal facility could be dealt with appropriately by the waste infrastructure and; that adequate steps would be taken to minimise the volume of waste arisings.

Development Plan

5.11.4. NCC identifies proposed sand and gravel extraction sites suitable for allocation (as mineral sites considered acceptable in principle) within the Norfolk Minerals and Waste Plan Preferred Options Document (July 2019).

5.11.5. Policy CS16 states that NCC will safeguard existing, permitted and allocated mineral extraction and associated development, which is currently active, has planning permission and is an allocated site.

5.11.6. NCC will oppose development proposals which would prevent or prejudice the use of safeguarded sites unless suitable alternative provision is made. The Policy cites paragraph 13 of Minerals Policy Statement 1: Planning and Minerals, which 'cautions against proven mineral resources being 'needlessly' sterilised by non-mineral development'.

- 5.11.7. BC's Core Strategy and Development Control Policies Development Plan Document, adopted in 2009, outlines the vision and overall objectives for development in Breckland up to 2026. Policy CP8 of this strategy cites that all development must be consistent with the principles of the proper management of natural resources. Development will only be supported where it will enhance, or protect against the non-essential loss of the natural resources of the District.

THE APPLICATION

Relevant parts of the application

- 5.11.8. The relevant sections of the application are:

- ES Chapter 10 – Material assets and waste [APP-049];
- Appendix 10.1: Legislation and policy framework [APP-115];
- Appendix 10.2: Outline Site Waste Management Plan [APP-116]; and
- Appendix 10.3: Minerals Impact Assessment (MIA) [APP-117].

Overall approach

Baseline and study area

- 5.11.9. The Applicant has identified that the assessment has been undertaken in accordance with DMRB LA 104 (Environmental assessment and monitoring) which states that the assessment shall report on the construction phase and first year of operational activities (opening year). In general terms, the assessment included:

- material assets to be used during the construction phase including site remediation, preparation and earthworks, demolition and construction;
- the potential sterilisation of mineral sites; and
- waste generation during the construction phase including site remediation, preparation and earthworks, demolition and construction.

- 5.11.10. In accordance with DMRB LA 110, the assessment established two geographically different study areas to examine the use of material assets and management of waste. The first study area covered land within the Order Limits, including areas where site clearance, earthworks and construction are proposed and materials will be consumed (used, re-used and/or recycled) and waste generated. The second study area covered feasible sources and availability of construction materials required to construct the main elements of the Proposed Development and suitable landfill infrastructure that could accept arisings and or waste generated by the Proposed Development. This covered the east of England region.

Potential impacts

- 5.11.11. The ES identifies that the likely potential impacts from the Proposed Development are:

- Generation of construction waste and reduction in landfill void capacity;
 - Consumption of materials during construction; and
 - Sterilisation of mineral safeguarding sites.
- 5.11.12. In accordance with the EU Waste Framework Directive 2008/98/EC 'waste hierarchy', the Proposed Scheme aims to prioritise waste prevention, followed by preparing for re-use, recycling and recovery and lastly disposal to landfill.
- 5.11.13. The assessment also outlines the provisions of the EMP [REP7-035] in relation to waste management and material assets. In particular, it refers to the preparation of a Site Waste Management Plan (SWMP) which will provide an auditable record of the management of waste on the Proposed Development during the construction phase. It will monitor the quantities and types of waste generated, as well as the duty of care information for the contractors transferring the waste, and the sites the waste are taken to for management. The SWMP will also include procedures for monitoring the overall construction waste recovery rate.
- 5.11.14. Reference is also made to the MMP [REP7-035]. The MMP will detail the procedures and measures to be implemented to classify, track, store, re-use and dispose of all excavated materials encountered during the construction phase.
- 5.11.15. Both the SWMP and MMP will form part of the EMP [REP7-035] and is secured by Requirement 4 of the rDCO.
- 5.11.16. The Applicant's assessment concludes that the recycled content of the materials used are predicted to be more than the regional target of 31%, with over 70% of the waste generated being re-used or recycled in line with the Government's target for the recovery of construction waste. Additionally, the Proposed Development is not likely to result in a 1% reduction or alteration in the regions landfill capacity. As a result the Applicant considers the residual effects during construction to be slight adverse and, therefore, not significant.
- 5.11.17. The Applicant is not predicting any significant environmental effects from the use of material assets and generation of waste during the first year of operational activities, due to the limited material use and waste generation from infrequent maintenance visits.
- 5.11.18. With regards to minerals, the DCO boundary of the Proposed Development intersects sand and gravel attributed to Sheringham cliff formation, alluvium and river terrace deposits. These deposits form part of the NCC's safeguarded mineral resources (sands and gravels). The Applicant considers [APP-049] that there are limited opportunities to prior excavate the safeguarded deposits due to the requirement to maintain existing topography, import materials as part of the required ground improvements and due to external constraints, such as the River Tud, residential properties and existing road infrastructure. The Applicant's intention [APP-049] is to use any excavated materials within the Proposed Development in accordance with the wider measures to

avoid and minimise the impacts on material resources. As such, any safeguarded minerals that are encountered should be retained on the site, where possible.

PLANNING ISSUES

- 5.11.19. The potential impact of the scheme on material assets and waste was identified in the IAPI. It was also the subject of a series of questions in ExQ1, however the main focus of my questions were directed towards NCC as the Waste and Minerals Planning Authority (MPA), to seek clarification on the baseline conditions and the minerals safeguarding area which lies within the Order Limits [PD-007].
- 5.11.20. In their LIR [REP2-022], NCC as the MPA considered that the MIA [APP-117] appropriately assesses the safeguarded mineral resources for the proposed scheme and contains an appropriate strategy for identifying suitable material for reuse in the construction phases of the scheme. They considered [REP2-022] that if the scheme is required to follow the strategy outlined in the MIA [APP-117] this will effectively address mineral safeguarding issues relating to resource sterilisation.
- 5.11.21. No IPs raised concerns about waste in RRs or WRs, and the matter was not a main issue in the Examination.
- 5.11.22. In their RR [RR-033] the EA confirmed that Appendix 10.2 of the SWMP is sufficient, but that the references at 10.1.20 and 10.1.32 to the Environmental Permitting (England and Wales) Regulations 2010, should be updated to Environmental Permitting (England and Wales) Regulations 2016.
- 5.11.23. In response [REP1-013], the Applicant confirmed that the references highlighted by the EA were typographical errors, but did not affect the assessment and proposed mitigation reported in ES Chapter 10 [APP-049].
- 5.11.24. Matters in relation to the issue formed part of the SoCG with both NCC [REP9-019] and the EA [REP9-015].

EXA CONSIDERATIONS

- 5.11.25. From the details before me, I am satisfied that any effects of development on the management of waste would be dealt with through the SWMP. The Proposed Development would accord with all relevant legislation and policy requirements of NPSNN. I am also satisfied that the proposed mitigation is adequately provided for and can be secured in the rDCO.
- 5.11.26. With respect to the safeguarded minerals resources site, NCC as the MPA has raised no objections to the Proposed Development. From the evidence presented during the Examination and the proposed approach identified by the Applicant, I have no reason to disagree with this position.

CONCLUSION

- 5.11.27. Therefore, in respect of material assets and waste, the Proposed Development attracts neutral weight to be carried forward into the planning balance.

5.12. NOISE AND VIBRATION

INTRODUCTION

- 5.12.1. This section 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.

POLICY AND LEGAL CONTEXT

NPSNN

- 5.12.2. Paragraph 4.8.1 of NPSNN 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."*
- 5.12.3. Paragraph 5.186 identifies 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 NPSE. In line with current legislation, references to "noise" in the NPSNN also apply to the impacts of vibration.
- 5.12.4. Paragraph 5.193 states that statutory requirements for noise must be met and that due regard must have been given to the relevant sections of the NPSE, the NPPF and the NPPG on noise.
- 5.12.5. Paragraph 5.194 requires the optimisation of layout to minimise noise emissions and, where possible, the use of landscaping, bunds or noise barriers to reduce noise transmission. It also refers to consideration of the need to mitigate impacts elsewhere on the road network.
- 5.12.6. Paragraph 5.195 says that:
- "The Secretary of State should not grant development consent unless satisfied that the proposals will meet, the following aims, within the context of Government policy on sustainable development:*
- *avoid significant adverse impacts on health and quality of life from noise as a result of the new development;*
 - *mitigate and minimise other adverse impacts on health and quality of life from noise from the new development; and*

- *contribute to improvements to health and quality of life through the effective management and control of noise, where possible."*

- 5.12.7. Paragraph 5.196 refers to the need to "*consider whether requirements are needed which specify that the mitigation measures put forward by the Applicant are put in place to ensure that the noise levels from the project do not exceed those described in the assessment or any other estimates on which the decision was based.*"
- 5.12.8. Paragraph 5.197 says that consideration should be given to requirements to ensure delivery of all mitigation measures, including any needed for operational or construction noise over and above any included in the application.
- 5.12.9. Paragraph 5.198 notes that mitigation measures should be proportionate and reasonable and may include containment of noise generated, adequate distance between source and noise-sensitive receptors, specifying acceptable noise limits or times of use, optimisation of layout, or the use of landscaping, bunds or noise barriers to reduce noise transmission.
- 5.12.10. Paragraph 5.199 refers to noise mitigation through increased dwelling insulation and ventilation measures pursuant to the Noise Insulation Regulations and says that an indication of the likely eligibility for compensation should be included in the assessment. It notes that "*in extreme cases, the Applicant may consider it appropriate to provide noise mitigation through the compulsory acquisition of affected properties in order to gain consent for what might otherwise be unacceptable development.*"
- 5.12.11. Paragraph 5.200 requires consideration of opportunities to address the noise issues associated with Noise Important Areas (NIAs).

Noise Policy Statement for England (NPSE)

- 5.12.12. 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.
- 5.12.13. 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.
- 5.12.14. 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.

- 5.12.15. 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.
- 5.12.16. 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.
- 5.12.17. 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."*
- 5.12.18. 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).
- 5.12.19. 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 APPLICATION

Relevant parts of the application

- 5.12.20. The main sections of the application relevant to the noise and vibration matters considered here are:
- Chapter 11 – Noise and Vibration [APP-050];
 - ES Appendix 11.1: Glossary of terms [APP-118];
 - ES Appendix 11.2: Legislation and policy framework [APP-119];
 - ES Appendix 11.3: Baseline noise survey [APP-120];
 - ES Appendix 11.4: Traffic data comparison and model validation [APP-121];
 - ES Appendix 11.5: Construction noise assessment [APP-122];
 - Figures 11.1 to 11.8 [APP-074];
 - Figures 11.9 to 11.18 [APP-075]; and

- Figures 11.19 to 11.28 [APP-076].

Baseline survey

- 5.12.21. The Applicant undertook a baseline noise survey [APP-050] in September 2020 at locations identified to be noise-sensitive receptors in the vicinity of the Proposed Development.
- 5.12.22. The Applicant acknowledges that the survey was undertaken during the global COVID-19 pandemic, however it was at a time when lockdown restrictions had been relaxed. To account for any uncertainty in traffic volumes, the Applicant undertook a comparison between the September 2019 and September 2020 traffic data to ensure robustness of the results.

Construction noise and vibration

- 5.12.23. The Applicant's assessment of construction noise was carried out for a study area extending to 300m from the boundary of the Order Limits. Within the area, a total of 601 existing noise sensitive receptors were identified. Construction vibration was assessed at a representative sample of the 21 closest noise sensitive receptors to the construction works. These receptors were considered by the Applicant to represent the locations at which construction vibration levels are expected to be the greatest.
- 5.12.24. Construction activities with the potential to generate significant noise or vibration effects were identified. These activities included site clearances, earthworks, retaining wall construction, bridge construction, road construction, the use of vibratory rollers and piling. The assessment assumed rotary bored piling rather than impact or driven piling and a 8.9 tonne vibrating roller for earth works and road formation [APP-122].
- 5.12.25. The Applicant identified the magnitude of the construction noise and vibration impact through comparison of the predicted levels against the construction LOAEL and SOAEL values. The LOAEL at each location is equal to the baseline ambient noise level (LAeq,Day) at that location. The Applicant estimated the baseline noise levels from the Do Minimum Opening Year road traffic noise model. The SOAEL at each location was determined as per DMRB LA 111.
- 5.12.26. The likelihood of significant effects was then considered, accounting for factors such as the hours of work and duration of the works. Thresholds for construction vibration levels causing annoyance were assessed based on BS 5228-2. BS 7385 was used for the assessment of potential vibration damage to buildings.
- 5.12.27. The approach for the construction traffic assessment was to identify the change in road traffic noise on the existing road network due to additional heavy vehicle movements. The significance of the short-term change in road traffic noise was considered using the method presented in DMRB LA 111.

- 5.12.28. Significant effects during the construction phase were identified following consideration of predicted noise or vibration levels exceeding SOAEL, together with professional judgement that included factors such as whether a significant effect would occur when a moderate or major impact is expected for 10 or more days or nights in any 15 consecutive days or nights; or for a total number of days exceeding 40 in any six consecutive months.
- 5.12.29. The assessment shows that some receptors, located close to certain construction stages would potentially experience a moderate or major magnitude of noise impact, albeit temporary, without mitigation. However, at this stage the durations for which plant will be operating at each construction stage have not yet been finalised by the Applicant. Therefore, the Applicant has adopted a precautionary approach by considering that the assessed construction activities have the potential to exceed the above durations.
- 5.12.30. Due to the majority of sensitive receptors being located beyond 30m from the closest construction activity, the Applicant predicts the magnitude of vibration to be no greater than a temporary minor adverse impact. However, compaction and piling activities are the two types of work with the potential to result in construction vibration that would exceed the SOAEL value. The predicted vibration levels for earthworks, road formation, surfacing works and piling are generally above the SOAEL for receptors located within 30m of the construction works. On this basis, without mitigation, the Applicant expects significant effects due to construction vibration to occur at 19 residential properties. The Applicant has proposed mitigation measures, such as early communication with affected receptor residents and pre-condition surveys.
- 5.12.31. In terms of compaction works, the Applicant considers that there is limited likelihood of compaction works occurring at fixed positions near individual receptors for 10 or more days or nights in any 15 consecutive days or nights (or for a total number of days exceeding 40 in any six consecutive months) as the work will progress linearly along the Proposed Development. However, there is potential for vibration from the static works to occur for longer than these durations. As a result, the Applicant proposes specific vibration mitigation measures and best practice techniques to reduce the potential for significant effects occurring due to vibration from piling and compaction works.
- 5.12.32. The change in road traffic noise due to the additional traffic flows associated with the construction traffic has the potential to affect sensitive receptors along existing roads. The assessment shows that the impact of the increase in the road traffic noise level is predicted by the Applicant to range from negligible to major, depending on the proximity of the receptor to the road. As a result, mitigation measures are required to avoid significant adverse effects in some locations. This will be controlled through the TMP [REP-144].

- 5.12.33. There are also potential for residual moderate or major impacts at a number of residential properties where tie-in works occur during night times and/or weekends. To mitigate these, the Applicant proposes that the Principal Contractor (PC) undertakes further detailed assessments on the out-of-hours works to determine the impacts and agrees working methods with the Environmental Health Department at the LA.
- 5.12.34. In summary, subject to the provision of temporary noise barriers, implementation of Best Practicable Means (BPM), construction noise monitoring where required, use of multiple temporary traffic diversion routes the Applicant considers that construction noise is not predicted to result in significant adverse residual effects at the vast majority of receptors.
- 5.12.35. A significant effect is predicted at Acorn Barn during the works to create the nearby drainage basin works, but only if the works exceed the timescales identified above. In the Applicant's view this work should only be for a limited period of two months.

Operational noise and vibration

- 5.12.36. The Applicant's consideration of operational activities addressed changes in traffic flow, composition, speed, road surface, ground topography, the presence of intervening buildings and structures, and the distance to the road.
- 5.12.37. Within the operational noise study area, a total of 1,877 noise sensitive receptors have been identified by the Applicant. These receptors included:
- 1,435 existing dwellings;
 - 28 non-residential noise sensitive receptors situated within buildings, such as churches, schools and village halls;
 - 41 non-residential receptors situated outside of buildings, such as tennis courts, a bowling green, church cemeteries, PRoW and SSSI; and
 - 207 dwellings at the Easton Village residential extension (a committed development).
- 5.12.38. Within the operational noise study area, a further four NIAs were identified on the A47 at Hockering and to the east of Hockering. Two SSSIs that intersect with the operational noise study area were included in the Applicant's assessment of operational noise, Hockering Wood and the River Wensum. The River Wensum was split into two sections, where it intersects with Lyng Road and a second location where it is crossed by Ringland Road.
- 5.12.39. In terms of the assessment, the Applicant considered short-term noise change (Do-Something Opening Year versus Do-Minimum Opening Year) and long-term noise change (Do Something Future Year versus Do-Minimum Opening Year). The LOAELs and SOAELs values for operational road traffic noise were set in accordance with the effect levels established within DMRB LA 111.

- 5.12.40. Significant noise effects during the operational phase were identified following a consideration of changes in noise level combined with professional judgement. The professional judgement took account of factors such as absolute noise levels, receptor sensitivity, the acoustic character of the area, and the likely perception of a traffic noise change.
- 5.12.41. The mitigation of adverse effects during the operational phase included route selection, use of low noise surfacing and the installation of permanent noise barriers.
- 5.12.42. For the majority of noise sensitive receptors within the study area, no significant effects were anticipated to result from the change in road traffic noise from the Proposed Development [APP-050]. However, a number of significant residual traffic noise effects, both adverse and beneficial are anticipated.
- 5.12.43. Significant adverse noise effects [APP-050] are predicted at:
- Eighty-three receptors in Lyng or on Lyng Road (north of the A47);
 - Two receptors on Church Lane;
 - Six receptors on Mattishall Lane;
 - Hall Farm and Hall Farm Cottages;
 - St Andrew's Church, Honingham;
 - Hockering Nursery and Newgate, Gypsy Lane, Hockering; and
 - Seven PRoW Hockering FP8, FP7, East Tuddenham FP9, Honingham RB1, Lyng RB1, RB12 and FP17.
- 5.12.44. None of the properties are forecast to be eligible for insulation under the Noise Insulation Regulations.
- 5.12.45. Significant beneficial noise effects are predicted at:
- Noise Important Area 5200;
 - Three receptors in Hockering (outside of NIA 5200);
 - Two receptors on Ringland Road;
 - Two receptors on The Broadway; and
 - Three PRoW: Hockering FP3, FP10 and FP11.

PLANNING ISSUES

- 5.12.46. In terms of construction noise, at ExQ1 [PD-007], I sought clarification with regards to the proposed hours of work, along with confirmation as to how these hours would be controlled. I also sought further information [PD-007] on how the Applicant proposed to manage construction vehicles.
- 5.12.47. In relation to the Applicant's identification of receptors and the overall assessment methodology, I sought confirmation [PD-007] from BC, BDC, SNC and NCC that they were content with the Applicant's overall approach. I also sought confirmation that the parties were content with the Applicant's survey approach, especially given the Covid-19 Pandemic [PD-007].

- 5.12.48. At ExQ1 [PD-007], I sought confirmation that, within the study area, the Applicant had made appropriate allowances for any committed new development.
- 5.12.49. With regards to proposed mitigation, in response to paragraph 3.3 of the NPSNN, I sought clarification [PD-007] of the mitigation measures, including any that had been discounted, along with a justification for this decision.
- 5.12.50. With regards to vibration effects during construction, I sought clarification [PD-007] with regards to proposed mitigation measures in this respect. I also sought an indication of locations where the Applicant proposed the early provision of noise barriers to provide additional mitigation from construction noise [PD-007].
- 5.12.51. At ISH3 [EV-039], I sought clarification and further explanation from the Applicant with regards to the ES conclusions in relation to the impact of the Proposed Development on the properties along Lyng Road. In particular, I sought explanation and justification for the Applicant's conclusion that the effect was down to changes in driver behaviour. I also asked whether any specific mitigation had been considered to address this. I also sought further details of the construction effects in relation to Wisteria Cottage and Berry Hall Cottage [EV-039].
- 5.12.52. NCC, in their LIR [REP2-022] stated that they would expect disruption to be kept to a minimum during the construction period and would want to work with Highways England, or its contractors, on managing traffic during the works. BC, in response to ExQ1 [RE2-016] expressed a concern in relation to the proposed night-time working mitigation. BC considered that mitigation should be based on noise levels, rather than duration.
- 5.12.53. In response to the comments raised by NCC, BC, BDC and SNC the Applicant responded throughout the Examination. As a consequence, by the end of the Examination all these matters formed part of the various SoCGs between the parties [REP9-019, REP9-021, REP9-022 and REP9-025].
- 5.12.54. During the course of the Examination the effects of noise was raised by a number of IPs. Mr Edward Brown [RR- 030] considered that due to the greater speed of traffic along the road, this would result in greater traffic noise, and sought the provision of a noise barrier between Hockering and the Proposed Development. Mr Richard Hawker [RR-071] raised similar concerns with regards to the noise impacts upon the residents of Hockering, and considered there was very little information within the application. During the course of the Examination, Mr Richard Hawker [REP6-028] also sought clarification in relation to working hours and construction vehicles. North Tuddenham Parish Council [RR-052] also sought clarification with regards to any noise reduction that would take place along the route.

- 5.12.55. Lisa Tomlin [PDB-006] raised concerns with regards to the impact of the construction work, in particular the proximity of the construction compound, upon her quality of life.
- 5.12.56. Childhood First, who operate a specialist children's home on Berrys Lane, highlighted that critical to their operation is the need for a tranquil and contained environment for their children. In their RR [RR-016] and subsequent WR [REP1-022], they identified that they had had previous discussions with both the Applicant in relation to the Proposed Development, and NGG in relation to the repositioning of the gas pipeline. They considered that further controls were required in relation to the proposed hours of work.
- 5.12.57. At D3 [REP3-047], Childhood First submitted further details to update the Examination on their on-going discussion with the Applicant. In particular, they highlighted assurances that had been provided by the Applicant during these discussions that measures would be implemented to safeguard and protect their operation. They also acknowledged in these submissions that the closure of Berrys Lane would provide a much quieter and safer environment [REP3-047].
- 5.12.58. Honingham Aktieselskab [REP1-019] highlighted that the location of the Proposed Development, in comparison to the existing A47, would be further into their estate and at a higher elevation. This would lead to a greater impact, amongst other things, from noise and disturbance. They also raised concerns about the lack of suitable mitigation, in the form of a bank, as proposed at other locations. Doubt was also raised as to the suitability of the tree planting to minimise noise [REP1-019].
- 5.12.59. In relation to hours of working, the Applicant referred to the EMP [REP7-035] and in particular Action NV1, which identified that construction works will take place mainly during the daytime. Construction works outside of normal construction hours are to be minimised as far as practicable.
- 5.12.60. With regards to activities outside of normal working hours, the Applicant identified that this would be managed by Action G1 within the EMP [REP7-035], secured via Requirement 4 of the dDCO (Appendix D). Action G1 requires that works outside of normal working hours, irrespective of duration, are discussed with the relevant LPA and appropriate methods of mitigation (including for noise and vibration) agreed. Therefore, the relevant LPAs will have the opportunity to review noise mitigation measures for night-time works should these be unavoidable during the construction period.
- 5.12.61. The Applicant confirmed [REP2-014] that all large and heavy site vehicles would be controlled and would be restricted to the SRN or onsite haul roads. This would be managed through the TMP [APP-144], that would be secured through Requirement 10 of the rDCO.
- 5.12.62. In response to new development within the study area, the Applicant referred to the uncertainty logs, which formed part of the transport

assessment [APP-140], along with the reference in ES Chapter 11 [APP-050], which refers to proposed new development around Easton.

- 5.12.63. The Applicant acknowledged [REP7-017] that a number of identified receptors are predicted to experience major adverse impacts in terms of the change in road traffic noise that would occur during construction, despite mitigation being included within the Proposed Development. However, in all instances the road traffic noise would be below the Significant Observed Adverse Effect Level (SOAEL)
- 5.12.64. In relation to vibration effects [REP2-014], the Applicant highlighted a number of measures for monitoring certain vibration creating activities within 30m of residential properties. These would be secured through Requirement 4 of the rDCO. In relation to the provision of noise barriers, the Applicant identified [REP2-014] that the PC would have the flexibility to provide the permanent noise barriers as soon as possible, or to provide suitable temporary noise barriers at locations during specific work phases.
- 5.12.65. In response to the impact on properties on Lyng Road [REP7-017], the Applicant stated that this relates to operational noise effects and changes in traffic volume. These originate from the traffic model. The Applicant considered that mitigation in these locations would be difficult (i.e. barriers in front of properties are impractical, low noise surfacing is not effective at low speeds and the roads are maintained by different highway authorities). In relation to changes in road traffic noise, the Applicant stated that it has also looked at expected noise changes in the completion year. These are below the SOAEL. In the view of the Applicant, this was not enough to cause significant effects on the health or quality of life of local residents [REP7-017].
- 5.12.66. With regards to the impact upon the village of Hockering, in their response [REP1-013] the Applicant identified that, for both the short and long-term, the majority of noise decreases that are predicted to occur would be in Hockering. This would be due to the re-alignment of the road to the south and lower traffic using the by-passed A47. As a result, the ES [APP-050] predicts significant beneficial noise effects at 39 properties within the village.
- 5.12.67. In response [REP1-013], the Applicant confirmed that it had amended their proposals following pre-application discussions with Childhood First. Reference was also made to Action NV1 of the EMP [REP7-035], which proposes the use of temporary noise barriers to protect Merrywood House during construction. Requirement 4 of the rDCO would ensure their delivery.
- 5.12.68. In relation to the comments from Lisa Tomlin, the Applicant confirmed that the compound would be located away from Berry Hall properties and screened. The ES showed that there would be no significant effects during either the day or night from construction activities. The Applicant, however, undertook to engage further with Ms Tomlin, and this would be secured through Action G7 of the EMP [REP7-035].

EXA CONSIDERATIONS

- 5.12.69. I have had regard to the policies set out in the NPSNN in my consideration of the impacts of the Proposed Development in relation to noise and vibration. I have also had consideration to statutory requirements for noise and the relevant sections of the NPSE, the NPPF and the PPG on noise as set out in the Applicant's Noise Assessment [APP-050], as required by paragraph 5.193 of the NPSNN.
- 5.12.70. Noise and vibration effects in relation to other topics, such as biodiversity are covered in Section 5.6. The transport assessment and traffic levels are addressed in Section 5.16 and health in Section 5.13.
- 5.12.71. From the ES [APP-050] and from answers provided to my questions raised during the Examination, evidence has been provided to show that the minimisation of noise and vibration effects from the Proposed Development was considered during the identification of the route and design options. I am therefore satisfied that the layout optimisation stipulations as required by paragraph 5.194 of the NSPNN have been met.
- 5.12.72. I find no evidence to doubt that the consideration of baseline conditions, the identified study area, baseline surveys, noise models, identification of receptors or assessment methodology is not appropriate for the purposes of the assessment.
- 5.12.73. With regards to the timings of the surveys, I note that they were undertaken during the COVID Pandemic, although at a time when travel was permitted. Due to changes of working patterns, it is however likely that traffic levels may have been below those normally expected. In this respect, I agree with the approach of the Applicant to consider earlier traffic data, to provide a form of sensitivity test. I note that none of the statutory bodies raised any issues with this approach. On this basis, I am content that the survey data provides a robust position from which to undertake the assessment.
- 5.12.74. During the Examination, I questioned the Applicant's approach towards construction noise, their assumptions around duration and the suitability of mitigation measures during the construction phase to deliver the necessary noise reductions.
- 5.12.75. Whilst I acknowledge that exact details have yet to be finalised, I have concluded that consideration of construction duration in the assessment is consistent with relevant codes of practice and relevant guidance. Based on the Applicant's assumptions, I am also content that the reasonable worst-case noise and vibration effects during the construction phase have been identified. Furthermore, I am satisfied that it is not appropriate to secure noise and vibration limits; that the level of uncertainty in the assessment is appropriate; and that the secured measures, provide appropriate flexibility to respond to uncertainties, while not bringing into doubt the robustness of the assessment.

- 5.12.76. In relation to the comments raised with regards to hours of work, it is inevitable that, given the size and scale of the Proposed Development, construction activity will cause some disturbance to surrounding residents. Whilst limiting the working hours to keep this disturbance to a minimum, this has a subsequent knock-on effect of increasing the overall duration of the construction activities. In this instance, I am satisfied that the Applicant has found the right balance between ensuring that the development can be delivered, whilst minimising the potential for significant effects, along with appropriate mechanisms for consulting on and notifying works outside of these hours.
- 5.12.77. In terms of night-time works, I am content with the agreements reached between the Applicant and the relevant LAs to mitigate these works, including the measures secured for notification and, where necessary, prior approval. I am satisfied that Action G1 within the EMP [REP7-035] is sufficient to deliver this.
- 5.12.78. With regards to the comments received from local residents, in particular residents of BHE, I would agree that the presence of the construction compound and the proximity of construction activity, is likely to give rise to an element of noise and disturbance, albeit for a temporary period. As part of my ASI, I also observed the proposed location of the compound, the Proposed Development and its proximity to surrounding residential properties on the BHE.
- 5.12.79. The amendment made by the Applicant during the course of the Examination to Construction Compound 2 to be used only as a welfare compound with storage, is welcomed [REP7-017]. In this respect however, I note that before this change, the Applicant's assessment does not predict a significant effect on these properties [APP-050]. The change in activity should therefore help to reduce any disturbance further. Furthermore, I note the provision of additional mitigation, which would be secured via the rDCO 4 (Appendix D) and the EMP [REP7-035], in particular NV1 of the REAC, where these receptors are specifically identified. On this basis, I am therefore satisfied that the noise and disturbance from construction activity in proximity to BHE, including from Construction Compound 2, would be adequately managed so as not to adversely affect the living conditions of residents of these areas.
- 5.12.80. With regards to other receptors, the ES identifies that significant effects would occur, without mitigation at those closest to the construction works. However, with the use of acoustic barriers and noise monitoring at these locations, these effects would be reduced. I am content that appropriate mechanisms, through the EMP [REP7-035], in particular NV1 of the REAC, are in place to ensure the delivery of this mitigation. As a result, I am content that, the Applicant is proposing adequate mitigation to minimise the effect of construction noise on these properties.
- 5.12.81. A single residual effect would remain at Acorn Barn from construction noise, but only should the nearby works exceed the threshold set by the Applicant. Furthermore, there are a large number of receptors that could experience significant effects due to noise from night-time or weekend

works. The Applicant has committed to further consideration once detail regarding the scope and duration of these works have been defined. These effects weigh against the granting of the DCO, although given their temporary duration, they are of low weight.

- 5.12.82. For the operational phase, I am content that the road surfacing and noise barriers options have been considered appropriately and that the Applicant's resulting proposals for mitigation measures are reasonable and proportionate. Furthermore, the commitment from the Applicant to maintain the low noise surface for the lifetime of the Proposed Development is welcomed.
- 5.12.83. In relation to the submission from Honingham Aktieselskab and in particular the noise assessment prepared by Create Consulting, whilst I acknowledge that this shows the potential for significant effects to occur on areas of estate land, I note that this land does not include any noise-sensitive receptors, as defined in the guidance. As a result, I am content that the Create Consulting Report does not alter the Applicant's overall assessment and conclusions [APP-050].
- 5.12.84. With regards to the provision of a noise barrier in the vicinity of Hall Farm/Hall Cottages, I am content with the Applicant's justification [REP3-022] for its exclusion and consider that, given the limited noise attenuation it would deliver, a barrier would be neither a proportionate nor reasonable mitigation measure. In this respect, even with the provision of low-noise surfacing, a significant adverse effect is expected, although the noise levels are predicted to be below SOAEL [APP-050]. This weighs against the Proposed Development.
- 5.12.85. There is evidence of consultation with Merrywood House with regards to the impact of the proposal, in particular the re-routing of the National Grid pipeline. I am satisfied that mitigation options have been considered and these can be secured via NV1 of the REAC [EMP7-035] and are proportionate and reasonable. I also note the benefits identified by Merrywood House in relation to the reduction in noise that would occur from the closure of Berrys Lane and the benefits this would bring to their operation.
- 5.12.86. In my view, appropriate mitigation has been secured in the rDCO (Appendix D) and the EMP [REP7-035] to ensure delivery of the mitigation measures, as required by paragraphs 5.196 and 5.197 of the NPSNN. Noting comments made during the Examination, I am satisfied that the appropriate options for mitigation have been considered and that the secured mitigation measures are proportionate and reasonable, consistent with paragraph 5.198 of the NPSNN.
- 5.12.87. Noise issues in NIA have been considered with the LAs and no material effects on them have been found. One NIA is considered to benefit significantly from noise reduction. No tranquil areas have been identified. In those respects, I am content that the requirements of paragraph 5.200 of the NPSNN and paragraph 185 of the NPPF have been met.

- 5.12.88. I find that the significant beneficial reductions in operational traffic noise at a number of receptors, as a result of road users behaviour brought about by the Proposed Development and the expected reduction in traffic flows on the existing road network, weigh in favour of the DCO being made.
- 5.12.89. The Applicant has identified significant traffic noise effects, which, subject to the context of Government policy on sustainable development, NSPNN paragraph 5.195 notes as grounds for development consent not to be granted. Those effects are taken forward into my consideration of the case for making the DCO in Chapter 7. Otherwise, I am content that appropriate measures have been taken to avoid, mitigate and minimise adverse impacts and, where possible, to contribute to improvements.
- 5.12.90. Based on the above, I am satisfied that appropriate consideration has been given to relevant policy for the Proposed Development and that, subject to the provisions of the rDCO (Appendix D), the likely significant effects have been identified in respect to noise and vibration.

CONCLUSION

- 5.12.91. Taking all the above into account I conclude as follows:
- The Applicant's approach to noise and vibration assessment is acceptable and in line with the guidance provided within the NPSNN;
 - The Proposed Development would result in construction and operational noise and vibration effects that would result in significant adverse effects on a number of receptors;
 - The proposed embedded and other mitigation secured through R4 and the REAC would reduce and mitigate some of the significant effects and given the nature of the Proposed Development, some of these would be short term in duration;
 - The Proposed Development contributes to improvements to a number of receptors; and
 - Significant affects above SOAEL are minimised and effective mitigation is proposed such that the Proposed Development meets the aims and aspirations of the NPSNN.
- 5.12.92. I consider that the increase in noise and vibration levels has been considered, minimised and mitigated as much as possible. On this basis, whilst there are some outstanding significant adverse effects on a small number of properties, given the temporary duration, I conclude that this should be afforded limited negative weight in the overall planning balance.

5.13. HEALTH

INTRODUCTION

- 5.13.1. This section deals with the effects on human health. The consideration of effects on human health should be read in conjunction with Section 5.5 on air quality and Section 5.12 on noise and vibration.

- 5.13.2. The need for the development and its economic benefits are dealt with in Section 5.14.

POLICY AND LEGAL CONTEXT

NPSNN

- 5.13.3. The NPSNN 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).
- 5.13.4. Paragraph 4.80 of the NPSNN 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.
- 5.13.5. Paragraph 4.79 of the NPSNN advises that national road networks have the potential to affect the health, wellbeing and quality of life of the population. Direct impacts on health can arise because of traffic, noise, vibration, air quality and emissions, light pollution, community severance, dust, odour, polluting water, hazardous waste and pests.
- 5.13.6. New or enhanced national network infrastructure may also have indirect health impacts. This could be due to access to key public services, local transport, opportunities for cycling and walking or the use of open space for recreation and physical activity (para 4.80).
- 5.13.7. Where the proposal would have likely significant environmental impacts affecting human beings, the ES should identify and set out the assessment of any likely significant adverse health impacts (paragraph 4.81). Measures to avoid, reduce or compensate for adverse health impacts, including cumulative impacts, should also be identified (paragraph 4.82).

THE APPLICATION

Relevant parts of the application

- 5.13.8. The relevant parts of the application are:
- ES Chapter 12, Population and Human Health [APP-051]; and
 - ES Appendix 12.1, Population and Human Health Questionnaire Responses [APP-123].

Overall Approach

Baseline

- 5.13.9. The Applicant confirmed that the assessment [APP-051] has been undertaken in accordance with DMRB, LA 112 Population and human health and considers the effects on private property, community land and assets, future development, local businesses, agricultural land and WCH. An assessment of the impact of the Proposed Development on the health

of local populations has also been undertaken, based on information contained with other ES chapters.

- 5.13.10. In terms of the study area, for the assessment of impacts on land use and accessibility, in line with DMRB LA 112, the Applicant identified an area that extends 500m from the DCO boundary.
- 5.13.11. For human health the following communities were identified:
- Broadland District:
 - Great Witchingham,
 - Breckland District:
 - Upper Wensum and
 - Mattishall, and the
 - South Norfolk District:
 - Easton.
- 5.13.12. The assessment identified that there are a large number of residential properties located in the study area, primarily located in the villages of Hockering, Honingham and Easton. Along the route of the existing A47, there also a number of scattered properties, some with direct access onto the existing A47.
- 5.13.13. ONS data showed that within both Breckland and Broadland LA areas, the number of households are expected to increase by 16-25% by 2041. In the South Norfolk, the number of households is expected to increase by 25% by 2041.
- 5.13.14. Human health indicators showed that for 4 communities, the percentage of their populations with general health of bad or very bad was lower than the national average. However, the percentage of the population with limiting long term illnesses or disability for Upper Wensum and Mattishall was higher than the national average. In terms of income-deprived households, figures showed them to be lower than the national average in Great Witchingham and Easton, but higher than the national average in Upper Wensum.

Potential Impacts

- 5.13.15. The assessment concluded that during the construction of the Proposed Development there would likely be some negative effects on local communities and potentially their health from noise and dust and the visual impact of construction activities.
- 5.13.16. During operation, it is expected that there would be negative health outcomes related to noise for some sensitive receptors, however there will also be some positive health outcomes in terms of noise reduction and accessibility improvements for other receptors.

Design and mitigation

- 5.13.17. To minimise the effect upon human health, the Applicant would require measures to minimise noise, dust and visual effects to be put in place and would be secured through the EMP [REP7-035].

PLANNING ISSUES

- 5.13.18. I sought clarification at ExQ1 [PD-007] with regards to the data used in the assessment, the potential for further data to become available during the course of the Examination and the adequacy of the consultation with key stakeholders undertaken with regards to the issue of health.
- 5.13.19. In response, none of the LAs expressed any issues in relation to the Applicant's overall approach to the issue of health [REP2-016, REP2-018 REP2-023].
- 5.13.20. In response, the Applicant identified that the majority of bodies responded to their initial consultation [REP2-014]. At the time of undertaking the assessment, the Applicant considered that it could proceed with the outstanding responses and that, in their view, it did not limit the scope of the assessment [REP2-014]. In relation to the data used, the Applicant confirmed that whilst there was census data from 2021, this had yet to be published, therefore in their view, the assessment was based on the most up to date data available [REP2-014].
- 5.13.21. The matter of health issue was not specifically raised by any of the IPs in their RRs or WRs. Matters in relation to air quality, noise and vibration, have been addressed within the relevant chapters in this Report.

EXA CONSIDERATION

- 5.13.22. The Applicant's assessment [APP-051] found that there would be no significant effects on human health. The matter was not raised during the Examination and I see no reason to disagree with the Applicant's assessment.
- 5.13.23. In reaching this conclusion I note that the Applicant's findings on human health matters were not disputed by Public Health England⁶ or the Environmental Health departments of the relevant LAs. As such, I find that the Proposed Development would comply with paragraphs 4.79 to 4.81 of the NPSNN.
- 5.13.24. I consider that there are 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 WCH routes. These effects would be experienced particularly by the communities situated closest to the Proposed Development, but also by users of this part of the A47.

⁶ Now UK Health Security Agency and Office for Health Improvements and Disaprities

- 5.13.25. These effects would however be short term and they could be mitigated through the Construction Environmental Management Plan (CEMP) and the TMP.

CONCLUSION

- 5.13.26. In terms of the impact upon health related matters, the Proposed Development attracts neutral weight to be carried forward into the planning balance.

5.14. SOCIO-ECONOMIC

INTRODUCTION

- 5.14.1. This Section deals with social and economic effects of the Proposed Development. It considers effects, direct and indirect effects on businesses in the area and the effect upon existing agricultural land holdings.

POLICY AND LEGAL CONTEXT

NPSNN

- 5.14.2. The NPSNN 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).
- 5.14.3. 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.
- 5.14.4. Paragraph 2.13 of the NPSNN states that the SRN provides critical links between cities, joins up communities and connects other transport infrastructure. It provides a vital role in people's journeys, and drives prosperity by supporting new and existing development, encouraging trade and attracting investment. A well-functioning SRN is critical for safe and reliable journeys and the movement of goods in support of the national and regional economies.
- 5.14.5. Paragraph 2.16 advises that traffic congestion constrains the economy and impacts negatively on quality of life. It constrains existing economic activity, as well as economic growth, by increasing costs to businesses and damaging their competitiveness. Congestion can also lead to a marked deterioration in the experience of road users.
- 5.14.6. Nevertheless, the Government recognises that for development of the national road network to be sustainable, it should be designed to minimise social, as well as environmental impacts and improve quality of life (paragraph 3.2). Applicants are expected to avoid and mitigate social

impacts in line with the principles set out in the NPPF. They should also provide evidence that they have considered reasonable opportunities to deliver social benefits as part of schemes (paragraph 3.3).

THE APPLICATION

Relevant Parts of the Application

- ES Chapter 12, Population and Human Health [APP-051];
- ES Appendix 12.1, Population and Human Health Questionnaire Responses [APP-123]; and
- The Case for the Scheme [APP-140].

Overall Case

5.14.7. The Applicant confirmed that the assessment has been undertaken in accordance with DMRB, LA 112 Population and human health and considers the effects on future development and local businesses.

5.14.8. In terms of the study area, in line with DMRB LA 112, the Applicant identified an area that extends 500m from the DCO boundary.

Economic Effects

5.14.9. The Applicant has set out what it sees as the economic aspects of the assessment [APP-140]. These include the cost to construct the Proposed Development along with a consideration of the environmental aspects of the Proposed Development and seeks to quantify them by monetising them in a positive or negative manner. These are set out in Table 5.1 of Chapter 12 of the Case for the Scheme [APP-140].

5.14.10. The main economic benefits of the Proposed Development are seen by the Applicant relate to journey time reliability, travel time savings and road safety improvements. It considers that there would be environmental benefits, principally in air quality terms, but acknowledges that there would be 'negative costs' as a result of greenhouse gas emissions and increased traffic noise and greenhouse gases.

5.14.11. In terms of non-monetised benefits the Applicant considers the main benefit to be reliability based on a reduction in congestion.

5.14.12. The Assessment also considers that there will be value from wider economic impacts [APP-140]. The Applicant considers that businesses would be the main beneficiaries from the enhanced connectivity and congestion reductions.

Existing businesses

5.14.13. The ES identifies that there are a number of businesses within the study area. These are mainly located within the villages of Hockering, Honingham and Easton and include:

- Hockering Motor Services, Hockering;
- Kerrie Woollen Cakes, Hockering;
- Claxtons Home Improvements, Hockering;

- Mooney Demolition, Reclaimed Building Materials and Plant Hire, Hockering;
- Hulbert West financial advisors, Honingham;
- H Smith and Sons Construction Company, Honingham;
- Honingham Buck restaurant, Honingham;
- LS Sewing Services, Easton;
- Easton Guesthouse, Easton;
- The Salon hairdressers, Easton;
- Adams Automotive Engineering, Easton;
- Merrywood House Residential Care Home, Berrys Lane;
- Animal Warden Services, Low Road;
- Kimblewick Riding Centre, Low Road;
- Two Acre Boarding Kennels, Low Road;
- Riverside Farm Holidays apartment, Church Lane;
- GRRRoomers; and
- City Stove Installs Wood Burners Norwich.

5.14.14. With the closure of Low Road, Animal Warden Services, Kimblewick Riding Centre, and Two Acre Boarding Kennels would experience longer journey times. Access to Riverside Farm Holidays apartment rental would be permanently altered due to the stopping up of Church Lane. This would require longer journey times to access to the existing and proposed A47.

5.14.15. The journey length to access GRRRoomers and City Stove Installs Wood Burners Norwich would be reduced by the Proposed Development, as they can be accessed via a slip road from the Proposed Development and connect to the existing A47 via the proposed Norwich Road underbridge. Whilst the section of the existing A47 between Blind Lane and Easton will be severed as part of the Proposed Scheme, business in Easton would be able to access the Proposed Development from Dereham Road due to a new side road connection to the proposed Norwich Road junction using the existing A47.

5.14.16. With the closure of Berrys Lane, access to Merrywood House would be permanently altered by the Proposed Development. This would result in increased journey lengths to access the A47. A WCH path is provided along the north of Merrywood House connecting Berrys Lane to Dereham Road. This path would maintain direct walking and cycling connectivity for residents on Berrys Lane and Dereham Road.

Agricultural land and holdings with the Application site

5.14.17. The assessment identifies that for the purpose of the agricultural holdings assessment, agricultural holdings were defined as a single farming unit undertaking agricultural activities under the same management and as a result, agricultural holdings may comprise numerous land parcels, but all of which may be impacted by the Proposed Development. The assessment considers the effects of the Proposed Development on the agricultural holdings, not on individual land parcels. Land may be required for the Proposed Development from agricultural holdings temporarily, during the construction period, or permanently.

- 5.14.18. To inform the assessment, the Applicant sent questionnaires to 19 landowners and occupiers. Seven completed questionnaires were received. Response to the questionnaires were used to assess those holdings, with a high level assessment undertaken for those with no response.
- 5.14.19. The Applicant confirmed that the assessment was undertaken in accordance with DMRB LA 112. As well as using the scheme drawings, the assessment obtained data from the following sources:
- agri-environment scheme layers on MAGIC;
 - Google Earth;
 - DEFRA statistics pages; and
 - the Defra CAP payments website.
- 5.14.20. Of the agricultural holdings identified, the assessment classified four as having very high sensitivity. Of these, two require access to their main farmyard and grazing livestock areas on a daily basis, another is a grazing livestock enterprise and also requires daily access. The final one is pasture land and therefore likely to be used for grazing livestock, with access anticipated to be required daily.
- 5.14.21. The remaining holdings have been identified as being of high sensitivity due to a predominantly arable land use, which requires at least monthly access, but increased access during harvest and sowing. The assessment identified no farm infrastructure within the areas of holdings covered by the Order Limits.
- 5.14.22. Potential construction phase impacts were identified as the loss of agricultural soils (following the restoration of land required temporarily), severance, and the loss of, or disruption to, land, property, buildings, operational infrastructure and access. Other potential construction phase effects identified included the deposition of dust on sensitive crops, land uses or buildings; disruption to drainage, irrigation and water supply; unintentional pollution of soil and water courses; spread of injurious weeds and construction noise.
- 5.14.23. Potential operational phase effects were identified as a reduction in the net area of agricultural land; permanent severance; the permanent loss of, or effect on, farm property, buildings and structures, and the consequential effects on the land use and farm enterprise.
- 5.14.24. Proposed mitigation where agricultural land would be required for temporary works would involve the protection and replacement of soil resources following the construction phase to reinstate pre-existing agricultural capability. A SMP would be prepared and implemented by the contractor, and secured by the EMP [REP7-035]. Other measures to mitigate or reduce the effects upon agricultural holdings within the EMP include:
- arrangements for the maintenance of farm and field accesses affected by construction;

- protection and maintenance of livestock water supply systems, where reasonably practicable;
- protection of agricultural land adjacent to the construction site, including the provision and maintenance of stock-proof fencing;
- adoption of measures to control the deposition of dust on adjacent agricultural crops;
- control of invasive and non-native species and the prevention of the spread of weeds generally from the construction site to adjacent agricultural land;
- adoption of measures to prevent, insofar as reasonably practicable, the spread of soil-borne, tree, crop and animal diseases from the construction area; and
- liaison and advisory arrangements with affected landowners, occupiers and agents, as appropriate.

5.14.25. There are three agricultural holdings within the high level assessment where the impact of the Proposed Scheme may result in permanent significant adverse effects upon the viability of the holdings. These range from moderate adverse significant effects to a very large significant effect. The applicant concludes that this is due to permanent land-take of high quality, arable land.

5.14.26. The assessment concludes that a further seven holdings are particularly sensitive to construction works due to land-take and issues of access to key infrastructure, thereby resulting in significant adverse effects.

PLANNING ISSUES

5.14.27. In relation to agricultural business, I expressed concern [PD-007] that out of 19 questionnaires sent to agricultural land holdings, only seven responses had been received and queried what attempts had been made to obtain responses and what future actions were planned during the Examination.

5.14.28. In response [REP2-014], the Applicant confirmed that they had sought to follow up with non-responders prior to the submission of the application. During the course of the Examination, the Applicant highlighted that it intended on undertaking further consultation, but this would form part of any on-going land negotiations.

5.14.29. I sought clarification [PD-007] in relation to the extent to which the Proposed Development would provide local employment and training opportunities.

5.14.30. In response [REP2-014], the Applicant identified that the Principal Contractor (PC) would have contractual commitments to use local contractors where possible and develop recruitment through engagement with local colleges and labour supply chain partners. Further, the Applicant identified that its PC was already creating local employment with 55% of staff on the A47 programme being based in the region working from a new office in Norwich. Six new graduates were already employed on the programme.

- 5.14.31. Comments were submitted by a number of local farming enterprises [RR-011, RR-012, RR-013, REP1-018 and REP1-019]. Whilst they all raised matters that were specific to their particular farming operation or enterprise, there was a number of common themes to these concerns. Principally the main concerns related to the impact of the Proposed Development due to the closure of existing roads and junctions, in particular Blind Lane, Berrys Lane and the partial closure of Honingham Lane.
- 5.14.32. In their view, the presence of the Proposed Development would sever north-south routes and result in extended journey times, increased emissions, delays, additional noise and an increase in agricultural traffic through local villages. A number of IPs [RR-011, RR-012, RR-013, REP1-018 and REP1-019] suggested a number of alternative approaches, such as retention of Berrys Lane and the provision of controlled access points.
- 5.14.33. The owners of BHE, expressed concern that the Proposed Development would have a negative impact on a number of enterprises and activities which operate from the Estate. The proposed closure of Old Back Lane would impact upon the Estates Woodland activities, through the removal of HGV access to the estate for the removal of timber. The closure of Old Back Lane would also prohibit access to the Estate's northern woodland. Concern was also expressed with regards to the impact of the Proposed Development upon cattle grazed on the Estate, and in particular upon the holistic nature of this enterprise.
- 5.14.34. A further impact on BHE would also be from the location of the construction compound upon a tenanted area, used for housing livestock. In this respect, concern was also expressed about the loss of the existing silage clamp, and restricted access to the existing reservoir which provides water to the Estate. These comments were echoed in the response from the tenant farmer, Mr Chris Curson of TJ Curson & Partners [AS-012]. With the closure of Berrys Lane, BHE was also concerned that the seasonal Christmas tree business would suffer due to the loss of passing trade and reduced ability to advertise the business on the existing A47. Overall, BHE was of the view that the Applicant's assessment in respect of the impact on BHE in relation to these aspects was insufficient.
- 5.14.35. During the course of the Examination the Applicant confirmed that it had worked with BHE to seek to understand and mitigate the impact of the Proposed Development. As a result, the silage clamp was removed from the Order Limits and the use and operation of the construction compound was changed to be a welfare compound only [REP7-017].
- 5.14.36. By the end of the Examination, via the SoCG [REP10-002], a number of these matters had been agreed between BHE and the Applicant. Matters agreed included:
- Protection of reservoir, along with access to it, and northern woodland along Old Back Drive to be secured via Deed of Undertaking;

- Old Back Lane to be stopped up, but upon completion of construction, to be returned to the Estate, along with the provision of a turning area for agricultural vehicles; and
- Provision of new HGV route from Berry's Lane.

5.14.37. In response to the matters raised in relation to access to existing agricultural enterprises, the Applicant [REP3-022], provided further details in relation to the routes that would be available post construction. In their view, the Proposed Development, whilst potentially being longer, would provide a safer and more suitable highway network for the use of these enterprises. In relation to the retention of Berrys Lane, the Applicant considered that [REP3-022], due to the gradient required to provide access to the Wood Lane junction, this would increase land-take from BHE.

5.14.38. With regards to impacts during construction stage, the Applicant referred to the oTMP [APP-144], that would be secured by Requirement 10 of the DCO, which would ensure access to the existing operations would be retained throughout this stage.

EXA CONSIDERATIONS

5.14.39. One of the main issues with regards to the impact on existing agricultural businesses, was a concern with regards to severance and the impact this would have upon activities. As already identified, the surrounding area is predominately rural in character, with surrounding land use being agricultural. Both within and adjoining the Order Limits, there appear to be a number of farming enterprises that operate from land both to the north and south of the Proposed Development. As a consequence, there is a heavy reliance upon a number of the existing side roads and rural lanes to provide access between the various parcels of land.

5.14.40. The closure and/or diversion of a number of these roads would therefore have an adverse effect upon existing businesses and ultimately result in longer journey times for accessing these areas and associated subsequent effects. This would be a negative aspect of the proposal.

5.14.41. However, the Applicant submitted that the Proposed Development would deliver improved junction arrangements compared with the existing situation, where agricultural vehicles are often having to try and cross the busy and fast moving existing route. These improved arrangements either via Wood Lane or Norwich Road junctions, would provide more suitable and safer means of access to the local road network. Having visited the area and observed the surrounding network, I would concur with this view.

5.14.42. During the course of the Examination, the Applicant maintained a continual dialogue with affected businesses and, by the end, substantial progress had been made in agreeing alternative solutions. I welcome this positive approach taken by all parties. Examples of the changes made include retaining Honingham Road open to certain agricultural vehicles; increasing the height of Hall Farm underpass to allow

agricultural vehicles access; along with the provision of new and improved field entrances as part of the Proposed Development.

- 5.14.43. On balance, therefore, whilst the Proposed Development would result in some inconvenience to surrounding agricultural businesses and enterprises, I am content that the Applicant has sought to keep this to a minimum and as a result, whilst having a negative effect, this would be limited.
- 5.14.44. The Applicant has made a number of changes and amendments in response to the concerns of BHE. These have been either through changes to the Proposed Development, or are to be delivered via alternative private agreements. This is evidenced through BHE's final position statement [REP9-049] and the SoCG between the parties [REP10-002]. In this respect I am content that the effect of the Proposed Development on these aspects can be addressed.
- 5.14.45. In relation to the impact upon Berry Hall Christmas Tree Farm, there appears to be no agreement in place for how these effects would be mitigated. Whilst this business is only seasonal, from the evidence, it is clearly an important element of BHE. I have no reason to doubt that the business relies, in part, on passing trade, an element of which I agree will be due to the Proposed Development. That said, other element of the business that is not reliant upon passing trade would still remain. On this basis, whilst there would be some harm, I consider this to be low.
- 5.14.46. The Applicant has concluded that the Proposed Development would have an adverse effect upon three existing agricultural land holdings. I have no reason to disagree with this position, and this therefore weighs against the Proposed Development.
- 5.14.47. Post-construction, the Proposed Development would also 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.
- 5.14.48. At local level there would be some economic benefits during construction from local employment. 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.
- 5.14.49. I find no substantive evidence to suggest that the proposal would have a significant detrimental effect on public transport services during the construction or operational phases. Indeed, during the operational phase, the easing of congestion should improve the reliability of bus journeys passing through the junctions.

CONCLUSIONS

- 5.14.50. Whilst I conclude that the proposal would result in longer distances to be travelled to access a number of agricultural enterprises that operate either side of the Proposed Development, I consider that this harm is

outweighed by the benefit that the Proposed Development would deliver in terms of significantly improved junctions and road layout. I find no substantive evidence to support the case that the Proposed Development would significantly increase agricultural vehicles using roads through surrounding villages. This therefore weighs neutral in the planning balance.

- 5.14.51. The Proposed Development would have a significant adverse effect on three agricultural holdings. This weighs against the application and, given the permanent nature of this loss, carries moderate weight in the planning balance.
- 5.14.52. The loss of passing trade to BHE Christmas Tree business weighs against the proposal, although given the limited duration of this activity and, the fact that the business would continue to operate, I consider this harm to carry low weight.
- 5.14.53. The Proposed Development, through improved journey times and increased reliability, would support economic development, both locally and within the region and weighs highly in favour of the application.
- 5.14.54. Therefore, whilst the Proposed Development would result in some harm to local businesses, overall this is outweighed by the significant economic benefits that would be delivered. Given the overall aims of the Proposed Development, carries substantial positive weight in the planning balance.

5.15. LAND USE

INTRODUCTION

- 5.15.1. This section deals with the land use and considers the effect of the Proposed Development upon on PRoWs, severance, and WCH.

POLICY AND LEGAL CONTEXT

NPSNN

- 5.15.2. Paragraph 3.16 of the NPSNN advises that the Government is committed to sustainable travel and is investing in developing a high-quality cycling and walking environment to bring about a step change in cycling and walking. The national road network has a direct role in helping pedestrians and cyclists and *"the Government expects Applicants to use reasonable endeavours to address the needs of cyclists and pedestrians in the design of new schemes."*
- 5.15.3. Applicants should also *"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"* (paragraph 3.17).
- 5.15.4. Furthermore, all reasonable opportunities to deliver improvements in accessibility on, and to, the existing national road network should be

taken wherever appropriate (paragraph 3.20). Paragraph 3.21 reminds applicants of their duty to promote equality and to consider the needs of disabled people as part of their normal practice.

- 5.15.5. 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).
- 5.15.6. With regard to PRow, National Trails, and other rights of access to land, paragraph 5.184 recognises their importance as recreational facilities for walkers, cyclists and equestrians. Applicants are expected to take appropriate mitigation measures to address adverse effects on these facilities and, where appropriate, to consider what opportunities there may be to improve access. It goes on to advise that revisions to an existing right of way need to consider the use, character, attractiveness and convenience of the right of way. The SoS should consider whether the mitigation measures put forward by the applicant are acceptable and whether they should be secured by requirements attached to any grant of development consent.
- 5.15.7. Paragraph 5.168 of the NPSNN states that applicants should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, Applicants should seek to use areas of poorer quality land in preference to that of a higher quality.

THE APPLICATION

Relevant Parts of the Application

- ES Chapter 12, Population and Human Health [APP-051]; and
- Rights of Way and Access Plans [REP8-004].

Overall Case

- 5.15.8. The Applicant confirmed that the assessment has been undertaken in accordance with DMRB, LA 112 Population and human health and considers the effects on private property, community land and assets, future development, local businesses, agricultural land and WCH.
- 5.15.9. In terms of the study area, for the assessment of impacts on land use and accessibility, in line with DMRB LA 112, the Applicant identified an area that extends 500m from the DCO boundary.

Community land and assets

- 5.15.10. The majority of community assets are located in the villages of Hockering, Honingham and Easton. In summary the assessment identified the following community assets:
- Hockering - St Michael's Church, Hockering Church of England Primary Academy, Hockering Village Hall, Victoria Inn public house, Hockering Nursery and Hockering Post Office and shop;

- Honingham - Village Hall, children's play area, Honingham Buck public house and St Paul's Chapel of Ease; and
- Easton - St Peter's Church, Diocese of Norwich Church of England, allotment gardens, the village hall and Easton Post Office.

5.15.11. Outside of these villages other identified assets include:

- Merrywood House Residential Care, Berrys Lane; and
- St Andrew's Church, located east of Honingham and north of the A47.

5.15.12. In terms of areas of open land, the following were identified:

- St Peter's Church has an area of consecrated land, located adjacent to the east of the church, although the area is not currently being used as a burial ground;
- Poppy's Wood located adjacent to the north of the existing A47, adjacent to western extents of the Proposed Development; and
- Hockering playing field located to the north of the existing A47, to the north east of Hockering.

WCH

5.15.13. To inform the assessment and to provide an indication of current usage of the PRoW and permissive routes directly affected by the Proposed Development, surveys were undertaken at nine locations on and in the vicinity of the existing alignment of the A47. These locations were:

- Low Road / A47 / The Street;
- Mattishall Lane / A47 / The Street;
- A47 / PRoW Hockering Footpath FP7;
- Church Lane / A47 / Sandy Lane;
- Berrys Lane / A47 / Wood Lane;
- A47 / PRoW Honingham RB1;
- A47 / St Andrew's Church;
- Taverham Road / A47 / Blind Lane;
- A47 / Church Lane / Footpath; and
- A47 / Ringland Lane / Dog Lane.

5.15.14. The surveys were carried out using CCTV video camera, between 7am and 7pm for a period 14 consecutive days running from Monday 13 July to Sunday 26 July 2020.

5.15.15. Following consultation with NCC, it was identified that three PRoW would be affected by the Proposed Scheme. These were:

- Hockering FP12 - to be closed as part of the Proposed Development, although it does not provide a connection to other routes;
- Hockering FP7 - route would be severed as part of the Proposed Development, with alternative routes being provided but would likely result in some users having to walk an increased distance (estimated to be 1km); and
- Honingham RB1 - to be diverted as part of the Proposed Development.

Potential Impacts

Construction

5.15.16. Prior to mitigation, the assessment anticipated the following temporary impacts on land use:

- Temporary land-take from private properties, community land and community assets;
- Temporary changes to severance and accessibility to private properties, community land, community assets and businesses;
- Temporary diversions or stopping up of WCH routes; and
- Increased construction traffic on the existing A47 and local roads leading to a temporary disruption as a result of road closures and traffic management measures.

5.15.17. Prior to mitigation, the assessment anticipated the following permanent impacts on land use:

- Permanent land-take from private properties, community land and community assets;
- Permanent change to access for private properties, in particular those on Low Road, Mattishall Lane, Church Lane (East Tuddenham), Berrys Lane, Blind Lane, Dereham Road (Honingham) and Church Lane (Easton);
- Permanent change to access areas to assets along the existing A47;
- Permanent severance of Low Road, Church Lane (East Tuddenham), Hockering FP7, Mattishall Lane, Mill Lane, Gypsy Lane, Hall Farm access track, Berrys Lane and Blind Lane; and
- Permanent stopping up of PRow Hockering FP12 and the permanent stopping up and diversion of a short section of Hockering FP8.

Operation

5.15.18. Prior to mitigation, the assessment anticipated the following impacts on land use;

- Permanent changes to severance for private properties, community assets;
- Permanent changes to severance for WCH Effects on changes in traffic noise and vibration on communities and residential receptors;
- Changes in access (by foot, cycle or car) to public transport; community assets and green space, parks and countryside
- Changes in community severance;
- Perception of the Proposed Development, including psychosocial effects from concerns about changes in the environment;
- Secondary impacts from consequential developments;
- Reduced accident rates and severity on the Proposed Development;
- Increased accessibility (reduced car journey times using new road) to key employment locations, with potential for improved employment opportunities; and
- Increased accessibility (reduced walking and cycling journey times between communities using the shared use path).

Design, mitigation and enhancement

5.15.19. The EMP [REP7-035] includes a range of measures to reduce impacts on land use during the construction phase. The TMP [APP-144] includes measures to reduce the effects of construction activities on WCH and the living conditions of nearby occupiers. Based upon the assessment the Applicant proposed the following measures be included in the EMP [REP7-035]:

- Traffic management measures put in place as part of the construction stage to ensure disruption is minimised on those travelling between communities and those travelling to facilities and businesses;
- Ensuring appropriate communications with local residents by means such as internet sites, newsletters, newspapers and radio announcements;
- Appointment of Community Relations Manager who would be responsible for leading engagement with affected communities, along with dedicated webpage and Customer Contact Centre;
- Where a closure of a WCH route is required, safe and appropriate alternative routes would be provided to ensure access is maintained during construction. The PC would agree all temporary diversion routes with the LA. Appropriate signage for all closures or diversions would be used to provide sufficient notice of such closures or diversions; and
- Limiting construction working hours and vehicle movements and routes.

5.15.20. The Proposed Development includes the provision of new sections of footway/ cycleways. These are:

- A new combined footway/cycleway along the new side road between Sandy Lane (to the east of Hockering) and the proposed Wood Lane roundabout.
- A new combined footway/cycleway between the Wood Lane roundabout and Honingham that would, in part, form the diversion route for PRoW Honingham RB1.
- A new combined footway/cycleway on the northern frontage of downgraded A47 at Honingham, between the realigned Dereham Road in the west and the existing Honingham roundabout in the east.
- A new combined footway/cycleway on the new alignment of Dereham Road to provide a connection to the proposed upgraded Honingham FP3, which would become a bridleway.
- Honingham FP3 upgraded to bridleway status and diverted onto an improved track alongside the existing footpath alignment and suitable for cyclists to use. This improvement would allow a link between Berrys Lane and Wood Lane via Dereham Road, the Hall Lane underpass and associated WCH facilities.
- A new combined footway/cycleway to the east of Honingham between the Honingham roundabout and St Andrew's Church. This proposed facility would pass beneath the new A47 alignment (Honingham Church underpass) on a traffic free route and replace the existing provision that would be removed as part of the Proposed Scheme.

- Improvement of the existing footway between St Andrew's Church and Taverham Road to provide a combined footway/cycleway along the existing A47 alignment to be downgraded.
- A new combined footway/cycleway to the north of the new A47 alignment between Taverham Road and Ringland Road.
- A new overbridge (Easton footbridge) suitable for pedestrians and cyclists between Dereham Road and Church Lane at Easton to replace the at-grade crossings of the A47 at the existing Easton roundabout and at Ringland Lane/Dog Lane that would be removed.

Summary of likely effects

5.15.21. The Applicant identified the following likely effects:

- An increases in journey length for properties such as Berry Hall Cottages, private properties on Church Lane, Rotten Row, Ringland Road and Dog Lane, and Hillcrest Cottage - Moderate adverse significant effect;
- Permanent land-take from a small area of consecrated land owned by St Peter's Church in Easton - Moderate adverse significant effect; and
- For those travelling by vehicle to access community services using the Proposed Development, benefits would be experienced in terms of journey time savings and safety for road users.

5.15.22. For WCH the following were identified:

- Honingham RB1 - due to the stopping up and diversion of a section of the route, journey length would increase - Moderate adverse significant effect;
- Hockering FP7 - its severance of would have a major impact on users during the construction period. Once completed, users would experience an increased journey length - Moderate adverse significant effect; and
- Ringland Lane / Dog Lane crossing - closure of the uncontrolled crossing would result in an increase journey length - Moderate adverse significant effect.

5.15.23. The Assessment also identifies slight beneficial effects to pedestrians and cyclists travelling along the new footway and cycleways, lower traffic levels and slower speeds on the existing A47 and the provision of safe crossing points at Mattishall Lane Link Road (underbridge), to the east of Honingham roundabout (underpass) and the proposed footbridge at Easton.

PLANNING ISSUES

5.15.24. In relation to the Applicant's usage surveys, I questioned [PD-007] the timings of the surveys and in particular, whether the Applicant considered if the Covid pandemic had had any impact upon the results.

5.15.25. In my ExQ1 [PD-007], I sought further clarification in relation to the Applicant's intended use of consecrated ground at St Peters' Church and whether this area had or was intended to be used for burials, prior to the acquisition of the land.

- 5.15.26. NCC in their LIR [REP2-022] expressed concerns with regards to the proposed arrangements for the diverted RB1, and in particular where it crosses the proposed NWL. NCC identified [REP2-022] that it was not their intention to provide a permanent crossing at this point once the NWL was completed. They were concerned that users would expect this to be retained in the future.
- 5.15.27. NCC also expressed a concern over the lack of a crossing facility, either by an underpass or an overbridge in the immediate vicinity of Hockering FP7 [REP2-022]. As a result, they expressed concern that the Proposed Development will create a highways maintainable short, potentially inaccessible, cul-de-sac PRow between the current and new A47. They considered this to be a missed opportunity to provide another WCH overbridge [REP2-022].
- 5.15.28. NCC previously noted that the PRows Hockering FP8, Hockering FP7 and East Tuddenham FP9 comprise part of a circular walk either side of the River Tud. They consider that this circular walk was well used by the local community [REP2-022].
- 5.15.29. In response to my ExQ1[PD-007] in relation to survey data, NCC expressed the view that one 14 week period of data collection is limited and did not take into account seasonal variations [REP2-040]. NCC were also of the view that the current A47 forms a barrier to north-south pedestrian and cycle movements [REP2-022].
- 5.15.30. A number of IPs raised concerns with regards to the impact of the Proposed Development on existing footpaths and cycle routes. Both Mr James Brown [RR-044] and Mr Richard Hawker [RR-071] were concerned about the impact upon footpaths along the Tud Valley. Mr Richard Hawker [RR-071] was also concerned that a number of the proposed cycle routes were compromised, with longer diversion routes. Mr Anthony Meynell of BHE expressed similar issues in relation to Wood Lane junction and the length of deviation that would be required to avoid cycling through the junction [REP4-044]. Mr Richard Hawker also expressed concern that routes would be severed by the Proposed Development [RR-071]. Mr Meynell [REP3-045] also suggested an alternative route from Berrys Lane to the new Dereham Link.
- 5.15.31. Comments were also received from Norwich Cycling Campaign [REP2-038], although a substantial element of these submissions related to the timing of the Examination in relation to the NWL and past consultation and liaison with stakeholders. The comments did highlight a number of areas where they considered the Applicant's assessment to be deficient, in particular in relation to the study area and features and connections to the other cycle networks and transport interchanges. A number of policy documents were also considered to have been omitted from the Applicant's assessment.
- 5.15.32. Honingham Aktieselskab [REP1-019], raised a concern with regards to the re-routing of RB1, in particular the use of a shared track. For safety reasons they considered the route should be separate from farm traffic.

- 5.15.33. The Applicant, in response to comments about the surveys [REP2-014], highlighted that the surveys were undertaken between 13 July and 26 July, inclusive, during a period of dry and bright weather. In relation to the timing of surveys and the Covid 19 Pandemic, the Applicant highlighted [REP2-014] that they were undertaken at a time when the advice was to undertake exercise in your local area. In the view of the Applicant [REP2-014] this, if anything, meant that the WCH activity recorded by the surveys may be slightly higher than would normally have been expected. In the Applicant's view [REP2-014], the use of potentially inflated WCH usage figures will have resulted in a robust assessment of the effects of the Scheme on WCH.
- 5.15.34. The Applicant confirmed that a WCH assessment was undertaken in line with DMRB standards [REP3-022], the aim of which was not just to mitigate the impacts of the Proposed Development but also allow for opportunities to enhance the networks in the area. This was then refined through consultation with stakeholders and liaison groups. In essence, the Proposed Development [REP3-022] will provide a continuous east-west route through the corridor, making use of existing facilities, existing local roads, new cycle track facilities and shared use facilities. The Proposed Development will also provide separated crossing facilities at locations where there are currently only at-grade facilities [REP3-022].
- 5.15.35. To address severance, the Applicant confirmed [REP3-022] that the Proposed Development will introduce four sets of separated crossing facilities to facilitate north-south movement. The Applicant further acknowledged [REP3-022] that one shared use facility would be lost (Dog Lane/Ringland Lane), but that a direct replacement would be provided (9Easton Footbridge).
- 5.15.36. The Applicant also added that the Scheme would provide in excess of 6 kilometres of shared use cycle track and byway. There will also be over a kilometre of new restricted byway as well as the upgrade of approximately 300 metres of existing footway/bridleway to facilitate its use for cyclists [REP3-022].
- 5.15.37. In response to NCC [REP1-013], the Applicant was of the view that the results of the WCH surveys do not support the usage suggested by NCC. With the Proposed Development in place, the Applicant considered [REP1-013] that residents of Hockering will have improved access to the circular walk, albeit that they will need to access the footpaths on either side of the River Tud via the shared use cycle tracks to be provided adjacent to the section of the existing A47 and the new Mattishall Lane Link Road. Use of the cycle tracks to access the circular walk will be no less convenient for the residents of Hockering. The underbridge provided as part of the Mattishall Lane Link Road will facilitate the safe segregated crossing of the new A47 [REP1-013].
- 5.15.38. The Applicant acknowledges [REP1-013] that for some users of FP7 to undertake a trip between Hockering and East Tuddenham, they will experience an increase in journey length (in excess of 500 metres) as a result of the Proposed Development. However, the WCH surveys have

indicated that the number of users undertaking such a trip is likely to be very low and any such trips will likely be for recreational purposes.

- 5.15.39. Therefore, the Applicant does not consider it justifies the third-party land take, environmental impacts and construction and maintenance costs to provide an additional crossing facility (e.g., WCH overbridge) to accommodate Hockering FP7 [REP1-013] as suggested by NCC [REP2-022].
- 5.15.40. A direct replacement will be provided for the existing combined footway/cycleway linking Main Road and The Street (on the north side of the existing A47), which will be lost. However, in combination, with new lengths of cycleway these new facilities will maintain connectivity between Main Road and The Street for pedestrians and cyclists [REP1-013]. The Applicant considered that the very low usage of Church Lane by pedestrians and cyclists as shown by the WCH surveys is not sufficient to justify the construction and maintenance costs associated with providing an additional WCH underpass at this location [REP1-013].
- 5.15.41. The Applicant confirmed that the existing crossing point at Dog Lane/Ringland Lane, does not comply with current design standards or provide accessibility for all users due to steps down both embankments to the at grade crossing [REP1-013]. Due to the need to achieve the required vertical clearance to the A47 dual carriageway with the alignment and constraints of the existing embankment and residential properties on the south side, the Applicant confirmed [REP1-013] that it was not feasible to provide an overbridge at the location of the existing route.
- 5.15.42. In response to the comments from Honingham Aktieselskab [REP3-022], the Applicant confirmed that, in discussions, it had been agreed that any provision of hedging and fencing to separate users of the byway from farm traffic and general access to the Easton Estate could be addressed specifically through the land agreement between the Applicant and Easton Estates.
- 5.15.43. In response to the submission from Norwich Cycling Campaign [REP3-025], the Applicant clarified that the Proposed Development was not related to the NWL coming forward, but was working with NCC on how they would interact. In terms of the additional information, the Applicant consider that they were too far removed from the Order Limits for their inclusion within the assessment [REP3-025].
- 5.15.44. In response to the suggestion from BHE with regards to an enhanced footway to the south of Wood Lane junction, the SoCG identifies that the Applicant has agreed to review the design of the cycleway as part of the detailed design [REP10-002]. If agreed, this would be progressed via the Deed of Undertaking.
- 5.15.45. In relation to the use of consecrated ground, the Applicant confirmed [REP2-014], that no burials had taken place prior to the submission of

the DCO, and that discussions were on-going with the Diocese to ensure none take place prior to acquisition.

EXA CONSIDERATIONS

- 5.15.46. I have had regard to the policies set out in the NPSNN in my consideration of the impacts of the Proposed Development in relation to land use.
- 5.15.47. In terms of the overall provision of WCH, the Proposal would provide a substantial increase in the amount of public footpaths available to users. The provision of the Easton Footbridge, whilst being located away from the existing crossing point, represents a substantial improvement in safety when compared with the current at grade crossing. This is a benefit of the Proposed Development.
- 5.15.48. The provision of Mattishall Lane, Hall Farm and Honingham underpasses, would provide improved north-south links and would offer a viable and attractive alternative route to pedestrians and cyclists. Whilst there is some severance of footpaths in this location, overall, the level and quality of provision would be an improvement on the existing arrangements. This is a benefit of the proposal and weighs in favour of the Proposed Development.
- 5.15.49. In terms of the effect upon the network of footpaths along the River Tud (FP7 and 8), I consider that construction activities would have an adverse effect upon this area and therefore the enjoyment of users of these footpaths. This harm would however be limited in duration. Mitigation planting would, once established, minimise the effect of the Proposed Development upon users of these routes.
- 5.15.50. There would be instances where some journeys would be longer. However evidence indicates that the vast majority of the uses of surrounding footpaths in this rural location are for recreational purposes. Therefore, whilst some longer journeys may result due to re-aligned and/or diverted routes, I see no compelling evidence to disagree with the Applicant that this harm would not be significant and that the mitigation proposed is adequate.
- 5.15.51. Notwithstanding the temporary adverse effects identified above, overall, I find that the Proposed Development addresses the needs of WCH during the construction and operational phases.

CONCLUSIONS

- 5.15.52. During the construction stage, the Proposed Development, due to the proximity of construction activities, would have an adverse effect upon the users of footpaths along the River Tud around Hockering. Notwithstanding this harm, given its limited duration, this carries low weight in the planning balance.
- 5.15.53. The Proposed Development, would deliver improvements, both in terms of provision and quality, for WCH users. Whilst, in some instances, there

would be longer journey times, this harm would be outweighed by the overall improvements to the network. This weighs in favour of the application, and given the overall aims of the Proposed Development, carries moderate weight in the planning balance.

5.16. TRAFFIC AND TRANSPORT

INTRODUCTION

- 5.16.1. This section considers the effect of the Proposed Development on transport networks and traffic, including public transport.
- 5.16.2. Section 5.15 considers effects on WCH; PRow; community severance. Noise and Air quality issues associated with traffic are covered in sections 5.12 and 5.2 respectively. Carbon emissions are covered in section 5.7.
- 5.16.3. Alternative design options are addressed in Section 5.3.

POLICY AND LEGAL CONTEXT

NPSNN

- 5.16.4. The NPSNN 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.
- 5.16.5. Paragraphs 2.2, 2.3, 2.4 and 2.6 identify an overarching need for development of the SRN to address existing congestion points and the forecast rise in road traffic of 30% from 2014 to 2030, and to facilitate economic growth.
- 5.16.6. Paragraphs 2.12 to 2.14 highlight the importance of the SRN for providing links between cities, communities and other transport modes and for supporting national and regional economies.
- 5.16.7. Paragraph 2.23 identifies policy support for enhancements to the SRN to meet the underlying growth in demand, including improvements to trunk roads and junction improvements.
- 5.16.8. Paragraph 2.24 highlights that policy favours schemes that tackle specific issues rather than simply meeting unconstrained traffic growth.
- 5.16.9. 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).

- 5.16.10. Paragraph 3.17 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 and retrofitting the latest solutions.
- 5.16.11. 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 WCHs. The NPSNN 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).
- 5.16.12. Paragraph 5.215 of the NPSNN states that mitigation measures should be proportionate, reasonable and focussed on promoting sustainable development.
- 5.16.13. The NPSNN 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).
- 5.16.14. Paragraph 4.64 of the NPSNN 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."*
- 5.16.15. Paragraphs 4.31 and 4.32 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"*.
- 5.16.16. Paragraph 4.66 of the NPSNN 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."*

THE APPLICATION

Relevant parts of the application

5.16.17. The relevant parts of the application are:

- ES Chapter 2, The Proposed Scheme [AS-005];
- ES Chapter 3, Assessment of Alternatives [APP-042];
- ES Chapter 12, Population and Human Health [APP-051];
- ES Chapter 15, Cumulative Effects Assessment [REP6-030];
- ES Figures 2.1 to 2.3 [APP-056];
- ES Figures 12.1 to 12.4 [APP-077];
- ES Figure 15.1 [APP-080];
- Case for the Scheme [APP-140];
- Scheme Design Report [APP-142];
- Traffic Management Plan [APP-144]; and
- EMP [REP7-035].

Overall approach

Transport assessment

5.16.18. The Case for the Scheme [APP-140] sets out the transport issues related to the Proposed Development and the measures proposed to mitigate the anticipated impacts. A baseline traffic computer model, referred to as the NATS was developed by the Applicant.

5.16.19. The NATS model, was utilised for the PCF stage 3 preliminary design work and the Applicant confirmed during the Examination that it had been developed in line with the DfT's TAG. The model has two forecast years, 2025 and 2040, with 2 core scenarios, a Do Minimum (DM) and a Do Something (DS). The NATS model covers all strategic traffic movements across Norwich as well as the wider Breckland, Broadland and South Norfolk area. The Applicant extended that model to include a broader area of the SRN that might be affected and updated it with further data on traffic signals, traffic counts and anonymised data from survey vehicles and mobile phone records [APP-140].

5.16.20. To inform NATS, a range of traffic surveys were undertaken along the A47 and across the surrounding network in 2015, 2016 and 2019. The traffic surveys in 2015 and 2016 provided the input traffic flow data for the development of the base year strategic highway model [APP-140]. Whereas the 2019 provided more up to date information on the local network.

5.16.21. The Applicant submits that in their view, the updated NATS base year model demonstrates a good representation of traffic behaviour in the Proposed Development study area as well as Norwich and the surrounding wider area. Therefore, they are of the view that the model forms a robust basis for the future year forecast assessment of the Proposed Development [APP-140].

5.16.22. The base year and forecast years are listed as follows:

- 2015 Base Year;
- 2025 Opening Year; and
- 2040 Design Year (15 years after opening).

- 5.16.23. For both the future year scenarios, 2025 and 2040, a DM and DS network scenario was also modelled, with the comparison of the DM and DS scenarios providing the assessment of the schemes impacts in a given forecast year [APP-140].
- 5.16.24. In terms of current performance, the modelling analysis indicates that the existing A47 is operating above the desirable capacity of 85% during the AM and PM peaks [APP-140]. In addition, vehicles are experiencing on average around 0.5 to 2 minutes of delay when trying to access the A47 from minor side roads.
- 5.16.25. The modelling analysis indicates that forecast local and regional traffic growth will cause a significant increase in delays along the existing A47, along with impacting upon the local side road network [APP-140]. The Applicant's analysis of the base year model indicates that in 2015 traffic flows were approaching the reasonable capacity limitations of the road and that delays were present across the A47 corridor. The model analysis shows that strategic traffic growth [APP-140], as well as local traffic from the villages of Easton, Honingham and Hockering, will cause an increase in peak hour traffic flows of around 10% to 45% between Fox Lane and Wood Lane, resulting in increased delays across this section of the A47.
- 5.16.26. The assessment shows that the Proposed Development would provide substantial journey time savings for both eastbound and westbound traffic movements in both the AM and PM peaks. This is shown below in the extract from the Case for the Scheme [APP-140].

Table 3 Journey time savings

Direction	Scenario	2025			2040		
		AM	IP	PM	AM	IP	PM
A47 WB	2015 Base	10.9	9.4	10.7	10.9	9.4	10.7
	DM	10.9	9.6	11.8	12.7	10.6	14.2
	DS	6.2	6.2	6.4	6.5	6.3	6.6
	DS - DM	-4.7	-3.4	-5.5	-6.2	-4.3	-7.6
	DS - DM % difference	-43%	-35%	-47%	-49%	-41%	-54%
A47 EB	2015 Base	9.6	9.1	10.6	9.6	9.1	10.6
	DM	10.5	9.7	11.6	12	10.6	13.4
	DS	6	6	6.1	6.1	6	6.3
	DS - DM	-4.5	-3.7	-5.5	-5.9	-4.6	-7.2
	DS - DM % difference	-43%	-38%	-47%	-49%	-43%	-54%

- 5.16.27. In terms of operational traffic impacts on the highway network, the ARCADY modelling assessments show the Scheme is operating

successfully within 2040 forecast demand [APP-140]. The junction improvements provided by the Proposed Development generate benefits with respect to congestion relief as well as road safety.

- 5.16.28. In terms of road safety, the Applicant undertook an assessment using the DfT Cost and Benefit to Accidents – Light Touch (COBA-LT) software to calculate the impact of the Scheme, in terms of the number of accidents and the number of casualties, by comparing the DM and DS scenarios [APP-140]. In summary, the COBA-LT analysis demonstrates that the Scheme improves road safety by reducing the numbers of accidents and consequently the number of casualties. The Proposed Development improves safety along the A47 by providing upgraded dual carriageway alignment and improved grade separated junctions. In total, over a 60-year timeframe, the Applicant predicts that the Proposed Development will save a total of 291 accidents and 47 KSIs [APP-140].
- 5.16.29. The Applicant's assessment concludes that the Proposed Development fulfils its objectives by providing capacity, relieving congestion, improving journey times and supporting economic growth [APP-140]. The improvements in capacity will support development in the area and provide additional capacity to support strategic traffic growth across the A47 corridor linking Norwich to Peterborough.

Local Traffic Impacts

- 5.16.30. The existing A47 has 41 direct connections from existing side roads, farms, field and property accesses between North Tuddenham and Easton [APP-140]. To meet the objective of creating a more free-flowing and safe A47, the Proposed Development includes no direct connections to the dualled A47. Access will be solely via the junctions detailed in Section 4 above. As a result, the Applicant developed a side road network to create a parallel local link road network between North Tuddenham and Easton by utilising the existing A47 carriageway or constructing new single carriageway roads. Existing side roads severed by the proposed A47 dual carriageway would be connected to the new link roads and the existing local road network [APP-140].
- 5.16.31. The results of the NATs model indicate [APP-140] that the Proposed Development causes a relatively minor impact on traffic flows across the surrounding local network. In general terms, the main impacts are:
- increase in traffic on Sandy Lane, Wood Lane and Dereham Road in the range of 0-200 local road network two-way peak hour traffic flows (PCUs).
 - Increase in traffic along Norwich Road of around 200-230 PCUs.
 - Decrease in traffic flows along The Street (1 & 2), in Hockering by around 100-200 PCUs, due to traffic being diverted on to both the existing A47 single carriageway alignment, which is to be integrated into the local road network by the Scheme, and the Scheme's A47 dual carriageway section.
 - Decrease in traffic flows on Berrys Lane by around 350-400 PCUs, this is due to the closure of the road to through traffic movements.

Norwich Western link

- 5.16.32. The NWL proposes to provide a new 6.1km dual carriageway road between the western end of the A1270 Broadland Northway (formerly the Northern Distributor Road) and the A47, significantly improving connectivity between these two major roads. Travelling between Weston Longville and Ringland, it will link to the A47 at the new Wood Lane junction. The interaction of the Proposed Development with the NWL is outlined in the Scheme Design Report [APP-142].
- 5.16.33. In July 2019 NCC announced the preferred route for the NWL, with the estimated start of construction in late 2022 and estimated opening year in 2025 [APP-142]. The Applicant considers the NWL to be near certain and has therefore included it within both the DM and DS scenarios.
- 5.16.34. Through analysis of traffic modelling scenarios and engagement with the local liaison group, the concerns related to safety and disturbance from increased traffic passing through Ringland, via Honingham Lane and onto Taverham Road during the period between the Proposed Development opening and NWL opening were identified and explored. As an outcome of this process, the Applicant proposes to implement the temporary closure of Honingham Lane to through traffic, in the interim period between the A47 and NWL schemes opening. If the NWL scheme does not obtain planning consent, the Applicant would continue to engage with the local highway authority, NCC on the implementation of this proposal
- 5.16.35. In the DM scenario, the existing A47/Wood Lane/Berrys Lane staggered T-junction is assumed to be upgraded to an at-grade five arm roundabout with two circulatory lanes, connecting the A47 to the NWL [APP-140]. The applicant made this assumption in the absence of any layout plan from NCC for the junction connecting the existing single carriageway A47 to the proposed NWL for the DM scenario. Liaison with NCC, with respect to the development, modelling and appraisal of the Scheme has been on going throughout the development of the Scheme [APP-140].
- 5.16.36. Therefore, in recognition of the efficiency benefits to the UK Government finances and climate change objectives, the Proposed Development has incorporated the option to provide of a 50m stub to cater for the future inclusion of the NWL [APP-140]. However, the stub would only be created if the NWL obtained planning consent prior to the Proposed Development commencing the main construction works. The 50m stub would provide a suitable construction tie in section and connection point off the line of the junction radii, whilst ensuring that construction works are suitably back from live carriageway of Wood Lane junction's northern roundabout, minimising disruption to road users. In addition, it allows NWL construction vehicles to access their site via Wood Lane junction, but without the risk of queuing back onto the junction if queues form at the construction site entrance [APP-140].
- 5.16.37. Without the provision of the NWL, modelling predicts greater volumes of traffic travel along the A47 from Honingham towards Norwich City Centre [APP-140]. The provision of the NWL provides an alternative route

between the A47 and the A1067. Without the inclusion of the NWL vehicles travelling to or from the north west are forced to travel between the A47 and the A140 via the lower capacity Dereham Road.

PLANNING ISSUES

5.16.38. Transport networks and traffic issues considered during the Examination included:

- Baseline conditions, assessment methodology and traffic model;
- Construction impacts;
- Effect of operational traffic and proposed road closures, including;
 - Berrys Lane;
 - Taverham Road/Weston Road; and
 - Weston Longville
- Relationship with NWL, including design of Wood Lane Junction
- public transport.

Baseline conditions, assessment methodology and traffic model.

5.16.39. None of the LAs, or NCC as local highway authority raised any issues or concerns with regards to the Applicant's baseline, assessment methodology or the traffic model. In relation to the traffic modelling, this formed part of the SoCG with NCC [REP9-019].

5.16.40. A number of IPs raised questions about the Applicants traffic model. Mr Richard Hawker [REP1-037] questioned why the Applicant had used a 2015 model, yet the latest work undertaken on the NWL was working on a 2019 model. He sought clarification as to why this updated data had not been used. Similar issues were raised by Mr Adrian Holmes [RR-001] and Mr Mark Kenney [RR-020]. Comments were also made by a number of IPs, (including Lesley Grahame [RR-052], Nick Bishop-Clarke [RR-058], Anne Robinson [RR-005], Dr Andrew Boswell [RR-018], Deepak Rugani [RR-026], Dr Larch Maxey [RR-027], Emma Tristram [RR-032], Joe McCarney [RR-047], Mireielle Hearld [RR-055], Hannah Hoechner [RR-037], Hanne Lenne Schierff [RR-038], NNFoE [RR-063], Robert Palgarve [RR-073], Christine Way [RR-017], CEPP [RR-018], Gil Murray [RR-034] and Jamie Osborn [RR-045] that the 2019 modelling showed a 30% lower level of vehicle kilometres within the scheme area.

5.16.41. Dr Andrew Boswell, on behalf of CEPP [RR-018] questioned the data, assumptions and projections in the traffic and economic modelling, considering that they did not take account of the impact of the Covid 19 pandemic on travel patterns and road capacity needs. Mr Richard Hawker also expressed concerns [REP1-037] with regards to the baseline figures and in particular the impact that the Covid Pandemic may have had upon private vehicle use.

5.16.42. With regards to the traffic modelling baselines, Dr Andrew Boswell [RR-018] considered them to assume the NWL is already built, which was incorrect. With regards to the scenarios, he considered that the DM

traffic model should assess current situation. He also considered that sensitivity testing was required.

- 5.16.43. Mr Richard Hawker [REP1-037] provided figures he had gathered from a single count he undertook at Norwich Road Roundabout. In his view, in order to validate the predictions for the future, especially when considering the impact of the NWL, he considered that origin-and destination data and comprehensive turning counts at junction were required. At ISH3 [EV-039], Mr Hawker also raised questions about the validation and calibration of the NATS model, along with raising a number of questions in relation to the results of the various models and access to a complete and consistent data set. [REP5-017].
- 5.16.44. Norwich Green Party Group of City and County Councillors [REP1-035] expressed similar concerns in relation to the validity of the survey results and in particular permanent changes to working patterns and behaviour that have resulted from the Covid pandemic. Their view was that the likely future traffic growth, time savings and economic benefits have been overestimated by the Applicant and that, as a result the scheme was over-designed.
- 5.16.45. In response to the comments concerning the relationship between the Proposed Development and the NWL in terms of modelling data [REP4-015], the Applicant replied that the Proposed Development had been in development for a long period of time, with the NWL coming along after the Proposed Development had commenced. As part of the NWL scheme development, DfT asked the NWL team to develop the updated 2019 NATS model [REP4-015]. This model is not yet approved by DfT, but the Applicant has taken all steps possible to ensure that the survey data is validated [REP4-015], has been updated and that the two models coincide, Agreement on the models forms part of the SoCG between the Applicant and NCC.
- 5.16.46. The Applicant confirmed that the comparison indicates that there is a difference of 3.3% AADTs between the two models [REP4-015]. The Applicant considered that the difference to be broadly in line with the expected traffic growth over a 4 year period. In the view of the Applicant, this showed a good level of consistency between the models, and demonstrated that the Covid pandemic had no substantive impact upon the data.
- 5.16.47. In relation to the 30% issue, the Applicant considered that this arose from the use in the 2019 model of a different combination of road network links [REP1-013].
- 5.16.48. In relation to the surveys, the Applicant confirmed [REP3-022] that the traffic modelling assessment comprised a large data set of observations, over a wide area, with ATC surveys extending over a two-week period. Individual traffic surveys, especially those collected manually, can be subject to day-to-day variation, individual counting errors or other data collection issues. By considering a wider range of data over multiple days and months, the Applicant's position was that this minimises the impact

of bias on the data set as a whole and produces a robust basis for the assessment [REP3-022].

- 5.16.49. In response to validation [REP7-017], the Applicant referred to the NPSNN, which sets out the tests against which to assess transport schemes. The traffic model has been validated and agreed with the Local Highway Authority (NCC) and confirmed in the SoCG [REP9-019]. The modelling undertaken by the Applicant was reviewed by the independent Transport Planning Group (TPG) who are part of the Safety, Engineering & Standards (SES) governance team within NH. In addition, this has been reviewed and assessed by the NWL project team and the NCC traffic team.
- 5.16.50. In response to Mr Richard Hawker, the Applicant confirmed [REP6-023] that the Case for the Scheme [APP-140] details the baseline data collection that informed the modelling assessment. This includes traffic counts, network and vehicle journey times. This information is used in the modelling process to calibrate and validate the base model, which then provides a stable basis from which to undertake the future year assessments. As such, the Applicant does not consider it necessary to release the collected traffic data.

Construction impacts

- 5.16.51. In my ExQ1 [PD-007] I sought clarification with regards to the preparation of the TMP [APP-144] and its overall delivery.
- 5.16.52. In response [REP2-014], the Applicant clarified that the production of the TMP is to be secured by Requirement 10 of the dDCO. It would be the responsibility of the supply chain partners as the project develops. It would form one of the measures to be applied to deliver the commitment under Action G4 in the REAC [REP7-035], secured by Requirement 4 of the dDCO.

Operational traffic and permanent road closures

- 5.16.53. The operational impact of the Proposed Development attracted a considerable amount of comment and concern from IPs in RR, WR and subsequent submissions. Impact of the scheme upon the surrounding road network, featured heavily at both ISH2 and ISH3. The general comments raised by IPs included:
- General concern about an increased traffic across the whole route;
 - Increase traffic on Taverham Road, which stems from closure of Ringland Road and the traffic using Weston Road as an alternative, all of which are unsuitable volumes of additional traffic (Alexander Barrett [RR-003], Mr Mark Kenny [RR-020] and Honingham PC [RR-042]);
 - The increased use of Colton Road which is inappropriate due to it being a narrow, single width country lane (Heather Brennecke [RR-039]);

- Significant increase in traffic through the village of Honingham, Weston Longville (Honingham Parish Council [RR-042] and Weston Longville Parish Council [RR-083]);
- Concern about access to Lower Easton (Mr Adrian Rutterford [RR-002]);
- Loss of direct connection between St Andrews church and Honingham Village (Mr David Hooker [RR-021]);
- Removal of Easton Roundabout would close one of the existing routes across Wensum Valley, however flows are already heavily congested and can only be resolved by NWL, but this is being delivered separately from Proposed Development (Stop Wensum Link [RR-025]).
- Closure of roads, including Church Road/Berrys Lane/Blind Lane/loss of link between Honingham and Easton/loss of Easton Roundabout.
- Impact upon Longwater Interchange (NCC [RR-061]).

5.16.54. Weston Longville Parish Council (WLPC) made a number of submissions throughout the course of the Examination and made presentations at both ISH2 and ISH3. In essence, their main concern related to the potential for the Proposed Development to increase traffic through the Village, which already experiences high levels at certain times of the day. The main concerns stemmed from potential issues around the NWL and implications on the Village should it be delayed, or not delivered. They considered that the mitigation proposed by the Applicant to be vague. They therefore sought specific references within the DCO to ensure that measurable and legally binding mitigation measures are put in place to reduce the volume of traffic passing through Weston Longville if NWL is delayed or does not go ahead. At ISH3 [EV-039] and in their subsequent submission [REP7-034], WLPC also requested the inclusion of words within the SoCG between the Applicant and NCC, to recognise the possibility that the NWL may fail to be delivered.

5.16.55. With regards to the potential for additional traffic through Honingham, the Applicant disagreed with this suggestion [REP1-013]. In response, the Applicant considered that it had worked with Honingham Parish Council throughout the scheme development to ensure that the proposals did not lead to increased traffic through the Village [REP1-013]. As a result, the Proposed Development includes a number of features aimed at reducing traffic, such as chicanes on the west side of the village at Dereham Road and at the east side towards Honingham roundabout. Additionally, the Applicant has proposed to reduce Dereham Road to a 30mph speed restriction [REP1-013].

5.16.56. In response to comments from WLPC about traffic through Weston Longville and, those raised by IPs in relation to an increase in traffic along Taverham Road/Weston Road, the Applicant provided a detailed response [REP4-015] and provided the following breakdown of the modelling results:

Table 4 Taverham Road**Scenario / AADT Summary:**

AADT	Base 2015	DN 2025	DS0 2025	DS1 2025	DS2 2025
Network Assumption					
A47 TUD	No	No	Yes	Yes	Yes
NWL	No	No	Yes	No	No
Honingham Lane at Ringland Village	Open	Open	Open	Closed	Open
1: Honingham Lane	600	900	200	0	2600
2: Taverham Rd	600	900	200	1,300	2600
3: Wood Lane	2,500	3,000	2,300	5,400	4,800
4: Honingham Rd at Weston Green (North of Weston Green Rd)	2,300	2,300	0	4,100	3,800
5: Honingham Rd near Weston Longfield (North of Rectory Rd)	2,900	4,300	0	4,100	3,800
6: Weston Hall Rd	3,400	4,100	2,800	3,100	3,200
7: Church Lane	3,900	4,300	-	-	-

** In the DS0, DS1, DS2 scenarios "-" denotes Church Lane as closed.*

- 5.16.57. In relation to Weston Longville, the view of the Applicant was that the data showed that in the DS0 Scenario, strategic traffic is removed from Weston Longville.
- 5.16.58. With regards to traffic on Taverham Road, the DS0 Scenario with the A47 and NWL schemes open, demonstrates that the strategic traffic is reduced to 200AADT.
- 5.16.59. In terms of the traffic issues identified by WLPC, the Applicant confirmed [REP4-015] that NCC are aware of the issue at Weston Longville and have a pre-standing requirement from their Norfolk Distributor Road DCO [REP7-017]. The NWL scheme is NCC's solution to address the north – south traffic issues.
- 5.16.60. The Applicant also confirmed [REP4-015], that between the opening of the Proposed Development and the NWL, a Temporary Traffic Regulation Order (TTRO) would be introduced to prohibit through traffic on Honingham Lane. The Applicant submitted that [REP4-015] the figures reproduced above show that if Honingham Lane were to remain open without the NWL being operational, traffic flows would increase from the DN scenario of 900 to 2,600 AADT. In the view of the Applicant, this supported the need for a the TTRO mitigation at Honingham Lane from the closure of Church Lane until the opening of the NWL.
- 5.16.61. The Applicant produced a technical note (REP1-014) to demonstrate that there were no significant impacts on the traffic flows at the Longwater Junction as a result of the Applicants proposals. This matter was agreed with NCC [REP9-019].

Relationship with NWL, including design of Wood Lane Junction

- 5.16.62. The relationship of the Proposed Development with the NWL was one of the most referred to issues during the Examination. It was raised by a large number of the IPs in their RRs and WRs (including BHE [RR-075]

and WLPC [RR-083] and was the focus for discussions at both ISH2 [EV-022] and ISH3 [EV-039]. It was also raised by attendees at the OFH [EV-008]. The comments received raised the following issues:

- The Applicant's modelling wrongly assumes that the NWL has been built;
- The 50m stub shown of the Wood Lane junction should be excluded from the DCO and only provided once the NWL has approval;
- The inclusion of the 50m stub means that the NWL is now a fait accompli;
- Inadequate consideration has been given to the traffic implication on surrounding roads and through nearby villages should the NWL be delayed, or not developed;
- Based on current timescales, the Proposed Development would be in operation before the NWL. The proposals put forward by the Applicant to address this are inadequate and would result in significant traffic using local roads as rat runs, harming surrounding villages. Traffic control measures should be put in place to ensure local villages are safeguarded from increased traffic;
- If the NWL is not delivered, the Wood Lane junction would be overdesigned and larger than required, a smaller junction, without NWL would result in less land-take;
- Given the issues highlighted in relation to the presence of protected species along the route of the NWL, there must be serious doubts as to the delivery of the NWL;
- A decision on the Proposed Development should be delayed until issues in relation to the NWL are clearer, thereby allowing a more coherent approach to be delivered;
- Potential construction overlap issues;
- Overall Wood lane junction strategy is flawed as it does not provide a seamless, uninterrupted traffic flow onto and off the NWL; and– WLPC
- NWL and DCO should be reviewed as a single project.

5.16.63. NCC as promotor of the NWL [RR-069] confirmed that they were fully supportive of the A47 scheme and welcomed the inclusion of a link to the NWL. They sought clarification however in relation to the proposed WCH route. In relation to the matter of delay, they confirmed [RR-069] that they had been working with the Applicant to identify appropriate arrangements for local communities (in particular Weston Longville) should delivery of the NWL scheme be delayed.

5.16.64. The Applicant confirmed that for the majority of assessments, the baseline does not include the NWL [REP1-013], it is only those assessments that require the use of the traffic modelling data which have with or without the NWL within their baseline scenarios. In accordance with DfT TAG guidance, the NWL was included within the uncertainty log as near certain or more likely, therefore it is included in the core scenario.

5.16.65. The Applicant confirmed that the scheme is not dependent on the NWL [REP9-037] and, if the DCO is made, would still proceed without the NWL coming forward. However, the Applicant confirmed that work is ongoing

with NCC to understand how the two schemes would interact and engages with the NWL project team on a regular basis with regards to design and survey data [REP1-013].

- 5.16.66. The Applicant referred to SAR [APP-024], which confirmed that if the Proposed Development was built without the NWL, a junction would still be required to connect the A47 to the Wood Lane, which is the assigned LHA heavy goods vehicle route and provide access for Hockering and parishes north and south of the road.
- 5.16.67. In their submission at D6 [REP6-023], NCC confirmed, as part of improvements to divert HGVs away from the villages of Weston Longville and Hockering, Wood Lane was designated as the main HGV route linking the A47 with the A1067. In their view [REP6-023], it is important that the proposed junction provides this connection.
- 5.16.68. To enable the preparation of the DM scenario with the NWL in place, due to the lack of detail at the time around the NWL, the Applicant confirmed that it made an assumption on what that layout would be [APP-140]. The Applicant considered this to be appropriate and sensible given the guidance and the objectives of the Proposed Development.
- 5.16.69. In terms of its justification for the inclusion of the NWL stub within the Proposed Development, the Applicant submitted [APP-021] that whilst not a DCO project, the NWL was a major infrastructure project and would be a significant and necessary element of the road network. In this respect, the Applicant referred to the DCLG Guidance on Associated Development for DCOs (April 2013) [APP-021], which states at paragraph 5(iv) that a degree of overcapacity may be included as associated development for a DCO *"if that associated infrastructure provides capacity that is likely to be required for another proposed major infrastructure project"*.
- 5.16.70. To address the interim period between the A47 opening and the NWL opening, the Applicant is proposing a range of mitigation measures, to be secured through an agreement with the Applicant and NCC. The Applicant confirmed [REP4-013] that following the appointment of a contractor for the delivery of the NWL, there was now a dialogue in place between parties to establish the construction methodology and phasing to ensure that a cohesive approach is developed that will have the least impact on the local area.

Other highway related issues

- 5.16.71. Mr Richard Hawker [RR-071 and REP1-037] considered that the number of roundabouts would put buses on these routes at a disadvantage when compared with the private car. North Tuddenham Parish Council [RR-062] raised the possibility of providing a local bus to Norwich from Dereham.
- 5.16.72. In response [REP4-015], the Applicant notes that existing bus services in the local area are poor, with the A47 not an attractive route for buses due to congestion and issues around exiting and entering the strategic

road. With regards to evidence, the Applicant confirmed that this was raised verbally during the Statutory Consultation Events and also in writing during the Statutory Consultation period [APP-024]. In their view, the strategic route will open up the opportunity for buses to use it, however the Applicant is unable to promote a bus route as part of the Proposed Development, this would be the responsibility of NCC.

- 5.16.73. Overall, the Applicant considered [REP4-015] that the Proposed Development itself is not expected to have any significant impacts on public transport accessibility, this was therefore scoped out of the assessment.

Provision of road side services

- 5.16.74. In their submission, A L Alston & Sons Ltd [RR-009], suggested that there was potential for the inclusion of a road side service area on land to the east of Wood Lane Junction. Given the links between the NWL and Wood Lane, this was considered to be a strategic location for such facilities. Mr Alston acknowledged in his submissions [RR-009] that the area was currently proposed for as a wildlife enhancement area, but considered that suitable alternative provision was available on land he owned, to the east of the Proposed Scheme.
- 5.16.75. In response [REP1-013], the Applicant commented that the proposed service area is not supported by the relevant LA and was not promoted by them. No planning permission is in place or has been sought for the proposed use and no detailed information or substantive evidence was presented to the examination to demonstrate how this area would be developed or what the impact of such a development would be. Further, it was confirmed that parts of the replacement land would fall outside of the current Order Limits [REP1-013]. The Applicant made no changes to the DCO in this respect.
- 5.16.76. I am clear in my role that I cannot recommend adding additional development to the DCO, therefore on that basis I have not considered the matter further.

Access to Food Enterprise Park

- 5.16.77. In relation to the access to the FEP, a planning application has been lodged for the provision of such an access. Whilst not specifically part of the DCO, the relevant parties kept me updated on the progress of the application throughout the course of the examination. By the time the Examination closed, the application remained undetermined. To my mind it seems eminently sensible for the access to be provided at the same time as the Proposed Development, however I am content with the submission of the Applicant that this is the responsibility of the FEP to deliver and does not form part of the DCO [REP1-013]. In this respect, I am content that the matter is left to be considered via the ongoing planning application and on that basis, I have not considered the matter further.

Junction sizes

- 5.16.78. Mr Bryan Robinson at D1 [REP1-065] raised a question with regards to the junction sizes, in particular given that the NH scheme along the A47 at Blofield was using smaller junction. In his view, this indicated that those on the Proposed Development are over designed.
- 5.16.79. In response [REP3-022], the Applicant confirmed that the design of the proposed grade separated junctions is based on the scheme design year (2040) traffic flows. It takes into account local user traffic movements, future traffic growth, future developments and provides safe access to and from the SRN in a form consistent with junctions on this section of the A47 corridor.

EXA CONSIDERATIONS

- 5.16.80. I have had regard to the policies set out in the NPSNN in my consideration of the transport networks and traffic impacts of the Proposed Development. As required by paragraph 5.211 of the NPSNN, I have also given consideration to local transport policies and local plans.
- 5.16.81. I am satisfied that the Proposed Development would deliver improvements to the SRN in the context of the projected national growth in traffic levels and support the delivery of a national network to meet the country's long-term transport needs. It would tackle specific problems of traffic congestion, unreliable journey times and highway safety issues on the existing A47, rather than simply meeting unconstrained traffic growth. In this respect, the Proposed Development is therefore consistent with the requirements of paragraph 2.24 of the NPSNN.
- 5.16.82. NCC, as the LHA, and LPAs confirmed via their LIRs [REP2-017 and REP2-022] and in their responses to my written questions [REP2-016, REP2-018, REP2-023 and REP2-040] that the Applicant has consulted with them on the assessment of transport impacts, and in the preparation of the associated traffic model. In this respect, the Proposed Development is in accordance with paragraph 5.204 of the NPSNN.
- 5.16.83. Despite issues raised by a number of IPs, there is clear evidence that the Applicant [REP4-015] has taken account of local models, consistent with paragraph 5.212 of the NPSNN. In this regard, whilst I acknowledge the different dates of the models for the Proposed Development and the NWL, no issues were raised by NCC or the LPAs in this regard. Furthermore, I am satisfied with the approach taken by the Applicant with regards to further testing of the NATS model in response to the different dates and the Covid pandemic, along with the level of verification it has been subjected to.
- 5.16.84. I find no evidence of any material conflict between the Proposed Development and the LTPs. Indeed, in Section 4.5, I conclude that improvements to the network are supported by both relevant LTPs.

- 5.16.85. I have no reason to doubt that the consideration of baseline conditions, surveys and the study area are not appropriate for the purposes of the assessment. I am satisfied with the Applicant's response [REP3-022] to the submission of Mr Richard Hawker and agree that a single day survey is not of sufficient detail to bring into question the Applicant's identified baseline.
- 5.16.86. I am satisfied that the traffic modelling, consideration of traffic flows, delays, congestion and associated mitigation for the construction and operational phases are appropriate for the consideration of environmental effects, noise and vibration, air quality, climate change, safety and social and economic issues.
- 5.16.87. I am content that cumulative effects are included by default as other development projects, the scope of which had been agreed with the LHAs, have been included in the traffic forecasts used in the assessments. I deal with specific issues raised in relation to the delivery of the NWL below.
- 5.16.88. In my view, appropriate mitigation has been secured in the rDCO (Appendix D); the EMP [REP7-035] and the TMP [APP-144], consistent with paragraph 5.215 of the NPSNN. I also consider that the mitigation measures are proportionate.
- 5.16.89. Some impacts are anticipated to the surrounding network during the construction phase. However, the evidence suggests that this is unlikely to be significant. Noting the comments made in relation to construction traffic, along with the provisions for the further development of the EMP and TMP by the Applicant during the detailed design phase in liaison with stakeholders, I am satisfied that measures outlined provide appropriate mitigation for construction traffic and temporary closures and diversions with respect to users. As a result, I am satisfied that appropriate mitigation would be identified during the detailed design phase as part of traffic management planning.
- 5.16.90. I am satisfied that, during the operational phase, the Proposed Development would be likely to significantly reduce journey times and release capacity across the wider network. There is clear evidence that there is currently a highway safety issue along the existing A47. The Proposed Development would address this and, at the same time, deliver improvements to highway safety for future users.
- 5.16.91. I accept the submission of the Applicant that the Proposed Development is not linked to the delivery of the NWL and I see no reason to disagree with this position. I do however share the concerns from a number of IPs in relation to the overall relationship with the NWL.
- 5.16.92. With regards to the inclusion of a 50m stub as part of the NWL, I am content that the effects of this have been fully assessed as part of the Proposed Development.
- 5.16.93. I can understand why its inclusion could be regarded by a number of IPs as indicating that the NWL is now bound to be delivered, however I see

no grounds for these concerns. Its delivery will need to go through due process and the necessary permission and consents obtained. The inclusion of the stub in no way prejudices this process. Furthermore, given the importance of the link between the NWL and the Proposed Development, I am content with the justification provided by the Applicant for its inclusion. However, given the lack of certainty over the delivery of the NWL, I have attributed the inclusion of the stub no weight in the planning balance.

- 5.16.94. I acknowledge that there is a large degree of uncertainty with regards to the delivery of the NWL, despite the position of the Applicant during the Examination. There is no planning permission in place for the scheme and, from the issues raised at the Examination, there are a number of substantial issues that will need to be resolved. In this respect, I consider the delivery position may have been underplayed by the Applicant. However, notwithstanding this, the position of NCC as the promoter of the NWL [RR-069 and REP1-034] is that the scheme is progressing.
- 5.16.95. During the examination, I pushed the Applicant to clarify and firm up on their interim proposals for mitigating the impact upon the surrounding road network and villages until the NWL is in place. Whilst progress was made during the Examination to identify the required mitigation, it became clear to me that it was not possible to confirm and detail all measures that would be put in place, principally due to the uncertainty of what the exact impact would be. For the surrounding villages, in particular those such as Weston Longville, I agree that the lack of clear mitigation is a concern.
- 5.16.96. That said, I appreciate that the NWL is an NCC scheme and therefore substantial elements of the mitigation for its non-delivery would fall to NCC to resolve. I also recognise that the identification of specific mitigation measures is difficult at this stage, along with the commitment from the Applicant to continually liaise with NCC and WLPC to ensure suitable measures are delivered. I also accept the evidence provided by the Applicant in relation to the traffic levels along side roads as a result of the Proposed Development. Overall therefore, on balance, whilst I acknowledge the views of the IPs in relation to the NWL, I am satisfied with the approach taken by the Applicant and that the mitigation proposed is appropriate.
- 5.16.97. In terms of the side road strategy, I acknowledge that this will result in increased journey times, in particular around Honingham and access to St Andrew's Church, due to the closure of a number of local roads. However, I agree with the Applicant in this regards that these changes, whilst being potentially inconvenient for some residents, are not significant. Furthermore, I am content with the justification for these closures and the highways safety benefits that they would deliver.
- 5.16.98. In terms of Wood Lane junction, I am satisfied with the Applicant's design approach as presented in the DCO. I agree with the Applicant that, given the evidence and information available at the time of

preparing the DCO, the sensible approach was to account for the NWL, rather than trying to retrospectively fit the design at a later date.

- 5.16.99. Given the identification of Wood Lane as NCC's HGV route between the A47 and A1067, I agree with the Applicant that, should the NWL not be delivered or significantly delayed, then the Wood Lane junction would be required to accommodate a substantial amount and a different type of traffic from the Norwich Road Roundabout. It would appear from the Applicant's submissions that the Wood Lane junction would be suitable for this purpose, should the NWL be delayed or not delivered. This position is supported by submissions from NCC.
- 5.16.100. In this regard, I am clear in my role that I cannot recommend adding to the DCO scheme that has been sought. Thus, in my opinion the only option would be to recommend rejection of the DCO as a whole were I to be persuaded that the proposed effects of the Wood Lane junction and the consequences for those living around or close to it would be unacceptable. In this respect and in highway terms, therefore, whilst I acknowledge that there may well be other design solutions available to deliver the junction, I am not convinced that any are better, either from a transport perspective or an environmental viewpoint than that proposed within the DCO.
- 5.16.101. I am also satisfied with regards to the different design approach taken by the Applicant to junctions on other proposals being brought forward by the Applicant along the A47. Whilst they may be different, I see no justification as to why this would, or should impact on the design of the Proposed Development.
- 5.16.102. In terms of traffic through Weston Longville, I agree with WLPC that there is clearly an issue with traffic through the Village, which I observed as part of my USI2. The modelling from the Applicant shows that in all their modelled scenarios, there is no significant increase in traffic through the Village as a result of the scheme. This includes a scenario where the NWL is not delivered, but Honingham Lane is closed, thereby restricting access. However, the Applicant is clear in their submissions, that whilst there is an issue with traffic through Weston Longville, with the Proposed Development in place this will not be made worse, even if the NWL is not provided for. On the basis of the evidence before me, I have no reason to disagree with this position. It is however clear that the development of the NWL will be required to satisfy the same tests. It will therefore be for NCC to show this to be the case and, if not, to bring forward the necessary mitigation.
- 5.16.103. In relation to Taverham Road, which is predominately a single track lane with passing places, the Applicant's modelling shows, with the scheme in place and the NWL, there would be a reduction in traffic along this route. In the interim between the opening of the Proposed Development and the NWL, the scenarios show that without the NWL, traffic flows would increase from 900 under the DN scenario to around 2600 AADT. However with the temporary closure until the NWL is operational, through a TTRO of Honingham Lane, this shows an increase from the DN

to 1300. Once the NWL is in place, numbers are predicted to fall from the DN to 200. On this basis, I am satisfied that Taverham Road will not be significantly impacted by the Proposed Development.

CONCLUSION

- 5.16.104. Taking all relevant documents and policies into account, I conclude as follows:
- The Proposed Development would deliver improvements to the SRN in the context of the projected national growth in traffic levels;
 - The Proposed Development would support the delivery of a national network to meet the country's long-term transport needs;
 - The Proposed Development would meet its traffic and transport objectives, and provide substantial benefits for those using the Proposed Development through less congestion and improved reliability;
 - The Proposed Development would deliver improvements to highway safety for future users;
 - Appropriate mitigation is in place to address impacts during construction; and
 - The Proposed Development would not result in unacceptable impacts upon local side roads.
- 5.16.105. In advance of the development of the NWL, or in the event of its delay, I am satisfied with the measures proposed by the Applicant, in conjunction with NCC. I am also satisfied that there is sufficient provision for further measures to be brought forward if necessary.
- 5.16.106. Overall, these weigh in favour of the Proposed Development and, given its stated aims, weigh substantially in favour of the development in the planning balance.

5.17. WATER ENVIRONMENT

INTRODUCTION

- 5.17.1. 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 flood risk off-site;
 - result in adverse effects on the water quality and resources.

POLICY AND LEGAL CONTEXT

NPSNN

- 5.17.2. The NPSNN recognises that the planning and pollution control systems are separate but complementary (paragraph 4.49) and that decisions taken under the PA2008 should not duplicate those made under the pollution control regime. The ExA and SoST should work on the assumption that the relevant pollution control regime will be properly applied and enforced (paragraph 4.50). A similar approach should be

taken in respect of land drainage and flood defence controls (paragraph 4.51).

- 5.17.3. Paragraph 5.222 advises that, where feasible, projects such as road widening should take opportunities to improve the quality of existing discharges where these are identified and shown to contribute towards WFD commitments.
- 5.17.4. Paragraph 5.223 sets out the requirements for ESs in relation to water quality. These include describing the existing quality of waters affected and the impacts of the proposal on water resources. Any impacts on water bodies or protected areas under the WFD and source protection zones (SPZs) around potable groundwater abstractions and any cumulative effects should also be described. Regard should also be had to River Basin Management Plans (paragraph 5.226).
- 5.17.5. The ExA and the SoST should consider proposals to mitigate adverse effects on the water environment and whether appropriate requirements should be attached to any development consent and/or planning obligations (paragraph 5.227). The Proposed Development should also *"adhere to any National Standards for sustainable drainage systems (SuDs). The National SuDs Standards will introduce a hierarchical approach to drainage design that promotes the most sustainable approach but recognises feasibility, and use of conventional drainage systems as part of a sustainable solution for any given site given its constraints"* (paragraph 5.230).
- 5.17.6. Paragraph 5.91 of the NPSNN advises that the NPPF *"makes clear that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. But where development is necessary, it should be made safe without increasing flood risk elsewhere."* It goes on to note that the supporting guidance explains that *"essential transport infrastructure (including mass evacuation routes), which has to cross the area at risk, is permissible in areas of high flood risk, subject to the requirements of the Exception Test."*
- 5.17.7. Paragraph 5.92 requires Flood Risk Assessments (FRA) to be submitted with applications in Flood Zones (FZs) 2 and 3 as well as in FZ1 in certain circumstances, including projects of 1ha or more.
- 5.17.8. FRAs should identify and assess the risks of all forms of flooding to and from the project and demonstrate how these flood risks will be managed, taking climate change into account (paragraph 5.93). Where flood risk is a factor, the SoST should be satisfied that the application is supported by an appropriate FRA and that the Sequential Test and, if required, the Exception Test have been properly applied. Paragraphs 5.105 to 5.109 explain the operation of the Sequential and Exception tests. The application of the tests is set out in greater detail in the NPPG.
- 5.17.9. Paragraph 5.100 advises that, for construction work which has drainage implications, approval for the project's drainage system will form part of

any development consent issued. The SoST will need to be satisfied that the proposal complies with any National Standards published by Ministers under Paragraph 5(1) of Schedule 3 to the Flood and Water Management Act 2010. Furthermore, the DCO will need to make provision for the adoption and maintenance of any SuDs by the most appropriate body.

- 5.17.10. Paragraph 5.102 states that reasonable steps should be taken to avoid, limit and reduce the risk of flooding to the proposed infrastructure and others. However, the nature of linear infrastructure means that there will be cases where upgrades are made to existing infrastructure in an area at risk of flooding. Paragraph 5.104 goes on to advise that reasonable mitigation measures should be made to ensure that the infrastructure remains functional in the event of predicted flooding.
- 5.17.11. The management of flood risk may include the use of SuDs but could also include vegetation to help to slow runoff, hold back peak flows and make landscapes more able to absorb the impact of severe weather events (paragraph 5.110). SuDs can cover a range of techniques and features (paragraph 5.111).
- 5.17.12. Paragraph 5.113 advises that the proposed surface water drainage arrangements should ensure 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.

The Framework

- 5.17.13. The Framework sets out various planning policies to meet the challenge of climate change and flooding in paragraphs 152 to 173. This provides detail on the Sequential and Exception Tests as does the Flood risk and coastal change section of the PPG.

THE APPLICATION

Relevant parts of the application

- 5.17.14. The relevant parts of the application are:
- ES Chapter 13, Road Drainage and Water Environment [APP-052];
 - ES Appendix 13.1, FRA [APP-124 and APP-125];
 - ES Appendix 13.2, Drainage Strategy Report [APP-126 and APP-127];
 - ES Appendix 13.3, Water Quality Assessment [APP-128];
 - ES Appendix 13.4, Groundwater Assessment [APP-129];
 - ES Appendix 13.5, Geomorphological Assessment [APP-130];and
 - ES Figures 13.1 to 13.8 [APP-078 and APP-079].

Overall Approach

- 5.17.15. The Applicant confirmed that the proposed methodology follows DMRB LA 113 for assessing the significance of effects of proposed road schemes on the road drainage and the water environment. The FRA [APP-124 and APP-125] has been undertaken in accordance with the requirements of the NPPF and the EA's climate change allowances (Environment Agency,

2020a). The Applicant has undertaken a detailed hydrological and hydraulic assessment.

Flood Risk

- 5.17.16. 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 Flood Risk

- 5.17.17. Most of the Order Limits are on land at low fluvial flood risk, however, there are two locations, the bridge over the River Tud and land to the south east of Hockering, where the Proposed Development crosses an ordinary watercourse and overlaps FZ3. The Applicant's hydraulic model assesses the impacts.
- 5.17.18. Modelling showed that the abutments of the proposed bridge are the only part of the Proposed Development which overlap the 100-year flood extent (FZ3), with soffit of the bridge being above the design 100-year (plus 65% climate change) water level. The abutments would intercept and funnel floodwaters back into the channel resulting in an increase in water levels along the River Tud. However, the assessment found that the increase in water levels upstream of the existing A47 would be negligible and that no sensitive receptors were predicted to be affected. Compensatory storage is proposed along the western bank, upstream of the River Tud Crossing.

Oak Farm ordinary watercourse

- 5.17.19. As a result of a new local access road crossing the Oak Farm watercourse, a new culvert is required. The existing culvert for the existing A47 would also be extended and the channel upstream realigned. Baseline modelling indicates that the Proposed Development overlaps floodwater which accumulates upstream of the existing A47, and flooding is predicted downstream. An orifice will be added at the new culvert inlet to throttle flows and a bund constructed to retain floodwater. The design increases water levels upstream of the bund as floodwater is displaced. This results in increased flood depths on arable land to the north, although no sensitive receptors are affected.

Hockering Ordinary Watercourse

- 5.17.20. As part of the Proposed Scheme a section of the Hockering watercourse would be culverted. However, as this would not result in any increase in flood risk to others, the Applicant does not consider that compensatory flood storage is necessary.

Other sources of flood risk

- 5.17.21. The Proposed Development is located beyond the tidal limit of the River Wensum and no tidal flooding is predicted.

- 5.17.22. The Applicant undertook a review of available information including the Breckland Strategic Flood Risk Assessment (2017) (BSFRA) and found no evidence of flooding from sewer or water main infrastructure failure having affected the proposed route. Furthermore, the risk of reservoir failure is considered to be very low.
- 5.17.23. The assessment identifies that most of the Proposed Development is at low risk of surface water flooding. Earthwork drainage and interceptor drains or 'dry culverts' are included as part of the design to mitigate this.
- 5.17.24. The Proposed Development would increase the total area of impermeable surfaces which could, without mitigation, increase the rate and volume of runoff discharged from the Proposed Development to its surroundings. The proposed drainage strategy includes SuDS features to capture and attenuate runoff using a series of drainage basins or wetlands, as well as hydrobrakes. This will ensure that runoff from the Proposed Development matches current greenfield rates.

Sequential and Exception tests

- 5.17.25. Given that part of the Proposed Development falls within FZ3, the Applicant undertook Sequential and Exception tests.
- 5.17.26. In terms of the Sequential Test, the Applicant submits that as part of the route selection process, several options were reviewed. The preferred route being considered to have the least impact on flood risk and the water environment, thereby meeting the requirements of the Sequential Test.
- 5.17.27. In relation to the Exception Test, this is required where development cannot be avoided in FZ3. This asks that any FRA be undertaken to demonstrate that the project is safe for its lifetime, does not increase flood risk elsewhere, and if possible, reduces flood risk overall. If there is an issue, then the wider sustainability of the development must outweigh the flood risk.
- 5.17.28. The Applicant identifies that the Proposed Development is classified as 'essential infrastructure' and that, in their view, the sustainability benefits of the Scheme outweigh the negligible flood risk impacts. The Proposed Scheme also includes several mitigation measures which will ensure that the design is safe for its lifetime and will not detrimentally impact flood risk to others. As a result, the Applicant submits that it passes the Exceptions Test.

Drainage Strategy

- 5.17.29. The Drainage Strategy identifies that all road drainage will drain via surface water outfalls discharging to the River Tud and its tributaries [APP-126 and APP127]. It will discharge from 12 locations, of which 9 would be new. Prior to discharging, the runoff from the new outfalls will discharge to surface water via filter drains and vegetated detention basins or wetlands. Filter drains would also be provided on the identified

catchment where it ties into the existing drainage and the subsequent outfall lies outside of the DCO boundary.

- 5.17.30. The Applicant proposes that two of the detention basins, at Gypsy Lane, south-east of Hockering, and south of the River Tud crossing, shall be developed as wetland features. These features will provide additional pollution treatment and biodiversity enhancement. The remaining detention basins are to be vegetated with suitable local species to provide biodiversity and further water quality enhancements. These measures will mitigate against impacts to WFD physicochemical, biological and from specific pollutants. The enhancement measures would also reduce phosphate and nitrate input into the watercourses.
- 5.17.31. Due to the increase in areas of hard standing and alteration of ground elevations due to re-profiling, the Applicant has identified that this would result in an increase in peak flow rates and volumes discharging to the River Tud and its tributaries. This increase in surface water runoff will be attenuated using wetlands, vegetated detention basins or oversized pipes.
- 5.17.32. The Applicant states that the proposed drainage system would be designed to ensure that there would be no (or negligible) increase in runoff rates from the site up to the 1 in 100-year storm event including a 40% climate change allowance [APP-126 and APP-127]. The Applicant also confirms that no carriageway flooding will occur during a 1 in 30-year storm with no flooding of third-party land occurring during a 1 in 100-year storm event including a 40% allowance for climate change. This ensures there is no increase in surface water runoff peak flow rate resulting from the Proposed Development.
- 5.17.33. The Applicant's modelling shows that the River Tud crossing will increase water levels upstream and downstream of the new crossing. This increase is due to the abutments intercepting and funnelling floodwater back into the channel. A maximum increase of 17mm is predicted immediately upstream of the bridge for the 1 in 100-year event and 72mm with a 65% climate change allowance respectively. The impact extends approximately 400m downstream and 700m upstream of the crossing, beyond the existing A47. The hydraulic model demonstrates that no new receptors will be affected by the Proposed Development. Compensatory flood storage will be provided immediately upstream of the proposed River Tud crossing to mitigate against the loss of floodplain storage and predicted flood levels. As such, the impact of the new River Tud crossing is considered by the Applicant to be of negligible significance.
- 5.17.34. Flooding is predicted to occur upstream of the existing A47 at Oak Farm. To prevent water backing up and to ensure that there is no detrimental impact on flood risk downstream, flows through the New West Culvert will be throttled and an embankment constructed upstream to contain floodwater and ensure that there is no flood risk to the new local access.

- 5.17.35. The location of the Proposed Development within the Oak Farm tributary floodplain (1 in 100 year plus 35% climate change allowance) would normally require the provision of compensatory flood storage. As a result, the Applicant has identified an area within the EMP [REP7-035].
- 5.17.36. The Applicant considers that due to the installation of the new culverts and the extension of the existing culvert at Oak Farm, the Proposed Development has the potential to have a minor adverse impact on the biodiversity of both watercourses as a result.
- 5.17.37. With regards to the River Tud Crossing, the abutments and embankments will be placed at least 5 metres away from the top of the riverbank. The natural riverbed and watercourse alignment would be retained. The bridge deck is designed to be 30m in width, therefore it is unlikely that riparian vegetation would be impacted by shading to the degree that this may impact morphological stability in this reach.
- 5.17.38. Newgate House Culvert will be constructed to maintain a natural sediment bed at the base of the culvert and a mammal ledge shall be provided above the design flood level. At Oak Farm, the requirement to throttle flood flows prevents the inclusion of larger culverts to enable mammal passage and construction of a natural bed. Habitat restoration will be undertaken on both the Oak Farm and Hockering tributaries, upstream of the existing A47, to mitigate against the additional culverting.
- 5.17.39. A total of seven ponds will be lost as a result of the Proposed Development, with a direct replacement being provided for each. These will be constructed prior to the existing ponds being lost.

The WFD

- 5.17.40. The Applicant undertook an assessment to look at whether the impact of the Proposed Development could lead to non-compliance of the WFD and the ability of the relevant WFD water bodies to meet their current objectives.
- 5.17.41. The Applicant prepared an initial screening assessment to identify which WFD water bodies should be included in this assessment as part of the Scoping Report (September 2019) [APP-135]. Following this, a scoping assessment was undertaken for the receptors that are potentially at risk from the Proposed Scheme. All surface water WFD and chemical quality elements are scoped into the WFD compliance assessment. The assessment considered the following:
- Tud WFD water body;
 - Wensum DS Norwich WFD water body;
 - Yare (Tiffey to Wensum) WFD water body; and
 - Broadland Rivers Chalk and Crag WFD groundwater body.
- 5.17.42. The surface water and groundwater WFD catchments fall within the Anglian River Basin District.

- 5.17.43. The Applicant split the assessment for compliance with the WFD into two sections:
- assessment of the effects and required mitigation during construction (temporary works); and
 - during operation on the WFD water bodies.
- 5.17.44. The Assessment concludes that, with the proposed mitigation, there will not be any significant effect caused to the water environment from the Proposed Development. As a consequence, the Applicant's WFD assessment concludes that the construction and operational activities affecting the Tud and indirectly the Wensum (DS Norwich) and Yare (Tiffey to Wensum) will be compliant with the requirements of the WFD. This assumes the mitigation is implemented and limits the overall effect of the Proposed Development to slight adverse and is localised. Due to this, construction and operational activities affecting the Tud and indirectly the Wensum (DS Norwich) and Yare (Tiffey to Wensum) are not considered to cause deterioration and should not prevent future attainment of WFD water body targets.
- 5.17.45. Following the close of the Examination further advice was issued by DEFRA on 16 March 2022, in relation to nutrient neutrality in relation to a number of protected sites. The Order Limits falls within the revised LPA.
- 5.17.46. As this matter emerged after the close of the Examination, it was not subject to any discussion. As a result, I recommend that should the SoS be minded to make the DCO, they may wish to consult NE, the Applicant and the LPAs on the matter.

Highways. Agency Water Risk Assessment Tool (HEWRAT)

- 5.17.47. The Applicant assessed the potential water quality impacts of routine runoff on surface water receptors using DMRB LA 113 HEWRAT assessment (assessment of pollution impacts from routine runoff to surface waters). The assessment concludes that there would be a negligible impact following dilution in the channel for both soluble and sediment-bound pollutants when the required measures from the drainage design have been included.
- 5.17.48. The potential water quality impacts of accidental spillages on surface water bodies were assessed using HEWRAT spillage assessment, as described in Appendix D of DMRB LA 113. In conclusion, all outfalls passed this assessment with the results indicating all drainage areas would have less than 0.5% annual risk of pollution. Pollution control devices such as penstocks are to be provided to the inlets and outlets to the detention basins and wetlands, in order to reduce any pollution that may occur in the event of any spillage.

Design, Mitigation and Enhancement

Construction

- 5.17.49. During construction, best practice methods for pollution prevention and water management would be implemented as part of the overall EMP [REP7-035].
- 5.17.50. To prevent accidental spillages, appropriate storage of construction materials, including bunding of storage tanks, use of silt fencing and covering stockpiles would be used. Spill kits would be located on sites near to ordinary watercourses or drainage ditches and within the works compounds and staff would be trained in their use. Emergency response procedures would be included in the EMP to handle any leakages or spillages of potentially contaminating substances.
- 5.17.51. Measures shall be implemented to prevent surface water runoff containing suspended sediment reaching main rivers or ordinary watercourses through overland flow during rainfall events. This would be specified as part of the drainage strategy within the EMP.
- 5.17.52. The risk of nitrate and phosphate mobilisation will be managed by the implementation of best practice construction measures and the temporary drainage strategy through the EMP.
- 5.17.53. Temporary drainage from the main construction compound would typically be collected within a ditch surrounding the compound and redirected to settlement ponds before being discharged to either a surface watercourse or ground.
- 5.17.54. There are construction activities planned over and within 8m of a main river (the River Tud) and its floodplain. As such, in accordance with the Environmental Permitting Regulations consent (in the form of a Flood Risk Activity Permit) must be obtained from the EA prior to the start of construction activities.
- 5.17.55. The potential impacts from the construction of the Proposed Scheme including drainage, crossings and associated features shall be managed through the phased construction plan.
- 5.17.56. A temporary surface water drainage strategy must be developed and be incorporated into the EMP [REP7-035] to prevent increased flood risk to people and property elsewhere, and to manage pollution risks particularly associated with increased sediment mobilisation. Where practicable, drainage shall be constructed in the early stages of the Proposed Development.

Residual Effects

- 5.17.57. The assessment considered the construction and operation activities on a number of identified features and specific attributes. The identified features comprised:

- The River Tud (including Norfolk Rivers Internal Drainage Board section);
- Unnamed ordinary watercourses (within the Tud WFD water body catchment);
- The River Wensum;
- Ponds; and
- Water supply and quality Recreation Value to economy Biodiversity Conveyance of flow.

5.17.58. Having assessed the potential effects of the scheme, the Assessment concludes that the Proposed Development was not expected to give rise to any significant adverse residual effects during the construction or operational phases with the adoption of mitigation.

PLANNING ISSUES

5.17.59. Issues that were discussed:

- Baseline information/modelling approach;
- Flood risk and sequential/exceptions test;
- Drainage strategy – Berry Hall ditch;
- Climate change adaptation; and
- Mitigation.

Baseline Information

5.17.60. I sought clarification in my ExQ1 [PD-007] regards to the adequacy and accuracy of the baseline. In response [REP2-016], BC chose to rely on the comments of NCC as the Lead Local Flood Authority (LLFA) in relation to this matter.

5.17.61. SNC expressed a concern [REP2-023] that the development should pose no risk to private drinking water supplies. In this regard, SNC highlighted that its records in boreholes and wells may not be complete and therefore suggest it might be necessary to consult property owners. Once every effort had been made to determine locations SNC considered that the Applicant should assess whether the development might pollute the supplies, taking account of the drainage proposals both in normal operation and in situations such as accidents or tanker spillages.

5.17.62. In their response [REP2-022], NCC as the LLFA, highlighted that, in relation to the baseline, the climate change section is likely to be considered out of date as the quoted Met Office had been succeeded by UK Climate Predictions 2018 report in December 2018. They also observed that main rivers were assessed as separate features for their importance of water environment attributes in study areas, while the two ordinary watercourses that have properties potentially at flood risk, were considered as a single feature. They considered that this could limit the quality of the targeted nature of the assessment [REP2-022]. In terms of all other aspects, which fell within their area of responsibility, they considered it to be acceptable.

5.17.63. In its response to LLFA [REP3-022], the Applicant highlighted that the UK Climate Predictions 2018 report in December 2018 does not give regional

summaries of the current climate. With regard to the assessment of the ordinary watercourses, the Applicant acknowledged [REP3-022] that whilst they had been grouped for the assessment table, they had been described and assessed individually throughout the chapter, in particular when assessing the potential impacts and discussing mitigation.

- 5.17.64. The EA raised a number of comments in their RR [RR-033] and in their WR [REP1-029]. During the Examination, discussions carried on between the parties with regards to the baseline issues. By the close of the Examination, all matters were agreed [REP9-015].

Flood Risk

- 5.17.65. I sought clarification in my first ExQ1 [PD-007] from the LAs and the EA with regards to the adequacy of the Applicants overall approach towards the content of the FRA and whether the Applicant's drainage proposals were adequate. The Applicant's approach to flood risk and in particular the application and of the sequential and essential tests were discussed at ISH3 [EV-039].
- 5.17.66. In their response to both my ExQ1 [PD-007] and in their LIR, NCC as LLFA [REP2-022] raised concerns regarding the FRA and drainage proposals in particular in relation to the proposed Hockering and Oak Farm culverts, and the adequacy and agreement for the proposed floodplain storage compensation. Overall, the LLFA sought further assurances that the Applicant would undertake further work and provide additional information to ensure that the scheme would not increase flood risk elsewhere [REP2-022].
- 5.17.67. The EA in both their WR [REP1-029] and their response to ExQ1 [REP2-020], confirmed that they were broadly satisfied with the assessments and proposals in respect of managing fluvial flood risk, subject to a number of points of clarification and undertaking a review of the detailed design.
- 5.17.68. In response, the Applicant acknowledged that upon submission of the application, there were outstanding issues in relation to the need for compensatory flood storage, in particular Oak Farm and in relation to the River Tud Crossing. In their submissions following ISH3 [REP7-017], the Applicant confirmed that in relation to the River Tud flood compensation, this would be dealt with by an action RD6 in the REAC [REP7-035], which would allow the EA to review and comment on any proposal. Similarly, any requirement for flood compensation in relation to the proposed crossing of the Hockering tributary would also be dealt with by an action in the EMP [REP7-017].
- 5.17.69. In relation to Oak Farm compensation, the Applicant confirmed in their ISH 3 submissions [REP7-017] that the landowner had accepted the use of the land. The Applicant committed to work with them to minimise impact and help with mitigation of habitat.
- 5.17.70. Regarding Hockering watercourse flood compensation, an updated flood model was prepared in response to comments for LLFA and the EA. The

assessment gave similar results to the previous assessment but provided the Applicant with the ability to produce more accurate flood extent maps. The impact of the scheme was negligible, seeing a slight reduction in flood levels upstream and a slight increase downstream. There was a negligible change in flow both upstream and downstream.

- 5.17.71. By the end of the Examination, based on the SoCG with the EA [REP9-015], it was clear that these matters had been satisfactorily resolved.
- 5.17.72. With regards to the application of the sequential and exception tests, I questioned the Applicant at ISH3 [EV-039] on their overall approach and their results.
- 5.17.73. In response, the Applicant highlighted the aim of the sequential test was to divert development away from areas of high risk flooding [REP7-017]. They referred to the work undertaken as part of the route selection and confirmed that flood risk was considered as part of this process. However, given that the proposal is a linear scheme, each option had to pass the River Tud at some stage. Therefore, they considered the Proposed Development passed the sequential test [REP7-017].
- 5.17.74. In relation to the exception test, the Applicant explained [REP7-017] that it is required where development cannot be avoided in FZ3. This requires that any flood risk assessment be undertaken to demonstrate that the project is safe for its lifetime, does not increase flood risk elsewhere, and if possible reduces flood risk overall. If there is an issue then the wider sustainability of the development must outweigh the flood risk.
- 5.17.75. The Applicant confirmed that the proposed design would result in a slight reduction in flood risk downstream [REP7-017], but would slightly increase flooding to arable land upstream. Furthermore, new highway drainage would be attenuated to greenfield runoff rates up to a 100 year storm event (including an allowance for climate change) and that surface water flood flow pathways that intercept the scheme will continue to be conveyed by the use of cross drains or dry culverts, that would be sized accordingly [REP7-017]. Therefore the Applicant considered the proposal to meet the exception test.
- 5.17.76. No comments were made by any parties at ISH3 in relation to either the sequential or essential tests.

Drainage Strategy

- 5.17.77. I sought clarification in my ExQ1 [PD-007] from the LAs and the EA with regards to the adequacy of the Applicant's overall approach towards the content of the FRA and whether the Applicant drainage proposals were adequate. I also questioned the accuracy of the baseline.
- 5.17.78. NCC as LLFA in both their LIR [REP2-022] and their response to ExQ1 [REP2-040], expressed concern that the temporary drainage design during construction was yet to be developed and confirmed. In their view, the high-level summary of the temporary drainage approach required some clarifications. As a result, they sought assurances [REP2-

022] that further information will be provided regarding the construction drainage strategy to ensure there is no increase in flood risk during the construction phase, prior to the permanent surface water drainage system becoming operational. They also made a comment with regards to what [REP2-022] water quality processes will be applied to the existing outfalls and drainage system.

- 5.17.79. In their WR [REP1-029] the EA confirmed that they were generally satisfied with the approach taken and the mitigation proposed in respect of protecting surface water quality and groundwater resources.
- 5.17.80. Both SNC and BC made no comments, instead deferring to the LLFA [REP2-023 and REP2-016].
- 5.17.81. At D7 [RE7-020] Norfolk Rivers Drainage Board sought to address a number of error in the Applicant's submissions. In their subsequent D9 submission [REP9-047], they confirmed that the requested changes and modifications had been incorporated into the relevant documents by the applicant.
- 5.17.82. BHE in their D3 submission [REP3-045] expressed concerns with regards to the proposal to install a new drain along the western side of Berrys Lane. The owner of BHE identified that there was an existing drainage ditch running [REP3-045] along the eastern side of Berrys Lane and considered that this may be a more appropriate way to discharge surface water, rather than the creation of a new drain and the associated land take and disturbance.
- 5.17.83. In this respect, a joint letter signed by both BHE and the Applicant was produced at D4 [REP4-044] which outlined an undertaking from both parties to jointly work together to identify if this was a viable solution. I observed the drainage ditch at ASI and asked further questions on its suitability at ISH3 [EV-039].
- 5.17.84. By the close of the Examination, it was agreed between the parties that the matter would be progressed through the detailed design stage. Subject to a viable design, along with agreement obtained from the relevant bodies, it would form part of the design [REP10-002].

Climate change adaption

- 5.17.85. In my ExQ1 [PD-007I sought clarification with regards to that the assessed flood allowances remained applicable. In response [REP2-014], the Applicant confirmed that it had written confirmation from the EA there is no requirement for any changes in approach for the Proposed Development. Furthermore, the matter formed part of the SoCG with the EA [REP9-015].

EXA CONSIDERATIONS

- 5.17.86. I have examined the proposal against the policies set out in the NPSNN in my consideration of the impacts of the Proposed Development on the water environment.

- 5.17.87. At the start of the Examination a range of issues and comments were expressed by the LLFA, the EA and others. However, during the Examination, there were constructive discussions between parties. As a consequence, many of the issues were agreed to their satisfaction.
- 5.17.88. I find that the content of the FRA [APP-124 and APP-125] meet the requirements of paragraphs 5.92 and 5.93 of the NPSNN. I am satisfied that it makes appropriate allowances for climate change. This is reflected in the SoCG with the EA [REP9-015].
- 5.17.89. A number of areas of have been identified to be at a high risk from flooding. However, I am satisfied that the risks posed to and by the Proposed Development have been properly assessed and, through the Requirements as part of the rDCO, an appropriate package of mitigation measures has been proposed by the Applicant, to be delivered through Requirement 8 of the rDCO (Appendix D) and the EMP [REP7-035].
- 5.17.90. Reference was made to flooding in specific locations, such as around Taverham Lane [RR-003]. However, I have not been presented with any substantive evidence to demonstrate that the Proposed Development would directly affect, or be affected by, these or similar incidents. Nor did the LLFAs express concerns in this regard. Consequently, with the proposed mitigation measures in place, I am satisfied that the Proposed Development would be likely to lead to a negligible increased risk of flooding. As such, the Proposed Development would accord with paragraphs 5.102 and 5.104 of the NPSNN.
- 5.17.91. The Applicant has sought to address the Sequential and Exception Tests in the FRA. Neither the LLFA nor the EA questioned its findings, and I am satisfied that sufficient information has been provided to make the necessary assessment.
- 5.17.92. I recognise the nature of the Proposed Development as a linear development, which at some stage must cross the River Tud. As such, I am satisfied that those parts of the Proposed Development within FZ3 could not be re-located to an area of lower flood risk. It therefore follows that I find that the Proposed Development meets the Sequential Test.
- 5.17.93. I agree that the Proposed Development falls within the definition of Essential Infrastructure as defined in the NPPG, and as such, it can be located within FZ3.
- 5.17.94. In Section 5.3, I have already concluded that there is an established need for the development and that it would bring benefits to the wider community. Given the low level of flood risk posed by the Proposed Development, I am satisfied that those benefits outweigh the limited risk and that the Proposed Development would be safe for its lifetime and that it would not increase flood risk elsewhere. As such, I find that the Proposed Development meets the Exception Test and therefore it complies with Paragraphs 5.105 to 5.109 of the NPSNN.
- 5.17.95. The Proposed Development as submitted would seek to make use of SuDS in several locations. I accept that due to constraints, the use of

SuDS solutions is not achievable across the whole Proposed Development. On this basis, I consider that the Proposed Development meets paragraphs 5.110, 5.111 and 5.230 of the NPSNN and paragraph 165 of the NPPF. No evidence was presented to the Examination to suggest that the design of the SuDS features would not comply with the relevant National Standards as required by paragraph 5.100 of the NPSNN.

- 5.17.96. In relation to the drainage strategy [APP-126 and APP-127], I find that the proposal would provide adequate surface water storage and attenuation capacity to ensure that the peak rate and total volume discharged from the site would not exceed the existing rates and volumes. I welcome the ongoing discussion with regards to the use of existing drainage infrastructure along Berrys Lane and the Applicant's commitment to fully investigate this at the detailed design stage. Such a solution would reduce the impact upon BHE. As such, I find that the Proposed Development would meet the aims of paragraph 5.113 of the NPSNN.
- 5.17.97. The findings of the WFD compliance assessments were not disputed during the Examination. Having considered the evidence on water quality, I find that the conclusions of the assessments are reasonable. Therefore, I am satisfied that the Proposed Development would be unlikely to hinder the aims of the River Basin Management Plan for the waterbodies affected by the Proposed Development. In this respect however, I have recommended that SoST should satisfy themselves of the position in relation to nutrient levels, the change to which occurred after the close of the Examination.
- 5.17.98. I am satisfied that the necessary measures to ensure the protection of water quality, the provision and maintenance of the surface water drainage system and to mitigate flood risk are set out in the rDCO (Appendix D) and the EMP [REP7-035]. With those measures in place, I am satisfied that the Proposed Development would be unlikely to result in any significant effects on the water environment.

CONCLUSION

- 5.17.99. In terms of the impact upon the water environment, the Proposed Development attracts neutral weight to be carried forward into the planning balance.

5.18. OTHER CONSIDERATIONS

IMPORTANT AND RELEVANT MATTERS

Background

- 5.18.1. Section 104 of PA2008 identifies that in deciding the application, the SoS should have regard to a number of issues, which includes the NPSNN and any other matters which the SoS thinks are both important and relevant to the SoS's decision.

BERRY HALL ESTATE

Introduction

- 5.18.2. In this respect, I note that the IHTA designation of BHE does not fall within those listed as a heritage asset within either the NPSNN or the NPPF. Nonetheless, given the nature of the designation, I consider that it is an important and relevant consideration to the decision of the SoST on this DCO application. In the below section, I therefore consider the submissions of BHE, the response from the Applicant and provide my overall conclusions on the matter.
- 5.18.3. Matters in relation to the effect of the Proposed Development upon the Grade II listed Berry Hall and its setting, are dealt with in Section 5.9. Landscape effects are dealt with in Section 5.10. The following sections deals only with, and provides my conclusion in relation to the effect of the Proposed Development upon the IHTA designation. It does however draw on my conclusions on these two issues.

Case for BHE

- 5.18.4. Through the course of the Examination, the owner of BHE presented substantial evidence and information in relation to the designation of the Estate under the IHTA, along with an explanation of the effect of the Proposed Development upon it. A very help index of all the submissions was provided by BHE at D9 [REP9-044].
- 5.18.5. The submissions of BHE [RR-075] identified that the whole of the Estate is designated by the Treasury as being of outstanding scenic or historic or scientific interest, pursuant to s.31(1)(b) of the Inheritance Tax Act 1984 (IHTA). Whilst designation confers upon the Estate conditional exemption from certain taxes, the purpose of the designation however, is to ensure the continued management and maintenance of qualifying property in private hands, and continuing public access to the assets, so that they may be secured and conserved for the benefit of the public as part of the nation's cultural heritage. Consequently, although a private benefit accrues as a result of the existence of the designation, it is made for public interest reasons, in the public interest.
- 5.18.6. BHE identified that there are fewer than 350 such designated national heritage properties or estates in the whole of the UK. Well-known examples include Blenheim Palace, Chatsworth House, Bamburgh Castle, the Holkham and Houghton Estates in Norfolk, and the Syon Park Estate in west London. In the view of BHE, this provides an indication as to the quality required for properties to be suitable for designation.
- 5.18.7. In terms of BHE, the designation was made in 2003 and at the same time made subject to a bespoke Heritage Management Plan (HMP), which has been funded by the Owner placing money and assets into an irrevocable settlement (the 'Maintenance Settlement') approved by the Treasury and designed to secure the Estate's improvement and preservation. The Owner's stewardship of the Estate since its designation, and the management of the Maintenance Settlement, each in fulfilment of and

compliance with the HMP, is subject to periodic monitoring by NE. The Owner is also required to provide opportunities for public access to BHE.

- 5.18.8. In their submissions [REP1-045], BHE consider that the application fails to take into account the heritage significance of BHE, consistent with its designation as an IHTA. Within the application, there is no acknowledgement of the status the Estate enjoys, and consequently no consideration of the implications of the DCO upon the status or the features of BHE that have led to its designation.
- 5.18.9. Whilst the ES takes into account the Grade II listed buildings as an environmental constraints, it is silent as to the designation of the wider Estate under the IHTA. In their view, this is in conflict with the requirements of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017, the NPSNN and the NPPF.
- 5.18.10. It further represents an environmental constraint not taken into account in the consideration of alternatives, and a matter not assessed in the Applicant's consideration of the compelling case for temporary and permanent acquisition of the affected land.
- 5.18.11. With regards to the impact of the Proposed Development upon BHE, in their view and supported by their consultant's Mr Thomas [REP6-033, Appendix A], in Heritage terms the impact is excessive.
- 5.18.12. Of particular importance to the case for BHE is Section 3.3.4 in the NE Formal Assessment Report of June 2011[REP1-051], which states, '*The landscape is incapable of substitutability (the replacement of features lost with an acceptable and appropriate substitute that provides the same benefits)*'. In the view of BHE, NE has considered the landscape as 'irreplaceable' [ISH2 subs].
- 5.18.13. With regards to its relevance, the position of BHE was that the Applicant sought to downplay the IHTA designation on the basis that it relates to private taxation. However in the view of BHE, the designation has a strong public interest component and is not just a private taxation benefit, as shown by the requirement for Estate management and provision of public access, for the benefit of the nation. As such it is capable of being a material consideration in planning terms.

Applicant's position

- 5.18.14. In response, the Applicant was of the view that IHTA designation was not a heritage designation relevant to the assessment of the Proposed Development in relation to NPSNN paragraphs 5.120 to 5.142. It does not make BHE a designated heritage asset as defined in the NPSNN, nor does it make it a nationally designated area for landscape purposes as defined in paragraph 5.150 of the NPSNN.
- 5.18.15. The Applicant acknowledged that the Estate was designated as it represented "*an area of outstanding scenic interest in Norfolk*", and listed as free from tax under the Conditional Exemption Initiative, but that is not a planning nor heritage designation. Moreover, the Applicant

considered that there is nothing in the IHTA which would require any consideration over and above the careful assessment which the Applicant has carried out. In this respect the Applicant referred to ES Chapter 6 Cultural Heritage, [REP3-012] and ES Chapter 7 Landscape and Visual Effects [APP-046].

- 5.18.16. With regards to the details of the designation, the Applicant identified that the Treasury may designate sites for any of the following reasons:
- Land of outstanding scenic, historic or scientific interest.
 - Buildings of outstanding historic or architectural interest.
 - Land essential for the protection of such a building.
 - Objects historically associated with such a building.
- 5.18.17. In the view of the Applicant, the letter confirming the IHTA only states 'land' [REP1-050]. The Applicant highlights that this excludes the buildings and the land required for the buildings from the designation, since they are not quoted in the designation letter. The Applicant also highlighted the different remits of NE and HistE, which the Applicant understands to mean there is no intended overlap or cultural heritage remit for NE.
- 5.18.18. In response to the submission of BHE, the Applicant considered whether there was something about the land around Berry Hall that is distinct in its value from its value as the setting of the Listed Building. Their conclusion [REP] was that they did not think this to be the case, with their view being that the value of the land around it to be very limited. In their view, if the buildings around it were taken away in a way that they had never been there, then there would be very little left to say that this is some sort of distinct design in the landscape which warrants its separate treatment.
- 5.18.19. Having reviewed the IHTA designation, along with the submission of the BHE and its advisors, the Applicant concluded that, while they contain some additional information on the Estate to that considered during their assessment, it did not affect the conclusions within the route options studies and in ES Chapters 6 and 7 [REP3-012 and APP-046].
- 5.18.20. In support of its position, the Applicant referred to the response from HistE at D6 to ExQ3 [PD-012], where they confirmed that there is no additional designated heritage status under the IHTA [REP6-022].

Position at the end of Examination

- 5.18.21. During the course of the Examination, discussions between the Applicant and BHE continued and agreement was reached on a number of matters and topics [REP10-002]. However, no agreement was reached in relation to the IHTA designation.

Responses from other IPs

- 5.18.22. In my ExQ3 [PD-012], I specifically sought the view of HistE on the designation, any implications for the scheme and impact of the proposal upon it. In response, [REP6-022], Hist E replied;

HistE were not consulted by Her Majesty's Revenue and Customs during the designation of this Inheritance Tax Act (ITA) claim, had no engagement with the development of the management plan and have no on-going role in the review of the landowner's implementation of the Undertakings under the scheme. These duties have all been carried out by Natural England and as the designation relates to the importance of the landscape, not the listed buildings on the estate. This is reflected in the Undertakings which concern maintenance of the land, not the buildings. The proposed scheme within the draft Development Consent Order would affect some of the land within the ITA area, but we would defer to Natural England on this matter. As regards the grade II listed buildings on the estate we consider it appropriate that the impact on their historic significance by development in their setting should be assessed by the Applicant in the Environmental Statement and, as with other grade II listed buildings in the scheme, we would defer to the Local Planning Authority to advise the Examining Authority on that assessment.

- 5.18.23. No submissions were received from NE. Neither did any of the LPAs or NCC in their role as historic advisors make any comments.
- 5.18.24. Norfolk Gardens Trust [REP1-063] highlighted the extensive nature of the grounds of BHE and that, in their view, provide the immediate setting of the Grade II Listed Building.

ExA Considerations

- 5.18.25. No reference is made within either the NPSNN or the NPPF to the IHTA as being a heritage asset. Whilst not directly identified, the NPSNN makes it clear that the SoS should also consider the impacts on other non-designated heritage assets on the basis of clear evidence that the assets have a significance that merit consideration in that process, even though those assets are of lesser value than designated heritage assets.
- 5.18.26. From the evidence, it is clear that BHE is one of a select few estates within the country covered by the designation. Out of the other estates referred to by BHE, a number are well known, some nationally and internationally. The majority of these estates are also subject to other designations, such as Registered Parks and UNESCO. A number on the submitted list are also Grade I Listed Buildings.
- 5.18.27. In contrast, BHE, other than its designation as a Grade II Listed Building, is not subject to any other planning designation either for heritage or landscape. Therefore, whilst BHE is one of only a few estates in the country subject to this designation, given the lack of any wider recognition and policy protection, I find it to be at the lower end of the scale in terms of its importance on these matters.
- 5.18.28. In this regard, I note the comments of HistE who do defer to NE on the matter. This supports the Applicant's position that the designation relates more to the land than one for specific heritage value.

- 5.18.29. No objections were raised by the LPA or NCC as the relevant local heritage bodies.
- 5.18.30. In this regard, I also acknowledge the submission of the Applicant that it is for a landowner to apply for an IHTA. This is in contrast to a heritage asset, which is designated either via HistE in the case of a listed building, or the LPA in the case of a Conservation Area.
- 5.18.31. A response from NE would have provided assistance on the matter, however by the end of the Examination, none was received. In this respect, I do not agree with BHE that this shows NE do not support the Proposed Development, but acknowledge that a lack of response does not show they have no objections neither.
- 5.18.32. Therefore, given the lack of a clear understanding of the position of NE, I recommend that the SoS should consult NE before making a decision on the Proposed Development to understand their position.
- 5.18.33. I agree with BHE that parts of the Estate are attractive, however, I do not agree with BHE that the land is of such special quality that it can be considered to be irreplaceable. This conclusion is supported by the lack of any planning designations, which one would expect to also cover the land should it be of such exceptional quality.
- 5.18.34. Large portions are very much a working landscape, be that woodlands or agriculture, that evolve and change over time. Neither do I consider the Estate to exhibit any particular special qualities that would lead me to conclude that it should be set apart from other parts of the Order Land.
- 5.18.35. On this basis, I see no compelling reason why BHE should have been considered by the Applicant as a whole. Nor do I find any specific policy requirement which requires the consideration of BHE over and above that as a Grade II Listed Building, in a rural setting.
- 5.18.36. On this basis, I find that the Applicant has suitably assessed BHE as a designated heritage asset. I also consider its assessment as part of a LCA to be reasonable, and in this respect I note the Applicant's conclusion that the Proposed Development would harm the surrounding LCA. Further assessments have also been undertaken in relation to the impact of the construction phase from a noise and emissions perspective, along with the effect of the Proposed Development upon BHE as a rural business.
- 5.18.37. The lack of any planning designation, either heritage or landscape based, further indicates that the wider Estate is not of sufficient importance to justify further protection, beyond that offered by its designation as a Grade II Listed Building. In this respect, I note that the Estate has been designated since 2003, a period of time, which in my view would have afforded ample opportunity for the LPA to apply further protection, if it was considered to be so worthy.
- 5.18.38. I acknowledge that the alternative arrangement suggested by BHE to the Wood Lane junction would substantially reduce the impact on BHE.

However I find that this is an inevitable conclusion of taking less land from BHE, rather than any other specific reason.

- 5.18.39. As I have concluded in earlier sections, BHE displays a number of qualities, in particular in views from the south, back towards BHE across the Tud Valley. I have also agreed with the Applicant's conclusion that the Proposed Development would cause some harm to the setting of the Listed Building. This would be less than substantial.
- 5.18.40. The presence of the construction compound would cause some harm to BHE due to the change in landscape and character that would result from its presence. Furthermore, during the construction stage, the Proposed Development would harm the existing farming enterprises that operate from BHE, in particular due to the location of the construction compound. In this respect, whilst I note specific areas are now excluded from the Order Land and the use of the compound has been changed, this does not entirely remove the effects.
- 5.18.41. A significant amount of mitigation is proposed to address these effects and, as a result, once these mitigation measures are in place, I consider the harm will be reduced.
- 5.18.42. I do not doubt the importance of the landscape and the great care taken by the owner of BHE to both its upkeep and continued maintenance. However, given the lack of planning designations, including specific landscape designation, I accord little weight to the IHTA position given the absence of reference to that in planning policy and the absence of formal designations that are normally used to indicate significance in the planning system.
- 5.18.43. I therefore conclude that the Proposed Development would cause some harm to the IHTA, although this would principally be during the construction phase, which would be temporary in nature. As a consequence, and given the limited weight I attach to the IHTA designation, the amount of harm would be limited. Nonetheless, this harm counts against the DCO application. The weight to be given to this harm in the planning balance is considered in Chapter 7.

6. FINDINGS AND CONCLUSIONS IN RELATION TO HABITATS REGULATIONS ASSESSMENT

6.1. INTRODUCTION

- 6.1.1. This Chapter sets out my analysis, findings and conclusions relevant to the Habitats Regulations Assessment (HRA). This will assist the SoST, as the Competent Authority, in performing their duties under the Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations').
- 6.1.2. Consent for the Proposed Development may only be granted if, after having assessed the potential adverse effects the Proposed Development could have on the integrity of European Sites, the Competent Authority considers it acceptable in light of the requirements stipulated in the Habitats Regulations after having ascertained that it will not adversely affect the integrity of European sites and no scientific doubt remains⁷.
- 6.1.3. For the purposes of this Chapter, in line with the Habitats Regulations and relevant Government policy, the term "European sites" includes Special Areas of Conservation (SAC), candidate SACs (cSAC), possible SACs (pSAC), Special Protection Areas (SPA), potential SPAs (pSPA), Sites of Community Importance, listed and proposed Ramsar sites and sites identified or required as compensatory measures for adverse effects on any of these sites. For ease of reading, this Chapter also collectively uses the term "European site" for 'European sites' defined in the Conservation of Habitats and Species Regulations 2017 and 'European Marine Sites' defined in the Conservation of Offshore Marine Habitats and Species Regulations 2017, unless otherwise stated. "UK National Site Network" (NSN) refers to SACs and SPAs belonging to the United Kingdom already designated under the Directives and any further sites designated under the Habitats Regulations.
- 6.1.4. I have been mindful throughout the Examination of the need to ensure that the SoST has sufficient information required to carry out their duties as the Competent Authority. I have therefore sought evidence from the Applicant and the relevant IPs, including NE as the Statutory Nature Conservation Body (SNCB), through written questions and Issue Specific Hearings.
- 6.1.5. A Report on the Implications for European Sites (RIES) [PD-014] was prepared 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

⁷ CJEU Case C-127/02 Waddenzee 7 September 2004, Reference for a preliminary ruling from the Raad van State (Netherlands) in the proceedings: Landelijke Vereniging tot Behoud van de Waddenzee and Nederlandse Vereniging tot Bescherming van Vogels v Staatssecretaris van Landbouw, Natuurbeheer en Visserij"

application and information submitted by the Applicant and IPs during the Examination (up to and including D6 of the Examination (13 December 2021)) in relation to potential effects on European sites. The RIES was published on the Inspectorate's National Infrastructure website on 17 December 2021. Consultation on the RIES was undertaken between 17 December 2021 and 25 January 2022. 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 SoST for the purposes of Regulation 63(3) of the Habitats Regulations.

- 6.1.6. No comments were received regarding the RIES. The RIES is not updated following consultation.

6.2. POLICY CONTEXT

- 6.2.1. Paragraph 4.22 of the NPSNN requires the SoST to consider, under the Habitats Regulations, whether the Proposed Development could have a significant effect on the objectives of a European site, or on any site to which the same protection is applied as a matter of policy, either alone or in combination with other plans or projects.
- 6.2.2. Paragraph 4.23 advises that applicants are required to provide enough information to enable the SoST to carry out an Appropriate Assessment (AA) if required. The information provided may also assist the SoST in concluding that an AA is not required because significant effects on European sites are sufficiently unlikely that they can be excluded.

6.3. APPLICANT'S ASSESSMENT AND HRA IMPLICATIONS OF THE PROPOSED DEVELOPMENT

- 6.3.1. In accordance with Regulation 5(2)(g) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (APFP Regulations), the Applicant provided a Habitats Regulations Assessment Screening Report (HRA Report) entitled 'Report to inform Habitats Regulations Assessment' [APP-139] with the application, together with screening matrices. A revised HRA Report was submitted at D6 [REP6-008] to include an in-combination assessment with the proposed Sheringham and Dudgeon Extension Offshore Wind Farm.
- 6.3.2. The HRA Report was prepared using guidance in the DMRB on the Assessment of Implications (of Highways and/or Roads Projects) on European Sites (including AA), PINs Advice Note 10: Habitats Regulations Assessment relevant to NSIPs and guidance from the European Commission on Managing Natura 2000 Sites.
- 6.3.3. A study area of 2km from the DCO boundary of the Proposed Development was used to identify international sites likely to be affected. A study area of 30km from the Proposed Development DCO boundary was used to identify international sites designated for bats. The spatial relationship between the Order Limits of the Proposed Development and European sites within this 2km study area is shown in Figure 1 in Appendix D of the revised HRA report [REP6-008].

- 6.3.4. The project is not connected with or necessary to the management for nature conservation of any of the European sites considered within the Applicant's assessment [REP6-008]. Therefore, the SoST must make an AA of the implications of the Proposed Development on potentially affected European sites in light of their conservation objectives.
- 6.3.5. The Order Land does not cross or lie adjacent to any watercourses which are designated in part or wholly as a SAC, cSAC, pSAC, SPA, pSPA or Ramsar site. The River Wensum SAC is located 1.6km to the north-east of the application site and was screened into the HRA Report. Although the site is not within the route corridor, the Applicant identified the potential for effect pathways to exist between the Order Limits and the River Wensum SAC through diffuse pollution and changes in drainage affecting watercourses that flow into the River Tud.
- 6.3.6. The Order Land is within 30km of Paston Great Barn SAC, of which bats are a qualifying interest feature.
- 6.3.7. The qualifying interest features of the identified sites are listed in Appendix B of the HRA Assessment [REP6-008] and screening matrices were provided in Appendix C of the HRA Assessment.
- 6.3.8. The conclusions of the February 2020 screening exercise were discussed with NE, who agreed that, as the Assessment of Implications on European Sites Report produced in 2017 was preliminary and based on information available to date, the screening exercise should be updated and reviewed as the Proposed Development progresses. Upon further consultation NE confirmed that they are in agreement with the findings of the Screening Report. At D5, in response to my ExQ2, the Applicant provided correspondence with NE to confirm their position [AS-021].
- 6.3.9. The Applicant set out the approach that was taken to assessing potential in-combination effects in the revised HRA Report [REP6-008]. The following projects have been included in the in-combination assessment carried out by the Applicant:
- Norwich Western Link Road;
 - Proposed waste transfer building at Pips Skips Ltd, Sandy Lane;
 - Hornsea Project Three Offshore Wind Farm;
 - Norfolk Vanguard Offshore Wind Farm;
 - Norfolk Boreas Offshore Wind Farm;
 - Sheringham and Dudgeon Extension Offshore Wind Farm;
 - Food Enterprise Park; and
 - An (outstanding) development of 890 dwellings around Easton, which includes plans to extend the primary school, build a new village hall, retail unit and open public spaces.
- 6.3.10. The Applicant's HRA Report [REP6-008] concluded that the project would have no likely significant effect, either alone or in combination with other projects or plans, on the qualifying features of the European sites listed below:
- The River Wensum SAC; and

- Paston Great Barn SAC.

- 6.3.11. The Applicant did not identify any Likely Significant Effects (LSE) on European sites in European Economic Area States in its HRA Report [REP6-008] and/or within its ES. No such impacts were raised for discussion by any IPs during the Examination. Only European sites which form part of the UK National Site Network are addressed in this Report.
- 6.3.12. The HRA Assessment concluded that following a potential effects screening exercise there were no reasonably foreseeable significant effects on the River Wensum SAC as a result of the Proposed Development during construction or operation.
- 6.3.13. In relation to Paston Great Barn SAC, it concluded that given the extent of available suitable habitat between the SAC and the Proposed Development, it was considered likely that Barbastelle bats from SAC roosts do not frequent the study area due to the large distance between the SAC and the Proposed Development.
- 6.3.14. The Applicant's HRA report [REP6-008] concluded that there are no specific measures to avoid or reduce effects upon European sites and likely significant effects are not anticipated to occur as a result of the Proposed Development. Therefore, it concluded, an AA was not required in this instance.

6.4. ISSUES RAISED DURING THE EXAMINATION

- 6.4.1. During the course of the Examination, Wild Wings Ecology (WWE) as an IP raised an issue concerning a potentially large colony of Barbastelle bats located within the area that may be affected by the Proposed Development [RR-084]. This concern was also expressed by Norfolk Wildlife Trust [REP4-045] and IPs David Pett [REP1-027 and AS-015] and Bryan Robinson [REP2-027, AS-014 and REP6-026]. They consider that this colony of bats, given UK protected status by the Habitats Regulations, may be adversely affected by the Proposed Development. The dispute however related to a potentially nationally significant Barbastelle bat colony to the north of the Proposed Development based on research by WWE [RR-084] rather than the designated European sites assessed within the HRA Report [REP6-008].
- 6.4.2. In response the Applicant stated [REP4-014] that the only nationally and internationally designated site for bats requiring assessment within the HRA Report [REP6-008] is Paston Great Barn SAC. The Applicant states that any bats from Morton on the Hill, which is where NCC state the potential colony is located, are several kilometres north of the nearest point on the application's DCO boundary. The Applicant has also stated they have considered the impact of the application on the potential colony of Barbastelle bats [REP6-019].
- 6.4.3. The Applicant's conclusions in relation to the two European sites and their features that were assessed, were not disputed by any other IPs or by NE during the Examination, albeit no response was received by NE by the close of the Examination.

- 6.4.4. No submissions were made by NE in relation to the HRA Report's [REP6-008] conclusions or mitigation measures which the Applicant has proposed for the application with respect to the Barbastelle bat species.

6.5. ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS

- 6.5.1. I am satisfied that the correct European sites and qualifying features have been identified for the purposes of assessment, and that all potential impacts which could give rise to significant effects have been identified.
- 6.5.2. Under Regulation 63 of the Habitats Regulations, the Competent Authority must consider whether a development will have any LSEs on a European site, either alone or in combination with other plans or projects. The purpose of the LSE test is to identify the need for an AA and the activities, sites or plans and projects to be included for further consideration in the AA.
- 6.5.3. I am content that no likely significant effects would arise at any European site from the spread of invasive non-native species (INNS), changes to air quality, noise and disturbance, ground contamination, or from the operation of the Proposed Development.
- 6.5.4. Whilst reference is made by a number of parties to the presence of a potentially nationally significant Barbastelle bat colony, at the time of my consideration, this area is not a designated national or international site. On this basis I am satisfied that the Applicant has correctly identified the relevant European sites and qualifying features/interests for consideration within the HRA Assessment and that it has not relied on mitigation measures in reaching this conclusion.
- 6.5.5. I am satisfied with the HRA Assessment and, therefore, conclude that the Proposed Development would have no significant effects on European sites, and therefore no European sites are required to be considered and taken forward to AA.
- 6.5.6. However, it is important that the SoST keeps the position under review during their consideration of this Report. Should circumstances change, in particular with regards to the designation of the potential bat colony, then I would recommend that these conclusions are reviewed.

6.6. CONCLUSIONS

- 6.6.1. My assessment of HRA matters in relation to the Proposed Development is drawn from the information provided in the application, with reference to the Applicant's HRA Report [REP6-008] and in other documents submitted during the Examination as identified above.
- 6.6.2. In light of the above I am satisfied that the SoST 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 AA of the implications of the Proposed Development in view of any European site's conservation objectives.

7. CONCLUSION ON THE CASE FOR DEVELOPMENT CONSENT

7.1. INTRODUCTION

- 7.1.1. This Chapter sets out my reasoning and conclusions on whether there is a case for the making of a DCO for the Proposed Development.
- 7.1.2. This is based on the provisions of the rDCO (Appendix D), the details of which are discussed in Chapter 9.
- 7.1.3. I identify the relevant legislation and policy in Chapter 3. The need for the Proposed Development is considered in Chapter 5, along with the potential effects of the Proposed Development.
- 7.1.4. This Chapter considers:
- the matters to be taken into account as required by the PA2008 and other relevant legislation and policy;
 - the need case for the Proposed Development;
 - the potential impacts of the Proposed Development; and
 - the planning balance and my conclusions.
- 7.1.5. CA and TP of land and/or rights and the creation of new rights over land are discussed in Chapter 8.

7.2. MATTERS TO BE TAKEN INTO ACCOUNT

- 7.2.1. Section (s) 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 s104(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."*
- 7.2.2. The exceptions set out in s104 are:
- lead to the United Kingdom (UK) being in breach of its international obligations;
 - be unlawful;
 - lead to the SoS being in breach of any duty imposed by or under any legislation;
 - result in adverse impacts of the development outweighing its benefits; or
 - be contrary to legislation about how the decisions are to be taken.
- 7.2.3. Given the Proposed Development is for highway infrastructure and a NSIP the designated NPSNN provides the primary basis for making decisions on development consent applications for national networks NSIPs in England by the SoST.
- 7.2.4. My conclusions on the case for making a DCO are therefore reached within the context of the policies contained in the NPSNN. Also, as indicated in Chapters 3 and Chapters 5 dealing with the main planning

issues, I have taken all other relevant law and policy into account. I have had regard to the Public Sector Equality Duty (PSED) as addressed in Chapter 8 of this Report.

7.2.5. Section 4 of the NPSNN 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".*

7.2.6. Paragraph 4.3 of the NPSNN states that:

"In considering any proposed development, and in particular, when weighing its adverse impacts against its benefits, the Examining Authority and the Secretary of State should take 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;*
- *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."*

7.2.7. In coming to my conclusions, I have considered all evidence presented to the Examination, including the application documents; the ES; the Habitats Regulations Assessment (HRA); the LIRs; SoCGs; Relevant and Written Representations; oral submissions at Hearings; answers to my written questions; responses to requests for information; information gathered from both my ASI and my two USIs, and all matters which I consider are both important and relevant to the SoS's decision.

7.3. SUMMARY OF THE MAIN PLANNING ISSUES

THE NEED FOR THE PROPOSED DEVELOPMENT

7.3.1. The Applicant's need case for the Proposed Development, along with the benefits arising from it, are set out in the Case for the Scheme [APP-140].

7.3.2. I consider the Applicant's need case and submissions made on it in Section 5.2, where I conclude that, in accordance with the requirements of the NPSNN, I am satisfied that the need for the Proposed Development has been established.

7.3.3. The benefits arising from the Proposed Development set out in the Applicant's Case for the Scheme [APP-140] include that it would:

- Reduced journey time and improved safety along this stretch of the A47, improve reliance and journey time reliability consistent with national and local planning objectives for transport, economy and the environment; and

- Through increased capacity, assist in making the region more attractive for business and provide the required infrastructure for development including housing and employment.

- 7.3.4. The benefits of the Proposed Development are recognised in both the submitted LIRs. In their LIR [REP2-017], BC support the view that the Proposed Development will open up development opportunities for the north of their District and help it to meet its housing and employment growth requirements. Similarly, NCC in their LIR [REP2-022] consider that wider economic benefits will arise from the completed scheme, which, in their view, would include journey time savings and reliability improvements, benefitting businesses. They are supportive of these.
- 7.3.5. A number of IPs in their RR and WR raise significant concerns over the general need for the building of new roads. However, as identified in Chapter 5, the consideration of national policy is outside of the scope of my considerations.
- 7.3.6. Having considered all submissions to the Examination, and with reference to the LIRs and my detailed consideration of relevant matters in Chapters 4 and 5, I am satisfied that the benefits identified by the Applicant would be likely to be delivered by the Proposed Development.
- 7.3.7. The Proposed Development would conform with the Government's vision and strategic objective set out in the NPSNN to delivery national networks that meet the country's long term needs, supporting a prosperous and competitive economy and improving overall quality of life, as part of a wider transport system. It would meet the critical need to improve the national networks to address road congestion. I have concluded in Chapter 5 on Traffic and Transportation that the Proposed Development would meet its traffic and transport objectives.
- 7.3.8. I find that these benefits weigh very heavily in favour of the Proposed Development. Accordingly, I attach substantial weight to the contribution the Proposed Development would make towards the need set out in the NPSNN to deliver national networks that meet the country's long term needs as part of a wider transport system.

AIR QUALITY

- 7.3.9. I am content that the Applicant's consideration of the study area, selection of receptors, baseline conditions, changes to vehicle emission rates, types of emission, factors considered for the assessment of significant effects, and the methodology are appropriate for the purposes of the air quality assessment. As required by paragraphs 2.16, 3.6-8 and 5.10-12 of the NPSNN, the Applicant has given consideration to vehicle emissions, how future emission standards are expected to reduce PM₁₀, PM_{2.5} and NO_x emissions, air quality effects on a range of receptors and relevant statutory air quality thresholds.
- 7.3.10. The matters discussed during the Examination included compliance with the construction programme, emissions from construction machinery and required mitigation measures and potential for dust. I am satisfied with

how these matters were addressed by parties during the Examination. I am content with the consideration of mitigation for potential effects, including those suggested in paragraph 5.15 of the NPSNN, and I am satisfied that the necessary measures are secured in the rDCO (Appendix D) and the EMP [REP7-035].

7.3.11. Overall, I find that whilst the Proposed Development would be unlikely to result in any significant effects with respect to air quality, there would be a net worsening in local air quality within the study area, which weighs against the Proposed Development. However, I acknowledge that this increase would not result in any new exceedance of the NO₂ or PM₁₀ annual mean air quality objectives.

7.3.12. Therefore, whilst a worsening of air quality weighs against the DCO, given the fact that there will be no exceedances of standards, I have attached limited weight to this harm.

BIODIVERSITY

7.3.13. I am satisfied that the application gives proper consideration to the full range of sites, habitats and species and attached appropriate weight to the potential impacts of the Proposed Development on them. Whilst the failure of the applicant to undertake a Biodiversity Metric Assessment is a disappointment, given the lack of a current policy requirement to do so, I find that this does not count against the proposal.

7.3.14. The Proposed Development will deliver a number of enhancements in biodiversity, with the necessary measures to deliver these, secured through the EMP [REP7-035]. To that extent, the Proposed Development would comply with relevant NPSNN policies.

7.3.15. The construction effects of the Proposed Development on hedgerows, deciduous woodland and floodplain grazing marsh, along with the slight adverse effect upon breeding birds, barn owls and wintering birds, weigh against the DCO being made. However, I note that these are considered to be short to medium term effects, which, once proposed mitigation has become established, will be mitigated. Nonetheless, these effects weigh against the DCO being made and I have attributed this harm limited weight.

7.3.16. The Proposed Development is considered to have a significant adverse effect upon bats, principally due to the uncertainty with regards to the delivery of mitigation, to allow bats to safely cross the Proposed Development, along with the time lag between loss of habitat and the remediated habitats reaching maturity which could lead to loss of foraging and commuting habitat. I consider that the harm weighs negatively against the Proposed Development and, given the protected status of all bat species, I have attributed this harm substantial weight in the planning balance.

7.3.17. In the planning balance below, I consider whether the national need for, and benefits of, the Proposed Development clearly outweigh this harm, as required by paragraph 5.35 of the NPSNN.

CLIMATE CHANGE

- 7.3.18. Overall, I conclude that the carbon emissions, either on their own or cumulatively from the Proposed Development, are not so significant that they would have a material effect on the Government's ability to meet its climate change targets and budgets.
- 7.3.19. It therefore follows that I find that, in respect of climate issues, the Proposed Development would be in accordance with Section 104 of PA2008 and paragraph 5.16-5.19 of the NPSNN.
- 7.3.20. Regardless of this conclusion, the Proposed Development would result in an increase in carbon emissions during both construction and operation. Considering national policy objectives towards reducing carbon, this weighs against the Proposed Development.
- 7.3.21. Notwithstanding that the proposal would generate additional carbon, given the measures set out in national policy to reduce vehicle emissions and the measures in the EMP [REP7-035] to reduce carbon during construction, I consider that this harm should be given limited weight in the overall planning balance.

GEOLOGY AND SOILS

- 7.3.22. I am satisfied that the Applicant's assessment of issues in relation to geology and soils has been undertaken in accordance with current guidance and provides sufficient information to allow for the effects to be considered and to accord with the requirements of the NPSNN.
- 7.3.23. The permanent loss of a substantial amount of best and most versatile agricultural land weighs against the Proposed Development and, given the finite nature of this resource, carries moderate weight in the planning balance. Therefore, development consent should not be granted unless the need for and benefits of the development clearly outweigh its loss.

HISTORIC ENVIRONMENT

- 7.3.24. I am satisfied that the Applicant's assessment has identified the significance of the heritage assets and their settings which would be potentially affected by the Proposed Development. The assessment also includes sufficient information to allow the nature and value of the significance of the assets to be understood.
- 7.3.25. The Proposed Development would have permanent residual adverse effects, from construction and operation, on the setting of the following Listed Buildings:
- St Peter's Church (Grade I);
 - St Andrew's Church (Grade II*);
 - Church Farm House (Grade II); and
 - Berry Hall (Grade II).

- 7.3.26. The Proposed Development would also have a slight adverse impact on Honingham Park, a non-designated historic park and garden.
- 7.3.27. The harm to these designated heritage assets is considered to be less than substantial. Therefore, in accordance with paragraph 5.134 of NPSNN, I weigh this harm against the public benefits of the proposal in Section 7.4.
- 7.3.28. Due to the relocation of the carriageway, the Proposed Development would result in slight beneficial effects during operation to the following Listed Buildings:
- St Michael's Church, (Grade I);
 - Manor Farmhouse, (Grade II);
 - Manor House, (Grade II); and
 - Yew Tree Farmhouse, (Grade II).
- 7.3.29. The benefits to these designated heritage assets weigh in favour of the scheme.

LANDSCAPE AND VISUAL

- 7.3.30. I am content that the methodology used for the assessment of landscape and visual effects was robust and allowed the effects of the Proposed Development to be properly considered in accordance with the relevant policies of the NPSNN.
- 7.3.31. Overall, I conclude that due to the nature of the Proposed Development, I consider that it would not be possible to avoid harm altogether to either the landscape or visual receptors. The Proposed Development has however incorporated suitable design and mitigation which is secured through the EMP [REP7-035] and rDCO Requirements [Appendix D], including the provision of after care.
- 7.3.32. I conclude that the proposed tree planting and mitigation measures for screening purposes identified in the Environmental Masterplan [REP8-011] are necessary, reasonable and appropriate.
- 7.3.33. During construction, I find that there would be significant adverse effects on landscape character associated with removal of, and change to, existing vegetation and land use, however by Year 15, with the establishment of the mitigation, this harm would be reduced.
- 7.3.34. In terms of visual effects, during construction a number of receptors would be subject to significant adverse visual effects associated with views of construction activities, with the largest construction effects being associated with locations in closest proximity to the construction activities, particularly residential receptors and users of footpaths. By year 15 of operation, with the establishment of Scheme planting, most visual effects for receptors would reduce to not significant. However, moderate adverse effects would remain for four properties.
- 7.3.35. I therefore find that the following weigh against the DCO being made:

- temporary large adverse effects during the construction phase on two Landscape Character Areas (LCAs) and four representative viewpoints;
- Temporary effect upon views from south of BHE, due to presence of construction compound; and
- Significant adverse effects in Year 1 of the operational phase, reducing to moderate adverse by Year 15, on four receptors.

7.3.36. Whilst these impacts are adverse, I conclude that they will be limited in nature and, in the case of the construction effects, temporary in their duration. Notwithstanding that there would be some harm to landscape and visual receptors, given the nature and scale of that harm, I consider that this should be given limited weight in the overall planning balance.

MATERIAL ASSETS AND WASTE

7.3.37. I find that, with the measures to be secured in the Site Waste Management Plan and Materials Management Plan, the proposals for waste management and the use of material assets would be satisfactory and accord with the requirements of the NPSNN.

7.3.38. As such, the issue does not weigh for or against the DCO being made and carries neutral weight in the planning balance.

NOISE AND VIBRATION

7.3.39. I am satisfied that the Applicant's consideration of baseline conditions, study area, identification of Noise Important Areas, baseline surveys, noise models, identification of receptors, cumulative impacts and assessment methodology are appropriate for the purposes of the noise and vibration assessment. I am content that the likely reasonable worst-case noise and vibration effects have been identified.

7.3.40. I conclude that the Proposed Development would result in construction and operational noise and vibration effects which would result in significant adverse environmental effects on a number of sensitive receptors.

7.3.41. The proposed mitigation secured through Requirement 4 and the EMP [REP7-035] would reduce and mitigate further some of the significant effects associated with construction. Given the nature of the Proposed Development and the short term duration of the significant effects during construction, I conclude that the effects of noise and vibration are minimised.

7.3.42. I acknowledge that the Proposed Development would contribute to operational noise improvements to a significant number of receptors.

7.3.43. Overall, I conclude that whilst significant effects remain, these significant effects would be below SOAEL and effective mitigation is proposed such that the Proposed Development meets the aims and aspirations of the NPSNN.

- 7.3.44. Notwithstanding the adverse effects from noise and vibration which weigh against the Order being made, given its temporary duration, along with proposed mitigation, I consider that this harm should be given limited weight in the overall balance.

HEALTH

- 7.3.45. I am satisfied that the Applicant's consideration of baseline conditions, study area, cumulative impacts and assessment methodology are appropriate for the purposes of the population and human health assessment.
- 7.3.46. The proposal accords with NPSNN in this respect. As such, the issue does not weigh for or against the DCO being made and carries neutral weight in the planning balance.

SOCIO-ECONOMIC

- 7.3.47. I am satisfied that the Applicant's consideration of the matter within the ES is acceptable and that, where necessary, mitigation measures would be secured through the rDCO. These measures are proportionate to any adverse effects that would result.
- 7.3.48. I find that significant economic benefits would result from the Proposed Development due to the likely reduction in congestion on the surrounding road network and the improved journey times and improved reliability. There would also be temporary economic benefits that would result from the construction phase.
- 7.3.49. The Proposed Development would result in longer distances to be travelled to access a number of agricultural enterprises. However, I consider this harm to be outweighed by the benefit that the Proposed Development would deliver in terms of significantly improved junctions, road layout and consequential highway safety benefits.
- 7.3.50. I note the significant adverse effect on three agricultural holdings, and this should be given moderate weight against the order being made. The Proposed Development would also have an effect upon the existing BHE Christmas Tree business, although given this would continue to operate, this attracts low negative weight.
- 7.3.51. Overall, the positive economic and social benefits weigh in favour of the Order being made and given the overall aims of the Proposed Development, carries substantial weight in favour of the DCO in the planning balance.

LAND-USE

- 7.3.52. I am satisfied that the Applicant's consideration of baseline conditions, study area, baseline surveys, identification of receptors, and assessment methodology are appropriate for the purposes of the land-use assessment.

- 7.3.53. During construction, I conclude that the Proposed Development would have an adverse effect upon the users of footpaths along the River Tud. This weighs against the application.
- 7.3.54. I acknowledge the proposed use of consecrated ground within St Peter's Church, but note that no objections were made by either the Diocese or users of the Church in this respect.
- 7.3.55. I find that the Proposed Development would deliver benefits for walkers and cyclists travelling along the new footways and cycleways, along with lower traffic levels and slower speeds on the existing A47 and the provision of safe crossing points. Whilst, in some instances, this would result in longer journey times, this harm would be outweighed by the overall improvements to the network.
- 7.3.56. Whilst I acknowledge the impact during construction on users of footpaths along the River Tud, these are outweighed by the benefits that the Proposed Development would deliver. I therefore conclude that the land use benefits weigh in favour of the Proposed Development and, given the overall aims of the Proposed Development, carry moderate weight in the planning balance.

TRAFFIC AND TRANSPORT

- 7.3.57. The Proposed Development would meet its traffic and transport objectives and provide benefits for those using the Proposed Development through less congestion and improved reliability. It would deliver improvements to the SRN in the context of the projected national growth in traffic levels and support the delivery of a national network to meet the country's long-term needs, which would support economic growth.
- 7.3.58. At a local level, it would reduce journey times and provide improved safety for users of the A47 and surrounding local roads, along with the provision of additional highway capacity to facilitate long-term housing and economic development and growth. On this basis, I conclude that the Proposed Development would deliver a significant benefit to the SRN.
- 7.3.59. In advance of the development of the NWL, or in the event of its delay, I am satisfied with the measures proposed by the Applicant, in conjunction with NCC. I am also satisfied that there is sufficient provision for further measures to be brought forward if necessary.
- 7.3.60. I conclude that the Proposed Development would not result in unacceptable impacts upon local side roads.
- 7.3.61. Taking all these matters into consideration, I conclude that traffic and transportation matters weigh substantially in favour of the Order being made and carries substantial weight in the planning balance.

WATER ENVIRONMENT

- 7.3.62. I am satisfied that the Proposed Development meets the Sequential and Exception Tests and, as essential infrastructure, it would be appropriately located, even given that part of it would be within FZ3. Furthermore, the Proposed Development would be safe for its lifetime and its operation and would not be affected by flooding and it would not increase the risk of flooding elsewhere.
- 7.3.63. I am content that the Proposed Development is supported by an appropriate Drainage Strategy [AS-031]. I am also satisfied that this has been designed to accommodate any future climate change effects. I am content that the rDCO (Appendix D) and EMP [REP7-035] contain adequate provisions to ensure that the proposed surface water drainage system would be properly implemented and maintained for the lifetime of the Proposed Development
- 7.3.64. I am satisfied that the Proposed Development would be Water Framework Directive (WFD) compliant and that it would not result in significant detriment to the overall condition and value of the potentially affected water bodies.
- 7.3.65. Overall, I am satisfied that the Proposed Development would not be at risk of flooding or increase flood risk off-site or result in adverse effects on water quality and resources in the study area.
- 7.3.66. Taking all matters into consideration, I find that the effect of the Proposed Development on the water environment does not weigh for or against the DCO being made and therefore carries neutral weight in the planning balance.

OTHER RELEVANT AND IMPORTANT MATTERS

Berry Hall Estate

- 7.3.67. The Proposed Development would result in harm to the IHTA designation, however, given the lack of planning designations, including other specific landscape designation, I accord little weight to the IHTA position given the absence of reference to that in planning policy and the absence of formal designations that are normally used to indicate significance in the planning system.
- 7.3.68. Notwithstanding that there would be some harm to the IHTA designation, given the nature and scale of that harm, I consider that this should be given limited weight in the overall planning balance.

HABITAT REGULATIONS ASSESSMENT

- 7.3.69. The HRA is a matter for the SoST to undertake as the decision maker and competent authority. Nevertheless, I am content that enough consideration has been given to the likely significant effects of the Proposed Development on European Sites and that such effects can be ruled out due to the lack of effective pathways. On this basis, I conclude

that there is no requirement to undertake an Appropriate Assessment of the Proposed Development.

7.4. THE PLANNING BALANCE

- 7.4.1. Paragraph 4.2 of the NPSNN states, subject to the detailed policies and protections within it, and the legal constraints set out in the PA2008, that there is a presumption in favour of granting development consent for national networks NSIPs that fall within the need for infrastructure established within the NPSNN.
- 7.4.2. In reaching my conclusions on the case for the Proposed Development, I have had regard to s104 of the PA2008, the NPSNN as the relevant NPS, the NPPF, the LIR and all other matters which I have identified to be both important and relevant to the SoS's decision.
- 7.4.3. In relation to carbon emissions, I have also considered whether the determination of the application, in accordance with the relevant NPS, would lead the United Kingdom (UK) to be in breach of any of its international obligations where relevant. I have concluded that this would not be the case.
- 7.4.4. The Proposed Development would make an important contribution to the improvement and enhancement of the existing SRN, thereby meeting a key objective of the NPSNN. The need and benefits are summarised previously in this Chapter but include:
- Deliver improvements to the SRN in the context of the projected national growth in traffic levels;
 - Support the delivery of a national network to meet the country's long-term needs that would support economic growth;
 - Reduce journey times for users of the A47 and surrounding local roads; and
 - Provide additional highway capacity that would facilitate long-term housing and economic development and growth.
- 7.4.5. There is clear evidence that there is currently a highway safety issue along the existing A47. The Proposed Development would address this and, at the same time, deliver improvements to highway safety for future users. This is a benefit of the Proposed Development.
- 7.4.6. Accordingly, I attach substantial weight to the benefits of the Proposed Development and compliance with a key policy objective of the NPSNN. I have found that economic benefits would result from the Proposed Development, along with other benefits in terms of overall improvements to the WCH network.
- 7.4.7. Paragraph 3.4 of the NPSNN recognises that some developments will have some adverse local impacts including on noise, emissions, landscape/visual amenity, biodiversity and cultural heritage. It states that whilst applicants should deliver developments in accordance with Government policy and in an environmentally sensitive way, including

considering opportunities to deliver environmental benefits, some adverse local effects of development may remain.

- 7.4.8. Whilst harm would arise from the Proposed Development, during both the construction and operational phases, I am satisfied that the Applicant has adopted a reasonable and proportionate approach to mitigate this harm. The EMP, through the REAC includes a comprehensive list of mitigation and management measures during the construction process to minimise the harm arising. The final EMP was submitted at D7 [REP7-035].
- 7.4.9. I conclude that the increase in carbon emissions resulting from the Proposed Development would be unlikely to be so significant to have a material impact on the ability of the Government to meet its carbon reduction targets. However, given the national and international policy to reduce carbon emissions, the additional carbon that would be generated, weighs against the Proposed Development, but not substantially against the Order being made.
- 7.4.10. I consider that the need for and the benefits of the Proposed Development outlined above would outweigh, in each case, the harm identified in relation to the designated heritage assets. I consider that the harm to the undesignated heritage assets, including archaeology, would also be outweighed by the public benefits of the Proposed Development. Overall, therefore, I consider that matters concerning the historic environment would accord with the relevant policy provisions of the NPSNN.
- 7.4.11. I have concluded that the Proposed Development could have a significant adverse effect upon bats, however this is principally due to uncertainty with regards to mitigation, along with a time lag in replacement habitat becoming established, rather than identified direct effects. In this regard, considering the mitigation measures proposed through the EMP [REP7-035], I conclude that this harm would be outweighed by the public benefits of the Proposed Development.
- 7.4.12. The Proposed Development would result in the permanent loss of a substantial amount of best and most versatile agricultural land. In this regard, I consider that the need and the public benefits of the Proposed Development would outweigh this loss.
- 7.4.13. In relation to BHE, whilst I have found harm to the IHTA designation, this is not of such a degree, as to outweigh the public benefits of the Proposed Development.
- 7.4.14. The below identifies where I conclude that any adverse impacts would be limited or where I am satisfied that the impacts would be sufficiently minimised and/ or mitigated, such that they would not weigh against the Order being made:
- Air Quality;
 - Biodiversity (excluding bats);
 - Landscape and Visual;

- Noise and vibration; and
- Water environment;

- 7.4.15. Overall therefore, although some harmful impacts are likely to result from the Proposed Development, I consider them to be within the scope of the relevant policy provisions of the NPSNN. On this basis, I am therefore satisfied that the Proposed Development would be generally in conformity with the NPSNN.
- 7.4.16. I have had regard to the findings of the Applicant's HRA Report and consider that the conclusions of no likely significant effects are supported and that an Appropriate Assessment is not required prior to making the DCO. I see no reason for HRA matters to prevent the making of the DCO.
- 7.4.17. In conclusion, I find that the benefits of the Proposed Development, particularly in terms of addressing existing congestion, improving highway safety and promoting economic benefits for the region, along with improvements to WCH provision, would outweigh the harm I have identified in relation to the construction and operation of the Proposed Development.
- 7.4.18. Consequently, the potential harm is substantially outweighed by the benefits of the Proposed Development in meeting the law and Government policy as set out in s104 of the PA2008 as amended (PA2008) and the NPSNN.
- 7.4.19. I conclude that, on the basis of all these considerations, there is a convincing case for development consent to be granted, subject to the following points on which the SoST may wish to satisfy themselves:
- Clarify the position of NE prior to making a decision to ensure that there are no impediments, that all mitigation is broadly adequate and that NE is content with the provisions of R7 and R12;
 - Clarify the position of NE on the effect of the Proposed Development upon the IHTA at BHE;
 - Should additional data with regards to Barbastelle bats become available prior to the determination of the Application, the SoST may wish to satisfy themselves that the Proposed Development can robustly demonstrate that the impacts on the favourable conservation status of bat species near the route can be avoided; and
 - Following the close of the Examination further advice was issued by DEFRA on 16 March 2022 in relation to nutrient neutrality. As a result, should the SoS be minded to make the DCO, they may wish to consult NE, the Applicant and the LPAs on the matter.

8. COMPULSORY ACQUISITION AND RELATED MATTERS

8.1. INTRODUCTION

- 8.1.1. The application included proposals for the CA and TP of land and rights over land, including Statutory Undertakers (SU) land, Special Category Land, and Crown land.
- 8.1.2. This Chapter considers whether the evidence before the Examination justifies granting of these powers, having regard to all relevant legislation and guidance.
- 8.1.3. Land over which CA or TP powers are sought is referred to in this Chapter as the Order Land.

8.2. LEGISLATIVE REQUIREMENTS

- 8.2.1. CA powers can only be granted if the conditions set out in s122 and s123 of the PA2008 are met. Specific provisions in respect of SU land, Special Category Land, and Crown land are set out later in this Chapter.
- 8.2.2. Section 122(2) states that the 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 the development. The former Department for Communities and Local Government (DCLG) published guidance related to procedures for CA (September 2013) in PA2008 (DCLG CA Guidance). This states that in respect of land required for the development, the land to be taken must be no more than is reasonably required and be proportionate.
- 8.2.3. Section 122(3) states that there must be a compelling case in the public interest to acquire the land, which means that the public benefit derived from the CA must outweigh the private loss that would be suffered by those whose land is affected.
- 8.2.4. Section 123 requires that one of three procedural conditions in subsections (2) to (4) must be met, namely:
 - (2) The condition is that the application for the order included a request for CA of the land to be authorised.
 - (3) The condition is that all persons with an interest in the land consent to the inclusion of the provision.
 - (4) The condition is that the prescribed procedure has been followed in relation to the land.
- 8.2.5. Several general considerations also have to be addressed, either as a result of following the applicable guidance or in accordance with legal duties on decision-makers. These are:

- 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;
- the Applicant must be able to demonstrate that funds are available to meet the compensation liabilities that might flow from the exercise of CA powers; and
- the decision-maker must be satisfied that the purposes stated for the CA are legitimate and sufficiently justify the inevitable interference with the human rights of those affected.

8.2.6. Further to Part 1 of Schedule 5 to the PA2008 at paragraph 2, TP powers are capable of being within the scope of a DCO. PA2008 and the associated DCLG CA Guidance do not contain the same level of specification and tests to be met in relation to the granting of TP powers as, by definition, such powers do not seek to permanently deprive or amend a person's interests in land.

8.2.7. Based on the PA2008 and DCLG CA Guidance, TP requires:

- justification that the TP powers are needed to enable the construction of the Proposed Development;
- demonstration that the TP powers are compatible with Human Rights tests; and
- that there are suitable compensation provisions for interference with a relevant right or interest.

8.3. THE REQUEST FOR CA AND TP POWERS

8.3.1. The dDCO included with the application [APP-017] and all subsequent dDCOs submitted by the Applicant to the Examination, including the latest draft version [REP9-008] include provisions intended to grant the Applicant powers of CA and TP of land and rights over land.

8.3.2. The Applicant's due diligence processes led to some of this documentation being updated during the Examination. By the close of the Examination, the most up-to date versions were as follows:

- Explanatory Memorandum (EM) [REP5-007];
- Book of Reference (BoR) [REP9-013];
- Land Plans [REP5-002];
- Special Category Land Plans [APP-013];
- Crown Land Plans [APP-012];
- a Statement of Reasons (SoR) [REP9-011]; and
- a Funding Statement [APP-022].

8.3.3. These documents set out the land and rights sought by the Applicant together with the reasons for their requirement and the basis on which compensation would be funded. Taken together, along with submissions made to the Examination, they form the basis for the considerations of whether the evidence before the Examination justifies granting of these powers.

8.3.4. Unless noted otherwise, references to the documents in this Chapter from this point should be read as references to the latest versions cited

above. Plot references employed in this Chapter are as per the most recently submitted Land Plans [REP5-002].

8.4. THE PURPOSES FOR WHICH THE POWERS ARE REQUESTED

- 8.4.1. The purposes for which the CA and TP powers are requested are set out in the SoR [REP9-011] and the BoR [REP9-013].
- 8.4.2. The Applicant has identified that CA powers are being sought for the Proposed Development for the following works:
- alteration, realignment, grading and maintenance of highways;
 - construction and maintenance of slip roads and link roads;
 - reconfiguration of existing junctions;
 - stopping up of existing roads;
 - construction and alteration of means of access and egress;
 - diversion and maintenance of, and access to, utilities;
 - diversion, construction and maintenance of footways and cycle tracks;
 - erection of footbridge;
 - construction and maintenance of a bridge over River Tud;
 - establishment and maintenance of environmental mitigation and enhancement areas;
 - establishment and maintenance of flood storage areas and floodplain compensation areas;
 - construction and maintenance of noise barriers; and
 - replacement public open space.
- 8.4.3. The Applicant has identified that TP powers are being sought for the Proposed Development for the following works:
- alteration, realignment and grading of highways;
 - construction of slip roads and link roads;
 - alterations to existing roads, junctions and an underbridge;
 - realignment and stopping up of existing roads;
 - construction and alteration of means of access and egress;
 - diversion and construction of utilities;
 - establishment of environmental mitigation and enhancement;
 - construction and realignment of footways and cycle tracks;
 - construction and maintenance of noise barriers;
 - establishment of environmental mitigation areas;
 - construction of flood compensation areas; and
 - construction of temporary construction compounds.
- 8.4.4. The main powers authorising CA are contained in Article 24 (Compulsory acquisition of land) and Article 27 (Compulsory acquisition of rights) of the rDCO (Appendix D). Article 27 allows for rights in land to be acquired as well as the land itself, and for new rights to be created over land.
- 8.4.5. The land or rights proposed to be acquired permanently or used temporarily are identified using colour-coding on the Land Plans [REP5-002]. Schedule 5 of the rDCO (Appendix D) sets out the purposes for

which rights over land may be acquired. Schedule 7 sets out the purposes for which TP may be taken.

- 8.4.6. Other CA powers sought by the Applicant include Article 29 which provides for the extinguishment of private rights over land and Article 32 which allows the Applicant to acquire only the subsoil beneath, or airspace above, the land. Article 33 would allow the Applicant to appropriate and use land above and below streets in the Order Land without having to acquire any part of the street or easement right in it.
- 8.4.7. The main powers authorising TP are contained in Article 34 (Temporary use of land for carrying out the authorised development). This would allow the land set out in Schedule 7 of the rDCO (Appendix D) to be occupied temporarily and allow the Applicant to remove any buildings or vegetation, construct temporary works and buildings and construct any permanent works specified in column 3 of Schedule 7 to the rDCO (Appendix D), and any other mitigation works. The power would be subject to the notice requirements in Article 34 (2). Article 34 (4) provides that the undertaker must restore the land to the reasonable satisfaction of the owner, subject to the limitations set out in 34 (4) (a) - (f).
- 8.4.8. Article 35 provides for the Applicant to take TP of land within the Order land required for the purpose of maintaining the authorised development and to construct such temporary works as may be reasonably necessary for that purpose for a period of five years from the date on which that part of the authorised development is first open for use.
- 8.4.9. Other Articles that may interfere with property rights and private interests include:
- Article 16: Temporary alteration, diversion, prohibition and restriction of use of streets;
 - Article 17: Permanent stopping up and restriction of use of streets and private means of access;
 - Article 22: Protective works to buildings; and
 - Article 23: Authority to survey and investigate the land.
- 8.4.10. My consideration of matters arising during the Examination in respect of the DCO provisions for CA and TP is provided in Chapter 9.

8.5. EXAMINATION OF CA AND TP

- 8.5.1. My Examination included consideration of all written and oral submissions relevant to CA and TP.

Written process

- 8.5.2. Relevant Representations (RRs) and written submissions from parties stating an objection to the CA or TP provisions in the application, or to the effects of it, or updating on progress in negotiations with the Applicant, were made by:

- Mr Meynell, Berry Hall Estate [RR-075, AS-011, REP1-043, REP1-044, REP4-022, REP4-024, REP8-029 and REP9-049]
- Mr Ben Hooker [RR-006]
- Mrs Catherine Hooker [RR-015]
- Mr David Hooker [RR-021]
- Mr David Hooker on behalf of Mrs Anne Gowering [RR-022]
- Brown and Co on behalf of Honingham Aktieselsklab/Easton Estates [RR-010, REP1-019, REP3-036, REP4-028, REP7-032, REP9-046 and REP10-010]
- Brown and Co on behalf of Neil Alston and Alston and Sons Ltd [RR-013, REP3-028, REP3-038, REP4-026, REP4-030, REP7-025]
- Brown and Co on behalf of Food Enterprise Farms Ltd and AL Alston & Sons Limited [RR-012, REP3-029 and REP4-027]
- Mr Robert Wright [REP4-039].

8.5.3. During the Examination, I raised several questions [PD-007 and PD-012] in relation to CA and TP. I sought the following:

- Updates to the BoR, SoR and Land Plans and confirmation of their accuracy;
- Confirmation of diligent enquiry into land interests;
- Justification and consideration given to alternatives to CA and TP, including those put forward by AP around the Wood Lane Junction;
- Justification of the overall need for CA and TP, particularly in respect to environmental mitigation and enhancement and working space;
- Confirmation of whether the Limits of Deviation (LoD) are appropriately defined;
- Potential to reduce the scope of rights required during the detailed design phase and whether any reductions could be made at this stage;
- Updates to the CA Objections Schedule;
- Responses to the CA and TP matters raised by APs;
- Confirmation of consent of the appropriate Crown authority;
- Responses to matters raised by SUs, potential detriments to their undertakings and the securing of appropriate provisions in the DCO;
- The relationship with other Made DCOs whose Order Limits align with the Proposed Development;
- Updates to the cost estimates, funding statements and the Road Investment Strategy;
- Identification of any potential impediments to the Proposed Development;
- Details of the consideration given to human rights, the Equalities Act 2010 and the Public Sector Equality Duty (PSED);
- Details of the consideration given to the interests of any Category 3 parties;
- Identification of any claims for injurious affectation; and
- Detailed matters in relation to DCO provisions, including Articles 10, 24, 26, 27, 30, 33, 34, 35, 38 and 45; and Schedules 5, 6, 7 and 9.

8.5.4. The Applicant responded to my questions [REP2-014, REP6-018 and AS-021].

- 8.5.5. The Applicant updated the dDCO, EM, Land Plans, BoR, SoR and Funding Statements during the Examination.
- 8.5.6. As requested in ExQ1 [PD-007], the Applicant submitted an CA Objections Schedule [REP2-015] that provided updates on negotiations with Affected Persons (APs). This was updated during the course of the Examination, with a final version submitted at D9 [REP9-035].

Hearings

- 8.5.7. During the Examination, I held Three CA Hearings (CAH1 [EV-018], CAH2 [EV-020] and CAH3 [EV-037]) at which I asked a number of questions of the Applicant and APs (and/ or their representatives). These provided an opportunity for APs to be heard and comment on the process and on the rights sought and provisions proposed in the dDCO.
- 8.5.8. My oral questions sought information and/or clarification on a number of matters including:
- matters not clear from the written evidence;
 - matters in relation to funding;
 - progress on negotiations with APs;
 - the need to acquire rights and alternatives;
 - updates to the BoR and Land Plans;
 - Protective Provisions (PPs) in relation to SUs and others; and
 - whether there is a compelling case in the public interest.
- 8.5.9. Oral submissions were made at the Hearings by parties including:
- Mr Meynell as owner of Berry Hall Estate;
 - Brown and Co on behalf of Honingham Aktieselsklab/Easton Estates; Brown and Co on behalf of Neil Alston and Alston and Sons Ltd;
 - Brown and Co on behalf of Food Enterprise Farms Ltd and AL Alston & Sons Limited; and
 - Mr Robert Wright.
- 8.5.10. Representatives of Ørsted Hornsea Three attended and made oral submissions at CAH3 in relation to PPs.
- 8.5.11. The Applicant provided summaries of its oral submissions and responses to questions raised in them for CAH1 and CAH2 at D4 [REP4-013] and for CAH3 at D7 [REP7-016].

Site Inspections

- 8.5.12. Two USIs were carried out, as noted in Chapter 1. An ASI was also undertaken which included areas of land subject to CA and/or TP. This helped me to develop a clear understanding of the plots of land proposed to be subject to the CA and TP powers.

8.6. APPLICANT'S CASE

- 8.6.1. The Applicant's case is set out in the SoR [REP9-011]. Detailed supporting information is provided in the ES and alternatives are also

considered in the ES [APP-040 to APP-134] and in the Case for the Scheme [APP-140] and National Policy Statement Accordance Tables [APP-141]. Further detail on their case was also provided by the Applicant in the submissions to CAH 1 [REP4-013], CAH2 [REP4-013] and CAH3 REP7-016].

- 8.6.2. It is the Applicant's case that powers of CA and TP sought through the dDCO are necessary, proportionate and justified. It considered that the powers are in accordance with all relevant statutory provisions and associated guidance. It was firmly of the view that there was a compelling case in the public interest for the CA and TP powers sought.
- 8.6.3. In the SoR [REP9-011], the Applicant addressed both the statutory tests as set out in Sections 122 and 123 of the PA2008. The Applicant also addressed the general considerations which the DCLG (as was then) CA Guidance indicates should be demonstrated to justify the powers sought. The matters covered included whether:
- Reasonable alternatives to CA and TP have been explored;
 - The Applicant has a clear idea of how it intends to use the land;
 - The proposed acquisition is legitimate, proportionate and necessary;
 - There is a compelling case in the public interest;
 - There is funding for the acquisition; and
 - Whether the interference with human rights is proportionate and justified.
- 8.6.4. The Applicant's case in relation to each of these points is discussed below.

Reasonable alternatives to CA and TP

- 8.6.5. In the SoR [REP9-011] the Applicant sets out the consideration given to alternatives and modifications to the Proposed Development to minimise the potential land take. The Applicant identified that throughout the design process, options were developed and screened to identify preferred solutions based on a comparison of the options performance against safety, environmental, engineering, transportation and economic criteria. This process was supplemented by feedback from consultation with stakeholders and the public.
- 8.6.6. The Applicant's position is that none of the alternatives or modifications considered would obviate the need for the CA and TP of land.

The Applicant has a clear idea of how it intends to use the land

- 8.6.7. Annex A of the SoR [REP9-011] sets out why CA powers are necessary in relation to each individual parcel of land. The Land Plans [REP5-002] show the location of each plot and whether it is for the CA of land, rights over land, or TP. The Applicant submits that all the land subject to CA and TP is needed for the Proposed Development; is needed to facilitate the Proposed Development; or is incidental to the Proposed Development.

The proposed acquisition is legitimate, proportionate and necessary

- 8.6.8. Annex A of the SoR [REP9-011] set out the CA powers sought in relation to each plot of land and references to the works to be carried out at each location. It considers that the land subject to CA powers would be needed for or to facilitate the development or would be incidental to it.
- 8.6.9. The Applicant also confirmed in the SoR [REP9-011] and in their submissions following CAH3 [REP7-016] that the limits of the land have been drawn as tightly as possible and that the land included in the Order Limits comprises the minimum land-take necessary to construct, operate, maintain and mitigate the Proposed Development.
- 8.6.10. The Applicant claims that it has sought to achieve a balance between minimising land take and securing sufficient land to ensure delivery of the Proposed Development, whilst acknowledging that the detailed design of the Proposed Development has yet to be completed. In that respect, the LoDs have been drawn as tightly as possible so as to avoid unnecessary land-take. In the event that less land proves to be required in a particular area following the detailed design stage, the Applicant confirmed that it would only seek to acquire that part of the land that is required [REP7-016] and, in all events, will seek to minimise effects on landowners.
- 8.6.11. With regards to TP, the Applicant's case is that it has balanced up the needs of identifying sufficient land to ensure the delivery of the Proposed Development with minimum disruption to stakeholders and users of the existing highway and supporting road network. As a result, temporary land acquisition is proportionate and only that needed to undertake the works. It includes provision for drainage in accordance with relevant standards and for the diversion of SUs' apparatus.

There is a compelling case in the public interest

- 8.6.12. The needs and benefits of the Proposed Development are set out in the SoR [REP9-011] and in the Case for the Scheme [APP-140]. These identify that the Proposed Development would:
- Support economic growth: reduce congestion related delay, improve journey time reliability and increase the overall capacity for future traffic growth to help enable regional development and growth in Norwich and its surrounding area.
 - Provide a safer and reliable network: improve safety for all road users and those living in the local area by improving safety issues at junctions along the A47. Improve user satisfaction by quicker and more reliable journeys.
 - Provide a more free-flowing network: increase resilience in coping with incidents such as collisions, breakdowns, maintenance and extreme weather. Support the smooth flow of traffic and improve journey times reliability by maximising the operational capability at the junctions and along the 9km carriageway.

- Improve the environment: protect the environment where possible by minimising adverse impacts and, where possible, deliver benefits.
- Provide an accessible and integrated network: ensure the new road layout considers local communities and safe access to the A47. Provide a safer route between communities for cyclists, walkers, horse-riders and other vulnerable users of the network, taking into consideration how their requirements can be addressed with improved connectivity.
- Value for money: ensure the Scheme is affordable and delivers good value for money.

8.6.13. It is the Applicant's case [APP-140] that the Proposed Development is consistent with core policies and that statutory requirements have been met. As such, it considers that "*the presumption in favour of the development*" set out in Paragraph 4.2 of the NPSNN, should be afforded great weight as the public benefits of the Proposed Development outweigh any residual adverse effects, including private loss, suffered by individual landowners and occupiers. On this basis, the Applicant considers that there is a clear and justified case in the public interest for the Proposed Development.

There is funding for the acquisition

- 8.6.14. The cost estimate for the Proposed Development, as set out in the Funding Statement [APP-022] is £195.27 million. The Applicant has confirmed [APP-022] that this estimate includes all costs to deliver the Scheme from Options stages through to the opening for traffic. 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 PA2008.
- 8.6.15. The Applicant identifies in the Funding Statement [APP-022], that the Proposed Development forms part of a multi-billion investment to improve journeys on England's major A roads and motorways, including a package of six projects on the 115-mile stretch of the A47 between Peterborough and Great Yarmouth.
- 8.6.16. The Funding Statement [APP-022] demonstrates that the Proposed Development is to be adequately funded through the Road Investment Strategy (RIS), using the change control processes set out in Part 6 of the Highways England Licence, if required. Therefore the Applicant submits that funding is not an impediment to the delivery of the Proposed Development. Neither is it to the payment of compensation to persons affected by CA, TP, or a blight claim. Accordingly, the Applicant's view at CAH1 [REP4-013] was that there would be no funding impediment to the delivery of the Proposed Development.

The interference with human rights is proportionate and justified

- 8.6.17. In the SoR [REP9-011], the Applicant has considered potential infringements of human rights as a result of the CA and TP powers sought. The relevant Articles considered by the Applicant, include:
- Article 1 of The First Protocol – protects the rights to peaceful enjoyment of possessions. No one can be deprived of their possessions except in the public interest.
 - Article 6 – entitles those affected by compulsory powers to a fair and public hearing.
 - Article 8 – protects the right of the individual to respect for their private and family life, their home and their correspondence. Interference with this right can be justified if it is in accordance with law and is necessary in the interests of, among other things, national security, public safety or the economic wellbeing of the country.
- 8.6.18. In relation to both Article 1 and 8, the Applicant submits that the compelling case in the public interest for CA has been demonstrated in their Case for the Scheme [APP-140]. The land over which CA powers are sought is set out in the rDCO (Appendix D) and is the minimum necessary to ensure the delivery of the Proposed Development. The Applicant considers that the Proposed Development has been designed to minimise harm whilst achieving its publicly stated objectives. In this respect the Applicant considers the interference with human rights to be both proportionate and justified.
- 8.6.19. In relation to Article 6, the Applicant considers that proper procedures have been followed for both the consultation on the Proposed Development and in determining the CA powers requested. Throughout, the Applicant has given persons with an interest in the Land a full opportunity to comment on proposals, both in a statutory and non-statutory capacity. The Applicant has endeavoured to engage with landowners and had regard to feedback in both the initial design of the Proposed Development and in iterative design changes. The Applicant refers to examples of design changes provided within the Consultation Report [APP-024].
- 8.6.20. In summary, the Applicant's case for interference with Articles 1 and 8 is that:
- the significant public benefits that would arise from the Proposed Development would outweigh any harm;
 - a compelling case in the public interest for CA has been demonstrated;
 - the land over which CA powers are sought are the minimum necessary to deliver the Proposed Development;
 - the Proposed Development has been designed to minimise harm while achieving its objectives;
 - the interference with human rights is both proportionate and justified; and that

- those affected by the CA and TP powers would be entitled to compensation and the Applicant has the resources to pay such compensation.

8.6.21. In summary, the Applicant's case [REP9-011] with respect to Article 6 is that:

- proper procedures have been followed for both the consultation on the Proposed Development and in determining the CA powers included within the dDCO;
- persons with an interest in the land have been given a full opportunity to comment;
- it has endeavoured to engage with landowners and has had regard to landowner feedback; and that
- there have been opportunities for individuals to submit representations during the Examination.

8.6.22. Chapter 4 of the SoR [REP9-011] and the CA Schedule provides a summary of the Applicant's discussions with landowners and occupiers to acquire the Land by agreement.

8.6.23. Matters outstanding at the close of the Examination are considered below.

8.7. EXAMINATION OF THE APPLICANT'S OVERALL CASE

8.7.1. This section provides my consideration of the responses from the Applicant and other parties to matters raised in relation to the Applicant's overall case. Individual objections and issues are addressed in the next section. This section considers:

- Alternatives and whether the proposed acquisition would be legitimate, proportionate and necessary;
- Funding and potential impediments; and
- Human rights.

Alternatives and whether the proposed acquisition would be legitimate, proportionate and necessary

8.7.2. I consider the Applicant's approach to alternatives to a road-based scheme and the proposed junction layouts in Section 5.3. I conclude that I am satisfied with the options appraisals undertaken by the Applicant.

8.7.3. In response to my question at CAH1 with regards to how alternatives were considered, the Applicant replied [REP4-013] that due to the nature and size of the Proposed Development, it was inevitable that CA and TP would be required. In designing the Proposed Development, the Applicant has considered alternatives and modifications to the Proposed Development to minimise potential land take. These alternatives and modifications were consulted on and the preferred route was been chosen based on a thorough consideration of relevant issues [APP-024].

8.7.4. In selecting options, the Applicant highlighted that the selection took account of various factors, including, amongst others, views of

consultees, including persons with a land interest. None of the alternatives or modifications considered would obviate the need for CA or TP.

- 8.7.5. The Applicant took on board key concerns raised by the public and amended the option so that it could be built to have less impact during construction [APP-024]. The assessments also demonstrated that the current route presented the best solution for traffic and safety issues, and had the least impact on the environment and, coupled with the positive public consultation, was deemed to be the most favourable.
- 8.7.6. The Applicant has been engaged for some time with landowners seeking to reach agreements which would avoid the need to seek to CA or TP of land. This process was ongoing throughout the Examination.
- 8.7.7. I questioned the Applicant further in relation to how CA factors fed directly into the consideration of alternatives [EV-018]. In response, the Applicant stated that any changes made to the Proposed Development had the potential to impact on the amount of CA and TP [REP4-013].
- 8.7.8. In regard to more specific examples [REP4-013], the Applicant referred to discussions with NCC in relation to the design of sideroads. Initially they were designed in line with the relevant DMRB standards, however following discussions with NCC these were significantly reduced. As a result, less land take was required. This preference was applied across the Proposed Development and was driven by the Applicant's desire to reduce the land take and to reduce the impact on the landowners, and the associated environmental impacts [REP4-013].

Funding and potential impediments

Cost estimate and funding

- 8.7.9. I asked the Applicant in my ExQ1 [PD-007] to clarify that, in accordance with the former DCLG published guidance related to procedures for CA (September 2013) in PA2008: procedures for the CA of land, that adequate funding is likely to be available to enable the CA within the statutory period following the Order being made.
- 8.7.10. In response, the Applicant referred to the Funding Statement [APP-022] and confirmed [REP4-013] that the figure provided includes the land acquisition; compensation costs and claims associated with the Scheme; legal fees and land agent fees. The Applicant confirmed that the estimate for the Proposed Development had been prepared in accordance with NH procedures and the HM Treasury Green Book [REP4-013].
- 8.7.11. The Applicant confirmed that the estimates for compensation and land acquisition costs have been informed by land referencing activities, engagement of professional surveyors from the Valuation Office Agency (VOA) and information received from consultation and engagement with parties who have interest in the land. The estimate was reached by appraising the compensation anticipated to be payable as a result of the Proposed Development (both permanent and temporary) including land

value, loss and damage, disturbance, injurious affection (including Part 1 of the Land Compensation Act 1973), landowner fees and costs in line with the DCLG CA Guidance.

- 8.7.12. In response to my question about the availability of funds [PD-007], the Applicant referred to the Government's commitment to fully fund the Scheme as part of the RIS [REP2-014]. The Applicant also referred to the Highways England Delivery Plan (2020-2025) that sets out in detail how HE will deliver its strategic outcomes and measure success. The Plan lists the Proposed Development as a '*Scheme open for traffic during RP2*'. In the view of the Applicant, this provided evidence of its commitment to the timely delivery of the Proposed Development and the funding necessary to ensure this [REP2-014].
- 8.7.13. With regards to the overall scheme costs, I queried whether the acquisition costs should be separate to construction/project costs [EV-018].
- 8.7.14. In response [REP4-013], the Applicant stated that it was not usual practice to provide separate acquisition costs, due to their commercially sensitive nature, but confirmed they are included within the overall budget. The allowance for acquisition costs estimate is reached for the costs of potential claims by owners for compensation, with some leeway made to accommodate for unknown risks. This is then fed into the wider costing of the Proposed Development.
- 8.7.15. At CAH2 [EV-020], I sought assurance that the budget allotted is sufficient and if there are mechanisms in place to modify if needed.
- 8.7.16. In response [REP4-013] the Applicant identified that the budget is funded wholly by the Applicant's RIS2. Within this, changes can be made as requested by the SoS or the Applicant, or changes are made within RIS2, which can be made at a project level if required. The Applicant referred to the Funding Statement [APP-022], where the mechanism for seeking these changes is set out.

Potential impediments

- 8.7.17. During the Examination I sought confirmation from NE [PD-012] on any known impediments with regards to European Protected Species. No response was received to my question. Towards the end of the Examination the Applicant [REP8-010] advised that there were no known impediments from its perspective or that it had been made aware of in discussion with the relevant regulatory authorities. A Consents and Agreements Position Statement was updated by the Applicant during the Examination, with a final version being provided at D8 [REP8-010].
- 8.7.18. The EA [REP9-015] raised no concerns relating to the environmental aspects within its remit. NCC [REP9-019] was content that all impediments had been identified. BC, SNC and BDC [REP9-021, REP9-025, REP9-022] raised no concerns or issues.

- 8.7.19. By the close of the Examination, confirmation of no impediment was not received from NE in relation to European Protected Species licensing, although the Applicant did confirm that they saw no reason why licences would not be granted [REP8-010].

Human Rights

- 8.7.20. Responding to my question at EXQ1 [PD-007] with regards to the interference with human rights being proportionate and justified, the Applicant stated that it had sought to acquire only land or interests that are required to allow the Proposed Development to proceed and to cause as little interference with existing interests in land as possible [REP2-014]. The Applicant referred to a number of examples:
- The Applicant's decision to adopt an alignment as close as possible to the existing alignment of the A47, so as to keep interference with land owners and occupiers to a minimum.
 - The use of powers less than for freehold acquisition (for instance the acquisition of new rights for the alteration and diversion of existing utilities apparatus) rather than seeking full freehold acquisition powers.
 - The Applicant has sought to use, wherever possible, land for compounds and working areas within the area bounded by the existing A47 and the proposed realigned A47, to restrict the extent of the land affected by the DCO scheme.
- 8.7.21. The Applicant confirmed [RE9-011] that it has analysed the appropriate use of powers for each individual plot to decide whether powers less than for freehold acquisition could be deployed and has done so where this is appropriate without compromising the principles of the Proposed Development. Where a landowner has raised a specific issue on the proposed CA, the Applicant is in continued dialogue with them.
- 8.7.22. The Applicant confirmed [REP2-014] that throughout the preparation of the Proposed Development, they have given persons with an interest in the Order Land a full opportunity to comment on the proposals, both in a statutory and non-statutory capacity, and the Applicant has endeavoured to engage with landowners. The Applicant has had regard to landowner feedback in both the initial design of the Proposed Development and in iterative design changes throughout the life of the Scheme. Examples of design changes are provided within the Consultation Report [APP-024].
- 8.7.23. Responding to my question at ExQ1 [PD-007] with regards to ensuring that all Affected Persons have been identified, the Applicant confirms [REP2-014] that all affected parties are captured within the BoR. This was updated during the Examination.
- 8.7.24. To guarantee the accuracy of the BoR, the Applicant confirmed [REP2-014] that it had undertaken a range of activities, including:
- desktop methods, including Land Registry searches, index maps, further title searches and searches within titles to uncover hidden interests;

- contact reference inquiries, reaching out to those with interests by various methods; and
- site visits with the intention of clarifying interests and solving queries with the potential of reducing land take.

8.7.25. The Applicant confirmed that the BoR is kept under constant review and where changes in ownership are notified the Applicant will serve s102A letters. At the close of the Examination an updated BoR was submitted [REP9-013].

8.7.26. I asked the Applicant in my ExQ1 [PD-007] how it had regard to the Public Sector Equality Duty (PSED). The Applicant referred to its use of an Equality Impact Assessment [APP-145] at each stage of the process, where it set out the positive and negative impacts of the Proposed Development and how processes such as stakeholder engagement complied with its PSED.

8.7.27. During the Examination, no parties raised any matters with respect to the regard given by the Applicant to human rights, the Equalities Act 2010 or PSED.

Conclusions on the generalities of the Applicant's case

8.7.28. These conclusions are on the Applicant's case, as set out and discussed above. My overarching conclusions on CA and TP are set out at the end of this section. I have also addressed individual objections, special considerations and the provisions in the rDCO (Appendix D) later in this Chapter.

8.7.29. In relation to s123(2) of the PA2008, I am satisfied that this is met, as the application included a request for CA of the land to be authorised.

8.7.30. In their submissions, the Applicant has considered the statutory tests, DCLG CA Guidance and the interference with human rights.

8.7.31. Following my consideration of the Case for Development in the earlier Chapters, I am content that the need case for the Proposed Development has satisfactorily been made. On that basis I am satisfied that the Applicant has established the public benefit derived from the proposed CA.

8.7.32. The Applicant has set out the purposes for which the CA and TP powers are requested in the SoR [REP9-011]. Based on the above consideration and those in preceding Chapters, I see no reason to disagree with the Applicant's submission that they are required for the delivery of the Proposed Development.

8.7.33. Following consideration of the SoR [REP9-011], BoR [REP9-013], Land Plans [REP5-002] and responses to matters raised during the Examination, I accept that the Applicant has a clear idea of how it intends to use the land.

- 8.7.34. The consideration of alternatives and modification is set out in the SoR [REP9-011]. In preparing the DCO application, the Applicant had considered alternative alignments for the Proposed Development. I find that there is no case for these alternatives to be considered further and am satisfied those reasonable alternative alignments have been considered.
- 8.7.35. I find no compelling evidence to disagree with the Applicant's proposals with respect to the provisions for maintenance, lateral deviation, and the Applicant's commitment to reduce CA and TP during the detailed design phase, if possible.
- 8.7.36. I am satisfied that sufficient evidence has been provided to enable me to conclude that costings, including the costs of acquisition and compensation, have been sufficiently identified and allowed for accordingly. Furthermore, given the Proposed Development is included in the RIS2 programme, I find no reason to conclude that there would be any funding impediment to its delivery or to the payment of compensation.
- 8.7.37. I have not seen any evidence of any other likely impediments to the Proposed Development. In this respect, I refer to Section 5.6, where I have recommended that the SoS may wish to consult with NE on this matter prior to the determination of the Application.
- 8.7.38. The application documents, updates to the BoR [REP9-013] made during the Examination and the responses provided by the Applicant to matters raised during the Examination have demonstrated, to my satisfaction, that the Applicant has applied appropriate due diligence in this respect. I am also satisfied that the Applicant has had sufficient regard to the Equalities Act 2010 and PSED and the Human Rights Act.

8.8. INDIVIDUAL OBJECTIONS AND ISSUES

- 8.8.1. The Proposed Development was subject to the following general objections to CA and/or TP of land or rights sustained to the end of the Examination period:
- Berry Hall Estate;
 - Honingham Aktieselsklab/Easton Estates;
 - Food Enterprise Farms Ltd and AL Alston & Sons Limited;
 - Neil Alston and Alston and Sons Ltd;
 - Mr Ben Hooker, Mrs Catherine Hooker, Mr David Hooker, Mr David Hooker on behalf of Mrs Anne Gowering; and
 - Mr Robert Wright.
- 8.8.2. These objections are reported on below.

Mr Anthony Meynell, Berry Hall Estate

Name:	Mr Anthony Meynell, Berry Hall Estate
Location:	Freeholder of Berry Hall Estate
Interest:	Plots
Freehold Land	CA in respect of plots 8/3c, 8/3g, 8/5c, 8/5d, 9/1b, 9/1f, 9/1g, 9/1i, 9/2a, 9/2c, 9/2d, 9/2e, 17/1f. TP in respect of plots 8/5a, 9/1a, 9/1c, 9/1n TP and rights in respect of plots 8/3f, 9/1d, 9/1h, 9/1j , 9/1l, 9/1m.
Status summary:	The Applicant indicated that they had agreed to address a number of Mr Meynell's concerns in a deed of undertaking, which, at the close of the Examination was with Mr Meynell's advisors for review. The Applicant has also agreed a number of points with Mr Meynell in the SoCG [REP10-002]. The Applicant considered that the remaining points agreed between the parties would be dealt with in a land agreement to cover the voluntary acquisition of the relevant parts of Mr Meynell's land. In their final response [REP10-008], BHE confirmed that their objection to CA remained.

Case for BHE

8.8.3. During the course of the Examination, BHE made a number of submissions in relation to CA and TP powers. Issues raised included:

- Permanent cutting of all access to the west of Berry Hall Estate;
- Permanent loss of HGV access;
- Issues associated with the closure of Old Back Drive;
- Land takes were superfluous and would permanently prevent legal access to property;
- Loss of access in relation to the reservoir housed in plot 9/1b;
- Loss of access to the footpath within plot 9/1g;
- Compound should be moved to north;

- Impact on tenanted agricultural business; and
- Impact of businesses on BHE, including woodland management and Christmas tree business.

8.8.4. During the course of the Examination, the owner of BHE confirmed that a number of the issues raised had been addressed by the Applicant. These included:

- Removal of existing silage clamp from TP;
- Arrangements in place to provide continued HGV access from Berry's Lane to Estate, linking with existing internal network and to be in place prior to closure of Old Back Drive;
- Protection of reservoir and water supply pipes via deed of undertaking;
- Access to BHE to northern woodland and reservoir provided during construction, via deed of undertaking;
- BHE permitted to fell any wood in or immediately adjacent to Plots currently owned by Mr Meynell. Planting arrangements in and around southern parts of Wood Lane junction to be discussed with BHE;
- Old Back Drive, to be returned to BHE on completion of construction, along with modified turning head for vehicles;
- Enhanced cycleway/footway to be reviewed at detailed design stage;
- Access to BHE via new back drive and main drive can be maintained during construction, granting rights back in the event that land required for western ditch is permanently acquired;
- Parties agreed to review potential use of eastern ditch at detailed design; and
- The meadow access across Plot 9/1g to be maintained and covered in a private agreement.

8.8.5. Agreement between the parties to these measures is set out in the SoCG [REP10-002], delivery of which would be via either detailed design, a Deed of Undertaking (DoU) or a private land agreement.

8.8.6. As a result of the agreement on a number of issues, the Applicant made a number of changes to the application. On Land Plan Sheet 9 [REP5-002], an area of land has been removed from the parcels for CA and this is shown coloured in black. The area removed is an access from Berrys Lane to the west on the BHE (New Back Drive) and an area around and including the silage clamp. This was also detailed in paragraph 2.1.2 of Non-Material DCO Change Request (AS-038) and also in the joint letter from the Applicant and Mr Meynell on 15 November 2021 [REP4-044].

8.8.7. However, BHE retained their objection to CA on a number of grounds. These are:

- The proposed Wood Lane junction could be smaller if the no-NWL scenario arises [REP6-016]. As the NWL scheme is not yet committed, there continues to be a material possibility of that scenario arising. As a result, this means that the Applicant is seeking to acquire more land than is actually required. This alone means it should not be granted the powers of acquisition it seeks in respect of the BHE land.

- In respect of the construction compound in plots 8/5a and 9/1a, BHE does not agree that the Applicant has properly considered alternative locations.
- The Applicant has not complied overall with statutory and policy requirements for CA, including satisfying the “compelling reason” test. This is on the basis that the implications of the Proposed Development upon the designated Estate in public interest terms and the implications of the proposal upon the conditional exemption have not been fully considered. In these circumstances, ExA cannot properly carry out that balancing exercise and conclude that it would favour the Applicant as it suggests.

8.8.8. In their final response [REP9-037], the Applicant considered that the land included within the application is no more than is reasonably required for the construction, operation and maintenance of the Proposed Development, and the limits of the land required have been drawn so as to avoid unnecessary land take. They submit therefore that the approach taken is proportionate.

8.8.9. In terms of the location of the construction compound on BHE land, the Applicant referred to consultation responses [APP-024], which identified that the land to the north would fail to provide the required area or safe access/egress to the A47 for construction traffic [REP1-013]. Neither would it align with the construction phasing of the Proposed Development. In response to comments, the Applicant did however, amend the Compound to be a welfare only compound, thereby removing some of the potential noisy activities [REP7-017].

8.8.10. In relation to alternative design for Wood Lane junction, in response [REP9-037], the Applicant submitted that they considered that none of the alternative designs and locations were considered to be appropriate. The Applicant referred to their assessment of the alternative Wood Lane junction options that was submitted at D6 [REP6-015].

8.8.11. The Applicant considered [REP9-037] that the permanent, temporary and new rights allocation has assumed as a worst case need for the DCO application purposes and that they will be continually under review as the detailed design process progresses. As part of this, the Applicant committed that, [REP9-037], if during the detailed design stage it becomes apparent that less land is required, or the Proposed Development can be constructed with reduced rights (e.g. avoiding permanent acquisition), then the Applicant will continue to seek to minimise the permanent land take impacts on the landowner.

8.8.12. As evidence of this approach, the Applicant highlighted the removal of the Back Drive, reservoir and silage clamp from the temporary land take areas [REP9-037].

ExA considerations

8.8.13. In general, I am satisfied that the land and rights sought by the Applicant are required to enable the Proposed Development to be carried

out. They are all an integral part of the Proposed Development and are either required for the development, to facilitate it or are incidental to it.

- 8.8.14. Having regard to the changes made to the application and the matters agreed between the parties within the SoCG [REP10-002], I am satisfied that a number of the concerns, in relation to matters of CA and TP raised by BHE in their submission to the Examination have been adequately addressed.
- 8.8.15. The central issue of contention relates to the proposed Wood Lane junction, which BHE considers to have been over designed to accommodate the provision of a the NWL, a project which has yet to receive planning permission. As a result, BHE considers that the junction is larger than required, and no alternatives have been proposed, that would deliver a smaller junction, should the NWL not proceed. BHE have put forward alternative design approaches [REP1-057]. The Applicant considers that the junction is of the required size, even if the NWL is not delivered [AS-022 and AS-023]. In this instance, Wood Lane would remain the designated HGV route, and would require the provision of a suitably sized junction.
- 8.8.16. I have given careful consideration to the parties' representations on this matter. However, I note that the Applicant does not consider that the alternative option for the Wood Lane junction, as proposed by BHE, would meet highway requirements, and whilst reducing land take from BHE, would require CA of land to the north. The owners of this land have objected to this possibility [REP10-010]. Furthermore, I note that NCC raised similar issues in relation to alternative designs [REP6-023].
- 8.8.17. Throughout the Examination, the Applicant has justified the reasoning for Wood Lane junction to serve the NWL, along with its position with regards to its delivery. This has been re-enforced by the submissions of NCC as the promoter of the NWL [RR-069 and REP1-034]. I also note the commitment from the Applicant [REP9-037] should circumstances change, they are committed to review overall land take at the point of detailed design.
- 8.8.18. For the reasons set out earlier in this Chapter, I consider that there is a compelling case in the public interest for the Proposed Development. From the evidence presented to the Examination by BHE, I see no reason to change this position. I consider that the plots would be required to enable the implementation of the Proposed Development.
- 8.8.19. The Applicant has indicated that it will use its best efforts to minimise these impacts on the use and future operation of the facility, but I have no doubt that it would not be possible to mitigate all the impacts in particular during construction of the Proposed Development.
- 8.8.20. On balance, while I acknowledge the CA powers sought over the BHE land might result in some adverse impacts to these APs' private interests, in view of the established national need for improvements to the strategic highway network and the need to provide certainty in terms of

project delivery, I consider there is a compelling case in the public interest for the land to be acquired compulsorily.

- 8.8.21. Based on the above, I conclude that the rights sought for the CA of rights of plots 8/3c, 8/3g, 8/5c, 8/5d, 9/1b, 9/1f, 9/1g, 9/1i, 9/2a, 9/2c, 9/2d, 9/2e, 17/1f are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted.
- 8.8.22. I also conclude that the rights sought for the TP of plots 8/5a, 9/1a, 9/1c, 9/1n and TP and rights in respect of plots 8/3f, 9/1d, 9/1h, 9/1j, 9/1l, 9/1m are for a purpose and timescale that have been identified, are compatible with human rights tests, and there are suitable compensation provisions.

Honingham Aktieselsklab/Easton Estates

Name:	Honingham Aktieselsklab
Location:	Easton Estate
Interest:	Plots
Freehold Land	CA in respect of plots 9/5a, 9/5b, 10/3b, 10/5a, 10/5d, 11/1a, 11/1d, 11/4b, 11/4c, 12/2a, 12/2b, 12/3a, 13/2a, 14/1a, 15/2f, 15/3a, 15/3b, 15/4c, 16/1d, 16/1f, 16/3c, 16/3d, 16/3e, 16/3f, 16/3g, 16/3h, 16/8a, 21/1a, TP in respect of plots 10/3a, 10/5c, 10/5e, 10/5f, 11/1e, 11/1f, 11/1h, 12/3b, 15/4a, 15/4d, 16/1c TP and rights in respect of plots 10/5b, 11/1b, 11/1c, 11/1g, 15/4b, 15/4e, 16/1a, 20/1a
Status summary:	The Applicant indicated that discussions were on going and that heads of terms for a landowner agreements was subject to negotiations.

- 8.8.32. In their RR [RR-010], Honingham Aktieselsklab, expressed concern around the impact the Proposed Development would have upon their estate. In their view, the Proposed Development was a number of development proposals, including the NWL and Ørsted Hornsea Three Cable Route that would impact upon the Estate as a whole [REP3-036].

- 8.8.33. From the submission from both parties [RR-010 and REP9-035], it is clear that discussions commenced before the submission of the application and have continued throughout the Examination.
- 8.8.34. In their RR [RR-010] and WR [REP1-019], Honingham Aktieselsklab confirm that they accept the broad alignment, but would have preferred the route to have been more to the edge of the farm, to reduce its intrusion. I also note that a number of submissions made to the Examination relate to environmental matters in relation to noise and disturbance [REP1-019, REP3-036, REP4-028, REP7-032 and REP10-010].
- 8.8.35. Based on the above, I do not consider that Honingham Aktieselsklab/Easton Estates are objecting to CA and TP.
- 8.8.36. Based on the above, I conclude that the rights sought for the CA of rights of plots 9/5a, 9/5b, 10/3b, 10/5a, 10/5d, 11/1a, 11/1d, 11/4b, 11/4c, 12/2a, 12/2b, 12/3a, 13/2a, 14/1a, 15/2f, 15/3a, 15/3b, 15/4c, 16/1d, 16/1f, 16/3c, 16/3d, 16/3e, 16/3f, 16/3g, 16/3h, 16/8a, 21/1a are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted.
- 8.8.37. I also conclude that the rights sought for the TP of plots 10/3a, 10/5c, 10/5e, 10/5f, 11/1e, 11/1f, 11/1h, 12/3b, 15/4a, 15/4d, 16/1c and TP and rights in respect of plots 10/5b, 11/1b, 11/1c, 11/1g, 15/4b, 15/4e, 16/1a, 20/1a are for a purpose and timescale that have been identified, are compatible with human rights tests, and there are suitable compensation provisions.

AL Alston & Sons Limited, Alston Farms, Food Enterprise Farms Ltd and Mr Neil Alston.

- 8.8.38. A number of RRs were made in relation to the various farming enterprises that are operated by the respective landowners. In summary these were:
- A L Alston and Sons Ltd [RR-009] – raised issues in relation to use of parcel of land for landscaping purposes and considered that alternatives to this existed elsewhere, which would allow the plot in question to be used for road side services, included a petrol filling/EV station;
 - Alston Farms [RR-011] – raised issues in relation to access for agricultural vehicles and the implication of road closures, both upon existing operations and surrounding roads;
 - Food Enterprise Park Ltd [RR-012] – raised issues in relation to the access to the FEP and the need for this to be considered as part of the DCO application; and
 - Mr Neil Alston [RR-013] – raised issues in relation to the effect of the closure of Berrys Lane and Church Lane upon access to existing operations.

- 8.8.39. All parties, through their representatives, made similar submission to CAH2 [REP4-026, REP4-027, REP4-029, REP4-030].
- 8.8.40. On the basis of the above, I do not consider that the identified APs are making specific objections in relation to CA and/or TP matters.

Mr Ben Hooker, Mrs Catherine Hooker, Mr David Hooker, Mr David Hooker on behalf of Mrs Anne Gowering

- 8.8.41. In their submissions [REP4-013], the Applicant confirmed that in response to the RRs, a meeting was held in August 2021 to explain reasoning for land acquisition allocation in the DCO application. This resulted in changes to Land Plans and BoR at D1 to show an amendment from permanent to temporary acquisition of land parcel 14/6a.
- 8.8.42. Following this change, no further comments or submissions were received in relation to these matters.
- 8.8.43. Therefore, I consider that identified APs are no longer objecting to TP.
- 8.8.44. Based on the above, I am satisfied that the rights sought for the TP of land at plot 14/6a, are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted.

Mr Robert Wright

- 8.8.45. The Applicant has requested powers for the CA of land at plots 1/5a and 1/5b for the provision of ecological mitigation and Natural England licence commitments, primarily for the relocation of newts and the maintenance and protection of those relocation habitats.
- 8.8.46. Whilst no RR or WRs were submitted by Mr Wright, he did however make an oral submission at CAH2, along with a subsequent written submission [REP4-039]. In this submission, Mr Wright raised a concern that he had not been consulted until a very late stage and had not been aware that his land was to be acquired and subsequently expressed concern about this permanent acquisition.
- 8.8.47. The Applicant advised that it had served a s56 notice, that was properly served and received. In any event, the Applicant confirmed [REP4-013] that they had spoken to Mr Wright and his representatives on 3 November 2021, with a subsequent meeting taking place on site with Mr Wright on 15 November 2021. The Applicant confirmed that the landowner is supportive and formal heads of terms for an agreement were issued in November 2021 for signing.
- 8.8.48. Following these discussions, at D4 [REP4-039] Mr Wright confirmed that he was happy for the land to be used for ecological mitigation.
- 8.8.49. Therefore, I do not consider that Mr Wright is objecting to CA.

- 8.8.50. Based on the above, I am satisfied that the rights sought for the CA of land at plots 1/5a and 1/5b are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted.

LAND TO WHICH NO OBJECTION HAS BEEN RECEIVED

- 8.8.51. There are a number of other Category 1 landowners within the Order Limits whose land would be subject to CA, TP with Permanent Rights or TP who have not raised objections to the Proposed Development.
- 8.8.52. Some of these are public bodies, such as NCC, who have indicated their support for the Proposed Development.
- 8.8.53. There are a number of other plots of land where land rights would be interfered with, and where no correspondence has been received to indicate that there is an objection to the CA, TP with Permanent Rights or TP of the relevant plots.
- 8.8.54. In these cases, I conclude that the land is required for the development to which the development consent would relate, or is required to facilitate or is incidental to that development and there is a compelling case in the public interest for the land to be acquired compulsorily. The same considerations apply to that land, which is sought to be acquired for TP, whether or not with Permanent Rights thereafter.

8.9. SPECIAL CONSIDERATIONS

- 8.9.1. This section addresses my consideration of the Applicant's case and matters raised during the Examination with respect to:

- Crown land;
- Special Category Land; and
- Statutory Undertakers.

Crown Land

- 8.9.2. Section 135(1) of the PA2008 precludes the CA of interests in Crown land unless the land is held "otherwise than by or on behalf of the Crown", and the appropriate Crown authority consents to the acquisition.
- 8.9.3. Section 135(2) precludes a DCO from including any provision applying to Crown land or Crown rights without consent from the appropriate Crown Authority. This is not limited to CA provisions in a DCO.
- 8.9.4. The extent of the land owned by the Crown Estate, or in which there is a Crown interest, is shown on the Crown Land Plans [APP-012].
- 8.9.5. The BoR [REP9-013] identifies plots subject to Crown interests, held by the SoS for Defence, and the powers requested by the Applicant:
- CA of plots 9/5a, 10/3b, 10/5a, 10/5d, 11/1a, 11/1d, 12/3a

- TP of plots 10/3a, 10/5c, 10/5e, 10/5f, 11/1e, 11/1f, 11/1h, 12/3b
- Rights and TP of plots 10/5b, 11/1b, 11/1c, 11/1g

- 8.9.6. The Applicant provided a letter from the Defence Infrastructure Organisation [REP9-038] confirming that the Secretary of State for Defence (SoSD) granted "*consent under section 135(1) and (2) of the Act and Article 54 of DCO as drafted to the inclusion of the provision within the DCO which would apply to the Property.*".
- 8.9.7. The BoR [REP9-013] identifies plots subject to Crown interests, held by the Secretary of State for Transport, and the powers requested by the Applicant:
- CA of plots 1/1c, 1/3b, 1/5b, 6/1d, 7/5a, 9/6a, 10/6a, 11/2a, 11/2b, 11/2c, 11/2d, 11/2e, 11/2f, 11/3a, 12/1a, 12/1b, 15/2c, 15/2d, 15/2i, 15/4c, 15/5a, 16/4a, 16/4d
 - TP of plots 1/3a, 9/6c, 11/3b, 15/4a, 15/4d, 15/5c
 - Rights and TP of plots 9/6b, 15/4b, 15/4e, 15/5b, 19/2a
- 8.9.8. The Applicant provided a letter from the DoT [REP9-039] confirming that the SoST gives consent pursuant to section 135 (1) and 135(2) of the Act and Article 54 of the DCO as drafted to the inclusion of provisions within the DCO which would apply to the Property (to the extent that they relate to the detail specified in the application). The SoST also confirmed agreement to the wording of Article 54 of the DCO as drafted.
- 8.9.9. The BoR [REP9-013], identifies that in relation to Plots 6/1d, 11/2f and 12/1a, initial enquiries showed the Crown interests to be held by the SoS for the Environment, Food and Rural Affairs. However, subsequent enquires have shown that the these plots relates to functions exercised by the SoST and, following the Transfer of Functions Order 2002/2626, the land interests have been held by the SoST. This is confirmed by DfT in their letter submitted at D9 [RP9-039].

Special Category Land

- 8.9.10. Sections 131 and 132 of the PA2008 make provisions for a Special Parliamentary Procedure (SPP) in respect of the acquisition of commons, open space or field garden allotments. S131 applies when the Order authorises the CA of special category land, whereas s132 applies where the Order authorises the CA of a right over special category land.
- 8.9.11. Within the BoR [REP9-013] and the Special Category Land Plans [APP-013], the rDCO includes provision for the TP of land and rights of Special Category Land, specifically known as Poppy's Wood. The land comprises privately owned, but publicly accessible woodland.
- 8.9.12. Plots 1/2i and 2/2/a, approximately 11,500 m² of land is required temporarily. Plot 1/2f, approximately 1,400 m² of land where TP is required along with permanent rights for the removal of overhead cables and apparatus, pursuant to necessary utilities diversions.

- 8.9.13. The Applicant confirmed that no open space land is needed to be acquired permanently for the Proposed Development.
- 8.9.14. The Applicant proposes that the dDCO will apply S132 in respect of Plot 1/2f. S132 provides, to the extent that a DCO authorises the CA of a right over land comprising open space, SPP will apply unless one of the following circumstances applies:
- That the open space, when burdened with the right, will be no less advantageous than it was before to its owners; any other persons entitled to rights of common or other rights; and the public;
 - That replacement land will be given in exchange;
 - That replacement land is not available but that it is strongly in the public interest to grant development consent for the Scheme sooner than SPP would allow;
 - The right is for a temporary, "although possibly long-lived" purpose; or
 - That the land being acquired does not exceed 200 square metres or the land is specified for highway works, if they are for the widening of an existing highway, for drainage, or a combination of the two; and that the giving of other land in exchange for the right is unnecessary in the interests of the persons entitled to rights of common or other rights, or the public.
- 8.9.15. Poppy's Wood is woodland and is designated as open space in BC's Policies Map. The open space is unregistered. The Applicant understands that the owner of the land is Amber Rei Holdings Limited [REP9-013].
- 8.9.16. In relation to Plots 1/2i and 2/2/a, the Proposed Development only requires TP. On this basis, the fourth exception under S132 will apply.
- 8.9.17. In terms of Plot 1/2f, the Applicant is seeking a new right for the removal of certain overhead cables and other apparatus and other purposes related to necessary utilities diversions. The Applicant anticipates that it will only need to remove overhead cables from the open space land. These will be subsequently laid elsewhere. By the end of the Examination, discussions with undertakers had not adequately resolved the position, therefore the Applicant cannot rule out needing to underground the cables in this location. Accordingly, the Applicant has scheduled a general right to remove and divert the cables in the open space land to ensure the required works can be delivered. These works will be limited in scope and take place within a fixed window during or prior to main construction, during which time the public will be restricted from the open space land.
- 8.9.18. In addition the land will be used as a temporary working area during construction, during which time the public will also be restricted from Plots 1/2f, 1/2i and 2/2a. After this there will be limited need for inspection of the diverted cables and no above-ground structures retained on the land.
- 8.9.19. Accordingly, the Applicant considers that the open space land comprised in Plot 1/2f, when burdened with the new right, will be no less

advantageous to the public as before. Poppy's Wood will remain open space woodland, and the Applicant does not anticipate any permanent burden or impact on the freehold owner resulting from the new right.

- 8.9.20. The only private party known to benefit from rights over Plot 1/2f is Openreach Limited. Openreach Limited's rights facilitate the overhead apparatus that the Proposed Development needs to divert. Openreach Limited will be protected by protective provisions as set out in the rDCO (Appendix D), to the extent that the telecommunications code does not provide sufficient protection, and the Applicant will seek in the first instance to agree appropriate rights for the diverted apparatus pursuant to those protections.
- 8.9.21. Accordingly the Scheme will not result in Plot 1/2f being any less advantageous to Openreach Limited should the Applicant need to compulsorily acquire the new right over it.
- 8.9.22. No comments were received in relation to either the Applicant's approach or the implication upon Poppy Wood from any statutory party or IP or AP.
- 8.9.23. I do not consider there to be a barrier in planning terms to the principle of the Applicant's Proposed Development and use of this land and hence to the CA of rights and the TP of land proposed.
- 8.9.24. If the SoS were to be minded to make the Order, then on the basis that the Applicant seeks rights over public open space land, SPP would be required unless the SoS is satisfied that a relevant exemption from it applies.
- 8.9.25. In this instance, I consider that the exemption in PA2008 s132(4B) would apply to the construction period, as the land would be occupied by the undertaker but on a temporary basis. In the operational period, the exemption in PA2008 s132(3) would apply because, following the undergrounding of the cable, the land surface would be restored and hence would be no less advantageous to Openreach Limited and to the public than it currently is.
- 8.9.26. Where an exemption to SPP is sought, PA2008 s132 requires the DCO or related documentation to record the statutory basis for this. In this instance the preamble to the dDCO [REP9-008] does not make any record that s132(3) of the 2008 Act applies. To that extent, I recommend that the dDCO should be amended before the Order is made to add a reference to the application of s132(4B) as the additional exemption from SPP applicable for the temporary use of open space land.
- 8.9.27. For these reasons I concludes as follows:
- If the SoS is minded to make the Order, it would be on the basis that the exemptions to SPP in PA2008 s132(3) and (4B) apply.
 - If the SoS is minded to make the Order, the preamble should be amended to record that the SPP exemption in s132(4B) also applies.

Statutory Undertakers

- 8.9.28. Section 127 of the PA2008 has provisions in relation to CA of land or rights over SUs land. If a SU has made a representation that has not been withdrawn before the end of the Examination, then CA may only be authorised if there is no serious detriment to the carrying on of the undertaking.
- 8.9.29. Section 138 of the PA2008 has provisions for the removal of SUs apparatus if the SoS is satisfied that it is necessary for the Proposed Development.
- 8.9.30. Article 36 allows the Undertaker, subject to the Protective Provisions in Schedule 9, 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.
- 8.9.31. Article 37 governs what happens to SU's apparatus (pipes, cables etc.) under streets that are stopped up by the Order. Under Article 17 the Applicant may require a SU to remove and relocate the apparatus (or apparatus provided in substitution) elsewhere.
- 8.9.32. The BoR [REP9-013] lists the following SUs as having interests in plots for which powers are requested:
- Openreach Limited;
 - Eastern Power Networks Plc;
 - Anglian Water Services Limited (AW);
 - UK Power Networks Limited;
 - Vodafone Limited; and
 - British Gas Plc.
- 8.9.33. Schedule 9 to the rDCO (Appendix D) has Protected Provisions for the following undertakers:
- Part 1: Electricity, gas, water and sewage for undertakers;
 - Part 2: Electronic Communications Code Networks;
 - Part 3: National Grid as gas undertaker; and
 - Part 4: Anglian Water.
- 8.9.34. During the course of the Examination, submissions were received from the following SUs:
- Anglian Water [REP3-039 and REP9-045];
 - National Grid Gas [REP1-031, REP3-040 and REP10-011]; and
 - Ørsted Hornsea Three Project (UK) Limited [REP1-036, REP3-042, REP4-021, REP6-024, REP7-21, REP7-022, REP8-018 and REP8-019]
- 8.9.35. The Applicant provided an update on the position with regards to its negotiations with SUs at D10 [REP10-006]. This confirmed the position by the end of the Examination to be:
- Anglian Water - three areas of disagreement remain in respect of PPs;

- National Grid Gas - Matters agreed and agreement reached on the form of PPs to be included within the dDCO. Objection withdrawn [REP10-011];
- Ørsted - Agreement reached to provide the protection requested for its apparatus in a separate agreement. Objection withdrawn [REP10-007];
- Openreach Limited - confirmed that the PP in the DCO are acceptable in their current form [REP10-006];
- UK Power Networks - standard PP apply to power transmission; and
- Vodafone Limited - PP in Part 2 of Schedule 9 of the DCO.

Anglian Water

8.9.36. By the close of the Examination, the majority of matters had been agreed as evidenced by the SoCG [REP9-029]. However, three matters in relation to the proposed PPs remained unresolved. The position of the parties is set out in the below table.

Table 5 Anglian Water Protective Provisions

PP Reference	Anglian Water Position	Applicant Position
35	The wording is unclear and AW request the inclusion of additional wording to provide a default as to which powers are being used if the promoter does not mention which, when it is engaging with AW. The lack of clarity provides NH with the opportunity to switch between the 1991 Act and the protective provisions which advantage the Applicant and to the disadvantage of Anglian Water customers and funds.	The wording is used in the standard protective provisions for water (and other undertakers) in Part 1 of Schedule 9 of the dDCO and is well preceded in other made DCOs. The Applicant does not consider that there are situations where both the 1991 Act and the protective provisions could apply, because the Applicant's wording entirely ousts the protective provisions where the 1991 Act applies.
42(5)	This relates to a deferment renewal provision, which AW request is deleted.	The deferment of renewal provision is the wording used in the standard protective provisions for water (and other undertakers) in Part 1 of Schedule 9 of the dDCO. It has precedent in a number of made DCO's.
44	AW would like the Applicant to use its 'InFlow' system in respect of works under the DCO.	The Applicant argued that from its experience the InFlow system does not work in practice, and it does not

		reflect how the Applicant works or is able to work. As a result, it does not consider that the Inflow system is suitable for use for this project.

8.9.51. The Applicant has submitted its preferred form of protective provisions in the version of the dDCO submitted at D9 (revised REP9-008). The Applicant's view is that the protective provisions give sufficient protection to AW so that there is no serious detriment to the carrying on of the undertaking by AW.

8.9.52. In addition, AW has requested that an agreement is entered in relation to access their operational sites from Gypsy Lane and Church Lane.

8.9.53. In response to the request for an agreement, the Applicant has confirmed [REP10-006] that:

- The dDCO contains no powers to stop up existing access arrangements to Gypsy Lane and to Church Lane from Mattishall Road to the south (Church Lane access is only stopped from the north where the A47 crosses Church Lane); and
- Access will also be retained during construction, with contractors using a separate access off the existing A47, leaving open access from the existing A47 to AW's facility.

8.9.54. The Applicant's view [REP10-006] is that on the basis of the above an agreement is not required, but it is willing to discuss this further and come to an arrangement with AW to provide additional comfort.

ExA Conclusions

8.9.55. Section 127 of PA2008 requires AW to be protected from serious detriment in undertaking its functions. On that basis, whilst I acknowledge the need for certainty raised by AW in relation to the application of powers, I am satisfied with the response of the Applicant and consider that this would not result in serious detriment. Consequently, I consider that the drafting put forward by the Applicant is appropriate.

8.9.56. In terms of the request to delete the renewal provision, I note this inclusion of similar provisions within Part 1 of Schedule 9 and in other made DCOs. With this in mind, and given the requirement of Section 127 of PA2008, I do not consider that its inclusion would result in series detriment to AW.

8.9.57. On the same basis, no detailed reasoning or evidence has been put to me to justify why the Applicant should use the AW's InFlow System, therefore I see no series detriment that would arise from its exclusion. Consequently, I consider that the drafting put forward by the Applicant is appropriate.

- 8.9.58. With regards to the request for a proposed agreement, I note the Applicant's position on the matter and their willingness to engage during detailed design. On this basis, I am satisfied that, without an agreement, AW's status as a Statutory Undertaker is still protected.

Protective Provisions proposed by NCC

- 8.9.59. At D9 [REP9-042], NCC submitted a request for the inclusion of PPs on the basis that an agreement between themselves and the Applicant had yet to be finalised. These PPs would seek to deal with all issues relating to the construction and handover of local highways and the NWL stub, to ensure that NCC's position as local highways authority is appropriately considered and protected.
- 8.9.60. In response, [REP9-036 and REP10-001] the Applicant expressed surprise to the request, especially as discussions around the issues had been on-going for a number of years and during the Examination. In their view, the presentation of PPs at this late stage was unfair on the Applicant. At D10 [REP10-001], whilst restating their position, the Applicant did provide comments on the points of principle arising in the proposed PPs.
- 8.9.61. Given the lateness of the request by NCC for the inclusion of PPs, it has not been possible for me to undertake a thorough examination of them. I have therefore been unable to consider the implication of the proposed PPs on the Proposed Development. I have also not had the opportunity to seek the formal views of parties on them.
- 8.9.62. For this reason, on this matter, I therefore conclude that:
- If the SoST is minded to make the Order, they may wish to seek the views of the Applicant and NCC in relation to the proposed PPs.

8.10. CONCLUSIONS AND RECOMMENDATIONS

- 8.10.1. My approach to the question of whether and what CA and TP powers I should recommend to the SoST to grant has been to seek to apply the relevant sections of the PA2008, notably s122 and s123, the DCLG CA 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 by the Applicant in the public interest, balancing the public interest against private loss.
- 8.10.2. The Applicant's final dDCO [REP9-008] deals with both the Proposed Development itself and CA and TP powers. The case for CA and TP powers could not properly be considered unless and until I had formed a view on the case for the Proposed Development overall. The consideration of the CA and TP issues must be consistent with that view.
- 8.10.3. In the preceding chapters, I have considered the case for the Proposed Development and in Chapter 7, I have concluded that the case has been made.

- 8.10.4. In considering the question of whether there is a compelling case in the public interest to acquire the land (s122(3) of the PA2008), I have taken into account the Applicant's case for CA and TP, the individual issues and objections raised and all submissions made to the Examination.
- 8.10.5. The question that I address here is the extent to which, in the light of the factors set out above, the case is made for CA and TP powers necessary to enable the Proposed Development to proceed.
- 8.10.6. In this Chapter, I have considered:
- the need for CA and TP;
 - the purposes for which the powers are requested;
 - alternatives;
 - individual objections and issues;
 - Crown land;
 - Special Category Land;
 - Statutory Undertakers;
 - availability and adequacy of funds;
 - potential impediments;
 - human rights and the compelling case in the public interest; and
 - relevant DCO provisions.
- 8.10.7. In relation to the application for CA powers, I conclude that:
- the land sought for the Proposed Development and subject to CA would be land required for the purposes of s122(2)(a) and (b) of the PA2008 and that it meets the tests set out in that section;
 - the Applicant has shown that all reasonable alternatives to CA have been explored and that there are no alternatives which ought to be preferred;
 - the Applicant has 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;
 - the private loss to those affected would be mitigated to a large degree by limiting the use of CA powers to land essential to deliver the Proposed Development and by the use of TP powers wherever possible to minimise both land-take and the extent of rights and interests to be acquired;
 - with reference to s127 and s138 of the PA2008, no serious detriment to the carrying on of the undertakings of SUs has been demonstrated;
 - with reference to s131 and s132 of the PA2008, Special Parliamentary Procedures would not be required;
 - adequate and secure funding would be available for CA;
 - the Examination has ensured a fair and public hearing, that any interference with human rights arising from implementation of the Proposed Development would be for a legitimate purpose that would justify such interference in the public interest and to a proportionate extent;
 - compensation would be available for quantifiable loss; and that
 - there would be no disproportionate or unjustified interference with human rights that would conflict with the provisions of the Human Rights Act 1998.

- 8.10.8. Taking the above factors together, I consider that the SoST can be satisfied that there is a compelling case in the public interest for CA and that the Proposed Development would comply with the PA2008.
- 8.10.9. Regarding the application for TP powers, I am satisfied that:
- the land to be subject to TP, the purposes for which it would be required and the period for which land might be subject to TP, have been identified; and
 - it has been demonstrated that the TP powers are compatible with the relevant human rights tests and that there are suitable compensation provisions.
- 8.10.10. Therefore, in respect of TP, I find that the Proposed Development would comply with the PA2008.
- 8.10.11. I have had regard to the provisions of the Human Rights Act 1998. In some cases, there would be interference with private and family life and home in contravention of Article 8, and interference in the peaceful enjoyment of possessions in contravention of Article 1 of the First Protocol of the Human Rights Act 1998. In relation to Article 6 (entitlement to a fair and public hearing), the Examination has ensured a fair and public hearing.
- 8.10.12. The weight of national policy in favour of the Proposed Development and the wider public interest justifies the interference with human rights.
- 8.10.13. I conclude that any interference with human rights arising from implementation of the Proposed Development would be proportionate and would strike a fair balance between the rights of the individual and the public interest.

9. DRAFT DEVELOPMENT CONSENT ORDER AND RELATED MATTERS

9.1. INTRODUCTION

- 9.1.1. The application dDCO [APP-017] and the EM [APP-019] 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. Both the dDCO and the EM were updated throughout the Examination.
- 9.1.2. While the Infrastructure Planning (Model Provisions) (England and Wales) Order 2009, (the Model Provisions) has been repealed, the submission version of the dDCO drew on the model provisions as well as precedent set by made DCOs for highways development under the PA2008. There has been a change of approach to the use of model provisions since the Localism Act 2011, and although they provide a starting point for the consideration of the dDCO, precedent cases are generally more appropriate. The application dDCO [APP-017] and subsequent iterations are in the form of a Statutory Instrument as required by s117(4) of the PA2008.
- 9.1.3. This Chapter provides a summary of the main changes made to the dDCO during the Examination, between the application dDCO and the final dDCO submitted by the Applicant at D9 [REP9-008]. I do not report on every change made in the updated versions. This is because, during the course of the Examination, amendments were made as a result of typographical or referencing errors; slight revisions of the wording following either discussion between the Applicant and relevant IPs or from their WRs, or as a result of minor changes following ExQ1 [PD-007] ExQ3 [PD-012] or discussions at ISH1 and ISH3. The rDCO in Appendix D of this Report incorporates these minor changes.
- 9.1.4. The following sections of this Chapter:
- describe the structure and functions of the dDCO as applied for;
 - summarise the examination of the dDCO and its iteration during the Examination;
 - consider the dDCO and relevant submissions made by the Applicant and other parties during the Examination;
 - detail main changes made to the dDCO during the Examination;
 - outline, if any, my recommended changes leading to the rDCO (Appendix D); and
 - address the relationship between the DCO and other consents and legal agreements.

9.2. DCO AS APPLIED FOR

- 9.2.1. Each iteration of the Applicant's dDCOs contains articles and schedules including requirements and PPs. The articles are contained in fifty four parts, which are briefly described here and in more detail in the final EM [REP5-007] submitted to the Examination.

- 9.2.2. Part 1 contains the preliminary provisions providing for citation, commencement and terms used in the dDCO, including definitions taken from model provisions and precedent DCOs, along with additions in relation to any specifics that apply to the application. Provisions are included for the disapplication of certain requirements that would otherwise apply under general legislation. Provisions are included to clarify responsibilities for the maintenance of drainage.
- 9.2.3. Part 2 sets out the principal powers and provides for the grant of development consent for the Proposed Development and allows it to be constructed and operated. It includes provisions in relation to maintenance, Limits of Deviation (LoD), who has the benefit of the Order and how those powers can be transferred.
- 9.2.4. Part 3 provides for the execution of works in or under streets. Matters relating to the application of the New Roads and Street Works Act 1991 as well as construction and maintenance, classification of roads, power to alter layouts, street works, temporary and permanent stopping up and restrictions, access to works, clearways and traffic regulations are covered in this Part.
- 9.2.5. Part 4 provides supplemental powers relating to the discharge of water, protective works to buildings and the authority to survey and investigate the Order Land.
- 9.2.6. Part 5 contains powers in relation to the acquisition of land, including CA and TP rights. It includes provisions for time limits, Public Rights of Way, private land, acquisition of subsoil or airspace only, rights under and over streets, Statutory Undertakers (SU), apparatus and rights of SUs in stopped up streets, recovery of costs of new development compensation, and extinguishment of private rights and restrictive covenants relating to apparatus removed from land subject to TP.
- 9.2.7. Part 6 contains powers in relation to trees and hedgerows, including trees subject to tree preservation orders (TPO).
- 9.2.8. Part 7 contains several miscellaneous and general provisions in relation to landlord and tenant law, operational land, statutory nuisance, retained land, appeals relating to the COPA, use of consecrated land, protection of interests, certification of documents, service of notices, arbitration and Crown Rights.
- 9.2.9. There are 10 Schedules to the Order. These are:
- Schedule 1 is the description of the Authorised Development;
 - Schedule 2 sets out the 14 Requirements, with Part 1 detailing them and Part 2 identifying the procedure for their discharge;
 - Schedule 3 sets out the classification of roads including trunk roads, B Roads, C Roads, speed limits, revocation and variations of existing traffic regulation orders; footpaths, cycle tracks footways and bridleways; roads to be de-trunked; and traffic regulation measures.
 - Schedule 4 sets out the permanent stopping up of highways and private means of access and provision of new highways and private

means of access including highways to be stopped up for which no substitute is to be provided; highways to be stopped up for which a substitute is provided and highways which are otherwise to be provided; private means of access to be stopped up for which is substitute is to be provided a new private means of access which are otherwise to be provided; private means of access to be stopped up for which no substitute is to be provided.

- Schedule 5 identifies the land in which only new rights may be acquired.
- Schedule 6 sets out the modification of compensation and compulsory purchase enactments for creation of new rights.
- Schedule 7 lists land of which TP may be taken;
- Schedule 8 lists hedgerows to be removed, with Part 2 identifying the important hedgerows;
- Schedule 9 lists protective provisions, with Part 1 dealing with the protection of electricity, gas, water and sewage undertakers, Part 2 dealing with the protection of operators of electronic communications code networks, Part 3 dealing with the protection of National Grid as gas undertaker, and Part 4 for the protection of Anglian Water; and
- Schedule 10 provides a list of the documents to be certified.

9.3. EXAMINATION AND ITERATIONS

EXAMINATION

9.3.1. I examined the dDCO as follows (in each case showing the references to the Applicant's main written response):

- ExQ1 [PD-007] - Applicant's response [REP2-014];
- ISH1 [EV-011]; - Applicant's response [REP4-014];
- ExQ3 [PD-012]; - Applicant's response [REP6-018]; and
- ISH3 [EV-036]; - Applicant's response [REP7-017].

9.3.2. Other parties also made written submissions on the dDCO, including:

- NCC [RR-061, REP2-022, REP8-017, REP9-042];
- BDC [REP2-018];
- SNC [REP2-023];
- BC [REP2-017] ;
- Environment Agency (EA)[RR-033, REP1-029 and REP9-040];
- National Grid Gas plc [REP1-031, REP3-040 and REP10-011];
- Ørsted Hornsea Project Three (UK) [REP1-036, REP3-042, REP4-021, REP6-024, REP7-021, REP8-018 and REP10-007];
- Historic England [REP1-030, REP2-021 and REP6-022];
- Anglian Water [REP3-039 and REP9-045];
- Berry Hall Estate [REP1-044, REP4-023 and REP9-049];
- Weston Longville Parish Council [RR083, REP1-040, REP4-041, REP5-081 and REP9-048]; and
- Norfolk Rivers Drainage Board [REP7-020 and REP9-047].

ITERATIONS

9.3.3. The dDCO was updated several times during the Examination, responding to issues raised by myself and IPs. With each update, both a copy

showing tracked changes and an updated clean version were submitted. The versions submitted during the Examination were as follows:

Table 6 DCO Iterations

Version	Date	Event	Clean Version Reference	Track change version reference
1	September 2021	Deadline 1	REP1-004	REP1-003
2	September 2021	Deadline 2	REP2-005	REP2-006
3	October 2021	Deadline 3	REP3-011	REP3-010
4	November 2021	Deadline 5	REP5-005	REP5-006
5	December 2021	Deadline 6	REP6-004	REP6-005
6	December 2021	To accompany Non-material change request	AS-035	AS-036
7	January 2022	Deadline 7	REP7-005	REP7-004
8	January 2022	Deadline 8	REP8-008	REP8-007
9	February 2022	Deadline 9	REP9-008	REP9-009

- 9.3.4. The Applicant provided two updates to the EM during the Examination at D2 [REP2-008] and D5 [REP5-007].
- 9.3.5. As set out in Section 2.3, during the course of the Examination, I accepted the Applicant's Non-material change request [PD-015]. As part of my consideration and acceptance of this change, consequential changes to the dDCO were included in Version 6 [AS-035].
- 9.3.6. The basis for the rDCO is v9, as submitted by the Applicant. If the SoS decides to make the Order, the rDCO is provided in Appendix D.

9.4. CONSIDERATION OF THE DRAFT DCO

In this section I do not report on every change made to the dDCO during the Examination, as many were as a result of typographical errors, or revisions that were made to ensure consistency. The minor changes at each iteration can be seen by reference to the tracked versions of the dDCO referenced in Table 4.

- 9.4.1. Also, I do not repeat any questions that I consider have been adequately justified by the Applicant, and did therefore not require change to the dDCO.

Preamble

- 9.4.2. As highlighted in Section 8.9.26 with regards to Special Category Land, I have amended this section to add a reference to the application of s132(4B) as the additional exemption from SPP applicable for the temporary use of open space land.

Articles

Article 2 – definition of commencement

- 9.4.3. I raised concerns about the exclusion of laying of cables and site clearance and questioned at ExQ1 [PD-007] how that would fit with retained elements/protection of archaeology and biodiversity interests. In response,[REP2-014] the Applicant identified that the wording was taken from a number of made orders. However, following further consideration, the application removed the word "*the diversion and laying of underground apparatus*" from the definition. I am satisfied that this change provides additional clarity and that pre-commencement activities will not adversely affect historic and natural environment values.

Article 2 – definition of maintain

- 9.4.4. I asked for clarification in my ExQ1 [PD-007] in relation to the definition and in particular whether these measures had been assessed as part of the ES. The Applicant confirmed that the extent of maintenance had been assessed in the ES and referred to paragraphs 2.6.48 and 2.6.49 of ES Chapter 2 [AS-005]. Further, the Applicant confirmed that the definition had been accepted in other made DCOs. On the basis of the addition information, I am satisfied with this definition.

Article 2(3) - distances, directions and lengths

- 9.4.5. In relation to Article 2(3), I asked the Applicant [PD-007] to confirm that this approach was reflected within the assessments undertaken within the ES. In response, the Applicant confirmed that this was the case [REP2-014] and provided the maximum parameters that were assessed in the ES. On this basis, I am happy that the Article was reflected within the ES.

Article 7 – Planning permission

- 9.4.6. I sought further explanation and justification of why this article was required [PD-007]. In response [REP2-014], the Applicant clarified that it had no intention of seeking planning permission, but that it was possible beneficial owners of Order Land used temporarily by the Applicant during the construction period might later seek planning permission for the benefit of their land when possession is returned to them.
- 9.4.7. The purpose of a DCO is to only authorise NSIP development and, in this respect, it should authorise the whole of that development. Anything which is not an NSIP (including any development by beneficial owners of the TP land) does not fall within the scope of the Order. The Order does not have the effect of switching off the TCPA within the Order limits, which, from my reading, this provision appears to imply that it does. Any

change to the authorised development by the undertaker/beneficiary of the Order should proceed as a non-material or a material change to the Order, following the procedure as laid out in PA2008, and not as a TCPA application.

- 9.4.8. With regards to future intentions of landowners, I see nothing to prevent any landowner within the Order Limits of land taken temporarily and then given back, from bringing forward an application for planning permission under the TCPA. The presence of the Order does not prevent any such application from being granted by the relevant LPA, with any application required to be considered against the relevant tests as set out in the TCPA. Whether such permission is implementable may, amongst other things, be dependent on terms of any land agreement with the Applicant.
- 9.4.9. Whilst I appreciate that there is precedent for the inclusion of this provision, on the basis of the evidence to the Examination, I find that, in the context of this Application, it is confusing, superfluous, and unnecessary.
- 9.4.10. My rDCO (Appendix D) contains the proposed deletion of Article 7.
- 9.4.11. As this matter was not raised during the Examination, I recommend that the SoS, if they agree with my recommendation, may wish to consult with the Applicant on this matter before the decision on the DCO is taken.

Article 8 – Limits of Deviation

- 9.4.12. I requested clarification [PD-007] as to whether these limits had been assessed within the ES, along with justification for the proposed exceedances beyond the stated vertical limits of deviation.
- 9.4.13. The Applicant confirmed that the ES had assessed the LoD as set out in the dDCO and referred to Chapter 2 of the ES [AS-005]. The justification for the additional flexibility, subject to consultation, was considered necessary in case additional deviation is required to ensure that the Proposed Development can be constructed, for example due to the presence of unknown constraints. The Applicant submitted that the flexibility would always be subject to the control of the SoS and falling within the ES conclusion and that written approval of SoST would be required for deviation beyond the agreed [REP4-014].
- 9.4.14. On this basis, I am content that the LoDs have been adequately assessed and there are sufficient measures to provide both flexibility and control.

Article 11 – Application of the 1991 Act

- 9.4.15. There appeared to be no specific reference as to where this article would apply. I therefore sought clarification on this matter [PD-007].
- 9.4.16. In response [REP2-014], the Applicant highlighted that Article 11(4) expressly states that it applies to any stopping up, alteration or diversion of a street conferred by Article 16, with this article providing the

Applicant with the ability to stop up, alter, divert, prohibit the use of or restrict the use of any street required for the purposes of carrying out the authorised development, but only temporarily. Given that detailed design has yet to be completed, the Applicant identified that it was seeking a degree of flexibility so that the scheme can proceed. Furthermore, the Applicant confirmed that in exercising these powers, they must only be for the purposes of carrying out the authorised development.

9.4.17. In relation to alterations and stopping up proposals, objections had been received from both Alston Farms Ltd [RR-013] and Honingham Aktieselskab [RR-010 and REP1-019]. These objections related to the issue of disruption to effective operation of agricultural operations arising from the closure of Blind Lane and the closure, temporary or permanent, of Honingham Lane. Discussions took place between the parties during the Examination. The position at the close of the Examination [REP8-013], was that meetings had taken place and a way forward had been agreed that would maintain access for agricultural vehicles along Honingham Lane, whilst still remaining closed to general through traffic. This would be secured through a land agreement with Alston Farms Ltd [REP8-013]. The Applicant also confirmed [REP8-013] a draft agreement had been reached between Alston Farms Ltd and Honingham Aktieselskab to share this provision.

9.4.18. On the basis of the position at the close of the Examination, I have considered the outstanding concerns and am content that the Article is necessary.

Article 13 – Classification of roads

9.4.19. I sought a number of clarifications in relation to this Article [PD-007]. In relation to speed limits 13(4) I sought confirmation that these had been assessed in the ES. With regards to the provision of the cycle track 13(7), I sought clarification with regards to its delivery.

9.4.20. In relation to speed limits, the Applicant confirmed that these had been assessed within the ES [REP2-014].

9.4.21. In relation to the cycle track, the Applicant confirmed [REP2-014] that this section of cycle track is an optional element, only to be provided permanently if the NWL is not delivered. Wood Lane provides a cycle network connection to the north. The optional section of cycle track offers an enhancement option to facilitate movement of cyclists northwards from east of Wood Lane junction in a no NWL scenario, as an alternative to using the existing RB1. The position of the Applicant [REP2-014] was that Article 13(7) must provide the flexibility for the Applicant to decide if and when to dedicate the cycle track as public highway.

9.4.22. Discussions took place with NCC with regards to the matter and as result, the Applicant made minor amendments to the wording of Article 13 (7) [REP5-006]. This amendment formed part of the subsequent SoCG with NCC [REP9-019].

9.4.23. On this basis, I am content with the justification and the change.

Article 14 – Power to alter layout etc. of streets

9.4.24. I requested justification and whether it should be restricted to specific streets [PD-007]. I also sought clarification on the 28 day period which was referenced in the EM but omitted from the dDCO.

9.4.25. The Applicant identified that this power was required to provide the flexibility necessary as the detailed design had yet to be completed [REP2-014]. In the view of the Applicant, the powers contained within the Article broadly reflect the powers of a highway authority to make changes to a highway as they see fit and without consultation with third parties. On this basis, I am satisfied that the power is necessary, reasonable and proportionate.

Article 15 – Street works

9.4.26. I questioned whether this article should be restricted to specific streets set out in a Schedule and whether the powers should be exercised with the consent of the street authority [PD-007].

9.4.27. In response [REP2-014], the Applicant identified that this Article was common to other made DCOs. In terms of specific streets, the Applicant considered that to provide flexibility the Article was necessary, but it was not appropriate to identify particular streets.

9.4.28. In their response [REP2-040] NCC's view was that roads within the limits of the DCO do not necessarily need to be notified via the permit system, and NCC would not necessarily need to be consulted, as they are not public highway at the time. However, if there are any potential highway assets in the ground at that time (drainage/culverts/street lighting etc), then NCC would need to be informed of any potential alterations to them that could affect their function, as it may affect assets outside the DCO limits. On this basis, NCC would like to be consulted.

9.4.29. In response to NCC's comments, the Applicant [REP3-023], identified that Article 15(3) includes provisions relating to sections 54 to 106 of the New Roads and Street Works Act 1991, which, amongst other things addresses notice and co-ordination of works.

9.4.30. Having considered the further clarification provided by the Applicant, I am content with the Article.

Article 22 – Protective works to buildings

9.4.31. I sought clarification as to how many buildings the Applicant envisaged this would refer to, along with an explanation of how this fitted with the definition of commencement of development [PD-007].

9.4.32. In response, the Applicant did not expect any protective works to be required [REP2-014], but confirmed that Article 22 had been included

given the proximity of the works to St Andrew's Church and St Peter's Church as a precaution.

9.4.33. At ISH 1 [EV-014], BC sought clarity on who determines where works are necessary, whether they have been carried out to reasonable satisfaction and whether there was a role for a party other than the undertaker in this process of determination. In response [REP4-014], the Applicant confirmed that the power solely lies with the undertaker. As buildings are most likely to be privately owned, the Applicant considered it to be a matter between the undertaker and the landowner and it was therefore not appropriate to include any third parties. The Applicant did however highlight that the power is not unfettered and is limited by Article 22(6) which would allow any owner or occupier of an affected building to serve a counter notice to the protective works.

9.4.34. Having considered the explanation provided by the Applicant, I am content with this Article.

Article 26 - Time limit for exercise of authority to acquire land compulsorily

9.4.35. I requested clarification on what the rationale was for the power to remain after the initial 5-year period has expired [PD-007].

9.4.36. In response [REP2-014], the Applicant referred to Article 34 which is subject to the same 5-year period. The Applicant considered that both provisions incorporate a reasonable and proportionate level of flexibility to ensure the Scheme is still deliverable in the event of unforeseen delays, whilst the time limits in Article 34 ensure the Applicant cannot remain in TP indefinitely.

9.4.37. On this basis, I am content with the Article.

Article 34 - Temporary use of land for carrying out the authorised development

9.4.38. I sought clarification with regards to the term 'mitigation works', which had not been defined previously within the dDCO [PD-007]. The Applicant confirmed [REP2-014] that the wording is drawn from precedent in a number of made orders, with mitigation works being those set out in the REAC (REP7-035). I am satisfied with this explanation and therefore content with this Article.

Article 39 - Extinguishment of private rights and restrictive covenants relating to apparatus removed from land subject to temporary possession

9.4.39. As this was not a standard provision, I requested justification for its inclusion [PD-007].

9.4.40. In providing justification [REP2-014], the Applicant confirmed that this Article is intended to allow NH, if appropriate, to remove redundant apparatus, and to ensure the relevant land is only burdened with interests that are required. Whilst not a Model Provision, the Applicant considered it to follow the approach taken on other DCOs. I consider this

provides the necessary justification as to the need for the Article and am therefore content with its inclusion.

Article 40 - Felling or lopping of trees and removal of hedgerows

- 9.4.41. Due to discrepancies between the EM and the dDCO, I sought clarification on the exact extent of this power [PD-007]. At ISH1 [EV-014], I sought further clarification, in particular with regards to its relationship between the Arboricultural Assessment [REP7-008] and EMP [REP7-035].
- 9.4.42. In response [REP2-014], the Applicant accepted that this was a relatively wide power, but in their view was required should it become necessary to remove additional hedgerows that have not been identified by the Applicant. The power would be subject to the relevant planning authority providing its consent and therefore subject to appropriate controls. The Applicant also confirmed that it would be subject to the commitments in the EMP.
- 9.4.43. The Applicant therefore considered it to provide an appropriate balance between the competing needs of protecting hedgerows, versus the need to swiftly implement a major infrastructure project.
- 9.4.44. In view of the clarification, I am content with this Article.

Article 41 – Trees subject to tree preservation orders

- 9.4.45. BC's view at ISH1 was that this should include a duty to mitigate and that replacement planting should be discussed with the LPA. SNC also sought clarification as to the role of the LPA within these powers.
- 9.4.46. In response, the Applicant clarified this provision can only be relied upon where a tree is obstructing or interfering with the authorised development or it constitutes a danger to passengers or other persons using the Proposed Development. The Applicant highlighted that Section 206 of the Town and Country Planning Act 1990 (TCPA90) imposes a statutory duty to plant another tree of an appropriate size and species in the same place as soon as reasonably possible. Given the circumstances in which a tree can be lopped or felled under Article 41(1), it is very unlikely a replacement could be provided in the same spot. The view of the Applicant was that the Article is required to ensure the Proposed Development can be delivered with no impediments. On that basis, the Applicant proposed no amendments.
- 9.4.47. Having considered the additional justification and clarification for the Article, I am content with its inclusion without the changes sought by BC and SNC.

Article 51 - Certification of documents, etc.

- 9.4.48. I sought clarification as to whether these documents would be made publicly available and if so how [PD-007]. The Applicant, in response, referred to the Explanatory Note within the dDCO, which identified that documents would be available for inspection. On this basis, I am content with this Article.

Article 53 – Arbitration

- 9.4.49. I requested clarification as to why it would fall on the President of the Institution of Civil Engineers to appoint an arbitrator should parties not agree on one. In response, the Applicant highlighted that a number of other highway dDCOs referred to the President of the Institute of Civil Engineers. On this basis, I am content with this Article.

Associated development

- 9.4.50. I asked for confirmation [PD-007] that the identified associated development met the necessary guidance. The Applicant [REP2-014] confirmed that there was direct relationship between the associated development set out in the dDCO and the principal development, and that all the associated development supports the construction or operation of the principal development, or helps address its impacts. It is subordinate to the NSIP and, as demonstrated in the Scheme Design Report [AS-009], had been designed to be proportionate in nature and scale to the principal development
- 9.4.51. Having reviewed the Applicant's response I am satisfied that the 'associated development' meets the required definition. Therefore DCLG Guidance is satisfied in this respect.

Requirements

General matters

- 9.4.52. The Applicant's overall approach to the discharging of provisions is for any approval to be provided by SoST and for other parties, including the LPAs and EA, to be consulted as appropriate. No parties objected to that approach and I am content that this is acceptable.
- 9.4.53. The EA [REP1-029] requested their inclusion in Requirements 4, 6 and 8. The matters were discussed during the course of the Examination and the Applicant added provisions for consultation with the EA to these Requirements. The SoCG [REP9-015], confirmed agreement on both the Articles and Requirements was reached.
- 9.4.54. A similar position was reached with regards to Historic England [REP9-017].
- 9.4.55. Based on the above and, noting that there was no disagreement with the updated requirements, I am satisfied that suitable provisions are in place for consultation with the appropriate bodies during the discharge of the requirements.

Requirement 3 – Detailed design

- 9.4.56. I questioned whether this Requirement should include provision for the submission of the detailed design of some aspects of the Proposed Development, such as the Easton Footbridge [PD-007]. In responding [REP2-014], the Applicant identified that this Requirement is in a form common with other recently made Highways DCOs, and they did not

anticipate that additional consultation would be required given the detail already provided within the submitted application.

- 9.4.57. On the basis of the response from the Applicant, I am content with this Requirement.

Requirement 4 – Environmental Master Plan

- 9.4.58. I queried as to whether the EA should be named as one of the consultees [PD-007]. In their RR [RR-033] the EA also raised the same issue. In response, the Applicant agreed with this request and updated the Requirement accordingly [REP1-003].
- 9.4.59. In response to comments from NCC as LLFA [REP1-032]. A further amendment was made at D2 [REP2-006] to include the LLFA as a consultee on the EMP.
- 9.4.60. In response to comments from Mr Richard Hawker at ISH1 [EV-014], the Applicant confirmed that the relevant LPA would be responsible for monitoring the actions set out in the Plan [REP4-014].
- 9.4.61. On the basis of the above, I agree with the Applicant's proposed wording of this Requirement and that it is reasonable and necessary.

Requirement 5 – Landscaping

- 9.4.62. In response to my questions at ISH1 with regards to the submission and approval of the landscape plan, the Applicant confirmed that this was not pre-commencement, as the works are to be carried out once construction has been completed. They must however be based on the EMP [REP7-035].
- 9.4.63. The Applicant also amended the reference to British Standards to provide more clarity at D6 [REP6-004], following my concerns expressed at ISH1 EV-014].
- 9.4.64. On the basis of the above, I agree with the Applicant's proposed wording of this Requirement and that it is reasonable and necessary.

Requirement 7 – Protected species

- 9.4.65. At ISH1 [EV-014] I sought clarification with regards to Paragraph (4), which references potential agreement from the SoS after consultation. I sought an explanation of the process and whether this would be agreed in writing.
- 9.4.66. In response [REP4-014], the Applicant confirmed that, whilst there was no set procedure in place, it must be agreed in writing. The Applicant amended the wording to provide more clarity [REP5-005].
- 9.4.67. On the basis of this clarification and amendment, I am happy with this Requirement.

Requirement 8 – Surface water drainage

- 9.4.68. I sought to clarify whether this Requirement should make provision for the long-term management and maintenance of surface and foul water drainage systems [PD-007].
- 9.4.69. In response to a request from the EA [RR-033] to be a consultee, the Applicant amended the wording to make this inclusion [REP1-004].
- 9.4.70. In response, the Applicant identified that drainage would be maintained in accordance with NH standard practices as an integral part of the overall Proposed Development during its operation. Therefore, they considered a specific Requirement was not needed for this purpose.
- 9.4.71. On the basis of the clarification provided by the Applicant and the subsequent amendment to the wording, I am content with this Requirement.

Requirement 9 – Archaeological remains

- 9.4.72. Following my suggestion that both Historic England and NCC should be included as consultees on the Requirement [PD-007], the Applicant agreed and updated the Requirement accordingly [REP1-004].
- 9.4.73. I also questioned the publication and reporting of any data as a result of the Requirement [PD-007]. The Applicant confirmed [REP2-014] that this would form part of the WSI. Whilst reporting and publishing was not specifically identified under Action CH4 of the REAC [REP7-035], the Applicant confirmed that this would be clarified in the second iteration of the EMP to be prepared in consultation with Historic England and NCCES, under Requirement 4.
- 9.4.74. On the basis of this clarification, I am content with this Requirement.

Requirement 10 – Traffic management

- 9.4.75. In response to my request [PD-007] that the word '*constructed*' should be replaced with the word '*implemented*', the Applicant confirmed that the requirement was updated accordingly [REP1-004].
- 9.4.76. On the basis of this clarification, I am content with this Requirement.

Requirement 12 – Ecological works

- 9.4.77. I sought clarification with regards to the exact ponds and ditches to which this Requirement would apply [PD-007]. I also questioned whether the Requirement should make provision for the long-term maintenance of these ponds [PD-007].
- 9.4.78. In response [REP2-014], the Applicant confirmed it related to all ponds and ditches within the identified Work Numbers and that their maintenance would be addressed and secured as part of the second iteration of the EMP.
- 9.4.79. On the basis of the above clarification, I am satisfied with this Requirement.

Requirement 13 – Ørsted works

- 9.4.80. At ISH1 [EV-014], I requested clarification on how this Requirement would work in practice.
- 9.4.81. In response [REP4-014], the Applicant confirmed that this Requirement had been included following discussions with Ørsted as there is a direct overlap between the Order Limits of the Proposed Development and the Ørsted scheme.
- 9.4.82. On the basis of the additional clarification, I am satisfied with this Requirement.

Requirement 19 – Details of consultation

- 9.4.83. I questioned the relevant LPAs as to whether they considered 10 business days to be sufficient time to respond to consultation on the discharge of requirements [PD-007].
- 9.4.84. In response, NCC [REP2-040] considered that the timescales were short and recommend that the period be extended to 15 business days. In response [REP3-011], the Applicant amended the Requirement to 15 business days.
- 9.4.85. On the basis of the clarification provided by the Applicant and the subsequent amendment to the wording, I am content with this Requirement.

Other Schedules

Schedule 3 – Classification of Roads

- 9.4.86. Several updates and changes were made to Schedule 3 to respond to comments and discussions that took place between the Applicant and NCC during the Examination.
- 9.4.87. By the end of the Examination, NCC at D9 [REP9-042] outlined that they were in discussions with the Applicant in relation to reach an Agreement on the management of the handover process of roads that are to be de-trunked under the DCO and new local roads that are to be created under the DCO; as well as the management of the construction and handover of the 'stub' for the Norwich Western Link. This Agreement had not been completed by the time the Examination closed.
- 9.4.88. As a result, NCC submitted a request [REP9-042], for the inclusion of PPs. As will be seen from Section 8.9, due to the lateness of these submissions, it has not been possible for me to examine these proposed PPs and I have recommended that the SoST, in advance of making a decision on the DCO, should consult both parties on these.
- 9.4.89. In this respect therefore, there are clear unresolved issues in relation to the powers that would be conferred to the Applicant through Schedule 3. On this basis, given the clear link between Schedule 3 and the request for PPs by NCC, I recommend the following:

- If the SoST is minded to make the Order, they may wish to consider seeking the views of the Applicant and NCC in relation to the proposed PPs.

Schedule 4 - Permanent stopping up of highways and private means of access & provision of new highways and private means of access

- 9.4.90. I provide my conclusions on the comments submitted in relation to the proposed closure of a number of roads and in particular, the impact on agricultural enterprises in Chapter 8. I conclude that no changes are required.

Schedules, 5, 6, 7

- 9.4.91. I address Schedules 5, 6 and 7 in Chapter 8 and conclude that no changes are required.

Schedule 8

- 9.4.92. Following the submission of a revised AIA [REP7-008], the Applicant made amendments at D8 [REP8-008] to Schedule 8 to reflect the changes.

- 9.4.93. Following these updates, no other concerns were raised in relation to matters in relation to trees and/or hedgerows. As can be seen from my conclusions in relation to the effect of the Proposed Development upon trees at section 5.10, I am satisfied that additional information provided by the Applicant [REP8-008] addresses the concerns raised.

- 9.4.94. Based on the above, I am satisfied with Schedule 8 as amended by the Applicant.

Schedule 9 – Protected provisions

- 9.4.95. I address Parts 1, 2, and 3 in Chapter 8 and conclude that no changes are required.

- 9.4.96. With regards to Part 4, which relates to Anglian Water, I have considered there outstanding objections in Section 8.9, where I conclude that I am content with the protective provisions as drafted.

- 9.4.97. In their D10 letter [REP10-001], the Applicant drew my attention to correspondence that had received from NGG with regards to an error in contained within paragraph 17(2) of Part 3 of Schedule 3, where it should read 'Article 10', not 'Article 11'. Having reviewed this, I agree with NGG and, for completeness, have amended the rDCO (Appendix D) to reflect this.

Schedule 10

- 9.4.98. I have reviewed Schedule 10 as submitted in the Applicant's dDCO as submitted as D9 [REP9-008]. There were a number of incorrect references, both to the document revision and the Examination Library.

In the interest of completeness I have amended these references. These updates are contained within my rDCO (Appendix D).

- 9.4.99. Reference to the Drainage and Surface Water Plans [AS-031], was also omitted from the list in Schedule 10[REP9-008]. Given the requirement in paragraph 5.100 of the NPSNN that, for construction work which has drainage implications, approval for the project's drainage system will form part of any development consent issued, I have added this into Schedule 10 of my rDCO (Appendix D).

9.5. OTHER LEGAL AGREEMENTS AND CONSENTS

- 9.5.1. There are no planning obligations proposed to secure any element of the Proposed Development or to manage its onsite or offsite effects. I am content that all necessary security is provided by the DCO and that no planning obligations are required.
- 9.5.2. Details of other consents required to construct, operate and maintain the Proposed Development was set out in the Applicant's Consents and Agreements Position Statement [REP8-010].
- 9.5.3. During the Examination [PD-007] I sought updates on any known impediments, including with respect to other consents. In response the Applicant advised that, to their knowledge, there were no known impediments from its perspective [REP8-010]. Neither had they been made aware of any in their on-going discussion with the relevant regulatory authorities.
- 9.5.4. In their Statement of Commonality [REP9-026] the Applicant confirmed that Letters of No Impediment had been received from NE regarding ghost licences in relation to Badgers and Water Voles. Engagement was on-going to acquire Letters of No Impediment regarding ghost licences for Great Crested Newts and Bats.
- 9.5.5. However, by the end of the Examination no letters or comments had been received from NE to confirm their position.
- 9.5.6. The EA [REP1-029] confirmed that it was satisfied that the Applicant was aware of all consents that were required but did not state whether or not they would be likely to be granted. In this respect however, I note that by the close of the Examination, an SoCG was agreed between the Applicant and the EA [REP9-015], which agreed all matters.
- 9.5.7. Matters relating to other consents have been considered throughout the Examination. Given the final position of EA, the LPAs, and the submission of the Applicant, I see no impediments to the delivery of the Proposed Development arising from consents required from these bodies.
- 9.5.8. However, given the importance of protected species licences, given the lack of clarity on the position of NE, I am unable to conclude that, if the DCO is made, there is a reasonable likelihood of outstanding consents in this respect would be granted. Furthermore, no SoCG was submitted to the Examination.

- 9.5.9. I therefore recommend that:
- Prior to making the decision on whether to make this DCO, the SoST may wish to consider consulting with NE, as advisors on natural environment matters, to satisfy themselves that there are no impediments to the making of the DCO.
- 9.5.10. I conclude that there are no additional matters arising from or relating to other consents which indicate against the grant of the DCO or for which the DCO should additionally provide.

9.6. CONCLUSIONS

- 9.6.1. I have had regard to all matters forming the application and put before me at the Examination, including the iterations of the dDCO.
- 9.6.2. I have considered the Applicant's final draft [REP9-008] and, following Examination, I have recommended a number of changes. These are included within my rDCO (Appendix D). In summary these changes are:
- Amendment to preamble to include additional text in relation to Special Category Land;
 - Subject to consultation with the Applicant, deletion of Article 7 (Planning Permission);
 - Amendment to error in Schedule 9, Part 3, paragraph 17(2) to reflect submission of Applicant at D10 [REP10-001]; and
 - Revision to Schedule 10 (Documents to be Certified) to ensure it corresponds with the documents received by the close of the Examination.
- 9.6.3. I am satisfied with the Applicant's review and response to matters, and that the issues and questions which had a bearing on the DCO were all addressed in the Examination. On this basis, I am fully satisfied that REP9-008 contains a complete response to all points raised, and, other than those listed below, there are no outstanding matters.
- 9.6.4. I am satisfied that the rDCO (Appendix D) defines the scope of the Proposed Development for which Consent is sought. I am satisfied that it secures the necessary controls and mitigation measures and that these are consistent with the assessments and conclusions of the ES.
- 9.6.5. I consider that the Requirements within the rDCO (Appendix D) are necessary, relevant to planning, relevant to the development to be consented, enforceable, precise, and reasonable in all other respects. On that basis I am satisfied that paragraph 4.9 of the NPSNN has been satisfied.
- 9.6.6. If the SoST is minded to make the DCO, it is recommended to be made in the form set out in Appendix D, subject to SoST being satisfied on the following matters:

- Clarify the position of NE prior to making a decision to ensure that there are no impediments, that all mitigation is broadly adequate and that NE is content with the provisions of R7 and R12;
- Clarify the position of NE on the effect of the Proposed Development upon the IHTA at BHE;
- Should additional data with regards to Barbastelle bats become available prior to the determination of the Application, the SoST may wish to satisfy themselves that the Proposed Development can robustly demonstrate that the impacts on the favourable conservation status of bat species near the route can be avoided;
- May wish to seek the views of the Applicant and NCC in relation to the proposed PPs; and
- May wish to seek the views of the Applicant with regards to my recommendation that Article 7 (Planning Permission) is deleted from my rDCO; and
- Following the close of the Examination further advice was issued by DEFRA on 16 March 2022 in relation to nutrient neutrality. As a result, should the SoS be minded to make the DCO, they may wish to consult NE, the Applicant and the LPAs on the matter.

10. SUMMARY OF FINDINGS AND CONCLUSIONS

10.1. INTRODUCTION

- 10.1.1. This Chapter provides a summary of my conclusions that arise from the Report and sets out my recommendation to the SoST.

10.2. SUMMARY AND CONCLUSIONS

- 10.2.1. My conclusions are subject to the provisions of the rDCO in Appendix D of this Report and, in relation to sections 104(4), 104(5) and 104(6) of the PA2008, subject to the SoST satisfying themselves on the matters identified in Section 10.3.
- 10.2.2. In relation to sections 104(2) and 104(3) of the PA 2008, I conclude that making the rDCO would be in accordance with the NPSNN, relevant development plans and other relevant policy, all of which have been taken into account in this Report.
- 10.2.3. In reaching my conclusions I have had regard to the matters identified in the received LIRs from NCC and BC and to all matters that I consider to be both important and relevant.
- 10.2.4. Whilst the SoST is the competent authority under the Habitats Regulations and will make the definitive assessment, I conclude that the Proposed Development is unlikely to have significant effects on European sites, species or habitats. I have taken this conclusion into account in reaching my recommendation. I consider that it is not necessary to undertake an Appropriate Assessment for the Proposed Development.
- 10.2.5. I considered the case for CA and TP of land and rights sought by the Applicant to implement the Proposed Development. I conclude that the powers sought are necessary to enable the Applicant to complete the Proposed Development. I find that there is a compelling case in the public interest, that the Applicant has a clear idea of how it intends to use the land, and that adequate funds are available for its completion. On this basis, I am satisfied that the CA and TP powers sought by the Applicant are justified, comply with the PA2008, and should therefore be granted.
- 10.2.6. I have had regard to the provisions of the Human Rights Act 1998. In some cases, there would be interference with private and family life and home in contravention of Article 8, and interference in the peaceful enjoyment of possessions in contravention of Article 1 of the First Protocol of the Human Rights Act 1998. In relation to Article 6 (entitlement to a fair and public hearing), the Examination has ensured a fair and public hearing.
- 10.2.7. The weight of national policy in favour of the Proposed Development and the wider public interest qualifies any interference with the human rights affected. I conclude that any interference with human rights arising from

the implementation of the Proposed Development would be proportionate and strike a fair balance between the rights of the individual and the public interest.

- 10.2.8. I have had regard to the Public Sector Equality Duty. I find that the Proposed Development does not harm the interests of persons who share a protected characteristic or have any adverse effect on the relationships between such persons and persons who do not share a protected characteristic. On that basis, I have found no breach of the Public Sector Equality Duty.
- 10.2.9. As required by Regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010, I have considered the desirability of preserving listed buildings, their setting and any features of special architectural or historic interest that they possess.
- 10.2.10. As required by Regulation 3(1) of the Infrastructure Planning (Decisions) Regulations 2010, I have had regard to the desirability of preserving listed buildings or their settings or any features of special architectural or historic interest which they possess.
- 10.2.11. Where I have found that there would be harm to the significance of designated heritage assets (as set out in Section 5.9 of this Report), I consider that this would be less than substantial in each instance. In Chapter 7 I conclude that, taking account of the public benefits of the Proposed Development, there is clear and convincing justification for the harm that would result, both individually and collectively, upon designated heritage assets.
- 10.2.12. Overall, in my view, the Proposed Development would accord with Regulation 7 of the Infrastructure Planning (Decisions) Regulations 2010 relating to the United Nations Environmental Programme Convention on Biological Diversity of 1992.
- 10.2.13. I find that the Proposed Development would not lead to the loss of any ancient woodland or veteran trees
- 10.2.14. I have considered all other matters and representations received, but have found no other important and relevant matters that would individually or collectively lead to a different recommendation to that set out below.
- 10.2.15. In relation to section 104(7) of the PA2008, and with the mitigation proposed through the rDCO in Appendix D to this Report, I consider that there are no adverse impacts arising from the Proposed Development that would outweigh its benefits.

10.3. RECOMMENDATION

- 10.3.1. My findings and conclusions on important and relevant matters are set out in this Report. My recommendations are subject to the following points on which the SoST may wish to satisfy themselves:

- Clarify the position of NE prior to making a decision to ensure that there are no impediments, that all mitigation is broadly adequate and that NE is content with the provisions of R7 and R12;
- Clarify the position of NE on the effect of the Proposed Development upon the IHTA at BHE;
- Should additional data with regards to Barbastelle bats become available prior to the determination of the Application, the SoST may wish to satisfy themselves that the Proposed Development can robustly demonstrate that the impacts on the favourable conservation status of bat species near the route can be avoided;
- May wish to seek the views of the Applicant and NCC in relation to the proposed PPs; and
- May wish to seek the views of the Applicant with regards to my recommendation that Article 7 (Planning Permission) is deleted from my rDCO; and
- Following the close of the Examination further advice was issued by DEFRA on 16 March 2022 in relation to nutrient neutrality. As a result, should the SoS be minded to make the DCO, they may wish to consult NE, the Applicant and the LPAs on the matter.

10.3.2. Subject to the above, I conclude that the Proposed Development meets the tests in s104 of the PA 2008. On that basis, I recommend that the SoST makes the A47 North Tuddenham to Easton DCO in the form attached at Appendix D to this Report.

APPENDICES

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APPENDIX A: THE EXAMINATION

The Examination Timetable can be accessed by following this [link](#).

APPENDIX B: EXAMINATION LIBRARY

A47 North Tuddenham to Easton Examination Library

Updated – 14/02/2022

This Examination Library relates to the A47 North Tuddenham to Easton 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:

- 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 is 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
Application Documents As submitted and amended version received before the PM. Any amended version received during the Examination stage to be saved under the Deadline received	APP-xxx
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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 including responses to Rule 6 and Rule 8 letters	AS-xxx
Events and Hearings Includes agendas for hearings and site inspections, audio recordings, responses to notifications and applicant's hearing notices	EV-xxx
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Deadline 6:	REP6-xxx
Deadline 7:	REP7-xxx
Deadline 8:	REP8-xxx
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Deadline 10:	REP10-xxx
Other Documents Includes s127/131/138 information,s56, s58 and s59 certificates, and transboundary documents	OD-xxx

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APP-001	Highways England 1.1 Application Form
APP-002	Highways England 1.2 Covering Letter and Section 55 Checklist
APP-003	Highways England 1.3 Introduction to the Application
APP-004	Highways England 2.1 Location Plan
APP-005	Highways England 2.2 General Arrangement Plans
APP-006	Highways England 2.3 Land Plans
APP-007	Highways England 2.4 Works Plans
APP-008	Highways England 2.5 Rights of Way and Access Plans
APP-009	Highways England 2.6 Traffic Regulation Plans
APP-010	Highways England 2.7 Engineering Drawings and Sections
APP-011	Highways England 2.8 Drainage and Surface Water Plans
APP-012	Highways England 2.9 Crown Land Plans
APP-013	Highways England 2.10 Special Category Land Plans
APP-014	Highways England 2.11 Classification of Roads Plans
APP-015	Highways England 2.12 Hedgerow Plans
APP-016	Highways England 2.13 De-trunking Plans
APP-017	Highways England 3.1 Draft Development Consent Order
APP-018	Highways England 3.1 Draft Development Consent Order Validation Confirmation
APP-019	Highways England 3.2 Explanatory Memorandum
APP-020	Highways England 3.3 Consents and Agreements Position Statement
APP-021	Highways England 4.1 Statement of Reasons
APP-022	Highways England 4.2 Funding Statement

APP-023	Highways England 4.3 Book of Reference
APP-024	Highways England 5.1 Consultation Report
APP-025	Highways England 5.2 Consultation Report Annex A: Options Consultation Materials
APP-026	Highways England 5.2 Consultation Report Annex B: The Infrastructure Planning (EIA) Regulations 2017 Regulation 8(1) and 10(1) Letter to PINS
APP-027	Highways England 5.2 Consultation Report Annex C: Copies of the Draft SoCC Provided to Local Authorities
APP-028	Highways England 5.2 Consultation Report Annex D: Correspondence to Local Authorities for SoCC consultation
APP-029	Highways England 5.2 Consultation Report Annex E: Responses from Local Authorities on the Draft SoCC
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APP-031	Highways England 5.2 Consultation Report Annex G: Section 47 and 48 Newspaper Notices
APP-032	Highways England 5.2 Consultation Report Annex H: Section 46 Notification Letter
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APP-036	Highways England 5.2 Consultation Report Annex L: December 2020 Project Update and Targeted Consultation
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APP-082	Highways England 6.3 Environmental Statement Appendices Appendix 5.1 - Air Quality Dispersion Modelling Process
APP-083	Highways England 6.3 Environmental Statement Appendices Appendix 5.2 - Air Quality Verification and Model Adjustment
APP-084	Highways England 6.3 Environmental Statement Appendices Appendix 5.3 - Air Quality Receptor Results
APP-085	Highways England 6.3 Environmental Statement Appendices Appendix 6.1 - Cultural Heritage Information

APP-086	Highways England 6.3 Environmental Statement Appendices Appendix 6.2 - Geophysical Survey, Part 1 of 2
APP-087	Highways England 6.3 Environmental Statement Appendices Appendix 6.2 - Geophysical Survey, Part 2 of 2
APP-088	Highways England 6.3 Environmental Statement Appendices Appendix 6.3 - Archaeological Evaluation
APP-089	Highways England 6.3 Environmental Statement Appendices Appendix 7.1 - Planning Policy Context
APP-090	Highways England 6.3 Environmental Statement Appendices Appendix 7.2 – ZTV and Verified Photomontage Methodology
APP-091	Highways England 6.3 Environmental Statement Appendices Appendix 7.3 - Landscape Character Areas
APP-092	Highways England 6.3 Environmental Statement Appendices Appendix 7.4 - Visual Receptors
APP-093	Highways England 6.3 Environmental Statement Appendices Appendix 7.5 - Representative Viewpoints
APP-094	Highways England 6.3 Environmental Statement Appendices Appendix 7.6 - Arboricultural Impact Assessment
APP-095	Highways England 6.3 Environmental Statement Appendices Appendix 7.7 – Lighting Assessment
APP-096	Highways England 6.3 Environmental Statement Appendices Appendix 8.1 - Botanical Survey Report
APP-097	Highways England 6.3 Environmental Statement Appendices Appendix 8.2 - Fungi survey report
APP-098	Highways England 6.3 Environmental Statement Appendices Appendix 8.3 - Terrestrial Invertebrate Survey Report
APP-099	Highways England 6.3 Environmental Statement Appendices Appendix 8.4 - River Tud Corridor Aquatic Invertebrate Survey
APP-100	Highways England 6.3 Environmental Statement Appendices Appendix 8.5 - White-clawed Crayfish Survey Report
APP-101	Highways England 6.3 Environmental Statement Appendices Appendix 8.6 - Great Crested Newt Survey Report
APP-102	Highways England 6.3 Environmental Statement Appendices Appendix 8.7 - Reptile Survey Report

APP-103	Highways England 6.3 Environmental Statement Appendices Appendix 8.8 - Breeding Bird Survey Report
APP-104	Highways England 6.3 Environmental Statement Appendices Appendix 8.9 - Barn Owl Survey Report
APP-105	Highways England 6.3 Environmental Statement Appendices Appendix 8.10 - Wintering Bird Survey Report
APP-106	Highways England 6.3 Environmental Statement Appendices Appendix 8.11 - Bat hibernation report
APP-107	Highways England 6.3 Environmental Statement Appendices Appendix 8.12 - Bat Survey Report
APP-108	Highways England 6.3 Environmental Statement Appendices Appendix 8.13 - Bat Crossing Point Report
APP-109	Highways England 6.3 Environmental Statement Appendices Appendix 8.14 - Otter and Water Vole Survey Report
APP-110	Highways England 6.3 Environmental Statement Appendices Appendix 8.15 – Badger survey report CONFIDENTIAL
APP-111	Highways England 6.3 Environmental Statement Appendices Appendix 8.16 - DMRB biodiversity evaluation assessment methodology
APP-112	Highways England 6.3 Environmental Statement Appendices Appendix 8.17 - Legislation and policy framework
APP-113	Highways England 6.3 Environmental Statement Appendices Appendix 9.1 - Hierarchy of Screening Criteria for Generic Quantitative Risk Assessment
APP-114	Highways England 6.3 Environmental Statement Appendices Appendix 9.2 - Agricultural Land Classification
APP-115	Highways England 6.3 Environmental Statement Appendices – Appendix 10.1 - Legislation and policy framework
APP-116	Highways England 6.3 Environmental Statement Appendices Appendix 10.2 - Outline Site Waste Management Plan
APP-117	Highways England 6.3 Environmental Statement Appendices Appendix 10.3 - Mineral impact assessment
APP-118	Highways England 6.3 Environmental Statement Appendices Appendix 11.1 - Glossary of Terms

APP-119	Highways England 6.3 Environmental Statement Appendices Appendix 11.2 - Legislation and policy framework
APP-120	Highways England 6.3 Environmental Statement Appendices Appendix 11.3 - Baseline noise survey
APP-121	Highways England 6.3 Environmental Statement Appendices Appendix 11.4 - Traffic data comparison and model validation
APP-122	Highways England 6.3 Environmental Statement Appendices Appendix 11.5 - Construction noise assessment
APP-123	Highways England 6.3 Environmental Statement Appendices Appendix 12.1 - Population and human health questionnaire responses
APP-124	Highways England 6.3 Environmental Statement Appendices Appendix 13.1 - Flood Risk Assessment, Part 1 of 2
APP-125	Highways England 6.3 Environmental Statement Appendices Appendix 13.1 - Flood Risk Assessment, Part 2 of 2
APP-126	Highways England 6.3 Environmental Statement Appendices Appendix 13.2 - Drainage Strategy Report, Part 1 of 2
APP-127	Highways England 6.3 Environmental Statement Appendices Appendix 13.2 - Drainage Strategy Report, Part 2 of 2
APP-128	Highways England 6.3 Environmental Statement Appendices Appendix 13.3 - Water Quality Assessment
APP-129	Highways England 6.3 Environmental Statement Appendices Appendix 13.4 - Groundwater Assessment
APP-130	Highways England 6.3 Environmental Statement Appendices Appendix 13.5 - Geomorphology Assessment Report
APP-131	Highways England 6.3 Environmental Statement Appendices Appendix 14.1 - Embodied carbon assessment
APP-132	Highways England 6.3 Environmental Statement Appendices Appendix 15.1 - Cumulative Effects Assessment Long List
APP-133	Highways England 6.3 Environmental Statement Appendices Appendix 15.2 - Cumulative Effects Assessment Shortlist
APP-134	Highways England 6.4 Environmental Statement Non-Technical Summary
APP-135	Highways England 6.5 EIA Scoping Report
APP-136	Highways England 6.6 EIA Scoping Opinion

APP-137	Highways England 6.7 Statement Relating to Statutory Nuisance
APP-138	Highways England 6.8 Environmental Masterplan
APP-139	Highways England 6.9 Report to Inform Habitats Regulations Assessment
APP-140	Highways England 7.1 Case for the Scheme
APP-141	Highways England 7.2 National Policy Statement for National Networks Accordance Tables
APP-142	Highways England 7.3 Scheme Design Report
APP-143	Highways England 7.4 Environmental Management Plan
APP-144	Highways England 7.5 Outline Traffic Management Plan
APP-145	Highways England 7.6 Equality Impact Assessment
Adequacy of Consultation Responses	
AoC-001	Borough Council of King's Lynn and West Norfolk Adequacy of Consultation Representation
AoC-002	Breckland Council Adequacy of Consultation Representation
AoC-003	Broadland District Council Adequacy of Consultation Representation
AoC-004	Broads Authority Adequacy of Consultation Representation
AoC-005	Cambridgeshire County Council Adequacy of Consultation Representation
AoC-006	East Suffolk Council Adequacy of Consultation Representation
AoC-007	Great Yarmouth Borough Council Adequacy of Consultation Representation
AoC-008	Lincolnshire County Council Adequacy of Consultation Representation
AoC-009	Norfolk County Council Adequacy of Consultation Representation
AoC-010	Norwich City Council Adequacy of Consultation Representation
AoC-011	South Norfolk Council Adequacy of Consultation Representation
AoC-012	Suffolk County Council Adequacy of Consultation Representation
Relevant Representations	
RR-001	Adrian Holmes
RR-002	Adrian Rutterford
RR-003	Alexander Barrett
RR-004	Alyson Lee

RR-005	Anne Robinson
RR-006	Ben Hooker
RR-007	Breckland Council
RR-008	Broadland District Council
RR-009	Brown and Co on behalf of AL Alston and Sons Ltd
RR-010	Brown and Co on behalf of Honingham Aktieselskab
RR-011	Brown and Co on behalf of Alson Farms Ltd
RR-012	Browns and Co on behalf of Food Enterprise Park Ltd
RR-013	Browns and Co on behalf of Mr Neil Alston
RR-014	Bryan Robinson
RR-015	Catharine Hooker
RR-016	Childhood First
RR-017	Christine Way
RR-018	Climate Emergency Planning and Policy (CEPP)
RR-019	CPRE Norfolk
RR-020	D G M Kenney
RR-021	David Hooker
RR-022	David Hooker on behalf of Mrs Anne Gowing
RR-023	David Lewis
RR-024	David Morton
RR-025	David Pett on behalf of Stop Wensum Link
RR-026	Deepak Rughani
RR-027	Dr Larch Maxey
RR-028	Dr Matt Tomlinson
RR-029	Easton Parish Council
RR-030	Edward Brown
RR-031	Edward Kevin OHara
RR-032	Emma Tristram
RR-033	Environment Agency
RR-034	Gil Murray
RR-035	Glebe House
RR-036	Graham Everett
RR-037	Hannah Hoechner
RR-038	Hanne Lene Schierff
RR-039	Heather Brennecke
RR-040	Historic England
RR-041	Hockering Parish Council
RR-042	Honingham Parish Council
RR-043	Howard James Rees
RR-044	James Brown
RR-045	Jamie Osborn
RR-046	Jean Bishop
RR-047	Joe McCarney
RR-048	John Cummings
RR-049	John Greenaway
RR-050	Jonathan Maynard
RR-051	Laura Blake
RR-052	Lesley Grahame
RR-053	Mair Bain
RR-054	Mattishall Parish Council

RR-055	Mireille Heald
RR-056	Mr Joshua Hooker
RR-057	National Grid Gas Plc Submission Withdrawn by letter dated 10 February 2022 [REP10-011]
RR-058	Nick Bishop-Clark
RR-059	Norfolk Barbastelle Study Group
RR-060	Norfolk Constabulary
RR-061	Norfolk County Council
RR-062	North Tuddenham Parish Council
RR-063	Norwich and Norfolk Friends of the Earth
RR-064	Norwich Green Party Group of City and County Councillors
RR-065	Olivia Hanks
RR-066	Orsted Hornsea Project Three (UK)
RR-067	Patricia Day
RR-068	Peter Milliken
RR-069	Pinsent Masons on behalf of Norfolk County Council as promoter of Norwich Western Link
RR-070	Public Health England
RR-071	Richard Hawker
RR-072	Ringland Parish Council
RR-073	Robert Palgrave
RR-074	Roc Sandford
RR-075	Savills (UK) Ltd on behalf of Anthony Meynell
RR-076	South Norfolk Council
RR-077	Steve Hale
RR-078	Transport Action Network
RR-079	Transport Planning Associates on behalf of Clarion Housing Group
RR-080	Vattenfall Wind Power Ltd
RR-081	Victoria Rance
RR-082	Wensum Valley Alliance
RR-083	Weston Longville Parish Council
RR-084	Wild Wings Ecology
Procedural Decisions and Notifications from the Examining Authority	
PD-001	Notification of Decision to Accept Application
PD-002	Section 55 Checklist
PD-003	Section 51 advice to the Applicant
PD-004	Appointment of the Examining Authority Notice of appointment of the Examining Authority
PD-005	Rule 6 Letter Notice of appointment of the Examining Authority and date and time of the Preliminary Meeting
PD-006	Rule 8 letter - notification of timetable for the examination
PD-007	Examining Authority's Written Questions (ExQ1)
PD-008	Rules 13 and 16 – Notification of Hearings and Accompanied Site Inspection (ASI)

PD-009	Examining Authority's Further Written Questions (ExQ2)
PD-010	Section 102A Request Hazel (Tilly) Taylor
PD-011	Section 102A Letter to Mr Curson
PD-012	Examining Authority's Further Written Questions (ExQ3)
PD-013	Rule 13 - Notification of Hearings
PD-014	Report on the Implications for European Sites (RIES) Issued by the Examining Authority - 17 December 2021
PD-015	Rules 9 and 17 - Procedural Decision and requests for further information
PD-016	Section 99 - Notification of completion of the Examining Authority's Examination

Additional Submissions

AS-001	Highways England Additional Submission - Cover Letter - Response to S51 advice - Accepted at the discretion of the Examining Authority
AS-002	Highways England Additional Submission - 2.6 Traffic Regulation Plans - Revision 1 - Accepted at the discretion of the Examining Authority
AS-003	Highways England Additional Submission - 4.3 Book of Reference (Clean) - Revision 1 - Accepted at the discretion of the Examining Authority
AS-004	Highways England Additional Submission - 4.3 Book of Reference (Tracked Changes) - Revision 1 - Accepted at the discretion of the Examining Authority
AS-005	Highways England Additional Submission - 6.1 Environmental Statement Chapter 2 - The Proposed Scheme (Clean) - Revision 1 - Accepted at the discretion of the Examining Authority
AS-006	Highways England Additional Submission - 6.1 Environmental Statement Chapter 2 - The Proposed Scheme (Tracked Changes) - Revision 1 - Accepted at the discretion of the Examining Authority
AS-007	Highways England Additional Submission - 6.8 Environmental Masterplan - Revision 1 - Accepted at the discretion of the Examining Authority
AS-008	Highways England Additional Submission - 7.3 Scheme Design Report (Clean) - Revision 1 - Accepted at the discretion of the Examining Authority

AS-009	Highways England Additional Submission - 7.3 Scheme Design Report (Tracked Changes) - Revision 1 - Accepted at the discretion of the Examining Authority
AS-010	Highways England Additional Submission - 9.1 Guide to the Application - Revision 0- Accepted at the discretion of the Examining Authority
AS-011	Mr Josselyn on behalf of Mr Meynell Additional Submission - Accepted at the discretion of the Examining Authority
AS-012	Chris Curson (T J Curson & Partners) Non-IP Submission accepted at the discretion of the Examining Authority
AS-013	Dr Iain Robinson Non-IP Submission accepted at the discretion of the Examining Authority
AS-014	Bryan Robinson Additional Submission - Accepted at the discretion of the Examining Authority
AS-015	David Pett on behalf of Stop Wensum Link Additional Submission - Accepted at the discretion of the Examining Authority
AS-016	Climate Emergency Policy and Planning (CEPP) Additional Submission - Accepted at the discretion of the Examining Authority
AS-017	Highways England Additional Submission - 9.1 Guide to the Application (Clean) - Rev 4 - Accepted at the discretion of the Examining Authority
AS-018	Highways England Additional Submission - 9.1 Guide to the Application (Tracked Changes) - Rev 4 - Accepted at the discretion of the Examining Authority
AS-019	Highways England Additional Submission - 9.7 Compulsory Acquisition Schedule (Clean) - Rev 1 - Accepted at the discretion of the Examining Authority
AS-020	Highways England Additional Submission - 9.7 Compulsory Acquisition Schedule (Tracked Changes) - Rev 1 - Accepted at the discretion of the Examining Authority
AS-021	Highways England

	Additional Submission - 9.14 Applicant's Response to Examining Authority's Further Written Questions - October 2021 - Accepted at the discretion of the Examining Authority
AS-022	Highways England Additional Submission - 9.15 Alternative Wood Lane Junction Options Appraisal - Accepted at the discretion of the Examining Authority
AS-023	Highways England Additional Submission - 9.15 Alternative Wood Lane Junction Options Appraisal - Appendix B - Alternative Option Departures - Accepted at the discretion of the Examining Authority
AS-024	Highways England Additional Submission - 9.15 Alternative Wood Lane Junction Options Appraisal Appendix C - Alternative Option Land Take - Accepted at the discretion of the Examining Authority
AS-025	Highways England Additional Submission - Confidential badger Information to Support Alternative Wood Lane Junction Options Appraisal - Accepted at the discretion of the Examining Authority This document contains confidential information and is only available on request to those who have a legitimate need to view it.
AS-026	Highways England Additional Submission - Change Request Cover Letter - Accepted at the discretion of the Examining Authority
AS-027	Highways England Additional Submission - Change Request - 2.2 General Arrangement Plans - Accepted at the discretion of the Examining Authority
AS-028	Highways England Additional Submission - Change Request - 2.4 Works Plans - Accepted at the discretion of the Examining Authority
AS-029	Highways England Additional Submission - Change Request - 2.5 Rights of Way and Access Plans Accepted at the discretion of the Examining Authority
AS-030	Highways England Additional Submission - Change Request - 2.6 Traffic Regulation Plans - Accepted at the discretion of the Examining Authority
AS-031	Highways England

	Additional Submission - Change Request - 2.8 Drainage and Surface Water Plans - Accepted at the discretion of the Examining Authority
AS-032	Highways England Additional Submission - Change Request - 2.12 Hedgerow Plans - Accepted at the discretion of the Examining Authority
AS-033	Highways England Additional Submission - Change Request - 2.13 De-trunking Plans - Accepted at the discretion of the Examining Authority
AS-034	Highways England Additional Submission - Change Request - 2.11 Classification of Roads Plans - Accepted at the discretion of the Examining Authority
AS-035	Highways England Additional Submission - Change Request - 3.1 Draft Development Consent Order (Clean) - Accepted at the discretion of the Examining Authority
AS-036	Highways England Additional Submission - Change Request - 3.1 Draft Development Consent Order (Tracked) Accepted at the discretion of the Examining Authority
AS-037	Highways England Additional Submission - Change Request - 6.8 Environmental Masterplan - Accepted at the discretion of the Examining Authority
AS-038	Highways England Additional Submission - Change Request - 9.26 Non-Material DCO Changes Request - Accepted at the discretion of the Examining Authority
AS-039	Climate Emergency Policy and Planning (CEPP) Additional Submission retracting the complaint raised in section 2 of submission REP6-020 - Accepted at the discretion of the Examining Authority
AS-040	Highways England Additional Submission - Change Request - 9.32 Non-Material DCO Changes Consultation Feedback -Accepted at the discretion of the Examining Authority
Events and Hearings	
Unaccompanied Site Inspection	
EV-001	Unaccompanied Site Inspection Pre-examination/Unaccompanied Site Inspection

EV-001a	Note of Unaccompanied Site Inspection (USI 2) on 10 and 11 October 2021
Preliminary Meeting	
EV-002	Recording of Preliminary Meeting Part 1 - 3 August 2021

EV-003	Transcript of Preliminary Meeting Part 1 - 3 August 2021 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-004	Preliminary Meeting Note
EV-005	Reference Not In Use
EV-006	Reference Not In Use
Open Floor Hearing – 12 August 2021	
EV-007	Agenda for Open Floor Hearing 1 (OFH1) - 12 August 2021
EV-008	Recording of Open Floor Hearing 1 (OFH1) – 12 August 2021
EV-009	Open Floor Hearing 1 (OFH1) - Transcript - 12 August 2021 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
Issue Specific Hearing 1: Draft Development Consent Order - 2 November 2021	
Compulsory Acquisition Hearing 1 (CAH1) – 3 November 2021	
Compulsory Acquisition Hearing 2 (CAH2) – 3 November 2021	
Issue Specific Hearing 2 (ISH2) – 4 November 2021	
EV-010	Highways England Notice of November Hearings
EV-011	Agenda for Issue Specific Hearing 1 dealing with matters relating to the draft Development Consent Order - 2 November 2021
EV-012	Agenda for Compulsory Acquisition Hearing 1 and 2 - Wednesday 3 November 2021
EV-013	Agenda for Issue Specific Hearing 2 dealing with environmental matters - 4 November 2021
EV-014	Recording of Issue Specific Hearing 1 (ISH1) - Draft Development Consent Order – Session 1 - 2 November 2021
EV-015	Recording of Issue Specific Hearing 1 (ISH1) - Draft Development Consent Order – Session 2 - 2 November 2021

EV-016	Issue Specific Hearing 1 (ISH1) - Draft Development Consent Order – Session 1 - Transcript - 2 November 2021 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-017	Issue Specific Hearing 1 (ISH1) - Draft Development Consent Order - Session 2 - Transcript - 2 November 2021 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-018	Recording of Compulsory Acquisition Hearing 1 (CAH1) - The Applicant's case for Compulsory Acquisition and Temporary Possession – 3 November 2021
EV-019	Compulsory Acquisition Hearing 1 (CAH1) - The Applicant's case for Compulsory Acquisition and Temporary Possession - Transcript - 3 November 2021 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-020	Recording of Compulsory Acquisition Hearing 2 (CAH2)- Site/plot specific issues – 3 November 2021
EV-021	Compulsory Acquisition Hearing 2 (CAH2)- Site/plot specific issues - Transcript - 3 November 2021 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-022	Recording of Issue Specific Hearing 2 (ISH2)- Environmental Matters – Part 1 - Session 1 - 4 November 2021
EV-023	Recording of Issue Specific Hearing 2 (ISH2)- Environmental Matters – Part 1 - Session 2 - 4 November 2021
EV-024	Recording of Issue Specific Hearing 2 (ISH2)- Environmental Matters – Part 1 - Session 3 - 4 November 2021
EV-024a	Recording of Issue Specific Hearing 2 (ISH2)- Environmental Matters – Part 1 - Session 4 - 4 November 2021
EV-025	Issue Specific Hearing 2 (ISH2)- Environmental Matters – Part 1 - Session 1 - Transcript - 4 November 2021

	This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-026	Issue Specific Hearing 2 (ISH2)- Environmental Matters – Part 1 - Session 2 - Transcript - 4 November 2021 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-027	Issue Specific Hearing 2 (ISH2)- Environmental Matters – Part 1 - Session 3 - Transcript - 4 November 2021 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-028	Issue Specific Hearing 2 (ISH2)- Environmental Matters – Part 1 - Session 4 - Transcript - 4 November 2021 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-029	Recording of Issue Specific Hearing 2 (ISH2)- Environmental Matters – Part 2 - Session 1 - 5 November 2021
EV-030	Recording of Issue Specific Hearing 2 (ISH2)- Environmental Matters – Part 2 - Session 2 - 5 November 2021
EV-031	Issue Specific Hearing 2 (ISH2)- Environmental Matters – Part 2 - Session 1 - Transcript - 5 November 2021 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-032	Issue Specific Hearing 2 (ISH2)- Environmental Matters – Part 2 - Session 2 - Transcript - 5 November 2021 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event
EV-033	Action Points from Issue Specific Hearing 1 ,Compulsory Acquisition Hearings 1 and 2 and Issue Specific Hearing 2
Compulsory Acquisition Hearing 3 (CAH3) – 5 January 2022	

Issue Specific Hearing 3 (ISH3) – 6 January 2022

EV-034	Highways England Notice of January Hearings
EV-035	Agenda for Compulsory Acquisition Hearing 3 (CAH3) - Wednesday 5 January 2022
EV-036	Agenda for Issue Specific Hearing 3 dealing with matters relating to the draft Development Consent Order (dDCO) and environmental matters 6 Jan 2022
EV-037	Recording of Compulsory Acquisition Hearing 3 (CAH3) - Wednesday 5 January 2022
EV-038	Compulsory Acquisition Hearing 3 (CAH3) - Transcript - 5 January 2022 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-039	Recording of Issue Specific Hearing 3 (ISH3) - Session 1 - 6 January 2022
EV-040	Recording of Issue Specific Hearing 3 (ISH3) - Session 2 - 6 January 2022
EV-041	Recording of Issue Specific Hearing 3 (ISH3) - Session 3 - 6 January 2022
EV-042	Recording of Issue Specific Hearing 3 (ISH3) - Session 4 - 6 January 2022
EV-043	Issue Specific Hearing 3 (ISH3) - Session 1 - Transcript - 6 January 2022 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-044	Issue Specific Hearing 3 (ISH3) - Session 2 - Transcript - 6 January 2022 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event

EV-045	Issue Specific Hearing 3 (ISH3) - Session 3 - Transcript - 6 January 2022 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-046	Issue Specific Hearing 3 (ISH3) - Session 4 - Transcript - 6 January 2022 This document is intended to assist Interested Parties, it is not verbatim. The content is produced using artificial intelligence voice to text and is unedited. The video recording remains as the primary record of the event.
EV-047	Action Points from Issue Specific Hearing 3
Representations	
Procedural Deadline A – 20 July 2021 Deadline for receipt by the ExA of: • Written submissions on the examination procedure, including any submissions about the use of virtual procedures; and • Requests to be heard orally at the Preliminary Meeting Part 1	
PDA-001	Highways England Procedural Deadline A Submission - Response to Rule 6 letter
PDA-002	Climate Emergency Planning and Policy (CEPP) Procedural Deadline A Submission - Written submissions on the examination procedure
PDA-003	Norfolk County Council Procedural Deadline A Submission - Response to Rule 6 letter
PDA-004	Norfolk County Council Procedural Deadline A Submission - Requests to be heard orally at the Preliminary Meeting Part 1
PDA-005	Richard Hawker Procedural Deadline A Submission - Written submissions on the examination procedure

Procedural Deadline B – 9 August 2021

Deadline for receipt by the ExA of:

- Written submissions on the examination procedure, including responses to matters raised orally at the Preliminary Meeting Part 1; and
- Requests to be heard orally at the Preliminary Meeting Part 2 and/or at Open Floor Hearing 1 (OFH1).

PDB-001	Highways England Procedural Deadline B Submission
PDB-002	Brown & Co Procedural Deadline B Submission
PDB-003	Climate Emergency Planning and Policy (CEPP) Procedural Deadline B Submission
PDB-004	David Lewis Procedural Deadline B Submission
PDB-005	Easton Parish council Procedural Deadline B Submission
PDB-006	Lisa J Tomlin Procedural Deadline B Submission
PDB-007	Peter Milliken Procedural Deadline B Submission
PDB-008	Richard Hawker Procedural Deadline B Submission
PDB-009	Stop Wensum Link Procedural Deadline B Submission
PDB-010	Weston Longville Parish Council Procedural Deadline B Submission

Deadline 1 – 01 September 2021

Deadline for the receipt by the ExA of:

- Comments on Additional Documents submitted by the Applicant since the application was accepted
- Comments on Relevant Representations (RRs)
- Summaries of all RRs exceeding 1500 words
- Written Representations (WRs)
- Summaries of all WRs exceeding 1500 words
- Written summaries of oral submissions made at OFH1
- Submission by Applicant of draft Accompanied Site Inspection (ASI) itinerary
- Draft Statements of Common Ground (SoCG) requested by the ExA
- An updated version of the draft Development Consent Order (dDCO) in clean and tracked versions
- A schedule of changes to the dDCO
- Any further information requested by the ExA under Rule 17 of the Examination Rules

REP1-001	Highways England Deadline 1 Submission - Cover Letter
REP1-002	Highways England Deadline 1 Submission – 2.3 Land Plans
REP1-003	Highways England Deadline 1 Submission – 3.1 Draft Development Consent Order (Tracked Changes) - Rev 1
REP1-004	Highways England Deadline 1 Submission – 3.1 Draft Development Consent Order (Clean) - Rev 1
REP1-005	Highways England Deadline 1 Submission – 3.3 Consents and Agreements Position Statement (Tracked Changes) – Rev 1
REP1-006	Highways England Deadline 1 Submission – 3.3 Consents and Agreements Position Statement (Clean) – Rev 1
REP1-007	Highways England Deadline 1 Submission – 4.3 Book of Reference (Tracked Changes) – Rev 1
REP1-008	Highways England Deadline 1 Submission – 4.3 Book of Reference (Clean) – Rev 1
REP1-009	Highways England Deadline 1 Submission - 8.3 Statement of Common Ground - Historic England
REP1-010	Highways England Deadline 1 Submission – 8.8 Statement of Commonality for Statements of Common Ground
REP1-011	Highways England Deadline 1 Submission – 9.1 Guide to the Application (Tracked Changes) – Rev 1
REP1-012	Highways England Deadline 1 Submission – 9.1 Guide to the Application (Clean) – Rev 1
REP1-013	Highways England Deadline 1 Submission - 9.2 Applicants Response to the Relevant Representations
REP1-014	Highways England Deadline 1 Submission - 9.3 A47A1074 Longwater Junction Impact Analysis
REP1-015	Highways England Deadline 1 Submission – 9.4 dDCO - Schedule of Drafting Changes for Deadline 1
REP1-016	Highways England Deadline 1 Submission – 9.5 Accompanied Site Inspection (ASI) Itinerary (DRAFT)
REP1-017	Highways England Deadline 1 Submission - Confidential Badger Information - This document contains confidential information and is only available on request to those who have a legitimate need to view it.
REP1-018	Brown & Co on behalf of Alston Farms Ltd Deadline 1 Submission - Written Representation

REP1-019	Brown & Co on behalf of Honingham Aktieselskab Deadline 1 Submission - Written Representation
REP1-020	Brown & Co on behalf of Honingham Aktieselskab Deadline 1 Submission - Summary of Written Representation
REP1-021	Bryan Robinson Deadline 1 Submission - Written Submissions
REP1-022	Childhood First Deadline 1 Submission - Written Representation
REP1-023	Climate Emergency Policy and Planning (CEPP) Deadline 1 Submission - Written Representation
REP1-024	D G M Kenney Deadline 1 Submission - Written Representation
REP1-025	David Hooker Deadline 1 Submission - Written Representation
REP1-026	David Lewis Deadline 1 Submission - Written Representations
REP1-027	David Pett Deadline 1 Submission - Written Representation
REP1-028	Easton Parish Council Deadline 1 Submission - Written summary of oral submissions made at Open Floor Hearing 1
REP1-029	Environment Agency Deadline 1 Submission - Written Representation
REP1-030	Historic England Deadline 1 Submission - Written Representation and Position Statement
REP1-031	National Grid Gas plc Deadline 1 Submission - Written Representation Submission Withdrawn by letter dated 10 February 2022 [REP10-011]
REP1-032	Norfolk County Council Deadline 1 Submission - Written Representation
REP1-033	Norfolk County Council Deadline 1 Submission - Summary of Written Representation
REP1-034	Norfolk County Council (as Scheme Promoter of Norwich Western Link) Deadline 1 Submission - Written Representation and Comments on Relevant Representations
REP1-035	Norwich Green Party Group of City and County Councillors Deadline 1 Submission - Written Representation
REP1-036	Orsted Hornsea Project Three (UK) Limited Deadline 1 Submission - Position Statement
REP1-037	Richard Hawker Deadline 1 Submission - Written Representation
REP1-038	Richard Hawker Deadline 1 Submission - Written summary of oral submissions made at Open Floor Hearing 1
REP1-039	Weston Longville Parish Council Deadline 1 Submission - Comments on the Outline Traffic Management Plan

REP1-040	Weston Longville Parish Council Deadline 1 Submission - Written Representation and suggested Accompanied Site Inspection itinerary locations

REP1-041	Weston Longville Parish Council Deadline 1 Submission - Comments on the Outline Traffic Management Plan

Late Deadline 1 submissions

REP1-042	Savills UK Ltd on behalf of Anthony Meynell Deadline 1 Submission - Summary of Written Representation ACM 00 - Accepted as a late submission at the discretion of the Examining Authority

REP1-043	Savills UK on behalf of Anthony Meynell Deadline 1 Submission - Written Representation ACM 01 Introduction and index - Accepted as a late submission at the discretion of the Examining Authority

REP1-044	Savills UK on behalf of Anthony Meynell Deadline 1 Submission - Written Representation ACM 02 - Accepted as a late submission at the discretion of the Examining Authority

REP1-045	Savills UK on behalf of Anthony Meynell Deadline 1 Submission - Written Representation ACM 03 Statement of A.C. Meynell - Accepted as a late submission at the discretion of the Examining Authority

REP1-046	Savills UK on behalf of Anthony Meynell Deadline 1 Submission - Written Representation ACM 03.1 Appendix 1 - Accepted as a late submission at the discretion of the Examining Authority

REP1-047	Savills UK on behalf of Anthony Meynell Deadline 1 Submission - Written Representation ACM 03.2 Appendix 2 - Accepted as a late submission at the discretion of the Examining Authority

REP1-048	Savills UK on behalf of Anthony Meynell Deadline 1 Submission - Written Representation ACM 03.3 Appendix 3 - Accepted as a late submission at the discretion of the Examining Authority

REP1-049	Savills UK on behalf of Anthony Meynell Deadline 1 Submission - Written Representation ACM 03.4 Appendix 4 - Accepted as a late submission at the discretion of the Examining Authority

REP1-050	Savills UK on behalf of Anthony Meynell Deadline 1 Submission - Written Representation ACM 03.5 Appendix 5 - Accepted as a late submission at the discretion of the Examining Authority

REP1-051	Savills UK on behalf of Anthony Meynell Deadline 1 Submission - Written Representation ACM 03.6 Appendix 6 - Accepted as a late submission at the discretion of the Examining Authority

REP1-052	Savills UK on behalf of Anthony Meynell Deadline 1 Submission - Written Representation ACM 03.7 Appendix 7 - Accepted as a late submission at the discretion of the Examining Authority
REP1-053	Savills UK on behalf of Anthony Meynell Deadline 1 Submission - Written Representation ACM 03.8 Appendix 8 - Accepted as a late submission at the discretion of the Examining Authority
REP1-054	Savills UK on behalf of Anthony Meynell Deadline 1 Submission - Written Representation ACM 03.9 Appendix 9 - Accepted as a late submission at the discretion of the Examining Authority
REP1-055	Savills UK on behalf of Anthony Meynell Deadline 1 Submission - Summary of Written Representation ACM 03.10 Appendix 10 - Accepted as a late submission at the discretion of the Examining Authority
REP1-056	Savills UK on behalf of Anthony Meynell Deadline 1 Submission - Written Representation ACM 03.11A Annex A to Appendix 11 - Accepted as a late submission at the discretion of the Examining Authority
REP1-057	Savills UK on behalf of Anthony Meynell Deadline 1 Submission - Written Representation ACM 04 Transport Consultant's Report - Accepted as a late submission at the discretion of the Examining Authority
REP1-058	Savills UK on behalf of Anthony Meynell Deadline 1 Submission - Written Representation ACM 05 Woodland Appraisal - Accepted as a late submission at the discretion of the Examining Authority
REP1-059	Savills UK on behalf of Anthony Meynell Deadline 1 (D1) Submission - Index of documents submitted - Accepted as a late submission at the discretion of the Examining Authority
REP1-060	Duplicate of REP1-045 – removed _____
REP1-061	Savills UK on behalf of Anthony Meynell Deadline 1 (D1) Submission - Written Representations ACM 03.11 Appendix 11 - Accepted as a late submission at the discretion of the Examining Authority
REP1-062	Norfolk County Council Norfolk County Council's Further Written Representations - Accepted at the discretion of the Examination Authority
REP1-063	Norfolk Gardens Trust Deadline 1 Submission - Written Representation - Accepted at the discretion of the Examination Authority
REP1-064	Sally Watts Deadline 1 Submission - Written Representation - Accepted at the discretion of the Examining Authority

REP1-065	Bryan Robinson Deadline 1 Submission - Written Representation - Accepted at the discretion of the Examination Authority
Deadline 2 – 14 September 2021 Deadline for receipt by the ExA of: • Local Impact Reports (LIRs) • Responses to the ExA's First Written Questions (ExQ1) • Comments by IPs on the draft itinerary for the ASI and provision for IPs to suggest locations and justifications for ASI • Responses to comments on RRs • Comments on any additional information/submissions received by D1 • Comments on Applicant's revised draft DCO (if any) • Any further information requested by the ExA under Rule 17 of the Examination Rules	
REP2-001	Highways England Deadline 2 Submission - Cover Letter
REP2-002	Highways England Deadline 2 Submission - 9.1 Guide to the Application - Revision 2
REP2-003	Highways England Deadline 2 Submission - 9.1 Guide to the Application (Tracked Changes) - Revision 2
REP2-004	Highways England Deadline 2 Submission - 3.1 Draft Development Consent Order (Revision 1) Validation Report
REP2-005	Highways England Deadline 2 Submission - 3.1 Draft Development Consent Order - Revision 2
REP2-006	Highways England Deadline 2 Submission - 3.1 Draft Development Consent Order - Revision 2 (TRACKED CHANGES)
REP2-007	Highways England Deadline 2 Submission - 3.1 Draft Development Consent Order (Revision 2) Validation Report - late submission accepted at the discretion of the ExA
REP2-008	Highways England Deadline 2 Submission - 3.2 Explanatory Memorandum - Revision 1

REP2-009	Highways England Deadline 2 Submission - 3.2 Explanatory Memorandum (Tracked Changes) - Revision 1
REP2-010	Highways England Deadline 2 Submission - 4.1 Statement of Reasons - Revision 2
REP2-011	Highways England Deadline 2 Submission - 4.1 Statement of Reasons (Tracked Changes) - Revision 2
REP2-012	Highways England Deadline 2 Submission - 6.2 Environmental Statement Figures 7.1 to 7.5 - Revision 1
REP2-013	Highways England Deadline 2 Submission - 9.4 Draft Development Consent Order - Schedule of Drafting Changes for Deadline 2
REP2-014	Highways England Deadline 2 Submission - 9.6 Applicant's Response to the Examining Authority's First Written Questions (ExQ1)
REP2-015	Highways England Deadline 2 Submission - 9.7 Compulsory Acquisition Schedule Deadline 2
REP2-016	Breckland Council Deadline 2 Submission - Responses to the ExA's First Written Questions (ExQ1)
REP2-017	Breckland Council Deadline 2 Submission - Local Impact Report
REP2-018	Broadland District Council Deadline 2 Submission - Responses to the ExA's First Written Questions (ExQ1)
REP2-019	Environment Agency Deadline 2 Submission - Responses to comments on RRs
REP2-020	Environment Agency Deadline 2 Submission - Responses to the ExA's First Written Questions (ExQ1)

REP2-021	Historic England Deadline 2 Submission - Responses to the ExA's First Written Questions (ExQ1)
REP2-022	Norfolk County Council Deadline 2 Submission - Local Impact Report
REP2-023	South Norfolk Council Deadline 2 Submission - Responses to the ExA's First Written Questions (ExQ1)
REP2-024	A C Meynell Deadline 2 Submission - suggested locations and justifications for ASI
REP2-025	A C Meynell Deadline 2 Submission - Notification of wish to attend the ASI
REP2-026	A C Meynell Deadline 2 Submission - Responses to comments on RRs
REP2-027	Bryan Robinson Deadline 2 Submission - Responses to the ExA's First Written Questions (ExQ1)
REP2-028	Richard Hawker Deadline 2 Submission - Responses to comments on RRs
REP2-029	Richard Hawker Deadline 2 Submission - Comments by IPs on the draft itinerary for the ASI and provision for IPs to suggest locations and justifications for ASI
REP2-030	Weston Longville Parish Council Deadline 2 Submission - Comments on the draft itinerary for the ASI
REP2-031	Weston Longville Parish Council Deadline 2 Submission - Responses to comments on RRs
REP2-032	Weston Longville Parish Council Deadline 2 Submission - Responses to the ExA's First Written Questions (ExQ1)
REP2-033	Weston Longville Parish Council

	Deadline 2 Submission - Comment on Deadline 1 Submissions
Late and Non-IP Deadline 2 submissions	
REP2-034	Anthony Clarke on behalf of Norwich Cycling Campaign Deadline 2 Submission - Highways England Licence - Late non-IP submission accepted at the discretion of the Examining Authority
REP2-035	Anthony Clarke on behalf of Norwich Cycling Campaign Deadline 2 Submission - Gear Change (Department for Transport Document) - Late non-IP submission accepted at the discretion of the Examining Authority
REP2-036	Anthony Clarke on behalf of Norwich Cycling Campaign Deadline 2 Submission - Review of Highways England's engagement approach with local and regional partners June 2020 - Late non-IP submission accepted at the discretion of the Examining Authority
REP2-037	Anthony Clarke on behalf of Norwich Cycling Campaign Deadline 2 Submission - Proposed 2031 Cycling and walking infrastructure plan - Late non-IP submission accepted at the discretion of the Examining Authority
REP2-038	Anthony Clarke on behalf of Norwich Cycling Campaign Deadline 2 Submission - non-IP submission accepted at the discretion of the Examining Authority
REP2-039	Anthony Clarke on behalf of Norwich Cycling Campaign Deadline 2 Submission - Cycle Infrastructure Design - Late non-IP submission accepted at the discretion of the Examining Authority
REP2-040	Norfolk County Council Deadline 2 Submission - Responses to the ExA's First Written Questions (ExQ1) Part 1 - Late submission accepted at the discretion of the Examining Authority
REP2-041	Broadland District Council and South Norfolk Council Deadline 2 Submission - Responses to the ExA's First Written Questions (ExQ1) - Late submission accepted at the discretion of the Examining Authority
REP2-042	Norfolk County Council

	Deadline 2 Submission - Responses to the ExA's First Written Questions (ExQ1) Part 2 - Late submission accepted at the discretion of the Examining Authority
Deadline 3 – 5 October 2021 Deadline for receipt by ExA of: • Comments on responses submitted for Deadline 2 • Comments on LIR(s) • Comments on WRs • An updated Guide to the Application • An updated Compulsory Acquisition Schedule in clean and tracked versions • Progressed Statement of Common Ground • Progressed Statement of Commonality for SoCG • Any further information requested by the ExA under Rule 17 of the Examination Rules • Responses to any further information requested by the ExA under Rule 17 of the Examination Rules (if required)	
REP3-001	Highways England Deadline 3 (D3) Submission - Cover Letter
REP3-002	Highways England Deadline 3 (D3) Submission - 2.2 General Arrangement Plans - Rev 1
REP3-003	Highways England Deadline 3 (D3) Submission - 2.4 Works Plans - Rev 1
REP3-004	Highways England Deadline 3 (D3) Submission - 2.5 Rights of Way and Access Plans - Rev 1
REP3-005	Highways England Deadline 3 (D3) Submission - 2.6 Traffic Regulation Plans - Rev 1
REP3-006	Highways England Deadline 3 (D3) Submission - 2.8 Drainage and Surface Water Plans Rev 1
REP3-007	Highways England

	Deadline 3 (D3) Submission - 2.11 Classification of Roads Plans Rev 1
REP3-008	Highways England Deadline 3 (D3) Submission - 2.12 Hedgerow Plans - Rev 1
REP3-009	Highways England Deadline 3 (D3) Submission - 2.13 De-trunking Plans - Rev 1
REP3-010	Highways England Deadline 3 (D3) Submission - 3.1 Draft Development Consent Order (Tracked Changes) Rev 3
REP3-011	Highways England Deadline 3 (D3) Submission - 3.1 Draft Development Consent Order (Clean) Rev 3
REP3-012	Highways England Deadline 3 (D3) Submission - 6.1 Environmental Statement Chapter 6 – Cultural Heritage (Clean) Rev 1
REP3-013	Highways England Deadline 3 (D3) Submission - 6.1 Environmental Statement Chapter 6 – Cultural Heritage (Tracked Changes) Rev 1
REP3-014	Highways England Deadline 3 (D3) Submission - 6.1 Environmental Statement Chapter 14 – Climate (Clean) Rev 1
REP3-015	Highways England Deadline 3 (D3) Submission - 6.1 Environmental Statement Chapter 14 – Climate (Tracked Changes) Rev 1
REP3-016	Highways England Deadline 3 (D3) Submission - 6.8 Environmental Masterplan Rev 2
REP3-017	Highways England Deadline 3 (D3) Submission - 9.1 Guide to the Application (Tracked Changes) - Rev 3
REP3-018	Highways England Deadline 3 (D3) Submission - 9.1 Guide to the Application (Clean) - Rev 3
REP3-019	Highways England

	Deadline 3 (D3) Submission - 9.4 Draft Development Consent Order - Schedule of Drafting Changes for Deadline 3
REP3-020	Highways England Deadline 3 (D3) Submission - 9.5 Accompanied Site Inspection Itinerary (Tracked Changes) Rev 1
REP3-021	Highways England Deadline 3 (D3) Submission - 9.5 Accompanied Site Inspection (ASI) Itinerary (Clean) Rev 1
REP3-022	Highways England Deadline 3 (D3) Submission - 9.8 Applicant's Response to the Written Representations
REP3-023	Highways England Deadline 3 (D3) Submission - 9.9 Applicant's Comments on Responses to the ExA's First Written Questions (ExQ1)
REP3-024	Highways England Deadline 3 (D3) Submission - 9.10 Applicant's Comments on Local Impact Reports
REP3-025	Highways England Deadline 3 (D3) Submission - 9.11 Applicant's Comments on Other Third Party Comments
REP3-026	Highways England Deadline 3 (D3) Submission - 9.12 Additional Information for the Lead Local Flood Authority and the Environment Agency
REP3-027	Highways England Deadline 3 (D3) Submission - 9.13 Outline Water Management and Monitoring Plan
REP3-028	Brown & Co on behalf of A L Alston & Sons Ltd Deadline 3 (D3) Submission - Comments on any additional information/submissions received by Deadline 2
REP3-029	Brown & Co on behalf of Alston Farms Ltd Deadline 3 (D3) Submission - Written Representations in response to Applicant's responses to Relevant Representations
REP3-030	Brown & Co on behalf of Honingham Aktieselskab Deadline 3 (D3) Submission - Sections Sheet 1 of 3

REP3-031	Brown & Co on behalf of Honingham Aktieselskab Deadline 3 (D3) Submission - Sections Sheet 2 of 3
REP3-032	Brown & Co on behalf of Honingham Aktieselskab Deadline 3 (D3) Submission - Sections Sheet 3 of 3
REP3-033	Brown & Co on behalf of Honingham Aktieselskab Deadline 3 (D3) Submission - Section Locations
REP3-034	Brown & Co on behalf of Honingham Aktieselskab Deadline 3 (D3) Submission - Section Locations with pdf underlay
REP3-035	Brown & Co on behalf of Honingham Aktieselskab Deadline 3 (D3) Submission - Aerial image of access to estate property at Lower Easton
REP3-036	Brown & Co on behalf of Honingham Aktieselskab Deadline 3 (D3) Submission - Comments in response to the Applicant's response to Relevant Representations
REP3-037	Brown & Co on behalf of Honingham Aktieselskab Deadline 3 (D3) Submission - Request to participate in Hearings and to attend or part attend the Accompanied Site Inspection
REP3-038	Brown & Co on behalf of Mr Neil Alston Deadline 3 (D3) Submission - Written representations in response to Applicant's responses to Relevant Representations
REP3-039	Anglian Water Deadline 3 Submission - Comments on responses to the ExAs First Written Questions
REP3-040	National Grid Gas plc Deadline 3 Submission - Comments on documents submitted at Deadline 2 Submission Withdrawn by letter dated 10 February 2022 [REP10-011]
REP3-041	James Alston on behalf of Food Enterprise Park Ltd & Honingham Thorpe Farms and Business park Deadline 3 (D3) Submission - Comments on responses to the ExAs First Written Questions
REP3-042	Orsted Hornsea Project Three (UK) Limited

	Deadline 3 (D3) Submission - Comments on Statement of Common Ground
Late and Non-IP Deadline 3 submissions	
REP3-043	A C Meynell Deadline 3 (D3) Submission - Comments on Applicant's replies to ExA's First Written Questions: Annex 4 - Late submission accepted at the discretion of the Examining Authority
REP3-044	A C Meynell Deadline 3 (D3) Submission - Comments on Applicant's replies to ExA's First Written Questions - Late submission accepted at the discretion of the Examining Authority
REP3-045	A C Meynell Deadline 3 (D3) Submission - Presentation of alternative options to the Applicant's proposed design - Late submission accepted at the discretion of the Examining Authority
REP3-046	Anthony Clarke on behalf of Norwich Cycling Campaign Deadline 3 (D3) Submission - Comments on the Broadland District Council and South Norfolk Council Response to Examining Authority's Written Questions (ExQ1) - non-IP submission accepted at the discretion of the Examining Authority
REP3-047	Childhood First Deadline 3 (D3) Submission – Late submission accepted at the discretion of the Examining Authority
REP3-048	Highways England Deadline 3 Submission - 3.1 Draft Development Consent Order (Revision 3) Validation Report - late submission accepted at the discretion of the ExA
Deadline 4 – 12 November 2021 Deadline for receipt by ExA of: • Written summaries of oral submissions made at hearings w/c 1 November 2021 • Any revised/updated SoCG • Responses to the ExA's Further Written Questions (if issued) • Comments on any additional information/submissions received by D3 • Comments on Applicant's revised draft DCO (if any) • Any further information requested by the ExA under Rule 17 of the Examination Rules	

REP4-001	Highways England Deadline 4 Submission - Cover Letter
REP4-002	Highways England Deadline 4 Submission - 8.2 Statement of Common Ground - Environment Agency - Rev 0
REP4-003	Highways England Deadline 4 Submission - 8.4 Statement of Common Ground - Norfolk County Council - Rev 0
REP4-004	Highways England Deadline 4 Submission - 8.5 Statement of Common Ground - Breckland Council - Rev 1
REP4-005	Highways England Deadline 4 Submission - 8.6 Statement of Common Ground - Broadland District Council - Rev 1
REP4-006	Highways England Deadline 4 Submission - 8.7 Statement of Common Ground - South Norfolk Council - Rev 1
REP4-007	Highways England Deadline 4 Submission - 8.8 Statement of Commonality for Statements of Common Ground (Tracked Changes) - Rev 1
REP4-008	Highways England Deadline 4 Submission - 8.8 Statement of Commonality for Statements of Common Ground (Clean) - Rev 1
REP4-009	Highways England Deadline 4 Submission - 9.1 Guide to the Application (Clean) - Rev 5
REP4-010	Highways England Deadline 4 Submission - 9.1 Guide to the Application (Tracked Changes) - Rev 5
REP4-011	Highways England Deadline 4 Submission - 9.16 Applicant's Responses to Deadline 3 Comments
REP4-012	Highways England

	Deadline 4 Submission - 9.17 Stage 1 Road Safety Audit Designer's Response - Rev 0
REP4-013	Highways England Deadline 4 Submission - 9.18 Applicant's Written Summary of Oral Submissions at CAH1 and CAH2
REP4-014	Highways England Deadline 4 Submission - 9.19 Applicant's Written Summary of Oral Submissions at ISH1
REP4-015	Highways England (PDF, 1 MB) Deadline 4 Submission - 9.20 Applicant's Written Summary of Oral Submissions at ISH2
REP4-016	Highways England Deadline 4 Submission - 9.21 Applicant's Response to Examining Authority's Action List from ISH1, ISH2, CAH1 and CAH2
REP4-017	Environment Agency Deadline 4 Submission - Comments on Document 9.12 additional information for the lead local flood authority and the environment agency
REP4-018	Environment Agency Deadline 4 Submission - Comments on Document 9.13 outline water management and monitoring plan
REP4-019	Environment Agency Deadline 4 Submission - Comments draft DCO (Rev 3)
REP4-020	Norfolk County Council Deadline 4 Submission - Written summaries of oral submissions made at hearings w/c 1 November 2021
REP4-021	Orsted Hornsea Project Three UK Deadline 4 Submission - Comments on Applicant's revised draft DCO
REP4-022	A C Meynell Deadline 4 Submission - Written summary of oral submissions made at Compulsory Acquisition Hearing 1
REP4-023	A C Meynell

	Deadline 4 Submission - Written summary of oral submissions made at Issue Specific Hearing 2
REP4-024	A C Meynell Deadline 4 Submission - Written summary of oral submissions made at Compulsory Acquisition Hearing 2
REP4-025	A C Meynell Deadline 4 Submission - Comments on behalf of A.C. Meynell on the Applicant's response to his Written Representations
REP4-026	Brown & Co on behalf of Alston Farms Ltd (James Alston and Honingham Thorpe Farms) Deadline 4 Submission - Written summaries of oral submissions made at hearings w/c 1 November 2021
REP4-027	Brown & Co on behalf of Food Enterprise Park Deadline 4 Submission - Written summaries of oral submissions made at Hearing
REP4-028	Brown & Co on behalf of Honingham Aktieselskab Deadline 4 Submission - Written summaries of oral submissions made at Hearings w/c 1 November 2021
REP4-029	Brown & Co on behalf of Mr Neil Alston Deadline 4 Submission - Written summaries of oral submissions made at hearings w/c 1 November 2021
REP4-030	Brown & Co on behalf of N. Alston and A. L Alston & Sons Ltd. Deadline 4 Submission - Written summaries of oral submissions made at hearings w/c 1 November 2021
REP4-031	Benefice of Honingham, Diocese of Norwich Deadline 4 Submission
REP4-032	Bryan Robinson Deadline 4 Submission - Other: Further comments on EXQ1 and ISH2
REP4-033	D G M Kenney Deadline 4 Submission - Comments on any additional information/submissions received by D3
REP4-034	D G M Kenney Deadline 4 Submission - Response 1 to Issue Specific Hearing 2

REP4-035	D G M Kenney Deadline 4 Submission - Response 2 to Issue Specific Hearing 2
REP4-036	David Hooker Deadline 4 Submission - part 1
REP4-037	David Hooker Deadline 4 Submission - part 2
REP4-038	Honingham Parish Council Deadline 4 Submission - Written summaries of oral submissions made at Issue Specific Hearing 2
REP4-039	Robert Wright (PDF, 100 KB) Deadline 4 Submission
REP4-040	Andrew M Cawdron on behalf of Wensum Valley Alliance Deadline 4 Submission
REP4-041	Weston Longville Parish Council Deadline 4 Submission - Written Summary of oral submission made at the Issue Specific Hearing 2
Late and Non-IP Deadline 4 submissions	
REP4-042	Andrew M Cawdron Deadline 4 Submission - Written summaries of oral submissions made at hearings w/c 1 November 2021 - Non-IP submission accepted at the discretion of the Examining Authority
REP4-043	Christopher Cockcroft Deadline 4 Submission - Non-IP submission accepted at the discretion of the Examining Authority
REP4-044	Highways England Deadline 4 Submission - Joint submission between the Applicant and Mr Meynell - Late submission accepted at the discretion of the Examining Authority
REP4-045	Mike Jones on behalf of Norfolk Wildlife Trust Deadline 4 Submission - Non-IP submission accepted at the discretion of the Examining Authority

Deadline 5 – 23 November 2021	
Deadline for receipt by the ExA of: • Comments on any revised/updated SoCG (if any) • Applicant's revised draft DCO (if required) • Comments on responses to ExA's further written questions (if issued) • Comments on any additional information/submissions received by D4 • Any further information requested by the ExA under Rule 17 of the Examination Rules	
REP5-001	Highways England Deadline 5 Submission - Cover Letter
REP5-002	Highways England Deadline 5 Submission - 2.3 Land Plans - Rev 2
REP5-003	Highways England Deadline 5 Submission - 2.7 Engineering Drawings and Sections - Rev 1
REP5-004	Highways England Deadline 5 Submission - 3.1 Draft Development Consent Order (Revision 4) Validation Report
REP5-005	Highways England Deadline 5 Submission - 3.1 Draft Development Consent Order (Clean) - Rev 4
REP5-006	Highways England Deadline 5 Submission - 3.1 Draft Development Consent Order (Tracked Changes) - Rev 4
REP5-007	Highways England Deadline 5 Submission - 3.2 Explanatory Memorandum (Clean) - Rev 2
REP5-008	Highways England Deadline 5 Submission - 3.2 Explanatory Memorandum (Tracked Changes) - Rev 2
REP5-009	Highways England

	Deadline 5 Submission - 4.3 Book of Reference (Clean) - Rev 3
REP5-010	Highways England Deadline 5 Submission - 4.3 Book of Reference (Tracked Changes) - Rev 3
REP5-011	Highways England Deadline 5 Submission - 9.1 Guide to the Application (Clean) - Rev 6
REP5-012	Highways England Deadline 5 Submission - 9.1 Guide to the Application (Tracked Changes) - Rev 6
REP5-013	Highways England Deadline 5 Submission - 9.4 Draft Development Consent Order - Schedule of Drafting Changes for Deadline 5
REP5-014	Highways England Deadline 5 Submission - 9.7 Compulsory Acquisition Schedule (Clean) - Rev 2
REP5-015	Highways England Deadline 5 Submission - 9.7 Compulsory Acquisition Schedule (Tracked Changes) - Rev 2
REP5-016	Highways England Deadline 5 Submission - 9.22 Applicant's Responses to Deadline 4 Comments
REP5-017	Richard Hawker Deadline 5 Submission
Late Deadline 5 submissions	
REP5-018	Weston Longville Parish Council Deadline 5 Submission - Comments on Issue Specific Hearing 2 Action Points - Late submission accepted at the discretion of the Examining Authority
Deadline 6 – 13 December 2021	
Deadline for receipt by the ExA of:	

• Responses to the ExA's further Written Questions (if required) • Comments on Applicant's revised draft DCO (if any) • Comments on any additional information/submissions received by D5 • Any further information requested by the ExA under Rule 17 of the Examination Rules	
REP6-001	Highways England Deadline 6 Submission - Cover Letter
REP6-002	Highways England Deadline 6 Submission - 9.1 Guide to the Application (Clean) - Rev 7
REP6-003	Highways England Deadline 6 Submission - 9.1 Guide to the Application (Tracked) - Rev 7
REP6-004	Highways England Deadline 6 Submission - 3.1 Draft Development Consent Order (Clean) - Rev 5
REP6-005	Highways England Deadline 6 Submission - 3.1 Draft Development Consent Order (Tracked) - Rev 5
REP6-006	Highways England Deadline 6 Submission - 4.1 Statement of Reasons (Clean) - Rev 3
REP6-007	Highways England Deadline 6 Submission - 4.1 Statement of Reasons (Tracked) - Rev 3
REP6-008	Highways England Deadline 6 Submission - 6.9 Report to Inform Habitats Regulations Assessment (Clean) - Rev 1
REP6-009	Highways England Deadline 6 Submission - 6.9 Report to Inform Habitats Regulations Assessment (Tracked) - Rev 1
REP6-010	Highways England Deadline 6 Submission - 8.8 Statement of Commonality for Statements of Common Ground (Clean) - Rev 2

REP6-011	Highways England Deadline 6 Submission - 8.8 Statement of Commonality for Statements of Common Ground (Tracked) - Rev 2
REP6-012	Highways England Deadline 6 Submission - 9.4 Draft Development Consent Order - Schedule of Drafting Changes for Deadline 6 (Clean) - Rev 4
REP6-013	Highways England Deadline 6 Submission - 9.7 Compulsory Acquisition Schedule (Clean) - Rev 3
REP6-014	Highways England Deadline 6 Submission - 9.7 Compulsory Acquisition Schedule (Tracked) - Rev 3
REP6-015	Highways England Deadline 6 Submission - 9.15 Alternative Wood Lane Junction Options Appraisal (Clean) - Rev 1
REP6-016	Highways England Deadline 6 Submission - 9.15 Alternative Wood Lane Junction Options Appraisal (Tracked) - Rev 1
REP6-017	Highways England Deadline 6 Submission - 9.23 Applicant's Responses to Deadline 5 Comments
REP6-018	Highways England Deadline 6 Submission - 9.24 Applicant's Response to the Examining Authority's Third Written Questions
REP6-019	Highways England Deadline 6 Submission - 9.25 Additional Environmental Information
REP6-020	Climate Emergency Policy and Planning (CEPP) Deadline 6 Submission - Responses to the ExA's further Written Questions - ExQ3/4.3.1, REP4-016, REP4-015, EV-024a - explanation of non-compliance with EIA Regs
REP6-021	Environment Agency Deadline 6 Submission - Responses to the ExA's further Written Questions

REP6-022	Historic England Deadline 6 Submission - Responses to the ExA's further Written Questions
REP6-023	Norfolk County Council Deadline 6 Submission - Comments on any additional information/submissions received by D5
REP6-024	Orsted Hornsea Project Three Offshore Wind Farm Deadline 6 Submission - Update on Statement of Common Ground
REP6-025	A C Meynell Deadline 6 Submission - Comments on any additional information/submissions received by D5
REP6-026	Bryan Robinson Deadline 6 Submission - Responses to the ExA's further Written Questions
REP6-027	Mark Kenney Deadline 6 Submission - Comments on any additional information/submissions received by D5
REP6-028	Richard Hawker Deadline 6 Submission - Comments on any additional information/submissions received by D5
REP6-029	Wild Wings Ecology Deadline 6 Submission - Responses to the ExA's further Written Questions
Late Deadline 6 Submissions	
REP6-030	Highways England Deadline 6 Submission - 6.1 Environmental Statement Chapter 15 - Cumulative Effects Assessment (Clean) - Rev 1 - Late submission accepted at the discretion of the Examining Authority
REP6-031	Highways England Deadline 6 Submission - 6.1 Environmental Statement Chapter 15 - Cumulative Effects Assessment (Tracked) - Rev 1 - Late submission accepted at the discretion of the Examining Authority
REP6-032	Highways England

	Deadline 6 Submission - 8.9 Statement of Common Ground Anglian Water - Late submission accepted at the discretion of the Examining Authority
REP6-033	A C Meynell Deadline 6 Submission - Response to Issue Specific Hearing 2 Written Summary on heritage - Late submission accepted at the discretion of the Examining Authority
REP6-034	A C Meynell Deadline 6 Submission - Information on Estate water supply, drainage and woodland management supplied to Applicant after Accompanied Site Inspection - Late submission accepted at the discretion of the Examining Authority
REP6-035	Transport Action Network Deadline 6 Submission - Late submission accepted at the discretion of the Examining Authority
Deadline 7 – 17 January 2022 Deadline for receipt by the ExA of: • Written summaries of oral submissions made at any hearings on 5 to 7 January 2022 • Comments on responses to the ExA's further Written Questions • Comments on the ExA's proposed schedule of changes to the draft DCO • Comments on any additional information/ submissions received by D6 • Any further information requested by the ExA under Rule 17 of the Examination Rules	
REP7-001	Highways England Deadline 7 Submission - Cover Letter
REP7-002	Highways England Deadline 7 Submission - 9.1 Guide to the Application - Rev 8 (Clean)
REP7-003	Highways England Deadline 7 Submission - 9.1 Guide to the Application - Rev 8 (Tracked)

REP7-004	Highways England Deadline 7 Submission - 3.1 Draft Development Consent Order - Rev 7 (Tracked)
REP7-005	Highways England Deadline 7 Submission - 3.1 Draft Development Consent Order - Rev 7 (Clean)
REP7-006	Highways England Deadline 7 Submission - 6.1 Environmental Statement Chapter 9 - Geology and Soils - Rev 1 (Clean)
REP7-007	Highways England Deadline 7 Submission - 6.1 Environmental Statement Chapter 9 - Geology and Soils - Rev 1 (Tracked)
REP7-008	Highways England Deadline 7 Submission - 6.3 Environmental Statement Appendices Appendix 7.6 - Arboricultural Impact Assessment - Rev 1 (Clean)
REP7-009	Highways England Deadline 7 Submission - 6.3 Environmental Statement Appendices Appendix 7.6 - Arboricultural Impact Assessment - Rev 1 (Tracked)
REP7-010	Highways England Deadline 7 Submission - 8.6 Statement of Common Ground Broadland District Council - Rev 2 (Tracked)
REP7-011	Highways England Deadline 7 Submission - 8.6 Statement of Common Ground Broadland District Council - Rev 2 (Clean)
REP7-012	Highways England Deadline 7 Submission - 8.7 Statement of Common Ground South Norfolk Council - Rev 2 (Tracked)
REP7-013	Highways England Deadline 7 Submission - 8.7 Statement of Common Ground South Norfolk Council - Rev 2 (Clean)
REP7-014	Highways England Deadline 7 Submission - 9.4 Draft Development Consent Order - Schedule of Drafting Changes for Deadline 7 - Rev 5

REP7-015	Highways England Deadline 7 Submission - 9.27 Applicant's Responses to Deadline 6 Comments
REP7-016	Highways England Deadline 7 Submission - 9.28 Applicant's Written Summary of Oral Submissions at CAH3
REP7-017	Highways England Deadline 7 Submission - 9.29 Applicant's Written Summary of Oral Submissions at ISH3
REP7-018	Highways England Deadline 7 Submission - 9.30 Applicant's Response to Examining Authority's Action List from ISH3
REP7-019	Environment Agency Deadline 7 Submission - Comments on any additional information/submissions received by D6
REP7-020	Norfolk Rivers Internal Drainage Board Deadline 7 Submission - Comments on any additional information/submissions received by D6
REP7-021	Orsted Hornsea Project Three Offshore Wind Farm Deadline 7 Submission - Hornsea Project Three Offshore Wind Farm Statement of Common Ground (SoCG)
REP7-022	Pinsent Masons LLP on behalf of Orsted Hornsea Project Three (UK) Limited Deadline 7 Submission - Written summaries of oral submissions made at any hearings on 5 to 7 January 2022
REP7-023	A C Meynell Deadline 7 Submission - Comments on any additional information/submissions received by D6
REP7-024	A C Meynell Deadline 7 Submission - Further Comments on any additional information/ submissions received by D6
REP7-025	Brown & Co on behalf Alston Farms Ltd (James Alston and Honingham Thorpe Farms) Deadline 7 Submission - Comments on any additional information/submissions received by D6

REP7-026	D G M Kenney Deadline 7 Submission - Response to Issue Specific Hearing 3 on 6th January 2022
REP7-027	David Hooker Deadline 7 Submission - Comments on any additional information/submissions received by D6
REP7-028	Dr Andrew Boswell on behalf of Climate Emergency Policy and Planning (CEPP) Deadline 7 Submission - Response to Issue Specific Hearing 3
REP7-029	Dr Andrew Boswell on behalf of Climate Emergency Policy and Planning (CEPP) Deadline 7 Submission - Comments on any additional information/submissions received by D6 (Clean)
REP7-030	Dr Andrew Boswell on behalf of Climate Emergency Policy and Planning (CEPP) Deadline 7 Submission - Comments on any additional information/submissions received by D6 (Tracked)
REP7-031	Easton Parish Council Deadline 7 Submission - Reply to comments made during Line Streaming
REP7-032	Brown & Co on behalf of Honingham Aktieselskab Deadline 7 Submission - Representation or comments relating to an observation arising from the Issue Specific Hearings
REP7-033	Honingham Parish Council Deadline 7 Submission - Written submission in response to January hearings
REP7-034	Weston Longville Parish Council Deadline 7 Submission - Written summaries of oral submissions made at any hearings on 5 to 7 January 2022
Late Deadline 7 Submissions	
REP7-035	Highways England Deadline 7 Submission - 7.4 Environmental Management Plan - Rev 1 (Clean) - Late submission accepted at the discretion of the Examining Authority

REP7-036	Highways England Deadline 7 Submission - 7.4 Environmental Management Plan - Rev 1 (Tracked) - Late submission accepted at the discretion of the Examining Authority
REP7-037	A C Meynell Deadline 7 Submission - Appendices C and D to Further Transport Submissions in Response to Deadline 6 Submissions - Late submission accepted at the discretion of the Examining Authority
Deadline 8 – 25 January 2022 Deadline for receipt by the ExA of: • Comments on the RIES • Responses to comments on the ExA's proposed schedule of changes to the draft DCO (if issued) • Comments on any additional information/ submissions received by D7 • Any further information requested by the ExA under Rule 17 of the Examination Rules	
REP8-001	Highways England Deadline 8 Submission - Cover Letter
REP8-002	Highways England Deadline 8 Submission - 9.1 Guide to the Application - Rev 9 (Clean)
REP8-003	Highways England Deadline 8 Submission - 9.1 Guide to the Application - Rev 9 (Tracked)
REP8-004	Highways England Deadline 8 Submission - 2.5 Rights of Way and Access Plans
REP8-005	Highways England Deadline 8 Submission - 2.11 Classification of Roads Plans
REP8-006	Highways England Deadline 8 Submission - 2.12 Hedgerow Plans
REP8-007	Highways England

	Deadline 8 Submission - 3.1 Draft Development Consent Order - Tracked
REP8-008	Highways England Deadline 8 Submission - 3.1 Draft Development Consent Order - Clean
REP8-009	Highways England Deadline 8 Submission - 3.3 Consents and Agreements Position Statement - Tracked
REP8-010	Highways England Deadline 8 Submission - 3.3 Consents and Agreements Position Statement - Clean
REP8-011	Highways England Deadline 8 Submission - 6.8 Environmental Masterplan
REP8-012	Highways England Deadline 8 Submission - 8.10 Statement of Common Ground Hornsea Project Three Offshore Wind Farm (Tracked)
REP8-013	Highways England Deadline 8 Submission - 9.31 Applicant's Responses to Deadline 7 Comments
REP8-014	Highways England Deadline 8 Submission - 9.4 Draft Development Consent Order - Schedule of Drafting Changes for Deadline 8 - Rev 6 (Clean)
REP8-015	Highways England Deadline 8 Submission - 9.4 Draft Development Consent Order - Schedule of Drafting Changes for Deadline 8 - Rev 6
REP8-016	Environment Agency Deadline 8 Submission - Comments on Document 7.4 Environmental management Plan - Rev 1
REP8-017	Norfolk County Council Deadline 8 Submission - Protective Provisions
REP8-018	Orsted Hornsea Project Three (UK) Limited Deadline 8 Submission - Comments on any additional information/submissions received by D7
REP8-019	Orsted Hornsea Project Three (UK) Limited

	Deadline 8 Submission - Protective Provisions
REP8-020	A C Meynell Deadline 8 Submission - Comments on any additional information/submissions received by D7
REP8-021	Brown & Co on behalf of Food Enterprise Park Ltd (FEP) and Honingham Thorpe (HTF) Deadline 8 Submission - Update following Issue Specific Hearing
REP8-022	Brown & Co on behalf of Food Enterprise Park Ltd (FEP) and Honingham Thorpe (HTF)) Deadline 8 Submission - Comments on any additional information/submissions received by D7
REP8-023	Dr Andrew Boswell on behalf of Climate Emergency Policy and Planning (CEPP) Deadline 8 Submission - Rev 2 of Deadline 6 Submission - Tracked Changes
REP8-024	Dr Andrew Boswell on behalf of Climate Emergency Policy and Planning (CEPP) Deadline 8 Submission - Rev 2 of Deadline 6 Submission - Clean
REP8-025	George Josselyn Deadline 8 Submission - Written Summary of oral submissions at ISH3 on 6 January 2022
REP8-026	George Josselyn Deadline 8 Submission - Written Summary of oral submissions at CAH3 on 5 January 2022
REP8-027	Richard Hawker Deadline 8 Submission - Response to HE submission to Deadline 6 and 7
REP8-028	Transport Action Network Deadline 8 Submission - Summary of Applicant's Response at ISH1
Late Deadline 8 Submissions	
REP8-029	A C Meynell

	Deadline 8 Submission - Comments on Applicant's CAH3 Written Submissions - Late submission accepted at the discretion of the Examining Authority
Deadline 9 – 8 February 2022 Deadline for receipt by the ExA of: • Responses to comments on the • Final DCO to be submitted by the Applicant in the SI template (MS Word) with the SI template validation report • Final updated Book of Reference • Final SoCGs • Final Statement of Commonality of SoCG • Final Compulsory Acquisition Schedule • Final updated Guide to the Application • Statements of Final Position in respect of matters examined • Comments on any additional information/ submissions received by D8 - Any further information requested by the ExA under Rule 17 of the Examination Rules	
REP9-001	Highways England Deadline 9 Submission - Cover Letter
REP9-002	Highways England Deadline 9 Submission - 9.1 Guide to the Application (Clean) - Rev 10
REP9-003	Highways England Deadline 9 Submission - 9.1 Guide to the Application (Tracked) - Rev 10
REP9-004	Highways England Deadline 9 Submission - 2.6 Traffic Regulations Plans - Rev 4
REP9-005	Highways England Deadline 9 Submission - 2.11 Classification of Road Plans - Rev 4
REP9-006	Highways England Deadline 9 Submission - 2.12 Hedgerow Plans - Rev 4
REP9-007	Highways England Deadline 9 Submission - 3.1 Draft Development Consent Order - Validation Report

REP9-008	Highways England Deadline 9 Submission -3.1 Draft Development Consent Order (Clean) - Rev 9
REP9-009	Highways England Deadline 9 Submission - 3.1 Draft Development Consent Order (Tracked) - Rev 9
REP9-010	Highways England Deadline 9 Submission - 4.1 Statement of Reasons (Tracked) - Rev 4
REP9-011	Highways England Deadline 9 Submission - 4.1 Statement of Reasons (Clean) - Rev 4
REP9-012	Highways England Deadline 9 Submission - 4.3 Book of Reference (Tracked) - Rev 4
REP9-013	Highways England Deadline 9 Submission - 4.3 Book of Reference (Clean) - Rev 4
REP9-014	Highways England Deadline 9 Submission - 8.2 Statement of Common Ground Environment Agency (Tracked) - Rev 1
REP9-015	Highways England Deadline 9 Submission - 8.2 Statement of Common Ground Environment Agency (Clean) - Rev 1
REP9-016	Highways England Deadline 9 Submission - 8.3 Statement of Common Ground with Historic England (Tracked) - Rev 1
REP9-017	Highways England Deadline 9 Submission - 8.3 Statement of Common Ground with Historic England (Clean) - Rev 1
REP9-018	Highways England Deadline 9 Submission - 8.4 Statement of Common Ground Norfolk County Council (Tracked) - Rev 1
REP9-019	Highways England Deadline 9 Submission - 8.4 Statement of Common Ground Norfolk County Council (Clean) - Rev 1

REP9-020	Highways England Deadline 9 Submission - 8.5 Statement of Common Ground Breckland Council (Tracked) - Rev 2
REP9-021	Highways England Deadline 9 Submission - 8.5 Statement of Common Ground Breckland Council (Clean) - Rev 2
REP9-022	Highways England Deadline 9 Submission - 8.6 Statement of Common Ground Broadland District Council (Clean) - Rev 3
REP9-023	Highways England Deadline 9 Submission - 8.6 Statement of Common Ground Broadland District Council (Tracked) - Rev 3
REP9-024	Highways England Deadline 9 Submission - 8.7 Statement of Common Ground South Norfolk Council (Tracked) - Rev 3
REP9-025	Highways England Deadline 9 Submission - 8.7 Statement of Common Ground South Norfolk Council (Clean) - Rev 3
REP9-026	Highways England Deadline 9 Submission - 8.8 Statement of Commonality for Statements of Common Ground (Clean) - Rev 3
REP9-027	Highways England Deadline 9 Submission - 8.8 Statement of Commonality for Statements of Common Ground (Tracked) - Rev 3
REP9-028	Highways England Deadline 9 Submission - 8.9 Statement of Common Ground Anglian Water Services Limited (Tracked) - Rev 1
REP9-029	Highways England Deadline 9 Submission - 8.9 Statement of Common Ground Anglian Water Services Limited (Clean) - Rev 1
REP9-030	Highways England Deadline 9 Submission - 8.10 Statement of Common Ground Hornsea Project Three Offshore Wind Farm (Tracked) - Rev 1
REP9-031	Highways England

	Deadline 9 Submission - 8.10 Statement of Common Ground Hornsea Project Three Offshore Wind Farm (Clean) - Rev 1
REP9-032	Highways England Deadline 9 Submission - 8.11 Statement of Common Ground with A C Meynell
REP9-033	Highways England Deadline 9 Submission - 9.4 Draft Development Consent Order - Schedule of Drafting Changes for Deadline 9
REP9-034	Highways England Deadline 9 Submission - 9.7 Compulsory Acquisition Schedule (Tracked) - Rev 4
REP9-035	Highways England Deadline 9 Submission - 9.7 Compulsory Acquisition Schedule (Clean) - Rev 4
REP9-036	Highways England Deadline 9 Submission - 9.33 Applicant's Response to Deadline 8 Comments
REP9-037	Highways England Deadline 9 Submission - 9.34 Applicant's Statement of Final Position
REP9-038	Highways England Deadline 9 Submission - 9.35 Crown Consent Letter - Ministry of Defence
REP9-039	Highways England Deadline 9 Submission - 9.36 Crown Consent Letter - Department for Transport
REP9-040	Environment Agency Deadline 9 Submission
REP9-041	Norfolk County Council Deadline 9 Submission - Response to Comments made at ISH3
REP9-042	Norfolk County Council Deadline 9 Submission
REP9-043	A C Meynell

	Deadline 9 Submission -Supplemental statement to correct REP1-045 and updated docs index
REP9-044	A C Meynell Deadline 9 Submission - Updated index
REP9-045	Anglian Water Services Limited Deadline 9 Submission
REP9-046	Brown & Co on behalf of Honingham Aktieselskab Deadline 9 Submission
REP9-047	Norfolk Rivers Internal Drainage Board Deadline 9 Submission - Comments on any additional information/submissions received by D8
REP9-048	Weston Longville Parish Council Deadline 9 Submission
Late Deadline 9 Submissions	
REP9-049	A C Meynell Deadline 9 Submission - Statements of Final Position in respect of matters examined - Late submission accepted at the discretion of the Examining Authority
Deadline 10 – 12 February 2022 Deadline for receipt by the ExA of: Any further information requested by the ExA under Rule 17 of the Examination Rules	
REP10-001	Highways England Deadline 10 Submission - Cover Letter
REP10-002	Highways England Deadline 10 Submission - 8.11 Statement of Common Ground with A C Meynell, Owner of Berry Hall Estate
REP10-003	Highways England

	Deadline 10 Submission - 9.1 Guide to the Application (Clean) - Rev 11
REP10-004	Highways England Deadline 10 Submission - 9.1 Guide to the Application (Tracked) - Rev 11
REP10-005	Highways England Deadline 10 Submission - 9.35 Applicant's Response to the Rule 17 Request in February 2022
REP10-006	Highways England Deadline 10 Submission - 9.38 Statutory Undertakers' Schedule
REP10-007	Highways England Deadline 10 Submission - Update on Orsted Co-Operation Agreement
REP10-008	A C Meynell Deadline 10 Submission - Final comments on D9 submissions
REP10-009	Brown & Co on behalf of Food Enterprise Park Ltd (FEP) and Honingham Thorpe (HTF) Deadline 10 Submission - Update following Issue Specific Hearing
REP10-010	Brown & Co on behalf of Honingham Aktieselskab Deadline 10 Submission - Comments Related to D9
REP10-011	National Grid Gas plc Deadline 10 Submission - Withdrawal of all National Grid Gas plc representations in respect of the DCO application
REP10-012	Vattenfall Wind Power Ltd Deadline 10 Submission
Other Documents	
OD-001	Highways England Section 56 Notice
OD-002	Highways England Certificates of Compliance cover letter
OD-003	Highways England Regulation 16 Notice
OD-004	Highways England Section 56 Certificate
OD-005	Highways England Section 59 Certificate
OD-006	Highways England Applicant's notice for Open Floor Hearing

APPENDIX C: LIST OF ABBREVIATIONS

AADT	Annual Average Daily Traffic
AIA	Arboricultural Impact Assessment Report
ALC	Agricultural Land Classification
AP	Affected Person
APFP	Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009
AQD	Air Quality Directive
AQMA	Air Quality Management Area
AQO	Air Quality Objective
AQS	Air Quality Standards
ARN	Affected Road Network
ASI	Accompanied Site Inspection
ATC	Automated Traffic Count
BCR	Benefit Cost Ratio
BHE	Berry Hall Estate
BMP	Biosecurity Management Plan
BoR	Book of Reference
BC	Breckland Council
BPM	Best Practicable Means
BDC	Broadland District Council
CA	Compulsory Acquisition
CAH	Compulsory Acquisition Hearing
CCS	Construction Communication Strategy
CEMP	Construction Environmental Management Plan
CEPP	Climate Emergency Planning and Policy
CIEEM	Chartered Institute of Ecology and Environmental Management
CNDMP	Construction Noise and Dust Management Plan
COBA-LT	Cost and Benefit to Accidents Light Touch
COPA	Control of Pollution Act 1974
cSAC	candidate Special Area of Conservation
CSZ	Core Sustenance Zone
CWS	County Wildlife Site
D	Deadline
DCLG	Department for Communities and Local Government
DCO	Development Consent Order
dDCO	draft Development Consent Order
DEFRA	Department for the Environment, Food and Rural Affairs
DfT	Department for Transport
DHWSI	Detailed Heritage Written Scheme of Investigation
DMRB	Design Manual for Roads and Bridges
DoW COP	Definition of Waste: Development Industry Code of Practice
DLUHC	Department for Levelling Up, Housing and Communities
EA	EA Environment Agency
EcIA	Ecological Impact Assessment

EconA	Economic Assessment
ECow	Ecological Clerk of Works
EIA	Environmental Impact Assessment
EM	Explanatory Memorandum
EMP	Environmental Management Plan
EPA	Environmental Protection Act 1990
EPR	Infrastructure Planning (Examination Procedure) Rules 2010
EPS	European Protected Species
ES	Environmental Statement
EU	European Union
ExA	Examining Authority
ExQ1	Examining Authority's First Written Questions
ExQ2	Examining Authority's Second Written Questions
ExQ3	Examining Authority's Third Written Questions
FEP	Food Enterprise Park
FEZ	Food Enterprise Zone
FP	Footpath
FRA	Flood Risk Assessment
FZ	Flood Zone
GCN	Great Crested Newts
GHG	Greenhouse gas
GNLP	Greater Norwich Local Plan
ha	hectare
HABAP	Highways Agency Biodiversity Action Plan 2002
HE	Highways England
HEMP	Handover Environmental Management Plan
HGV	Heavy Goods Vehicle
HIA	Heritage Impact Assessment
Hist E	Historic England
HMP	Heritage Management Plan
HRA	Habitats Regulations Assessment
IAN	Interim Advice Note
IAP1	Initial Assessment of Principal Issues
IHTA	Inheritance Tax Act
INNSMP	INNS Management Plan
IP	Interested Party
ISH	Issue Specific Hearing
km	Kilometre
KSI	Killed or Seriously Injured
LA	Local Authority
LCA	Landscape Character Area
LDO	Local Development Order
LED	Light-Emitting Diode
LEMP	Landscape and Ecology Management Plan
LIR	Local Impact Report
LLFA	Lead Local Flood Authority
LOAEL	Lowest Observed Adverse Effect Level
LoD	Limits of Deviation
LPA	Local Planning Authority

LSE	Likely Significant Effects
LTP	Local Transport Plan
LV	Limit Value
LWS	Local Wildlife Site
MCTC	Manual Classified Turning Counts
MIA	Minerals Impact Assessment
MMP	Materials Management Plan
MPA	Minerals Planning Authority
NATS	Norwich Area Transport Strategy
NCA	National Character Area
NCC	Norfolk County Council
NCCES	Norfolk County Council Environmental Services
NDR	Northern Distributor Road
NE	Natural England
NERCA	Natural Environment and Rural Communities Act 2006
NH	National Highways
NIA	Noise Improvement Areas
NNL	No Net Loss (of biodiversity)
NO ₂	Nitrogen Dioxide
NOEL	No Observed Effect Level
NO _x	Mono-Nitrogen Oxides
NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance
NPS	National Policy Statement
NPSE	Noise Policy Statement for England
NPSNN	National Policy Statement for National Networks
NSIP	Nationally Significant Infrastructure Project
NSN	National Site Network
NWL	Norwich Western Link
OBC	Outline Business Case
OEMP	Outline Environmental Management Plan
OFH	Open Floor Hearing
oTMP	Outline Traffic Management Plan
OUXOMP	Operational UXO Emergency Plan
PA2008	Planning Act 2008
PAH	Polycyclic Aromatic Hydrocarbon
PC	Principal Contractor
PCF	Project Control Framework
pSAC	possible Special Area of Conservation
pSPA	possible Special Protection Area
PINS	Planning Inspectorate
PM	Preliminary Meeting
PM ₁₀	Particulate Matter ₁₀
PM _{2.5}	Particulate Matter _{2.5}
PP	Protective Provision
PSD	Public Sector Equality Duty
PRoW	Public Right of Way
rDCO	recommended Development Consent Order
REAC	Record of Environmental Actions and Commitments
RIES	Report on the Implications for European Sites

RIHRA	Report to Inform the Habitats Regulation Assessment
RIS	Road Investment Strategy
RR	Relevant Representation
RSPB	Royal Society for Protection of Birds
SAC	Special Area of Conservation
SAR	Scheme Assessment Report
SES	Safety, Engineering and Standards
SGAR	Stage Gate Assessment Review
SHMP	Soil Handling Management Plan
SMP	Soil Management Plan
SNC	South Norfolk Council
SNCB	Statutory Nature Conservation Board
SO2	Sulphur Dioxide
SOBC	Strategic Outline Business Case
SOAEL	Significant Observed Adverse Effect Levels
SoCG	Statement of Common Ground
SoR	Statement of Reasons
SoS	Secretary of State
SoST	Secretary of State for Transport
SPA	Special Protection Area
SPD	Supplementary Planning Documents
SPP	Special Parliamentary Procedure
SPZ	Source Protection Zone
SRN	Strategic Road Network
SSSI	Site of Special Scientific Interest
SU	Statutory Undertaker
SuDS	Sustainable Urban Drainage System
SWMP	Site Waste Management Plan
TAG	Transport Appraisal Guidance
tCO2e	tonnes of Carbon Dioxide equivalent
TMP	Traffic Management Plan
TP	Temporary Possession
TPG	Transport Planning Group
TPH	Total Petroleum Hydrocarbons
TPO	Tree Preservation Order
TSWDS	Temporary Surface Water Drainage Strategy
TTRO	Temporary Traffic Regulation Order
UK	United Kingdom
UNFCCC	United Nations Framework Convention on Climate Change
USI	Unaccompanied Site Inspection
UXO	Unexploded Ordnance
VfM	Value for Money
VOA	Valuation Office Agency
WCH	Walkers, Cyclists and Horse Riders
WFD	Water Framework Directive
WHO	World Health Organisation
WLPC	Weston Longville Parish Council
WMMP	Water Monitoring and Management Plan
WR	Written Representation

WSI	Written Scheme of Investigation
WWE	Wild Wings Ecology
ZTV	Zone of Theoretical Visibility
ZVI	Zone of Visual Influence

APPENDIX D: THE RECOMMENDED DCO

202X No. [XX]

INFRASTRUCTURE PLANNING

**The A47 North Tuddenham to Easton Development Consent
Order 202[X]**

Made - - - - - ***
Laid before Parliament ***
Coming into force ***

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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 single appointed person (appointed by the Secretary of State) in accordance with Chapter 4 of Part 6 of the 2008 Act and the Infrastructure Planning (Examination Procedure) Rules 2010(c).

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

The Secretary of State, having considered the report and recommendation, is satisfied that open space comprised within the Order Land, when burdened with the new rights authorised for compulsory acquisition under the terms of this Order, will be no less advantageous than it was before such acquisition, to the persons in whom it is vested, other persons, if any, entitled to rights of common or other rights, and the public and that, accordingly, section 132(3) of the 2008 Act applies or, where open space comprised within the Order Land is being acquired for a temporary purpose that, accordingly, section 132(4B) of the 2008 Act applies.

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

The Secretary of State, in exercise of the powers conferred by sections 114, 115, 117, 120, 122 and 123 of, and paragraphs 1 to 3, 10 to 15, 17, 19 to 23, 26, 33, 36 and 37 of Part 1 Schedule 5 to, the 2008 Act, makes the following Order—

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the A47 North Tuddenham to Easton Development Consent Order 202[X] and comes into force on [XX].

(a) 2008 c. 29. Parts 1 to 7 were amended by Chapter 6 of Part 6 and Schedule 13, Para 5 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. 2012/2732, S.I. 2013/522, S.I. 2013/755, S.I. 2014/2381, S.I. 2017/572 and S.I. 2020/764; there are other amending instruments but none is relevant.
(c) S.I. 2010/103, amended by S.I. 2012/635.

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);

“the 2017 Regulations” means the Compulsory Purchase of Land (Vesting Declarations) (England) Regulations 2017(i);

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

“Anglian Water” means Anglian Water Services Limited (company number 2366656), whose registered office is at Lancaster House, Lancaster Way, Ermine Business Park, Huntingdon, Cambridgeshire, United Kingdom, PE29 6XU (or a related subsidiary company);

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

“authorised development” means the development and associated development described in Schedule 1 (authorised development) and any other development authorised by this Order;

“the Book of Reference” means the document of that description certified by the Secretary of State as the Book of Reference for the purposes of the Order;

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

“BT” means British Telecommunications Plc (company number 1800000), whose registered office is at 81 Newgate Street, London, EC1A 7AJ;

“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 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 and mitigation works, ecological surveys and pre-construction ecological mitigation, investigations for the purpose of assessing and monitoring ground conditions and levels, remedial work in respect of any contamination or other adverse ground conditions, erection of any temporary means of enclosure, receipt and erection of construction plant, equipment, welfare facilities and temporary buildings and site clearance, and the temporary display of site notices or advertisements, and “commencement” is to be construed accordingly;

“cycle track” has the same meaning as in section 329(1) (further provisions as to interpretation) of the 1980 Act(a) and for the purposes of this Order includes a right of way on foot;

(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.
(i) S.I. 2017/3.

“detrunking plans” mean the plans of that description certified by the Secretary of State as the detrunking plans for the purposes of this Order;

“electronic transmission” means a communication transmitted—

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

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

and in this definition “electronic communications network” has the same meaning as in section 32(1) (meaning electronic communications networks and services) of the Communications Act 2003**(b)**

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

“EMP (First Iteration)” means the first iteration of the environmental management plan produced in accordance with the DMRB during the preliminary design stage and certified by the Secretary of State as the environmental management plan for the purposes of the Order;

“the environmental statement” means the document of that description submitted with the application for this Order and certified by the Secretary of State as the environmental statement;

“the flood risk assessment” means the document of that description certified by the Secretary of State as the flood risk assessment for the purposes of this Order;

“footpath” and “footway” have the same meaning as in the 1980 Act and includes part of a footpath or footway;

“the general arrangement plans” means the plans of that description certified by the Secretary of State as the general arrangement plans for the purposes of this Order;

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

“highway” has the same meaning as in the 1980 Act and includes part of a highway;

“the highway authority” means the undertaker;

“horizontal directional drilling” refers to a boring technique involving drilling in an arc between two points;

“horizontal directional drilling compound” means a construction site associated with the onshore connection works where horizontal directional drilling or other trenchless construction technique is proposed including hard standing, lay down and storage areas for construction materials and equipment, areas for spoil, areas for vehicular parking, bunded storage areas, areas comprising water and bentonite tanks, pumps and pipes, areas for welfare facilities including offices and canteen and washroom facilities, wheel washing facilities, workshop facilities and temporary fencing or other means of enclosure and areas for other facilities required for construction purposes;

“Hornsea Three” means the wind farm to be constructed pursuant to the Hornsea Three Order;

“Hornsea Three Order” means the Hornsea Three Offshore Wind Farm Order 2020;

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

“limits of deviation” means the limits of deviation referred to in article 8 (limits of deviation);

“the local highway authority” means Norfolk 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;

(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 of the Road Traffic (Consequential Provisions) Act 1988 (c. 54).

(b) 2003 c. 21. Section 32(1) was amended by S.I. 2011/1210.

“NGG” means National Grid Gas Plc (company number 2006000), whose registered office is at 1-3 Strand, London, WC2N 5EH;

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

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

“Ørsted “ means Ørsted Hornsea Project Three (UK) Limited (company number 08584210), whose registered office is at 5 Howick Place, London, SW1P 1WG;

“outline traffic management plan” means the document of that description certified as the outline traffic management plan by the Secretary of State for the purposes of this Order;

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

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

“relevant planning authority” means in any given provision of this Order, the planning authority for the area in which the land to which the provision relates is situated;

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

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

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

“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;

“traffic authority” has the same meaning as in section 121A(b) (traffic authorities) of the 1984 Act;

“traffic regulation plans” means the plans of that description certified as the traffic regulation plans by the Secretary of State for the purposes of this Order;

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

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

- (c) 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;
- (d) an order made or direction given under section 10 of that Act; or
- (e) an order granting development consent; or
- (f) any other enactment;

“UKPN” means UK Power Networks (Operations) Limited (company number 0387028), whose registered office is at Newington House, 37 Southwark Bridge Road, London, SE1 6NP;

(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).

“the undertaker” means National Highways 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 of that description certified as the works plans by the Secretary of State for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do or to place and maintain, anything in, on or under land or in the airspace above its surface and references in this Order to the imposition of restrictive covenants are references to the creation of rights over land which interfere with the interests or rights of another and are for the benefit of land which is acquired under this Order or is otherwise comprised in the Order land.

(3) All distances, directions and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised development 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 relevant plans.

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

(7) The expression “includes” may be construed without limitation.

Disapplication of legislative provisions

3.—(1) The provisions of the Neighbourhood Planning Act 2017^(a) insofar as they relate to temporary possession of land under articles 34 (temporary use of land for carrying out the authorised development) and 35 (temporary use of land for maintaining the authorised development) of this Order do not apply in relation to the construction of works carried out for the purpose of, or in connection with, the construction or maintenance of the authorised development.

(2) Section 32 (variation of awards) of the Land Drainage Act 1991^(b) does 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.

(3) Schedule 1 to the 2017 Regulations is modified as follows—

(a) In paragraph (3) of Form 1, after “from the date on which the service of notices required by section 6 of the Act is completed”, insert—

“1.—(1) The [insert land or rights or both] described in Part [] of the Schedule hereto as being for the benefit of third parties and more particularly delineated on the plan annexed hereto is to vest in the third parties in question as from the end of the period of [insert period of 3 months or longer] from the date on which the service of notices required by section 6 of the Act is completed.”

(b) References in Form 2 to “in themselves” is substituted with “in themselves and any identified third parties”.

(c) In paragraph (b) of the notes on use of Form 2—

(i) after “Insert the name of the authority” insert “and, where the context so requires, a reference to third parties”; and

(ii) omit “Thereafter rely on that definition wherever “(b)” appears in the text”.

(4) In the event that compliance with any provision of:

(a) 2017 c. 20.

(b) 1991 c. 59 as amended by paragraph 323, Part 1 of Schedule 2 of the S.I. 2013/755 (W.55), section 100 of the Environment Act 1995 (c. 25) and paragraph 39, Schedule 2 of the Flood Water Management Act 2010 (c. 29).

- (a) this Order means that Hornsea Three will be carried out in breach of the terms of the Hornsea Three Order or that Ørsted cannot comply with the terms of the Hornsea Three Order, or
- (b) the Hornsea Three Order means that the authorised development will be carried out in breach of the terms of this Order or that the undertaker cannot comply with the terms of the this Order;

section 161(1) of the 2008 Act shall not apply to that breach.

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 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).

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 and operated within the Order limits.

(2) Any enactment applying to land within or adjacent to the Order limits has effect subject to the provisions of this Order.

Construction and maintenance of authorised development

6. The undertaker may at any time construct and maintain the authorised development, except to the extent that this Order, or an agreement made under this Order, provides otherwise.

Limits of deviation

8.—(1) In carrying out the authorised development the undertaker must construct any such work within the lateral limits of deviation or extents of work shown on the works plans for the relevant work.

(2) In carrying out any work comprised in the authorised development the undertaker may deviate vertically from the levels of the authorised development shown on the engineering drawings and sections, to a maximum of 1 metre upwards or 1 metre downwards 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 with the relevant planning authority, certifies accordingly that a deviation in excess of these limits would not give rise to any materially new or materially different environmental effects from those reported in the environmental statement.

(a) 1991 c. 59, as amended by paragraph 323, Part 1 of Schedule 2 of S.I. 2013/755 (W.55), section 100 of the Environment Act 1995 (c. 25) and paragraph 39, Schedule 2 of the Flood Water Management Act 2010 (c. 29).

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) Subject to paragraph (11) the undertaker may with the written consent of the Secretary of State—

- (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;
- (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 (4), 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, save where those benefits or rights are exercised by a statutory undertaker or by an owner or occupier of land pursuant to paragraph 27(2) of article 27 (compulsory acquisition of rights and imposition of restrictive covenants) of this Order, in which case liability for the payment of compensation remains with the undertaker.

(4) The undertaker must consult the Secretary of State before making an application for consent under this article by giving notice in writing of the proposed application and the Secretary of State must provide a response within four weeks of receipt of the notice.

(5) The Secretary of State must determine an application for consent made under this article within a period of eight weeks commencing on the date the application is received by the Secretary of State, unless otherwise agreed in writing with the undertaker.

(6) Where the Secretary of State is minded to refuse an application for consent made under this article and notifies the undertaker accordingly, or the Secretary of State fails to determine the application for consent under this article within the period prescribed in paragraph (5), the undertaker may refer the matter for determination in accordance with article 53 (arbitration).

(7) Prior to any transfer or grant under this article taking effect the undertaker must give notice in writing to the Secretary of State, and if such transfer or grant relates to the exercise of powers in their area, to the relevant planning authority.

(8) The notice required under paragraphs (4) and (7) must—

- (a) state—
 - (i) the name and contact details of the person to whom the benefit of the provisions will be transferred or granted;
 - (ii) subject to paragraph (10), the date on which the transfer will take effect;
 - (iii) the provisions to be transferred or granted;
 - (iv) the restrictions, liabilities and obligations that, in accordance with paragraph (3), will apply to the person exercising the powers transferred or granted; and
 - (v) confirmation of the availability and adequacy of funds for compensation associated with the compulsory acquisition of the Order land.
- (b) be accompanied by—

- (i) where relevant, a plan showing the works or areas to which the transfer or grant relates; and
- (ii) a copy of the document effecting the transfer or grant signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted.

(9) The date specified under paragraph (8)(a)(ii) must not be earlier than the expiry of five days from the date of the receipt of the notice.

(10) The notice given under paragraph (8) must be signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted as specified in that notice.

(11) The consent of the Secretary of State is not required under this article, where the transfer or grant is made to—

- (a) NGG for the purposes of undertaking any works relating to its apparatus set out in Work Nos. 84;
- (b) Anglian Water for the purposes of undertaking any works relating to its apparatus set out in Work Nos. 74, 77, 80, 84, 89 and 92;
- (c) UKPN for the purposes of undertaking any works relating to its apparatus set out in Work Nos. 74, 76, 78, 79, 84, 86, 88, 89, 90, 92, 93 and 95;
- (d) BT for the purposes of undertaking any works relating to its apparatus set out in Work Nos. 73, 74, 75, 80, 81, 82, 83, 84, 85, 87, 89, 90, 91 and 92; or
- (e) Ørsted for the purposes of undertaking Work Nos. 94 and 99.

PART 3

STREETS

Application of the 1991 Act

11.—(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) (which defines what highway authority works are major highway works) of that Act^(a); 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) (power to give directions as to timing of street works);
- (b) section 56A(e) (power to give directions as to placing of apparatus);
- (c) section 58(a) (restrictions following substantial road works);

(a) 1991 c. 22, to which are amendments not relevant to section 86 in the act.
 (b) As amended by relevant instruments which are 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 (c. 18).

- (d) section 58A**(b)** (restriction on works following substantial street works);
- (e) section 73A (power to require undertaker to re-surface street);
- (f) section 73B (power to specify timing etc. of re-surfacing);
- (g) section 73C (materials, workmanship and standard of re-surfacing);
- (h) section 78A (contributions to costs of re-surfacing by undertaker); and
- (i) Schedule 3A**(c)** (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 16 (temporary diversion, prohibition 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**(d)** referred to in paragraph (4) are—

- (a) section 54**(e)** (advance notice of certain works), subject to paragraph (6);
- (b) section 55**(f)** (notice of starting date of works), subject to paragraph (6);
- (c) section 57**(g)** (notice of emergency works);
- (d) section 59**(h)** (general duty of street authority to co-ordinate works);
- (e) section 60**(i)** (general duty of undertakers to co-operate);
- (f) section 68**(j)** (facilities to be afforded to street authority);
- (g) section 69**(k)** (works likely to affect other apparatus in the street);
- (h) section 75**(l)** (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 12 (construction and maintenance of new, altered or diverted streets and other structures)—

- (a) affects the operation of section 87**(m)** (prospectively maintainable highways) of the 1991 Act;
- (b) means that the undertaker is 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
- (c) has effect in relation to street works as respects which the provisions of Part 3 of the 1991 Act apply.

(a) As amended by section 51 of the Traffic Management Act 2004 (c. 18).
 (b) Inserted by section 52 of the Traffic Management Act 2004 (c. 18).
 (c) Inserted by section 52 of, and Schedule 4 to, the Traffic Management Act 2004 (c. 18).
 (d) Sections 54, 55, 57, 60, 68 and 69 were amended by section 40(1) and (2) of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).
 (e) As also amended by section 49(1) of the Traffic Management Act 2004 (c. 18).
 (f) As also amended by section 49(2) and 51(9) of the Traffic Management Act 2004 (c. 18).
 (g) As also amended by section 52(3) of the traffic Management Act 2004 (c. 18).
 (h) As amended by section 42 of the Traffic Management Act 2004 (c. 18).
 (i) As amended by section 40 of, and Schedule 1 to, the Traffic Management Act 2004 (c.18).
 (j) As amended by section 40 of, and Schedule 1 to, the Traffic Management Act 2004 (c.18).
 (k) As amended by section 40 of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).
 (l) As amended by section 58 of the Traffic Management Act 2004 (c. 18).
 (m) 1991 c. 22.

Construction and maintenance of new, altered or diverted streets and other structures

12.—(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 in whose area the highway lies 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 with the exception of the culvert to be delivered as Work No. 5 which must be maintained by the undertaker from its completion.

(2) Where a highway (other than a trunk road) 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 footpath, cycle track or bridleway 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.

(4) 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, unless otherwise agreed in writing, 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.

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

- (a) section 265(a) (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 de-trunking.

(6) In the case of a bridge constructed under this Order to carry a highway (other than a trunk road) over a trunk road, the highway surface (being those elements over the waterproofing membrane) must be maintained by and at the expense of the local highway authority unless otherwise agreed in writing between the undertaker and the local highway authority, and the remainder of the bridge, including the waterproofing membrane, and structure below, parapets and any system of lighting must be maintained by and at the expense of the undertaker.

(7) 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.

(8) For the purposes of a defence under paragraph (7), 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

(a) The following provisions have been inserted into the section by paragraph 52, Schedule 1 of the Infrastructure Act 2015 (c. 7).

- (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 the competent person had carried out those instructions.

Classification of roads, etc.

13.—(1) From the date on which the roads described in Part 1 (trunk roads) of Schedule 3 and identified on the classification of roads plans 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) From the date on which the roads described in Part 1A (classified A roads), Part 2 (classified B roads) and Part 2A (classified C roads) of Schedule 3 and identified on the classification of roads plans are completed and open for traffic, 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.

(3) From the date on which the roads described in Part 3 (unclassified roads) of Schedule 3 and identified on the classification of roads plans are completed and open for traffic, they are to become unclassified roads for the purpose of any enactment or instrument which refers to unclassified roads.

(4) From the date on which the roads specified in Part 4 (speed limits) of Schedule 3 and identified on the traffic regulation plans are open for traffic, no person is to drive any motor vehicle at a speed exceeding the limit in miles per hour specified in column (3) of that Part along the lengths of road identified in the corresponding row of column (2) of that Part.

(5) On such day as the undertaker may determine, the order specified in column (3) of Part 5 (revocations and variations of existing traffic regulation orders) of Schedule 3 is 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.

(6) Subject to paragraph (7) unless otherwise agreed in writing with the relevant highway authority, the footpaths, cycle tracks, footways and bridleways set out in column (2) of Part 6 (footpaths, cycle tracks, footways and bridleways) of Schedule 3 and identified on the rights of way and access plans are to be constructed by the undertaker in the specified locations and open for use from the date on which the authorised development is open for traffic.

(7) The cycle track with reference CF1 to CF2a in column (2) of Part 6 (footpaths, cycle tracks, footways and bridleways) of Schedule 3 and identified on the rights of way and access plans may only be constructed by the undertaker in the specified location if approved by the relevant highway authority and opened for use on such day as approved by the relevant highway authority.

(8) On such day as the undertaker may determine, the roads described in Part 7 (roads to be detrunked) of Schedule 3 and identified on the detrunking plans are to cease to be trunk roads as if they had ceased to be trunk roads by virtue of an order made under section 5(2)(b) of the 1980 Act specifying that date as the date on which they were to cease to be trunk roads.

(9) The application of paragraphs (1) to (7) may be varied or revoked by any instrument made under any enactment which provides for the variation or revocation of such matters.

(a) 1980 c. 66. As amended by section 22 of the 1991 Act, and by section 1 of, and Schedule 1 to, the Infrastructure Act 2015 (c. 7).

(b) 1980 c. 66. As amended by section 22 of the 1991 Act, and by section 1 of, and Schedule 1 to, the Infrastructure Act 2015 (c. 7).

Power to alter layout etc. of streets

14.—(1) Subject to paragraph (3), the undertaker may, for the purposes of constructing and maintaining the authorised development, alter the layout of any street within the Order limits and the layout of any street having a junction with such a street; and, without limitation on the scope of this paragraph, the undertaker may—

- (a) increase the width of the carriageway of the street by reducing the width of any kerb, footpath, footway, cycle track or verge within the street;
- (b) alter the level or increase the width of any such kerb, footway, cycle track or verge;
- (c) reduce the width of the carriageway of the street; and
- (d) make and maintain passing places.

(2) The undertaker must restore any street that has been temporarily altered under this article to the reasonable satisfaction of the street authority.

(3) The powers conferred by paragraph (1)—

- (a) are exercisable on the giving of not less than 42 days' notice to the street authority; and
- (b) are not to be exercised without the consent of the street authority where that authority is a public authority.

(4) If a street authority which receives an application for consent under paragraph (3) fails to notify the undertaker of its decision before the end of the period of 6 weeks beginning with the date on which the application was made, it is deemed to have granted consent.

(5) Paragraphs (2), (3) and (4) do not apply where the undertaker is the street authority for a street in which the works are being carried out.

Street Works

15.—(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; or carry out works to strengthen or repair the carriageway;
- (c) remove or use all earth and materials in or under the street;
- (d) place and keep apparatus in or under the street;
- (e) maintain, renew or alter apparatus in the street or change its position;
- (f) demolish, remove, replace and relocate any street furniture;
- (g) execute any works to provide or improve sight lines;
- (h) execute and maintain any works to provide hard and soft landscaping;
- (i) carry out re-lining and placement of road markings;
- (j) remove and install temporary and permanent signage; and
- (k) execute any works required for, or incidental to, any works referred to in subparagraphs (a) to (j).

(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)(a) (prohibition of unauthorised street works) of the 1991 Act.

(3) The provisions of sections 54 to 106 of the 1991 Act apply to any street works carried out under paragraph (1).

(a) 1991 c. 22. There are amendments to section 48(3) and 51(1) but none is relevant to this Order.

Temporary alteration, diversion, prohibition and restriction of use of streets

16.—(1) The undertaker, during and for the purposes of carrying out the authorised development, may temporarily stop up, alter, divert, prohibit the use of or restrict the use of any street and may for any reasonable time—

- (a) divert the traffic from the street; and
- (b) subject to paragraph (3), prevent all persons from passing along the street.

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

(3) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street affected by the temporary stopping up, alteration, diversion or restriction of a street 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 for which it is not the street authority without the consent of the street authority, which may attach reasonable conditions to any consent but such consent must not be unreasonably withheld or delayed.

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

(6) If a street 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.

Permanent stopping up and restriction of use of streets and private means of access

17.—(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 streets and private means of access specified in columns (1) and (2) of Part 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) and identified on the rights of way and access plans to the extent specified and described in column (3) of that Schedule.

(2) No street or private means of access specified in columns (1) and (2) of Part 2 or Part 3 of Schedule 4 (being a highway 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 new highway 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 and is open for use; or
- (b) a temporary alternative route for the passage of such traffic as could have used the 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, between the commencement and termination points for the stopping up of the highway or private means of access until the completion and opening of the new highway or private means of access in accordance with sub-paragraph (a).

(3) No street or private means of access specified in columns (1) and (2) of Part 4 of Schedule 4 (being a 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 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; or

^(a) 1961 c. 33, Part 1 as amended by S.I. 1994/2716, 1998 (c. 38), S.I. 1999/481, S.I. 2009/1307, S.I. 2010/490, S.I. 2017/1012 and 2016 (c. 22).

- (b) there is no right of access to the land from the street or private means of access concerned; or
 - (c) there is reasonably convenient access to the land otherwise than from the 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 street or private means of access has been stopped up under this article—
- (a) all rights of way over or along the 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 street or private means of access as is bounded on both sides by land owned by the undertaker.
- (6) Any person who suffers loss by the suspension or extinguishment of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act^(a).
- (7) This article is subject to article 37 (apparatus and rights of statutory undertakers in stopped up streets).

Access to works

18. 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

19.—(1) From such day as the undertaker may determine, except as provided in paragraph (2), 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 8 (traffic regulation measures (clearways and prohibitions)) of Schedule 3 (classification of roads, etc.) and identified on the traffic regulation plans where it is identified in the corresponding row of column (3) of that Part that such lengths of road are to become a clearway, except upon the direction of, or with the permission or, constable or traffic officer in uniform.

(2) Nothing in paragraph (1) 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 1 (the Electronic Communications Code) to the Digital Economy Act 2017^(b); 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;

^(a) 1961 c. 33, Part 1 as amended by S.I. 1994/2716, 1998 (c. 38), S.I. 1999/481, S.I. 2009/1307, S.I. 2010/490, S.I. 2017/1012 and 2016 (c. 22).

^(b) 2017 c. 30, as brought into force by Regulation 2 of S.I. 2017/765, Regulation 2 of S.I. 2017/1136 and Regulation 2 of S.I. 2017/1286.

- (iii) in the service of a water or sewerage undertaker within the meaning of the Water Industry Act 1991^(a) or
- (iv) by a universal service provider for the purposes of providing a universal postal service as defined by the Postal Service Act 2011^(b) 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.

(3) No person is to cause or permit any vehicle to wait on any part of the roads described in paragraph (1) 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.

(4) Paragraphs (1), (2) and (3) 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.

(5) In this article, “traffic officer” means an individual designated under section 2 (designation of traffic officers) of the Traffic Management Act 2004^(c).

Traffic regulation

20.—(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 vehicles, or vehicles of any class, or pedestrians 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

^(a) 1991 c. 56.

^(b) 2011 c. 5.

^(c) 2004 c. 18, as brought into force by Article 2 of S.I. 2004/2380 and Article 2 of S.I. 2009/1095 (W.98).

- (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^(a), and the instrument by which it is effected may specify savings and exemptions to which the prohibition, restriction or other provision is subject; and
 - (b) 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^(b).
- (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 such 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.
- (12) Any application to which this article applies must include a statement that the provisions of paragraph (11) apply to that application.

PART 4

SUPPLEMENTAL POWERS

Discharge of water

21.—(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.

(a) 1984 c.27, section 32 was amended by sections 1, 2, 8(1) and paragraph 4 of Schedule 5 to the Local Government Act 1985 (c. 51) and by paragraph 39 of Schedule 8(II) to the New Roads and Street Works Act 1991 (c.22).

(b) 2004 c. 18, Schedule 7 as implemented by Article 2 of S.I. 2007/2053, Article 2 and Schedule of S.I. 2007/3174; as amended by Regulation 28 of S.I. 2013/362 and Regulation 2 and 3 of S.I. 2018/488.

(2) Any dispute arising from the making of connections to or 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 communicate with public sewers) of the Water Industry Act 1991(a).

(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 under this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.

(6) Nothing in this article overrides the requirement for an environmental permit under regulation 12 (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016(b).

(7) In this article—

- (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 or a sewerage undertaker; and
- (b) Other expressions, excluding watercourse, used both in this article and in the Water Resources Act 1991(c) have the same meaning as in that Act.

(8) If a person who receives an application for consent under paragraph (3) or approval under paragraph (4) 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 work to buildings

22.—(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;
- (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 under this article to a building the undertaker may (subject to paragraphs (5) and (6))—

- (a) enter the building and any land within its curtilage; and

(a) 1991 c. 56. Section 106 was amended by sections 35(8) and 43(2) of, and paragraph 1 of 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).

(b) S.I.2016/1154, amended by S.I. 2018/110

(c) 1991 c. 57.

- (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 53 (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
- (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 (8) or (9) 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

23.—(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;
- (b) without limitation on the scope of sub-paragraph (a), make trial holes in such positions on the land as the undertaker sees fit to investigate the nature of the surface layer and subsoil and remove soil samples;
- (c) without limitation on the scope of sub-paragraph (a), carry out ecological or archaeological investigations on such land; and

(a) 2008 c. 29, section 152 as amended by S.I. 2009/1307.

- (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making trial holes.

(2) No land may be entered or equipment placed or left on or removed from the land under paragraph (1) unless at least 14 days' notice has been served on every owner and occupier of the land indicating the nature of the survey or investigation that the undertaker intends to carry out.

(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 into the land such vehicles and equipment as are necessary to carry out the survey or investigation or to make the trial holes.

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

- (a) in land located within the highway boundary without the consent of the highway authority or the local highway authority as the case may be; 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 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 highway authority, 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 highway authority or 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

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

(2) This article is subject to paragraph (2) of article 27 (compulsory acquisition of rights and imposition of restrictive covenants), paragraph (8) of article 34 (temporary use of land for carrying out the authorised development) and article 54 (crown rights).

Compulsory acquisition of land – incorporation of the mineral code

25. 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”.

(a) 1981 c. 67, as amended by Schedule 1 of S.I. 2009/1307.

Time limit for exercise of authority to acquire land compulsorily

26.—(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 31 (application of the 1981 Act).

(2) The authority conferred by article 34 (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 and imposition of restrictive covenants

27.—(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 24 (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 covenants as may be required for the purposes 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) 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.

(4) 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

28.—(1) Subject to paragraph (2), 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

29.—(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)(a) (power 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)(b) (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 which, being within the limits of land which may be acquired or used shown on the land plans, are required for the purposes of this Order are extinguished on commencement of any activity authorised by this Order which interferes with or breaches those rights.

(4) Subject to the provisions of this article, all private rights over land of which the 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 (c)(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(d).

(6) This article does not apply in relation to any right to which section 138(e) (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.) of the 2008 Act or article 36 (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 is referred to in paragraph (7)(b)—

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

(a) 1965 c. 56. Section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), Section 103 of the Planning and Compulsory Purchase Act 2004 c. 5 and S.I. 2009/1307.

(b) 1965 c. 56. Section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), Section 103 of the Planning and Compulsory Purchase Act 2004 c. 5 and S.I. 2009/1307.

(c) 2008 c. 29, section 152 as amended by S.I. 2009/1307.

(d) 1961 c. 33, Part 1 as amended by S.I. 1994/2716, 1998 (c. 38), S.I. 1999/481, S.I. 2009/1307, S.I. 2010/490, S.I. 2017/1012 and 2016 (c. 22).

(e) 2008 c. 29. Section 138 as amended by section 23 of the Growth and Infrastructure Act 2013 (c. 27) and paragraph 12, Schedule 1 of S.I. 2017/1285.

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

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

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

Modification of Part 1 of the 1965 Act

30.—(1) Part 1 of the 1965 Act, as applied to this Order by section 125(a) (application of compulsory acquisition provisions) of the 2008 Act, is modified as follows—

(2) In section 4A(1)(b)(extension of time limit during challenge)

- (a) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order), substitute “section 118 of the Planning Act 2008 (legal challenges relating to applications for orders granting development consent), and;
- (b) for the “three year period” mentioned in section 4 substitute the five year period mentioned in article 25 (time limit for exercise of authority to acquire land compulsorily) of the A47 North Tuddenham to Easton Development Consent Order 202[X]”.

(3) In section 11A(c) (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”.

(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 26 of the A47 North Tuddenham to Easton Development Consent Order 202[X]”.

(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 (acquisition of subsoil or airspace only) on the A47 North Tuddenham to Easton Development Consent Order 202[X], 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 22 (protective works to buildings), 34 (temporary use of land for carrying out the authorised development) or 35 (temporary use of land for maintaining the authorised development) of the A47 North Tuddenham to Easton Development Consent Order 202[X].”

Application of the 1981 Act

31.—(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.

(a) 2008 c. 29, section 125 as amended by paragraph 17, Schedule 16 of the Housing and Planning Act 2016 (c. 22).
(b) 1965 c. 56, as amended by section 202(1) of the Housing and Planning Act 2016 (c. 22).
(c) 1965 c.56, section 11A as inserted by section 186 of the Housing and Planning Act 2016 (c. 22).

- (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) Omit section 5(a) (earliest date for execution of declaration).
- (5) Omit section 5A(b)(time limit for general vesting declaration).
- (6) In section 5B(c) (extension of time limit during challenge)
- (a) for “section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order),” substitute “section 118(d) (legal challenges relating to applications for orders granting development consent) of the Planning Act 2008”; and,
- (b) for the three year period mentioned in Section 5A substitute the five year period mentioned in article 25 (time limit for exercise of authority to acquire land compulsorily) of the A47 North Tuddenham to Easton Development Consent Order 202[X].
- (7) In section (6)(e)(notices after execution of declaration), in subsection (1)(b) substitute:
- “(b) on every person who has given information to the acquiring authority with respect to any of that land further to the invitation published and served in section 134 (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 and not in general vesting declaration) for paragraph 1(2) substitute—
- “(2) But see article 32 (acquisition of subsoil or airspace only) of the A47 North Tuddenham to Easton Development Consent Order 202[X], 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(g) (application of compulsory acquisition provisions) of the 2008 Act (and as modified by article 30 (modification of Part 1 of the 1965 Act)) to the compulsory acquisition of land under this Order.

Acquisition of subsoil or airspace only

32.—(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 24 (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

(a) 1981 c.67, section 5 was amended by Schedule 15 to the Housing and Planning Act 2016 (c. 22).
 (b) 1981 c. 66, section 5A was inserted by section 182 of the Housing and Planning Act 2016 (c. 22).
 (c) 1981 c. 66, section 5B was inserted by section 202 of the Housing and Planning Act 2016 (c. 22).
 (d) 2008 c.29. as amended by sections 92(4) of the Criminal Justice and Courts Act 2015 (c.2) and paragraph 59(2), Part 1 of Schedule 13 and paragraph 1, Part 20 of Schedule 25 to the Localism Act 2011 (c.20).
 (e) 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).
 (f) 1981 c. 66, as inserted by section 216 and Schedule 18 of the Housing and Planning Act 2016 (c. 22).
 (g) 2008 c. 29, section 125 as amended by paragraph 17, Schedule 16 of the Housing and Planning Act 2016 (c. 22).

- (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

33.—(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^(a).

(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^(b) 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

34.—(1) The undertaker may, in connection with the carrying out of the authorised development, but subject to article 26 (time limit for exercise of authority to acquire land compulsorily)—

(a) enter on and take possession of—

- (i) the land specified in columns (1) and (2) of Schedule 7 (land of which temporary possession may be taken) for the purpose specified in relation to that land in column (3) of that Schedule relating to the part of the authorised development specified in column (4) of that Schedule; and
- (ii) any other Order land in respect of which no notice of entry has been served under section 11(c)(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^(d);

(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

(a) 1961 c. 33, Part 1 as amended by S.I. 1994/2716, 1998 (c. 38), S.I. 1999/481, S.I. 2009/1307, S.I. 2010/490, S.I. 2017/1012 and 2016 (c. 22).

(b) 1991 c. 22, to which there are no amendments relevant to section 85 of the act.

(c) 1965 c. 56. Section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), Section 103 of the Planning and Compulsory Purchase Act 2004 c. 5 and S.I. 2009/1307.

(d) 1981 c. 66. Section 4 as amended by section 184 and 185 of, and paragraph 2 of Schedule 18 to, the Housing and Planning Act 2016 (c. 22),

- (d) construct any permanent works specified in relation to that land in column (3) of Schedule 7 (land of which temporary possession may be taken), or construct any permanent works in connection with Work No. 94 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 (4) of Schedule 7 (land of which 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 (a) or made a declaration under section 4 of the 1981 Act(b) 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 have been constructed under paragraph (1)(d);
- (c) remove any ground strengthening works which have been placed on the land to facilitate construction of the authorised development;
- (d) remove any measures installed over or around statutory undertakers' apparatus to protect that apparatus from the authorised development; or
- (e) remove or reposition any apparatus installed for or belonging to statutory undertakers; or
- (f) remove or reposition necessary mitigation works.

(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 provisions of this article.

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

(7) Nothing in this article affects any liability to pay compensation under section 152(d) (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) 1965 c. 56, section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), Section 103 of the Planning and Compulsory Purchase Act 2004 c. 5 and S.I. 2009/1307.

(b) 1981 c. 66. Section 4 as amended by section 184 and 185 of, and paragraph 2 of Schedule 18 to, the Housing and Planning Act 2016 (c. 22).

(c) 1961 c. 33, Part 1 as amended by S.I. 1994/2716, 1998 (c. 38), S.I. 1999/481, S.I. 2009/1307, S.I. 2010/490, S.I. 2017/1012 and 2016 (c. 22).

(d) 2008 c. 29, section 152 as implemented by Article 3 of S.I. 2010/101 (c.11) and amended by S.I. 2009/1307.

- (a) acquiring new rights over any part of that land that is also specified in column (1) of Schedule 5 (land in which only new rights etc. may be acquired) ; 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 32 (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(b).

(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 24 (compulsory acquisition of land) or article 27 (compulsory acquisition of rights and imposition of restrictive covenants).

Temporary use of land for maintaining the authorised development

35.—(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 is not required to serve notice under paragraph (3) where the undertaker has identified a potential risk to the safety of-

- (a) the authorised development or any of its parts;
- (b) the public; or
- (c) the surrounding environment.

and in such circumstances, the undertaker may enter the land under paragraph (1) subject to giving such period of notice as is reasonably practicable in the circumstances.

(5) 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.

(6) 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.

(7) 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.

(a) 1965 c. 56, section 13 was amended by sections 62(3) and 139 of, and paragraphs 27 and 28 of Schedule 13, and part of Schedule 23, to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(b) 2008 c. 29, section 125 as amended by paragraph 17, Schedule 16 of the Housing and Planning Act 2016 (c. 22).

(8) Any dispute as to a person's entitlement to compensation under paragraph (7), or as to the amount of the compensation, is to be determined under Part 1 of the 1961 Act (a).

(9) Nothing in this article affects any liability to pay compensation under section 152(b) (compensation in case where no right 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 (7).

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

(11) Section 13(c) (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land under to 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(d).

(12) 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

36.—(1) Subject to the provisions of article 27 (compulsory acquisition of rights and imposition of restrictive covenants), Schedule 9 (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(e); and
- (b) article 37 (apparatus and rights of statutory undertakers in stopped up streets).

Apparatus and rights of statutory undertakers in stopped up streets

37.—(1) Where a street is stopped up under article 17 (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 17 (permanent stopping up and restriction of use of streets and private means of access) 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) 1961 c. 33, Part 1 as amended by S.I. 1994/2716, 1998 (c. 38), S.I. 1999/481, S.I. 2009/1307, S.I. 2010/490, S.I. 2017/1012 and 2016 (c. 22).

(b) 2008 c. 29, Section 152 as implemented by Article 3 of S.I. 2010/101 (c.11) and amended by S.I. 2009/1307.

(c) 1965 c. 56, section 13 was amended by sections 62(3) and 139 of, and paragraphs 27 and 28 of Schedule 13, and part of Schedule 23, to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(d) 2008 c. 29, section 125 as amended by paragraph 17, Schedule 16 of the Housing and Planning Act 2016 (c. 22).

(e) 1991 c.22, Part 3 as amended by 2004 (c. 18), S.I. 2007/1952, S.I. 2008/102 (c. 15) and 2003 (c. 21).

- (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

38.—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 36 (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

(a) 2003 c. 21, as implemented by Article 1, Section 2 and Schedule 1 of S.I. 2003/1900, Article 3 of S.I. 2003/3142; as amended by Schedule 1 of S.I. 2011/1210

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 36, 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 sewer belonging to that person communicate with any other public sewer or with a private sewerage disposal plant.

Extinguishment of private rights and restrictive covenants relating to apparatus removed from land subject to temporary possession

39.—(1) This article applies to any Order land of which the undertaker takes temporary possession under article 34 (temporary use of land for carrying out the authorised project).

(2) Subject to paragraph (3), all private rights or restrictive covenants in relation to apparatus belonging to statutory undertakers removed from any land to which this article applies will remain intact from the date on which the undertaker gives up temporary possession of that land.

(3) If the undertaker, in agreement with the statutory undertaker, gives notice before the date described in sub-paragraph (2) that any or all of the private rights or restrictive covenants in relation to the apparatus removed from the land to which this article applies will be extinguished, such rights will be extinguished.

(4) Any extinguishment of rights by sub-paragraph (3) does not give rise to any cause of action relating to the presence on or in the land of any foundations and the undertaker is not required to remove foundations when giving up temporary possession).

(5) This article does not have effect in relation to apparatus to which article 37 (apparatus and rights of statutory undertakers in stopped up streets) or Part 3 of the 1991 Act applies(a).

(6) In this paragraph—

“public communications provider” has the same meaning as in section 151(1) (interpretation of Chapter 1) of the Communications Act 2003(b); and

“public utility undertaker” means a gas, water, electricity or sewerage undertaker.

PART 6

OPERATIONS

Felling or lopping of trees and removal of hedgerows

40.—(1) The undertaker may fell or lop any tree or shrub, within or overhanging land within the Order limits, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub—

- (a) from obstructing or interfering with the construction, maintenance or operation of the authorised development or any apparatus used in connection with the authorised development; or
- (b) from constituting a danger to persons using the authorised development.

(a) 1991 c.22, Part 3 as amended by 2004 (c. 18), S.I. 2007/1952, S.I. 2008/102 (w. 15), 2003 (c. 21).

(b) 2003 c. 21, as implemented by Article 1, Section 2 and Schedule 1 of S.I. 2003/1900, Article 3 of S.I. 2003/3142; as amended by Schedule 1 of S.I. 2011/1210.

- (2) In carrying out any activity authorised by paragraph (1) or (4), 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) and the Conservation of Habitats and Species Regulations 2010^(b) or any successor acts and regulations.
- (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^(c).
- (4) The undertaker may, for the purposes of carrying out the authorised development —
- (a) remove any hedgerows within the Order limits and specified in Schedule 8 Part 1 (removal of hedgerows);
 - (b) remove the important hedgerows as are within the Order limits and specified in Schedule 8 Part 2 (removal of important hedgerows); and
 - (c) without limitation on the scope of sub-paragraph (a), and with the consent of the local authority in whose area the hedgerow is located, remove or translocate any hedgerow within the Order limits.
- (5) The grant of consent of a local authority in terms of paragraph (4)(c) must not be unreasonably withheld.
- (6) If a local authority fails to notify the undertaker of its decision within 28 days of receiving an application for consent under paragraph (4)(c) the local authority is deemed to have granted consent.
- (7) In this article “hedgerow” and “important hedgerow” have the same meaning as in the Hedgerow Regulations 1997^(d).

Trees subject to tree preservation orders

41.—(1) The undertaker may fell or lop any tree within or overhanging land within the Order limits subject to a tree preservation order which was made after 24 July 2020, if the undertaker 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 passengers or other persons using the authorised development.

(2) In carrying out any activity authorised by paragraph (1)—

- (a) the undertaker must do no unnecessary damage to any tree or shrub and must pay compensation to any person for any loss or damage arising from such activity;
- (b) the duty contained in section 206(1) (replacement of trees) of the 1990 Act^(e) is not to apply although where possible the undertaker is to seek to replace any trees which are removed; and
- (c) the undertaker must consult the relevant planning authority prior to that activity taking place.

(a) 1981 c.69

(b) S.I. 2010/490, amended by S.I. 2010/490, S.I. 2010/2020, S.I. 2011/603, S.I. 2011/625, S.I. 2011/950, S.I. 2012/630, S.I. 2012/635, S.I. 2012/637, S.I. 2012/1914, S.I. 2012/1927, S.I. 2013/755, S.I. 2014/2933, S.I. 2015/377, S.I. 2015/1390, S.I. 2015/2020, S.I. 2016/1154, S.I. 2017/1012.

(c) 1961 c. 33, Part 1 as amended by S.I. 1994/2716, 1998 (c. 38), S.I. 1999/481, S.I. 2009/1307, S.I. 2010/490, S.I. 2017/1012 and 2016 (c. 22).

(d) S.I. 1997/1160, as amended by S.I. 2003/2155, S.I. 2015/1997, S.I. 2015/377, S.I. 2009/1307 and S.I. 2013/755.

(e) 1990 c. 8 as amended by paragraph 11 of Schedule 8 to the Planning Act 2008 (c. 29).

(3) The authority given in paragraph (1) constitutes a deemed consent under the relevant tree preservation order.

(4) 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 (determination of questions of disputed compensation) of the 1961 Act.

PART 7

MISCELLANEOUS AND GENERAL

Application of landlord and tenant law

42.—(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

43. 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^(a).

Defence to proceedings in respect of statutory nuisance

44.—(1) Where proceedings are brought under section 82(1) (summary proceedings by person aggrieved by statutory nuisance) of the Environmental Protection Act 1990^(b) in relation to a nuisance falling within paragraphs (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)^(c) of that Act if—

- (a) the defendant shows that the nuisance—

^(a) 1990 c. 8, to which there are amendments to this sub-section not relevant to this Order.

^(b) 1990 c. 43, to which there are amendments to this sub-section not relevant to this Order.

^(c) 1990 c. 43, section 82(2) was amended by section 5(1) and (2) of the Noise and Statutory Nuisance Act 1993 (c. 40) and paragraph 6, Schedule 17 of the Environment Act 1995 (c. 25).

- (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(a); or
- (ii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or
- (b) the defendant shows that the nuisance is a consequence of the use of the authorised development and that it cannot reasonably be avoided.

(2) Section 61(9) (prior consent for work on construction sites) 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(b) 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.

No double recovery

45. Compensation is not payable in respect of the same matter both under this Order and under any other enactment, any contract, or any rule of law, or under two or more different provisions of this Order.

Disregard of certain improvements etc.

46.—(1) In assessing the compensation payable to any person on the acquisition from that person of any land or right over any land under this Order, the tribunal must not take into account—

- (a) any interest in land; or
- (b) any enhancement of the value of any interest in land by reason of any building erected, works carried out or improvement or alteration made on the relevant land, if the tribunal is satisfied that the creation of the interest, the erection of the building, the carrying out of the works or the making of the improvement or alteration as part of the authorised development was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

(2) In paragraph (1) “relevant land” means the land acquired from the person concerned or any other land with which that person is, or was at the time when the building was erected, the works constructed or the improvement or alteration made as part of the authorised development, directly or indirectly concerned.

Set off for enhancement in value of retained land

47.—(1) In assessing the compensation payable to any person in respect of the acquisition from that person under this Order of any land (including the subsoil) the tribunal must set off against the value of the land so acquired any increase in value of any contiguous or adjacent land belonging to that person in the same capacity which will accrue to that person by reason of the construction of the authorised development.

(2) In assessing the compensation payable to any person in respect of the acquisition from that person of any new rights over land (including the subsoil) under article 27 (compulsory acquisition of rights and imposition of restrictive covenants), the tribunal must set off against the value of the rights so acquired—

- (a) any increase in the value of the land over which the new rights are required; and

(a) 1974 c. 40 section 60 was amended by 1996 c. 61 and 2008 c.18.

(b) 1974 c. 40, section 61 to which there are amendments to section 61 but none is relevant to this Order.

- (b) any increase in value of any contiguous or adjacent land belonging to that person in the same capacity, which will accrue to that person by reason of the construction of the authorised development.

(3) The 1961 Act has effect, subject to paragraphs (1) and (2) as if this Order were a local enactment for the purposes of that Act.

Appeals relating to the Control of Pollution Act 1974

48.—(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(a).

(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 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.

(6) The appointed person must notify the appeal parties of the revised timetable for the appeal on or before that day.

(7) 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).

(a) 1974 c. 40. section 60 was amended by 1996 c. 61 and 2008 c.18

(8) 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.

(9) 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.

(10) 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.

(11) 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.

(12) Except where a direction is given under paragraph (13) 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.

(13) 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.

(14) 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.

Use of consecrated land

49.—(1) Section 239 (use and development of burial grounds) of the 1990 Act applies—

- (a) in relation to land, other than a right over land, acquired for the purposes of the authorised development (whether or not by agreement), so as to permit use by the undertaker in accordance with the provisions of this Order; and
- (b) in relation to a right over land so acquired (whether or not by agreement), or the temporary use of land pursuant to articles 34 (temporary use of land for constructing the authorised development) or 35 (temporary use of land for maintaining the authorised development), so as to permit the exercise of that right or the temporary use by the undertaker in accordance with the provisions of this Order,

and in section 240(3) of the 1990 Act reference to a “statutory undertaker” includes the undertaker and reference to “any other enactment” includes this Order.

(2) The Town and Country Planning (Churches, Places of Religious Worship and Burial Grounds) Regulations 1950^(a) do not apply to the authorised development.

Protection of interests

50. Schedule 9 (protective provisions) to the Order has effect.

Certification of documents, etc.

51.—(1) As soon as practicable after the making of this Order, the undertaker must submit copies of each of the plans and documents set out in Schedule 10 (documents, etc to be certified) to the Secretary of State for certification as true copies of those plans and documents.

(a) 1950 c.792, as amended by article 3 and paragraph 7 of Schedule 3 to The Local Government Reorganisation (Wales) (Consequential Amendments) Order 1996, c.525.

(2) Where any plan or document set out in Schedule 10 requires to be amended to reflect the terms of the Secretary of State's decision to make the Order, that plan or document in the form amended to the Secretary of State's satisfaction is the version of the plan or document required to be certified under paragraph (1).

(3) A plan or document so certified will be admissible in any proceedings as evidence of the contents of the document of which it is a copy.

Service of notices

52.—(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.

(7) Any consent to the use of electronic communication given by a person may be revoked by that person in accordance with paragraph (8).

(a) 1978 c.30, as amended by section 17 of 1994 (c. 36), there are other amendments but none are relevant.

(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

53. Except where otherwise expressly provided for in this Order and unless otherwise agreed between the parties, any difference under any provision of this Order (other than a difference which falls to be determined by the tribunal) must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the President of the Institution of Civil Engineers.

Crown Rights

54.—(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 to use, enter upon or in any manner interfere with any land or rights of any description—

- (a) 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;
- (b) 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
- (c) 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.

(2) 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.

(3) 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
Head of the Transport and Works Act Orders Unit
Department for Transport

SCHEDULES

SCHEDULE 1

Articles 2, 5 and 6

AUTHORISED DEVELOPMENT

In the administrative areas of Norfolk County Council and Broadland, South Norfolk and Breckland District Councils.

The authorised development is a nationally significant infrastructure project as defined in sections 14 (nationally significant infrastructure projects: general) and 22 (highways)(a) of the 2008 Act and associated development within the meaning of section 115(2)(b) of the 2008 Act, comprising—

Work No. 1 – Alteration of the A47 of 9,169 metres in length from a point 370m west of Fox Lane overbridge to a point 180m west of Easton roundabout, including the construction of a mainline dual carriageway, footways, embankments, two laybys, police observation platform, maintenance accesses, approaches and associated drainage and noise barriers shown on sheet numbers 1, 2, 4 to 9 and 11 to 16 of the works plans;

Work No. 2 – a combination of re-surfaced, realigned and new carriageway from Main Road east for 380 metres to the new junction with Lyng Road (Work No. 4) and then 775 metres to re-join the existing A47 alignment at the altered junction with Low Road, including footways, embankments, approaches, associated drainage and flood protection bund shown on sheet numbers 1, 2 and 4 of the works plans;

Work No. 3 – a new driveable access track, associated earthworks and drainage, from an existing access onto Fox Lane and a new field access with passing places, running eastwards for 579 metres to a private property east of Oak Farm, shown on sheet number 1 of the works plans;

Work No. 4 – a combination of new and realigned carriageway, footways, embankments, approaches and associated drainage to form the realigned Lyng Road north of the junction with Work No. 2, shown on sheet number 2 of the works plans;

Work No. 5 – drainage works east of Oak Farm comprising an extension of the existing West Culvert under the proposed A47 mainline dual carriageway (Work No.1) and creation of the new West Culvert under Work No. 2 east of the new junction to the realigned Lyng Road (Work No. 4), shown on sheet number 2 of the works plans;

Work No. 6 – a new drainage basin south east of Oak Farm, plus associated drainage and driveable maintenance access track with an outfall into the local watercourse and a drainage connection to the basin on the southern side of the proposed A47 mainline dual carriageway (Work No.1), shown on sheet number 2 of the works plans;

Work No. 7 – a new drainage basin with associated drainage and driveable maintenance access track south from the A47 mainline dual carriageway (Work No. 1) with an outfall into the River Tud east of Whitford bridge and a drainage connection to the basin, shown on sheet 4 of the works plans;

Work No. 8 – a combination of new and widened carriageway, footways, embankments and associated drainage between the existing Mattishall Lane alignment and the proposed Mattishall Lane Link Road (Work No. 9), shown on sheet number 4 of the works plans;

(a) Section 22 was substituted by article 3 of S.I. 2013/1883 and amended by section 1(6) of, and paragraph 153 of Schedule 1 to, the Infrastructure Act 2015 (c. 7).

(b) Section 115(2) was amended by section 160(1) and (3) of the Housing and Planning Act 2016 (c. 22).

Work No. 9 – a new carriageway, footways, approaches, drainage and underbridge with cycle track forming the new Mattishall Lane Link Road from the existing A47 471 metres south west to Mattishall Lane, shown on sheet number 4 of the works plans;

Work No. 10 – alteration of the existing A47 and Mattishall Lane junction including the provision of a ghost island and the creation and upgrade of footways on Mattishall Lane and the existing A47 between the new Mattishall Lane Link Road (Work No.9) junction to the west and the Hockering junction with the existing A47 to the east plus the creation of a new field access off Mattishall Lane, shown on sheet 4 of the works plans;

Work No. 11 – a new driveable access track with passing places, from Mattishall Lane south of the proposed A47 mainline dual carriageway (Work No. 1) running eastwards for 469 metres, shown on sheet numbers 4 and 5 of the works plans;

Work No. 12 – a new drainage basin, associated drainage and driveable maintenance access track and a new outfall into the River Tud between Work No. 11 and the River Tud with a drainage connection to the basin, shown on sheet number 5 of the works plans;

Work No. 13 – a new culvert at Newgate House, under the proposed A47 mainline dual carriageway (Work No. 1) south of Gypsy Lane, shown on sheet number 6 of the works plans;

Work No. 14 – a new drainage basin east of Gypsy Lane with associated drainage and a driveable maintenance access track north from the A47 mainline dual carriageway (Work No. 1) with an outfall into the River Tud to the south and a drainage connection under the proposed A47 mainline dual carriageway (Work No. 1) to the basin, shown on sheet number 6 of the works plans;

Work No. 15 – a new drainage basin, associated drainage, a wetland area east of Church Lane, and a driveable maintenance access track from Work No 16, with a new outfall into the River Tud east of Church Lane bridge and a drainage connection to the basin shown on sheet number 7 of the works plans;

Work No. 16 – a new driveable access track with passing place, associated earthworks and drainage, from Church Lane 469 metres east to Work No. 15 and Hillcrest Cottage, shown on sheet numbers 7 and 8 of the works plans;

Work No. 17 – a combination of re-surfaced, realigned and new carriageway with cycle track, embankments, approaches and associated drainage to form the new link road from the existing A47 east of Hockering 913 metres east to Wood Lane junction northern dumbbell roundabout (Work No. 20), shown on sheet numbers 7, 8 and 10 of the works plans;

Work No. 18 – a new carriageway, embankments and associated drainage to form the Wood Lane junction east bound off slip road to the northern dumbbell roundabout, shown on sheet numbers 8, 9 and 10 of the works plans;

Work No. 19 – a new carriageway, embankments and associated drainage to form the Wood Lane junction west bound on slip road from the southern dumbbell roundabout, shown on sheet numbers 8 and 9 of the works plans;

Work No. 20 – a new carriageway, embankments and associated drainage to form the Wood Lane junction northern dumbbell roundabout, shown on sheet number 10 of the works plans;

Work No. 21 – a new Wood Lane junction underbridge and associated carriageway, embankments and drainage between the dumbbell roundabouts (Work Nos. 20 and 22), shown on sheet numbers 9 and 10 of the works plans;

Work No. 22 – a new carriageway, embankments and associated drainage to form the Wood Lane junction southern dumbbell roundabout, shown on sheet number 9 of the works plans;

Work No. 23 – a new carriageway, embankments and associated drainage to form the Wood Lane junction east bound on slip road from the northern dumbbell roundabout, shown on sheet numbers 9 and 10 of the works plans;

Work No. 24 – a new carriageway, embankments and associated drainage to form the Wood Lane junction west bound off slip road to the southern dumbbell roundabout, shown on sheet numbers 9 and 11 of the works plans;

Work No. 25 – a combination of re-surfaced and new carriageway, footways, embankments and associated drainage to form the new B1535 Wood Lane junction with Work No. 17, shown on sheet number 10 of the works plans;

Work No. 26 – a new restricted byway from Hall Farm underpass (Work No. 30) west 781 metres to Work No. 26a the optional cycle track connection to the realigned Wood Lane, shown on sheet numbers 9, 10 and 11 of the works plans;

Work No. 26a – a new cycle track between the realigned B1535 Wood Lane (Work No. 25) and the start of the new restricted byway (Work No. 26) which meets the diverted restricted byway Honingham RB1, shown on sheet number 10 of the works plans;

Work No. 27 – a new drainage basin, associated drainage and driveable maintenance access track, between the existing A47 and proposed A47 mainline dual carriageway (Work No. 1) east of the proposed A47 Wood Lane junction southern dumbbell roundabout (Work No. 22), accessed from Work No. 32, shown on sheet number 9 of the works plans;

Work No. 28 – a combination of realigned and new carriageway with footways, embankments, approaches and associated drainage to form the link to Dereham Road, Honingham, from Work No. 32 and traffic calming measures at Dereham Road, shown on sheet numbers 9 of the works plans;

Work No. 29 – a new bridleway with new cycle track between Berrys Lane and Dereham Road to replace an existing parallel footpath, shown on sheet number 9 of the works plans;

Work No. 30 – a new Hall Farm underpass, access road to the existing A47 and new section of associated access ramps joining the new restricted byway from Wood Lane junction (Work No. 26), shown on sheet number 11 of the works plans;

Work No. 31 – a new drainage basin between the existing A47 and proposed A47 mainline dual carriageway (Work No. 1) and south east of Hall Farm underpass (Work No. 30), with associated drainage connections and a driveable maintenance access track to the Hall Farm access track (Work No. 30), shown on sheet number 11 of the works plans;

Work No. 32 – reconfiguration of the existing A47 carriageway north of Honingham with a new cycle track, embankments and associated drainage, including a ghost island at the existing A47 junction with the realigned Dereham Road (Work No.28) and modified Honingham bypass structure over the River Tud, between the Wood Lane junction southern dumbbell roundabout (Work No. 22) east 1,663 metres to the existing A47 Honingham roundabout, shown on sheet numbers 9, 11, 12 and 13 of the works plans;

Work No. 33 – a new driveable private access track with passing places, associated earthworks and drainage, connecting Hall Farm to Hall Farm underpass and access road (Work No. 30), shown on sheet number 11 of the works plans;

Work No. 34 – a new drainage basin, east of the proposed A47 mainline dual carriageway (Work No. 1) and north of the new A47 River Tud crossing (Work No. 35), with associated drainage and a driveable access track from Work No. 1, shown on sheet number 12 of the works plans;

Work No. 35 – a new bridge structure over the River Tud with new carriageway, embankments, approaches and associated drainage for the A47 River Tud crossing, with associated flood risk compensation earthworks south of the River Tud between the existing A47 and proposed A47 mainline dual carriageway (Work No. 1) including fences for the protection of bats shown on sheet number 12 of the works plans;

Work No. 36 – a new drainage basin and wetland area south of the River Tud crossing (Work No. 35), between the existing A47 and proposed A47 mainline dual carriageway (Work No. 1), with associated drainage connections and a new outfall to the River Tud west of the River Tud crossing

and driveable maintenance access track from Work No. 32, shown on sheet number 12 of the works plans;

Work No. 37 – a new cycle track between Honingham roundabout and the existing A47 west of St Andrew’s Church (Work No. 39), new Honingham church underpass, embankments, and drainage shown on sheet number 13 of the works plans;

Work No. 38 – a replacement hardstanding area west of St Andrew’s Church, Honingham, and associated access road to the existing A47 (Work No. 39), shown on sheet number 13 of the works plans.

Work No. 39 –alteration and reconfiguration of the existing A47 between the proposed cycle track (Work No. 37) and Taverham Road to provide a single lane access road incorporating parking spaces, a vehicle turning area, a secure access gate and adjacent cycle track south east of St Andrew’s Church, shown on sheet numbers 13 and 14 of the works plans;

Work No. 40 – realigned new carriageway, footways, embankments, and drainage between Honingham roundabout and the proposed Norwich Road junction southern dumbbell roundabout (Work No. 46), shown on sheet numbers 13 and 14 of the works plans;

Work No. 41 – a new drainage basin and wetland area, associated drainage with new outfall to the River Tud and driveable access track, east of Taverham Road and between the River Tud and Work No. 47, shown on sheet 14 of the works plans;

Work No. 42 – a new carriageway, embankments and drainage to form the proposed Norwich Road junction eastbound off-slip road to the northern dumbbell roundabout, shown on sheet numbers 13 and 14 of the works plans;

Work No. 43 – a new carriageway, embankments and drainage to form the proposed Norwich Road junction westbound on-slip road from the southern dumbbell roundabout, shown on sheet numbers 13 and 14 of the works plans;

Work No. 44 – a new carriageway, embankments and drainage to form the proposed Norwich Road junction northern dumbbell roundabout, shown on sheet number 14 of the works plans;

Work No. 45 – a new Norwich Road junction underbridge and associated carriageway, embankments and drainage between the dumbbell roundabouts (Work Nos. 44 and 46), shown on sheet number 14 of the works plans;

Work No. 46 – a new carriageway, embankments and drainage to form the proposed Norwich Road junction southern dumbbell roundabout, shown on sheet number 14 of the works plans;

Work No. 47 – a new and altered carriageway, footways, embankment and drainage from the proposed Norwich Road junction northern dumbbell roundabout (Work No. 44) north 270 metres to Taverham Road, shown on sheet number 14 of the works plans;

Work No. 48 – new carriageway, embankments, approaches and drainage to form the proposed Norwich Road junction east bound on slip road from the northern dumbbell roundabout, shown on sheet numbers 14 and 15 of the works plans;

Work No. 49 – a new carriageway, embankments, approaches and drainage to form the proposed Norwich Road junction west bound off slip road to the southern dumbbell roundabout, shown on sheet numbers 14 and 15 of the works plans;

Work No. 50 – a realigned and new carriageway, embankments, approaches and drainage from the proposed Norwich Road junction southern dumbbell roundabout (Work No. 46) east 1,265 metres to Dereham Road, Easton, shown on sheet numbers 14, 15 and 16 of the works plans;

Work No. 51 – a new carriageway from the realigned Taverham Road (Work No. 47) to a new field access and a new cycle track to Church Lane, Easton, plus associated embankments and drainage, shown on sheet numbers 14, 15 and 16 of the works plans;

Work No. 52 – a new Easton footbridge, embankments, drainage and access ramps to carry a cycle track between Church Lane, north of the A47, and Dereham Road, Easton, shown on sheet numbers 15 and 16 of the works plans;

Work No. 53 – alterations to Church Lane carriageway, embankments and drainage to create a new driveable access road and new cycle track linking Work No. 52 with the junction of Church Lane with Ringland Road, shown on sheet number 16 of the works plans;

Work No. 54 – altering the southern corner of Rotten Row and Church Lane junction with associated drainage alterations, shown on sheet number 17 of the works plans;

Work No. 55 – southern end of a surface water drainage channel crossing the new driveable access track, between Church Lane and Hillcrest Cottage (Work No. 16) from the north side, shown on sheet number 8 of the works plans;

Work No. 56 – flood alleviation compensation and environmental mitigation area including earthworks, embankments, new ponds, new wetlands and watercourse alterations north of Work No. 2 and east of Lyng Road, shown on sheet 2 and sheet number 2 (inset A) of the works plans;

Work No. 57 – flood alleviation compensation and environmental mitigation area, including watercourse alterations and new wetlands, north of The Street and to the east of Hockering, shown on sheet number 6 and sheet number 6 (inset B) of the works plans;

Work No. 58 – a temporary material storage, management and processing area south of the proposed A47 mainline dual carriageway (Work No. 1), south east of Work No. 5, east of Lyng Road and north of Low Road, shown on sheet 2 of the works plans;

Work No. 59 – a traffic management site compound between the existing A47, Low Road, the proposed A47 mainline dual carriageway (Work No. 1) and the proposed Mattishall Lane Link Road (Work No. 9), shown on sheet 4 of the work plans;

Work No. 60 – a temporary material storage area between the existing A47, the proposed A47 mainline dual carriageway (Work No. 1), the proposed Mattishall Lane Link Road (Work No. 9) and existing Mattishall Lane, shown on sheet 4 of the works plans;

Work No. 61 – a temporary material storage, management and processing area, between the existing A47 and proposed A47 mainline dual carriageway (Work No.1) south east of Hockering, shown on sheet numbers 6 and 7 of the works plans;

Work No. 62 – a temporary compound area, including material storage, management and processing, south of the proposed A47 mainline dual carriageway (Work No. 1), east of Hillcrest Cottage and south west of the proposed A47 Wood Lane Junction southern dumbbell roundabout (Work No. 22), including a temporary connection to existing overhead 11kV electricity cables shown on sheets 8 and 9 of the works plans;

Work No. 63 – a temporary material storage area south and west of the proposed A47 Wood Lane Junction southern dumbbell roundabout (Work No. 22), shown on sheet 9 of the works plans;

Work No. 64 – a material storage area north of the proposed A47 mainline dual carriageway (Work No. 1) and east of the proposed A47 Wood Lane Junction northern dumbbell roundabout (Work No. 20), shown on sheet numbers 10 and 11 of the works plans;

Work No. 65 – a temporary main compound area, including material storage, management and processing, south of the existing A47 Honingham roundabout, shown on sheet 13 of the work plans;

Work No. 66 – a temporary material storage, management and processing area south of the existing A47 Honingham roundabout adjacent to east side of Work No. 65, shown on sheet 13 of the work plans;

Work No. 67 – a temporary material storage, management and processing area north east of the proposed A47 Norwich Road junction northern dumbbell roundabout (Work No. 44) and east of Work No. 41, shown on sheet 14 of the works plans;

Work No. 68 – a temporary material storage, management and processing area east of the proposed Norwich Road junction southern dumbbell roundabout (Work No. 46), shown on sheet numbers 14 and 15 of the works plans;

Work No. 69 –a temporary material storage, management and processing area north of the proposed A47 mainline dual carriageway (Work No. 1) situated between Work Nos. 93 and 94, shown on sheet number 15 of the works plans;

Work No. 70 –a temporary material storage, management and processing area north of the proposed A47 mainline dual carriageway (Work No. 1) situated between Work No. 93 and 94, shown on sheet number 15 of the works plans;

Work No. 71 – a temporary compound area north of the existing Easton roundabout and west of Church Lane, Easton, shown on sheet numbers 15 and 16 of the works plans;

Work No. 72 – a temporary material storage, management and processing area north of Work No. 71 and between Work No. 94 and Church Lane, Easton, shown on sheet numbers 15 and 16 of the works plans;

Work No. 73 – removal of the overhead electronic communications cables crossing Work No.1 and 2 between Poppy Wood and Oak Farm, shown on sheet numbers 1 and 2 of the works plans;

Work No. 74 – diversion of potable water pipes and overhead electronic communications and low voltage electricity utility cables along the route of and to the west of the existing Mattishall Lane and crossing Work Nos. 1, 8, 9, 10 and 11, shown on sheet number 4 of the works plans;

Work No. 75 – undergrounding an overhead electronic communications utility line along Mill Lane, Hockering, crossing Work No. 1, shown on sheet number 5 of the works plans;

Work No. 76 – diversion and undergrounding an overhead 11kV electricity line crossing Work No. 1 between the existing A47 and the River Tud, east of Mill Lane, Hockering, shown on sheet number 5 of the works plans;

Work No. 77 – diversion of a main effluent pipeline crossing Work No. 1 between Hockering Water Recycling Centre, Gypsy Lane, and the River Tud, shown on sheet number 6 of the works plans;

Work No. 78 – diversion and undergrounding of an overhead 11kV electricity line crossing Work No. 1 south east of Gypsy Lane and west of a private property at the western end of Trap's Lane, shown on sheet numbers 6 and 7 of the works plans;

Work No. 79 – diversion and undergrounding of an overhead 11kV electricity line crossing Work No. 1 between the existing A47 and Trap's Lane, west of Church Lane, shown on sheet number 7 of the works plans;

Work No. 80 – diversion of potable water pipeline and electronic communications cables crossed by Work No. 1, 15, 16 and 17 between the existing A47 and the Church Lane properties and between Church Lane and Hillcrest Cottage, shown on sheet numbers 7 and 8 of the works plans;

Work No. 81 – installation of ducts, cables and apparatus for utilities and electronic communications code operators in north side of the verge of Work No. 17 between the existing A47 and Wood Lane junction northern dumbbell roundabout (Work No. 20), shown on sheet numbers 7, 8 and 10 of the works plans;

Work No. 82 – removal of electronic communications overhead utility cables to Hillcrest Cottage replaced by Work Nos. 80 and 83, shown on sheet number 8 of the works plans;

Work No. 83 – installation of ducts, cables and apparatus for utilities electronic communications code operators along the track between Hillcrest Cottage and Wood Lane junction southern

dumbbell roundabout (Work No. 22) crossing Work Nos 1 and 16, shown on sheet numbers 8 and 9 of the works plans;

Work No. 84 – diversion of a high pressure gas pipeline, potable water pipeline and overhead electronic communications and low voltage electricity utility cables along Wood Lane, the existing A47, Berrys Lane and Dereham Road, Honingham, affected by Works Nos. 1, 19, 22, 23, 24, 26, 27, 28, 29 and 32, shown on sheet numbers 9 and 10 of the works plans;

Work No. 85 – diversion and undergrounding of electronic communications overhead utility cables, east of Wood Lane, crossing Work Nos. 1, 17, 18, 20, 21, 22, 24, 25 and 26a, shown on sheet numbers 9 and 10 of the works plans;

Work No. 86 – diversion of 11kV electricity cables crossing the new junction between the new Hall Farm underpass and access road (Work No. 30) and the existing A47, shown on sheet number 11 of the works plans;

Work No. 87 – diversion and undergrounding of electronic communications overhead utility cables along the access track to Hall Farm from the existing A47 crossing Work Nos. 1 and 33, shown on sheet number 11 of the works plans;

Work No. 88 – diversion and undergrounding an overhead 11kV electricity cable crossing Work No. 1 between the existing A47 and Hall Farm, shown on sheet number 11 of the works plans;

Work No. 89 – diversion of a potable water pipeline, an effluent pipeline, overhead electronic communications and low voltage electricity utility cables between the existing Honingham roundabout and existing A47 east of St Andrew's Church crossed by Works Nos. 1, 32, 37, 38, 39 and 40, shown on sheet numbers 12, 13 and 14 of the works plans;

Work No. 90 – diversion of electricity and electronic communications utility cables crossing the existing A47 and realigned Taverham Road (Works No. 39 and 47), shown on sheet number 14 of the works plans;

Work No. 91 – diversion of electronic communication utility cables crossed by Work Nos. 1, 39, 40, 42, 43 and 47, from Church Farm bridge south along Taverham Road and Blind Lane, then east along Red Barn Lane and Church Road to a connection beside Dereham Road, south-east of St Peter's Church, Easton, shown on sheet numbers 14, 15, 16, 18 and 19 of the works plans;

Work No. 92 – diversions on the north side of the proposed A47 mainline dual carriageway (Work No. 1) of a potable water pipeline, an effluent pipeline and overhead electronic communications and low voltage electricity utility cables between Taverham Road and Dereham Road, Easton, crossed by the proposed A47 mainline dual carriageway (Work No. 1), Norwich Road junction northern dumbbell roundabout (Work No. 44) and connecting slip roads and side roads, shown on sheet numbers 14 and 15 of the works plans;

Work No. 93 – alterations to the overhead 132kV electricity line with associated temporary work areas between the pylons with temporary access routes to Taverham Road and Church Road, Easton, shown on sheet numbers 15, 19 and 20 of the works plans;

Work No. 94 – installation of the onshore connection works west of Easton consented as part of the Hornsea Three Offshore Wind Farm Order 2020, comprising up to six cable circuits and associated electrical circuit ducts under Works Nos. 1, 50 and 51, and associated link boxes, joint bays, cable ducts, cable protection, joint protection, manholes, marker posts, underground cable marker, tiles and tape, and lighting and other works associated with cable laying, haul roads, vehicular accesses and construction compounds or if horizontal direction drilling is to be used, horizontal direction drilling compounds shown on sheet numbers 15 and 19 of the works plans;

Work No. 95 – removal of existing 11kV overhead electricity utility cables and installation of new ground based sub-station beside Dereham Road with low voltage connection to existing network in highway boundary, shown on sheet numbers 15 and 16 of the works plans;

Work No. 96 – environmental mitigation, including watercourse improvements and creation of ponds and wetlands between the River Tud and proposed A47 mainline dual carriageway (Work No. 1), shown on sheet number 6 of the works plans;

Work No. 97 – River Tud crossing ecological and environmental mitigation, including earthworks, watercourse alterations and creation of ponds and wetlands between the River Tud, existing A47, the proposed A47 mainline dual carriageway (Work No. 1) and the drainage basin east of Hall Farm underpass (Work No. 31), shown on sheet numbers 11 and 12 of the works plans;

Work No. 98 – new carriageway 50m in length and associated embankments, approaches and drainage to provide the option for Norwich Western Link road to connect to the proposed A47 Wood Lane Junction northern dumbbell roundabout (Work No. 20), shown on sheet number 10 of the works plans;

Work No. 99 – temporary haul route from the new field access carriageway connecting to the realigned Taverham Road (Work No. 51) to land parcels between the River Tud, Taverham Road, the A47 mainline dual carriageway (Work No. 1) and Church Lane, north of Easton, to replace access for large vehicles following severance of direct A47 access from Church Lane, shown on sheet numbers 14 and 15 of the works plans;

And for the purposes of or in connection with the construction of any of those works mentioned above, further development within the Order limits consisting of:

- (a) alteration to the layout of any street permanently or temporarily, including as part of de-trunking or stopping up orders, 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; altering the level of any such kerb, footpath, footway, cycle track or verge; installing low noise surfacing; and landscaping sections of abandoned sections;
- (b) works required for the strengthening, improvement, maintenance or reconstruction of any street;
- (c) ramps, means of access, non-motorised links, footpaths, cycle tracks and crossing facilities;
- (d) embankments, viaducts, aprons, abutments, shafts, foundations, retaining walls, barriers, pumping stations, parapets, drainage, outfalls, ditches, wing walls, highway lighting, fencing and culverts;
- (e) street works, including breaking up or opening up a street, or any sewer, drain or tunnel under it; tunnelling or boring under a street;
- (f) works to place, alter, remove or maintain street furniture or apparatus in a street, or apparatus in other land, including mains, sewers, drains, soakaways, pipes, cables, ducts, traffic signals and lights;
- (g) works to alter the course of or otherwise interfere with a watercourse;
- (h) 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;
- (i) works for the benefit or protection of land affected by the authorised development;
- (j) 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;
- (k) the felling of trees;
- (l) 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;

- (m) 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; and
- (n) 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—

“completion or completed” means the relevant parts of the authorised development are completed and fully open to traffic;

“contaminated land” has the same meaning as that term is given in section 78A of the Environmental Protection Act 1990^(a);

“DMRB” means the Design Manual for Roads and Bridges, which accommodates all current standards, advice and other documents relating to the design, assessment and operation of trunk roads and motorways, or any equivalent replacement to the DMRB published;

“drainage strategy” means the strategy in Appendix 13.2 of the environmental statement;

“ecological works” means Work Nos. 56 and 97;

“EMP (Second Iteration)” means the second iteration of the environmental management plan produced in accordance with the DMRB, which is to be a refined version of the EMP (First Iteration) including more detailed versions of the outline plans contained or listed within the EMP (First Iteration) or any other plans as required;

“EMP (Third Iteration)” means the third iteration of the environmental management plan produced in accordance with the DMRB, which is a refined version of the EMP (Second Iteration) and which relates to the operational and maintenance phase of the authorised development;

“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^(b);

“the environmental masterplan” means the document certified as the masterplan under article 51 (certification of documents, etc.);

“lead local flood authority” has the same meaning as in the Flood and Water Management Act 2010;

“IDB” means the Norfolk Rivers Drainage Board;

^(a) 1990 c.43. Section 78A was inserted by section 57 of the Environment Act 1995 (c. 25) and as amended by section 86(2) of the Water Act 2003 (c. 37).

^(b) S.I. 2017/1012 to which there are no amendments relevant to these Regulations.

“the Manual of Contract Documents for Highway Works” means the document of that name published electronically by or on behalf of the strategic highway authority for England or any equivalent replacement published for that document;

“nationally protected species” means any species protected under the Wildlife and Countryside Act 1981^(a); and

“REAC” means the Register of Environmental Actions and Commitments forming table 3.1 of the EMP (First Iteration).

Time limits

2. The authorised development must commence no later than the expiration of 5 years beginning with the date that this Order comes into force.

Detailed design

3.—(1) The authorised development must be designed in detail and carried out so that it is compatible with the preliminary scheme design shown on the works plans and engineering drawings and sections unless otherwise agreed in writing by the Secretary of State, following consultation by the undertaker with the relevant planning authority on matters related to its functions, provided that the Secretary of State is satisfied that any amendments to the engineering drawings and sections showing departures from the preliminary scheme design would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.

(2) Where amended details are approved by the Secretary of State under sub-paragraph (1), those details are deemed to be substituted for the corresponding engineering drawings and sections and the undertaker must make those amended details available in electronic form for inspection by members of the public.

Environmental Management Plan

4.—(1) No part of the authorised development, except for the ecological works, is to commence until an EMP (Second Iteration) for that part, substantially in accordance with the EMP (First Iteration) has been submitted to and approved in writing by the Secretary of State, following consultation by the undertaker with the relevant planning authority, local highway authority, lead local flood authority and the Environment Agency to the extent that the content of the EMP (Second Iteration) relates to matters relevant to their functions.

(2) The EMP (Second Iteration) for a part must be written in accordance with ISO14001 and so far as is relevant to that part of the authorised development, must reflect the mitigation measures required by the REAC and set out in the environmental statement and must include as many of the following plans and strategies as are applicable to the part of the authorised development to which it relates—

- (a) Site waste management plan;
- (b) Materials management plan;
- (c) Soil handling management plan;
- (d) Construction noise and dust management plan;
- (e) Construction communication strategy;
- (f) Landscape and ecology management plan;
- (g) Biosecurity management plan;
- (h) Water monitoring and management plan;
- (i) Detailed heritage Written Scheme of Investigation;

^(a) 1981 c.69

- (j) Temporary surface water drainage strategy;
- (k) INNS management plan; and
- (l) Operational UXO emergency plan.

(3) The relevant part of the authorised development must be constructed in accordance with the approved EMP (Second Iteration).

(4) On completion of construction of each part of the authorised development the EMP (Third Iteration) relating to that part must be submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority and the relevant local highway authority to the extent that the content of the EMP (Third Iteration) relates to matters relevant to their functions.

(5) The relevant part of the authorised development must be operated and maintained in accordance with the EMP (Third Iteration).

Landscaping

5.—(1) The authorised development must be landscaped in accordance with a landscaping scheme which sets out details of all proposed hard and soft landscaping works and which has been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority.

(2) The landscaping scheme must reflect the mitigation measures set out in the REAC and must be based on the environmental masterplan.

(3) The landscaping scheme prepared under sub-paragraph (1) must include details of—

- (a) location, number, species mix, size and planting density of any proposed planting;
- (b) cultivation, importing of materials and other operations to ensure plant establishment;
- (c) existing trees to be retained, with measures for their protection during the construction period;
- (d) proposed finished ground levels;
- (e) implementation timetables for all landscaping works; and
- (f) measures for the replacement, in the first available planting season, of any tree or shrub planted as part of the landscaping scheme that, within a period of 5 years after the completion of the part of the authorised development to which the relevant landscaping scheme relates, dies, becomes seriously diseased or is seriously damaged.

(4) All landscaping works must be carried out to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other more suitable recognised codes of good practice, provided these meet or exceed the appropriate British Standards.

Contaminated land and groundwater

6.—(1) In the event that contaminated land, including groundwater, is found at any time when carrying out the authorised development which was not previously identified in the environmental statement, it must be reported as soon as reasonably practicable to the Secretary of State, the relevant planning authority and the Environment Agency, and the undertaker must complete a risk assessment of the contamination in consultation with the relevant planning authority and the Environment Agency.

(2) Where the risk assessment prepared in accordance with sub-paragraph (1) determines that remediation of the contaminated land is necessary, a written scheme and programme for the remedial measures to be taken to render the land fit for its intended purpose and to prevent any impacts on controlled waters must be submitted to and approved in writing by the Secretary of State, following consultation by the undertaker with the relevant planning authority on matters related to its function and the Environment Agency.

(3) Remediation must be carried out in accordance with the approved scheme.

Protected species

7.—(1) No part of the authorised development, is to commence until, for that part, final preconstruction survey work has been carried out to establish whether European or nationally protected species are present on any of the land affected or likely to be affected by that part of the relevant works, or in any of the trees and shrubs to be lopped or felled as part of the relevant works.

(2) Following pre-construction survey work or at any time when carrying out the authorised development, where—

- (a) a protected species is shown to be present, or where there is a reasonable likelihood of it being present;
- (b) application of the relevant assessment methods used in the environmental statement show that a significant effect is likely to occur which was not previously identified in the environmental statement; and
- (c) that effect is not addressed by any prior approved scheme of protection and mitigation established in accordance with this paragraph,

the relevant parts of the relevant works must cease until a scheme of protection and mitigation measures has been submitted to and approved in writing by the Secretary of State.

(3) The undertaker must consult with Natural England on the scheme referred to in subparagraph (2) prior to submission to the Secretary of State for approval, except where a suitably qualified and experienced ecologist, holding where relevant and appropriate a licence relating to the species in question, determines that the relevant works do not require a protected species licence.

(4) The relevant works under sub-paragraph (2) must be carried out in accordance with the approved scheme, unless otherwise agreed by the Secretary of State after consultation by the undertaker with Natural England, and under any necessary licences.

Surface water drainage

8.—(1) No part of the authorised development, except for the ecological works, is to commence until, for that part, written details of the surface water drainage system, reflecting the drainage strategy and the mitigation measures set out in the REAC including means of pollution control, have been submitted and approved in writing by the Secretary of State following consultation by the undertaker with the lead local flood authority, IDB and the Environment Agency on matters related to their functions.

(2) The surface water drainage system must be constructed in accordance with the approved details, unless otherwise agreed in writing by the Secretary of State following consultation by the undertaker with the lead local flood authority, IDB and the Environment Agency on matters related to its function, provided that the Secretary of State is satisfied that any amendments to the approved details would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.

Archaeological remains

9.—(1) No part of the authorised development, is to commence until, for that part, a written scheme of investigation of areas of archaeological interest, reflecting the relevant mitigation measures set out in the REAC, has been submitted to and approved in writing by the Secretary of State, following consultation by the undertaker with the relevant planning authority, Norfolk County Council Historic Strategy and Advice Team and Historic England on matters related to their functions.

(2) The authorised development must be carried out in accordance with the scheme referred to in sub-paragraph (1).

Traffic management

10.—(1) No part of the authorised development comprising the construction, alteration or improvement of Work No. 1 is to commence until a traffic management plan substantially in accordance with the outline traffic management plan, for that part has been submitted to and approved in writing by the Secretary of State, following consultation by the undertaker with the relevant highway authority on matters related to its function.

(2) The authorised development must be implemented in accordance with the traffic management plan referred to in sub-paragraph (1).

Fencing

11. Any permanent and temporary fencing and other means of enclosure for the authorised development must be constructed and installed in accordance with Manual of Contract Documents for Highway Works maintained by or on behalf of the undertaker except where any departures from that manual are agreed in writing by the Secretary of State in connection with the authorised development.

Ecological works

12.—(1) No part of the ecological works is to commence until the siting, design, method of construction and timetable for delivery of the new ponds and ditches to be included within Work Nos. 56 and 97 have been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority and Natural England.

(2) The construction of the ponds and ditches forming part of the ecological works must thereafter be carried out in accordance with the approved details.

Ørsted works

13.—(1) No part of Work No. 94 is to commence without the written approval of Ørsted and all works must be carried out in accordance with requirements 10, 17, 18 and 22 in Schedule 1 Part 3 of the Hornsea Three Order.

Approvals and amendments to approved details

14. With respect to any requirement which requires the authorised development to be carried out in accordance with the details or schemes approved under this Schedule, the approved details or schemes are taken to include any amendments that may subsequently be approved in writing by the Secretary of State.

PART 2

PROCEDURE FOR DISCHARGE OF REQUIREMENTS

Applications made under requirements

15.—(1) Where an application has been made to the Secretary of State for any consent, agreement or approval required by a requirement (including consent, agreement or approval in respect of part of a requirement) included in this Order, the Secretary of State must give notice to the undertaker 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 15 (further information); 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 from a body required to be consulted by the undertaker under the requirement that considers it likely that the subject matter of the application would give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement, the application is taken to have been refused by the Secretary of State at the end of that period.

Further information

16.—(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.

(3) In the event that the Secretary of State does not give such notification within that 21 day business 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.

(4) 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 14 (applications made under requirements) and in this paragraph.

(5) 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

17.—(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.

(a) 1971 c. 80 to which there are amendments not relevant to this Order.

Anticipatory steps towards compliance with any requirement

18. If before the coming into force of this Order the undertaker or any other person has taken 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.

Details of consultation

19. In relation to any provision of this Schedule requiring details to be submitted to the Secretary of State for approval following consultation by the undertaker with another party, the undertaker must provide such other party with not less than 15 business days for any response to the consultation and thereafter the details submitted to the Secretary of State for approval must be accompanied by a summary report setting out the consultation undertaken by the undertaker to inform the details submitted and the undertaker's response to that consultation.

SCHEDULE 3

Articles 12, 13 and 19

CLASSIFICATIONS OF ROADS, ETC.

PART 1

TRUNK ROADS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Length of road</i>
The classification of roads plans – sheets 1-2, 4-9 and 11-16	
North Tuddenham Parish Hockering Parish East Tuddenham Parish Honingham Parish Easton Parish	A 9.169 kilometre length of new highway to be classified as part of the A47 Trunk Road. On the eastbound carriageway from point A 368 metres east of the centreline of the Fox Lane overbridge in an easterly direction to point B (sheet 16) for a distance of 9.169 kilometres. On the westbound carriageway from point C 368 metres east of the centreline of the Fox Lane overbridge in an easterly direction to point D (sheet 16) for a distance of 9.169 kilometres.
The classification of roads plans – sheet 7	
East Tuddenham Parish Honingham Parish	New eastbound diverge slip road A 794 metre length of carriageway to be classified as part of the A47 Trunk Road from point U 132 metres east of the centreline of the Church Lane junction in a north-easterly direction to point V (sheet 10).
The classification of roads plans – sheet 8	
East Tuddenham Parish	New westbound merge slip road A 644 metre length of carriage way to be classified as part of the A47 Trunk Road from point W 285 metres east of the centreline of the Church Lane junction in a south-easterly direction to point X (sheet 9) a distance of 644 metres.

The classification of roads plans – sheet 9	
East Tuddenham Parish Honingham Parish	New westbound diverge slip road A 664 metre length of carriageway to be classified as part of the A47 Trunk Road from point AI 693 metres north west of the River Tud in an easterly direction to point AJ (sheet 11).
The classification of roads plans – sheet 10	
Honingham Parish	New eastbound merge slip road A 609 metre length of carriageway to be classified as part of the A47 Trunk Road from point AG 185 metres north of the junction of the B1535 with the existing A47 in an easterly direction to point AH (sheet 11).
The classification of roads plans – sheet 13	
Honingham Parish	New eastbound diverge slip road A 707 metre length of new carriageway to be classified as part of the A47 mainline dual carriageway from point AS 233 metres east of the centrepont of the roundabout with Norwich Road in a south-easterly direction to point AT (sheet 14).
Honingham Parish	New westbound merge slip road A 763 metre length of carriageway to be classified as part of the A47 Trunk Road from point AQ 223 metres east of the centrepont of the roundabout with Norwich Road in a south-easterly direction to point AR (sheet 14).
The classification of roads plans – sheet 15	
Honingham Parish Easton Parish	New eastbound merge slip road A 716 metre length of carriageway to be classified as part of the A47 Trunk Road from point BB 403m west of the centrepont of the A47 roundabout with Dereham Road in an westerly direction to point BA (sheet 14).
Honingham Parish Easton Parish	New westbound diverge slip road A 620 metre length of carriageway to be classified as part of the A47 Trunk Road from point BD 518m west of the centrepont of the A47 roundabout with Dereham Road in an westerly direction to point BC (sheet 14).

PART 2

CLASSIFIED B ROADS

<i>(1)</i> Area	<i>(2)</i> Length of road
The classification of roads plans – sheet 9	
East Tuddenham Parish	New roundabout to be classified as B Road with reference AB, 980 metres east of the centreline of the existing A47/Church Lane junction with the existing A47.
The classification of roads plans – sheet 10	

East Tuddenham Parish	New roundabout to be classified as B Road with reference AA, 990 metres east of the centreline of the existing A47/Church Lane junction.
East Tuddenham Parish Honingham Parish	New roundabout connector road A 111 metre length of carriageway to be classified as B Road from point AC, 953 metres east of the centreline of the existing A47/Church Lane junction, in a south-easterly direction to point AD (sheet 9).
East Tuddenham Parish	Link to Wood Lane A 305 metre length of new carriageway to be classed as B Road from point S, 145 metres west of the centrepont of the proposed Wood Lane junction northern roundabout, in a northern direction to point T.
East Tuddenham Parish	Link Road to existing A47 A 95 metre length of new carriageway to be classed as B Road from point R1 at the junction with the proposed link to Wood Lane, in an easterly direction to point R.
The classification of roads plans – sheet 14	
Honingham Parish	New roundabout to be classified as B Road with reference AY, the centrepont of the roundabout is 118 metres east of the centreline of Blind Lane.
Honingham Parish	New roundabout to be classified as B Road with reference AZ, the centrepont of the roundabout is 103 metres east of the centreline of Blind Lane.
Honingham Parish	New roundabout connector road A 144 metre length of carriageway to be classified as B Road from point AX 82 metres east of the centreline of Blind Lane in a northerly direction to point AW.

PART 2A

CLASSIFIED C ROADS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Length of road</i>
The classification of roads plans – sheet 1	
North Tuddenham Parish Hockering Parish	Link Road to existing A47 A 1154 metre length of new carriageway to be classed as C Road. From point G 493 metres east of the Fox Lane overbridge in an easterly direction to point H (sheet 4).
The classification of roads plans – sheet 2	
North Tuddenham Parish Hockering Parish	Link to B1147 (Lyng Road) A 168 metre length of new carriageway to be classified as C Road from point E at the north side of the existing pond between the B1147 and the existing A47, in a southerly direction to point F on the B1147.

The classification of roads plans – sheet 4	
East Tuddenham Parish Hockering Parish	Existing A47 A 2090 metre length of detrunked carriageway to be classed as C Road from point H 140 metres north west of the Matishall Lane Link Road junction in a south easterly direction to point Q (sheet 7).
Hockering Parish	Proposed Mattishall Lane Link Road A 471 metre length of new carriageway to be classified as C Road from point L, 160 metres north west of the centreline of the existing A47 / Mattishall Lane junction, in a south westerly direction to point K.
The classification of roads plans – sheet 7	
East Tuddenham Parish	Link Road to existing A47 A 820 metre length of new carriageway to be classed as C Road from point Q, 12.5 metres east of the centreline of the existing A47/Church Lane junction, in an easterly direction to point R1 (sheet 10).
The classification of roads plans – sheet 9	
Honingham Parish	Link to Dereham Road A 266 metre length of new carriageway to be classified as C Road from point AM, 269 metres south east of the centreline of the existing A47 / Berrys Lane junction, in a south then south easterly direction to point AN.
East Tuddenham Parish Honingham Parish	Link Road to existing A47 A 1680 metre length of new carriageway to be classed as C Road from point AK 38 metres south of the existing A47/Berrys Lane junction in an south easterly direction to point AL (sheet 13).
The classification of roads plans – sheet 13	
Honingham Parish	Link to Norwich Road A 1029 metre length of new carriageway to be classified as C Road from point AE, 46 metres east of the centrepont of the Honingham roundabout in a south easterly direction to point AF (sheet 14).
Honingham Parish	Existing roundabout to be classified as C Road with reference BI the centrepont of the roundabout is 375 metres west of the access to St Andrew's Church.
The classification of roads plans – sheet 14	
Honingham Parish	Link to Taverham Road A 247 metre length of new carriageway to be classified as C Road from point AU, 29 metres south of the access to Church House Farm in a south easterly direction to point AV.
Honingham Parish Easton Parish	Link to Dereham Road A 1264 metre length of new carriageway to be classified as C Road from point BE, 29 metres south east of the centrepont of the proposed

	Norwich Road junction southern roundabout in an easterly direction to point BF (sheet 16).
The classification of roads plans – sheet 17	
Easton Parish	Realignment of Rotten Row A 55 metre length of new carriageway to be classified as C Road from point BG, 55 metres west of the centreline of the Rotten Row / Church Lane junction to point BH.

PART 3

UNCLASSIFIED ROADS

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Length of road</i>
The classification of roads plans – sheet 4	
Hockering Parish	Existing A47 west of Hockering junction A 71 metre length of carriageway to be unclassified from point M, at the existing Mattishall Lane / A47 junction, in a south westerly direction to point N.
Hockering Parish	Link from Mattishall Lane Link Road to existing Mattishall Lane A 158 metre length of carriageway from point I, at junction with Mattishall Lane Link Road 330m south of junction with existing A47 in an easterly direction to point J.
The classification of roads plans – sheets 13	
Honingham Parish	Existing A47 to Taverham Road A 444 metre length of existing carriageway to be unclassified from point AO, at the access next to St Andrew's Church, in an eastern direction to point AP (sheet 14).

PART 4

SPEED LIMITS

Note: where speed limits are indicated on the plans relating to this Part (the traffic regulation plans) but are not referenced in this schedule they indicate that national speed limits apply in accordance with either:

- (a) the national speed limit set out in Section 86 and Schedule 6 of the Road Traffic Regulation Act 1984 and the 70 miles per hour, 60 miles per hour and 50 miles per hour (Temporary Speed Limit) Order 1977 as varied by the 70 miles per hour, 60 miles per hour and 50 miles per hour (Temporary Speed Limit) (Variation) Order 1978 and continued indefinitely by Regulation 2 of the 70 Miles Per Hour, 60 Miles Per Hour and 50 Miles Per Hour (Temporary Speed Limit) (Continuation) Order 1978 (SI 1978/1548)(a); or
- (b) the provisions of the Road Traffic Regulation Act 1984 (which defines speed limits on 'restricted roads' by reference to street lighting),

(a) SI 1978/1548. The Road Traffic Regulation Act 1984 and the 70 miles per hour, 60 miles per hour and 50 miles per hour (Temporary Speed Limit) Order 1977 and the 70 miles per hour, 60 miles per hour and 50 miles per hour (Temporary Speed Limit) (Variation) Order 1978 were not statutory instruments.

and are not subject to this order. For details of the scheme lighting design, refer to the general arrangement plans.

<i>(1)</i> <i>Parish</i>	<i>(2)</i> <i>Road name, number and length</i>	<i>(3)</i> <i>Speed Limit</i>
The traffic regulation plans – sheet 1		
North Tuddenham Parish Hockering Parish	Proposed Unnamed Road linking to existing A47 From point E, 26m west of the Fox Lane overbridge in an eastern direction to point F (sheet 4) a distance of 1699m.	50 miles per hour
The traffic regulation plans – sheet 2		
North Tuddenham Parish Hockering Parish	Unnamed Road which leads to Stone Road From point AY, at junction with proposed new road 760m east of junction with Hall Lane in a northern direction to point AZ, for a distance of 168m.	50 miles per hour
The traffic regulation plans – sheet 4		
Hockering Parish	Low Road From point BB, at the junction with the existing A47 in a southern direction to point BA a distance of 23m. (To be used as Field Access).	50 miles per hour
Hockering Parish	Proposed Mattishall Lane Link Road From point BD, at junction with existing A47 260m west of junction with The Street in a south-western direction to point BC for a distance of 471m.	60 miles per hour
Hockering Parish	Mattishall Lane From point BF, at junction with Mattishall Lane Link Road 330m south of junction with existing A47 in an easterly direction to point BE for a distance of 110m.	60 miles per hour
Hockering Parish	Mattishall Lane From point BH, at the junction with the existing A47 100m northwest of The Street, in a southwestern direction to point BG a distance of 71m.	50 miles per hour
The traffic regulation plans – sheet 7		
East Tuddenham Parish Honingham Parish	Proposed Unnamed Road From point G, at the crossroads with Church Lane and Sandy Lane in an eastern direction to point H (sheet 10)	50 miles per hour

	at the give way line for the northern roundabout of the proposed A47 Wood Lane Junction a distance of 916m.	
The traffic regulation plans – sheet 9		
Honingham Parish	Proposed Link to Dereham Road From point Z, at junction with the existing A47 in an southern direction to point AA 295m west of junction with Dereham Road a distance of 243m.	30 miles per hour
East Tuddenham Parish Honingham Parish	Existing A47 From point X, at the exit from the southern roundabout of the proposed A47 Wood Lane junction in an eastern direction to point Y (sheet 13) the centre point of the existing Honingham roundabout a distance of 1664m.	Removal of restricted road status 50 miles per hour
The traffic regulation plans – sheet 10		
East Tuddenham Parish	Wood Lane From point BJ, at junction with new link road in a northern direction to point BK 1250m south of junction with Broadway a distance of 305m.	50 miles per hour
The traffic regulation plans – sheet 13		
Honingham Parish	Proposed Unnamed Road From point AB, at the centrepont of existing Honingham roundabout in an eastern direction to point AC (sheet 14) at give way line of Proposed Norwich Road Junction southern roundabout a distance of 1049m.	Removal of restricted road status 50 miles per hour
The traffic regulation plans – sheet 14		
Honingham Parish	Existing A47 Road From point AE, at junction with Taverham Road in a western direction to point AD (sheet 13) a distance of 411m.	30 miles per hour
Honingham Parish	Taverham Road From point AG, at new roundabout at Wood Lane Junction in a northern direction to point AF 1565m south of junction with Weston Road a distance of 243m.	30 miles per hour
Honingham Parish Easton Parish	Proposed Link to Dereham Road From point AS, at exit from	Removal of restricted road status 50 miles per hour

	Proposed “Norwich Road Junction” southern roundabout in an eastern direction to point AT (sheet 16) 335m west of junction with Ringland Lane a distance of 1264m.	
The traffic regulation plans – sheet 17		
East Tuddenham Parish	Widened section of Rotten Row and Church Lane junction From point AW, at the junction to point AX a distance of 44 metres.	60 miles per hour

PART 5

REVOCATIONS & VARIATIONS OF EXISTING TRAFFIC REGULATION ORDERS

<i>(1)</i> <i>Parish</i>	<i>(2)</i> <i>Road name, number and length</i>	<i>(3)</i> <i>Title of Order</i>	<i>(4)</i> <i>Revocations or Variations</i>
The traffic regulation plans – sheet 1			
North Tuddenham Parish Hockering Parish East Tuddenham Parish Honingham Parish Easton Parish	Existing A47 From point I to points B and D, a length of 8302 metres	The A47 Trunk Road (Wansford, City of Peterborough to Great Yarmouth) (24 Hour Clearway) Order 2013	Revocation of clearway along existing A47 from point I to points B and D (sheet 16).

PART 6

FOOTPATHS, CYCLE TRACKS, FOOTWAYS AND BRIDLEWAYS

<i>(1)</i> <i>Parish</i>	<i>(2)</i> <i>Length of Footpath/Cycle track/Footway/Bridleway</i>
The rights of way and access plans – sheet 2	
North Tuddenham Parish Hockering Parish	Reference CF27 to CF28 A cycletrack in the verge on the northern side of the Link Road to the Existing A47 and western side of Lyng Road from point CF27 to CF28, a distance of 95 metres.
North Tuddenham Parish Hockering Parish	Reference CF29 to CF30 (sheet 4) A cycletrack in the verge on the eastern side of Lyng Road and northern side of the Link Road to the Existing A47 from point CF29 to CF30, a distance of 691 metres.
The rights of way and access plans – sheet 4	
Hockering Parish	Reference CF31 to CF32 A cycletrack in the verge on the northern side of the Link Road to the Existing A47 from point CF31 to CF32, a distance of 30 metres.

Hockering Parish	Reference CF33 to CF34 A cycletrack in the verge on the eastern side of the Mattishall Lane Link Road from point CF33 to CF34, a distance of 105 metres.
Hockering Parish	Reference CF35 to CF36 A cycletrack in the verge on the eastern side of the Mattishall Lane Link Road, along the existing A47 and the western verge of Mattishall Lane from point CF35 to CF36, a distance of 480 metres.
Hockering Parish	Reference CF37 to CF38 . A cycletrack in the verge on the southern side of the existing A47 from point CF37 to CF38, a distance of 101.6 metres.
The rights of way and access plans – sheet 6	
Hockering Parish	Reference A13 to A14 A footpath from point A13 on Honingham FP8 and point A14 on Honingham FP7, a distance of 23 metres.
The rights of way and access plans – sheet 7	
East Tuddenham Parish	Reference CF41 to CF42 (sheet 10) A cycletrack in the verge on the northern side of the Link Road from the existing A47 and the western side of the Link to Wood Lane from point CF41 to CF42, a distance of 844 metres.
The rights of way and access plans – sheet 9	
Honingham Parish	Reference CF7 to CF8 A cycle track in the verge on the southern side of Dereham Road from point CF7 to CF8, a distance of 66 metres.
Honingham Parish	Reference CF9 to CF9A A cycle track in the verge on the eastern side of Dereham Road from point CF9 in a northerly direction to meet the existing A47 and then in the verge on the southern side of the existing A47 in an easterly direction to a point CF9A, a distance of 260 metres.
Honingham Parish	Reference CF9A to CF10 (sheet 11) A restricted byway in the verge from point CF9A on the southern side of the existing A47 in an easterly direction to a point CF10, a distance of 159 metres.
East Tuddenham Parish Honingham Parish	Reference CF25 to CF26 A bridleway from a point CF25 on Dereham Road in a westerly direction to a point CF26 on Blind Lane, a distance of 284 metres
The rights of way and access plans – sheet 10	
East Tuddenham Parish Honingham Parish	Reference A38 to CF2a A restricted byway running from the existing restricted byway, Honingham RB1 to the new restricted byway at point CF2a, a distance of 175 metres
East Tuddenham Parish Honingham Parish	Reference CF1 to CF2a A cycle track from the realigned B1535 Wood

	Lane from point CF1 to a point CF2a, to the east of the proposed Norwich Western Link road, a distance of 264 metres
Honingham Parish	Reference CF2a to CF2 (sheet 11) A restricted byway from the connection with the diverted Honingham RB1 at point CF2a in a south easterly direction to the western side of the Hall Farm access track and then in a southern direction to point CF2, a distance of 815 metres.
The rights of way and access plans – sheet 11	
Honingham Parish	Reference CF3 to CF4 (sheet 13) A cycle track in the verge on the northern side of the existing A47 from point CF3 in a south easterly direction to a point CF4, a distance of 862 metres.
The rights of way and access plans – sheets 12	
Honingham Parish	Reference CF5 to CF6 (sheet 13) A cycle track in the verge on the northern side of the existing A47 from point CF5 to a point CF6 at Honingham roundabout, a distance of 257 metres.
The rights of way and access plans – sheet 13	
Honingham Parish	Reference CF11 to CF12 A cycle track from point CF11 at Honingham roundabout in a south easterly direction to the Honingham underpass, a north easterly direction through the underpass and then in south easterly direction to a point CF12 west of St Andrew's Church, a distance of 368 metres.
Honingham Parish	Reference CF13 to CF14 A cycle track in the verge on the northern side of the existing A47 from point CF13 south of St Andrew's Church in an easterly direction to a point CF14, a distance of 19 metres.
Honingham Parish	Reference CF15 to CF16 (sheet 14) A cycle track in the verge on the northern side of the existing A47 from point CF15 south of St Andrew's Church in an easterly direction to a point CF16, a distance of 186 metres.
The rights of way and access plans – sheet 14	
Honingham Parish	Reference CF17 to CF18 A cycle track in the verge on the northern side of the existing A47 from a point CF17 south west of Church House Farm in an easterly direction to a point CF18 on Taverham Road, a distance of 172 metres.
Honingham Parish Easton Parish	Reference CF19 to CF20 (sheet 16) A cycle track from a point CF19 in the verge on the northern side of Taverham road in a south easterly direction to point C37 where it separates from Taverham road and continues in an easterly direction to a point CF20 at Ringland Lane, a distance of 1670 metres.
The rights of way and access plans – sheet 16	

Easton Parish	Reference CF21 to CF22 A cycle track from a point CF21 on the cycle track between Taverham Road and Ringland Lane (CF19 to CF20) over the new Easton footbridge to a point CF22 on Dereham Road, a distance of 427 metres.
Easton Parish	Reference CF23 to CF24 A footpath from a point CF23 on the cycle track between Taverham Road and Ringland Lane (CF19 to CF20) to the base of the new Easton footbridge at point CF24, a distance of 69 metres.

PART 7

ROADS TO BE DETRUNKED

<i>(1)</i> <i>Parish</i>	<i>(2)</i> <i>Length of Road</i>
The detrunking plans – sheets 4, 5, 6, 7 & 8	
East Tuddenham Parish Hockering	A length of 2283 metres of the A47 Trunk Road from point A 303 metres north west of the centreline of the existing Mattishall Lane / existing A47 junction to point B.
The detrunking plans – sheets 9, 11, 12 & 13	
Honingham Parish	A length of 1700 metres of the A47 Trunk Road from point C 174 metres south east of the centreline of the Berrys Lane / existing A47 junction, to point D.
The detrunking plans – sheet 13	
Honingham Parish	A length of 948 metres of the A47 Trunk Road from point E 70 metres west of the access to St Andrew's Church, to point F (sheet 14).
The detrunking plans – sheet 15	
Easton Parish Honingham Parish	A length of 708 metres of the A47 Trunk Road from point G 683 metres west of the centrepoint of the existing A47 / Church Lane roundabout, to point H (sheet 16).
The detrunking plans – sheet 16	
Easton Parish	A length of 39 metres of the A47 Trunk Road from point I 23 metres north of the centrepoint of the existing A47 / Church Lane roundabout, to point J.

PART 8

TRAFFIC REGULATION MEASURES (CLEARWAYS AND PROHIBITIONS)

<i>(1)</i> <i>Parish</i>	<i>(2)</i> <i>Road name, number and length</i>	<i>(3)</i> <i>Measures</i>
The traffic regulation plans – sheets 1 to 16		
East Tuddenham Parish Hockering Parish	A47 Trunk Road eastbound from point A to point B (sheet	Clearway (including verges, hardshoulders).

Honingham Parish Easton Parish	16) a distance of 8470 metres.	
East Tuddenham Parish Hockering Parish Honingham Parish Easton Parish	A47 Trunk Road westbound from point C to point D (sheet 16) a distance of 8470 metres.	Clearway (including verges, hardshoulders).
The traffic regulation plans – sheet 5		
Hockering Parish	Layby on the A47 westbound reference point AU, 142 metres east of Mill Lane	Proposed waiting time restriction.
Hockering Parish	Layby on the A47 eastbound reference point AV, 298 metres east of Mill Lane	Proposed waiting time restriction.
The traffic regulation plans – sheet 8		
East Tuddenham Parish Honingham Parish	A47 Trunk Road eastbound diverge slip road from point J to point K (sheet 10) a distance of 708 metres.	Clearway (including verges, hardshoulders).
East Tuddenham Parish Honingham Parish	A47 Trunk Road westbound merge slip road from point T to point U (sheet 9) a distance of 541 metres.	Clearway (including verges, hardshoulders).
The traffic regulation plans – sheet 9		
East Tuddenham Parish Honingham Parish	A47 Trunk Road westbound diverge from point V to point W (sheet 11) a distance of 536 metres.	Clearway (including verges, hardshoulders).
The traffic regulation plans – sheet 10		
East Tuddenham Parish Honingham Parish	A47 Trunk Road eastbound merge from point P to point Q (sheet 11) a distance of 514 metres.	Clearway (including verges, hardshoulders).
The traffic regulation plans – sheet 13		
Honingham Parish	A47 Trunk Road eastbound diverge slip road from point AH to point AI (sheet 14) a distance of 617 metres.	Clearway (including verges, hardshoulders).
Honingham Parish	A47 Trunk Road westbound merge slip road from point AN to point AO (sheet 14) a distance of 663 metres.	Clearway (including verges, hardshoulders).
The traffic regulation plans – sheet 14		
Honingham Parish	A47 Trunk Road eastbound merge from point AL to point AM (sheet 15) a distance of 595 metres.	Clearway (including verges, hardshoulders).
The traffic regulation plans – sheet 15		
Honingham Parish	A47 Trunk Road westbound diverge from point AR to point AQ (sheet 14) a distance of 593 metres.	Clearway (including verges, hardshoulders).
Honingham Parish	Layby on the A47 eastbound reference point AP, 125 metres west of the Easton footbridge	Proposed waiting time restriction.

SCHEDULE 4

Articles 17, 27 and 29

PERMANENT STOPPING UP OF HIGHWAYS AND PRIVATE MEANS OF ACCESS & PROVISION OF NEW HIGHWAYS AND PRIVATE MEANS OF ACCESS

In relating 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 are to be stopped up, as described in column (2) of Parts 1 and 2 of this Schedule, are shown by blue 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 Parts 1 and 2 of this Schedule and given a reference label in a square box (a capital A followed by a number).
- (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 honeycomb-hatching (for motorways and trunk roads), yellow cross-hatching (for other classified roads and highways), green vertical hatching (for cycle tracks and restricted byways) and a green dashed line (for public rights of way) (as shown in the key on the rights of way and access plans) and are given a reference label in a square (D for new highway and CF for new public rights of way and cycle tracks to be substituted or provided) and will be a road unless the word ‘footpath’, ‘bridleway’, ‘footway’ or ‘cycle track’ appears beneath its reference letter 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 lime green 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 in a square (a capital B followed by a number).
- (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 3 of this Schedule, are shown by red diagonal hatching (as shown in the key on the rights of way and access plans) and are given a reference label in a square (a capital C followed by a number).

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>
The rights of way and access plans – sheet 2		
Norfolk County Council Hockering Parish	Reference A36 to A37 Hockering FP12	Reference A36 to A37 public footpath to be stopped up from a point A36 from the existing A47 in a southern direction to a point A37, a distance of 16m.
Norfolk County Council North Tuddenham Parish	Reference A42 to A43 Part of a cycle track	Reference A42 to A43 From point A42 located on the existing Lyng Road in a south easterly direction to point A43 a distance of 28 metres.
Norfolk County Council	Reference A44 to A45	Reference A44 to A45

North Tuddenham Parish	Part of a cycle track	From point A44 located 52 metres west of the existing Lyng Road in a south easterly direction to point A45 a distance of 15 metres.
Norfolk County Council North Tuddenham Parish	Reference A46 to A47 Part of a cycle track	Reference A46 to A47 From point A46 located 37 metres north of the existing A47 in a southerly direction to point A47 a distance of 11 metres.
The rights of way and access plans – sheet 6		
Norfolk County Council Hockering Parish	Reference A10 to A11 Part of Hockering FP7	Reference A10 to A11 Public footpath to be stopped up from point A10, 79 metres south of the access to Newgate House in a southern direction to point A11, a distance of 34 metres.
Norfolk County Council Hockering Parish	Reference A11 to A12 Part of Hockering FP7	Reference A11 to A12 Public footpath to be stopped up from point A11 in a westerly direction a distance of 95 metres to point A12.
The rights of way and access plans – sheet 7		
Norfolk County Council East Tuddenham Parish	Reference A15 to A16 on Church Lane	Reference A15 to A16 Highway to be stopped up from point A15, at junction on existing A47 in a southern direction 125 metres to point A16.
The rights of way and access plans – sheet 9		
Norfolk County Council East Tuddenham Parish	Reference A21 to A23 on Berry's Lane	Reference A21 to A23 Highway to be stopped up from point A21, at junction connecting Berrys Lane to the existing A47 in a southern direction to point A23, a distance of 157 metres.

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>Area</i>	<i>(2)</i> <i>Highway to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>New highway to be substituted/provided</i>
The rights of way and access plans – sheet 1			
Norfolk County Council North Tuddenham	-	-	Reference D1 to D2 A new trunk road from D1 to D2 in an

Parish			eastern direction for 8458 metres. D1 is 227 metres from Fox Lane diverge. D2 is 164 metres from existing A47 roundabout for Easton.
The rights of way and access plans – sheet 2			
Norfolk County Council North Tuddenham Parish Hockering Parish	Reference A1 to A2 Part of the B1147 and cycle track connection	Reference A1 to A2 From point A1 784 metres east of the Fox Lane bridge over the Existing A47 to point A2, 854 metres east Fox Lane bridge over the Existing A47, a distance of 134 metres	Reference D5 to D6 To be substituted by a length of new highway from point D5 860 metres from Fox Lane bridge over the Existing A47 in a southerly direction to point D6, 874 metres from Fox Lane bridge over the Existing A47, for 168 metres.
Norfolk County Council Hockering Parish	Reference A3 to A4 Part of the existing A47 and cycle track	Reference A3 to A4 From point A3 north west of the junction where Low Road meets the existing A47 in an easterly direction to point A4 where Low Road meets the existing A47, a distance of 245 metres.	Reference D3 to A4 To be substituted by a new highway from point D3, 493 metres east of the Fox Lane bridge over the existing A47 to point A4 where Low Road meets the existing A47, a distance of 1052 metres.
Norfolk County Council Hockering Parish	Reference A4 to A5 Part of the existing A47	Reference A4 to A5 From point A4 located where Low Road meets the existing A47 to point A5, a distance of 348 metres	Reference D7 to D8 To be substituted by a new highway from point D7 located 160 metres north west of the junction where Mattishall Lane meets the Existing A47 in a south westerly direction to point D8 located 24 metres north east of junction where unnamed road meets Mattishall Lane, a distance of 470 metres.
Norfolk County Council North Tuddenham Parish	-	-	Reference D1 to D2 See sheet 1.
The rights of way and access plans – sheet 4			
Norfolk County Council North Tuddenham	-	-	Reference D1 to D2 See sheet 1.

Parish			
Norfolk County Council Hockering Parish	Reference A3 to A4 See sheet 2		Reference D3 to A4 See sheet 2.
Norfolk County Council Hockering Parish	Reference A4 to A5 See sheet 2		Reference D7 to D8 See sheet 2.
Norfolk County Council Hockering Parish	Reference A6 to A7 Part of Mattishall Lane	Reference A6 to A7 From point A6 located on Mattishall Lane 88 metres south east of where the lane meets the Existing A47 to point A7 located 250 metres south east of where the lane meets the Existing A47, a distance of 161 metres.	Reference D7 to D8 To be substituted by a new highway from point D7 located 160 metres north west of the junction where Mattishall Lane meets the Existing A47 in a south westerly direction to point D8 located 24 metres north east of junction where unnamed road meets Mattishall Lane, a distance of 470 metres.
Norfolk County Council Hockering Parish	Reference A8 to A9 Part of Mattishall Lane	Reference A8 to A9 From point A8 located on Mattishall Lane 385 metres south west where the lane meets the Existing A47 to point A9 located 513 metres south west of where the lane meets the Existing A47, a distance of 133 metres.	Reference D7 to D8 To be substituted by a new highway from point D7 located 160 metres north west of the junction where Mattishall Lane meets the Existing A47 in a south westerly direction to point D8 located 24 metres north east of junction where unnamed road meets Mattishall Lane, a distance of 470 metres.
The rights of way and access plans – sheet 5			
Norfolk County Council Hockering Parish	-	-	Reference D1 to D2 See sheet 1
The rights of way and access plans – sheet 6			
Norfolk County Council Hockering Parish	-	-	Reference D1 to D2 See sheet 1
Norfolk County Council Hockering Parish	Reference A12 to A13 Part of Hockering FP8	Reference A12 to A13 From point A12 located 1043 metres west of where Church Lane meets the Existing A47 to point A13 located 1064 metres west of where	Reference A13 to A14 To be substituted by a new footpath from point A13 located 1064 metres west of where Church Lane meets the Existing A47 in an easterly

		Church Lane meets the Existing A47, a distance of 54 metres.	direction to point A14 located 1044 metres west of where Church Lane meets the Existing A47, a distance of 55 metres.
Norfolk County Council Hockering Parish	Reference A12 to A14 Part of Hockering FP7	Reference A12 to A14 From point A12 located 1043 metres west of where Church Lane meets the Existing A47 to point A14 located 1044 metres west of where Church Lane meets the Existing A47, a distance of 16 metres.	Reference A13 to A14 To be substituted by a new footpath from point A13 located 1064 metres west of where Church Lane meets the Existing A47 in an easterly direction to point A14 located 1044 metres west of where Church Lane meets the Existing A47, a distance of 24 metres.
The rights of way and access plans – sheet 7			
Norfolk County Council Hockering Parish East Tuddenham Parish	-	-	Reference D1 to D2 See sheet 1
The rights of way and access plans – sheet 8			
Norfolk County Council East Tuddenham Parish	-	-	Reference D1 to D2 See sheet 1
Norfolk County Council East Tuddenham Parish	Reference A17 to A18 See sheet 9		References D9 to D10, D11 to D12, D15 to D16, D17 to D18, D19 to D20, D21 to D22 See sheet 9
The rights of way and access plans – sheet 9			
Norfolk County Council East Tuddenham Parish Honingham Parish	-	-	Reference D1 to D2 See sheet 1
Norfolk County Council Hockering Parish East Tuddenham Parish	Reference A17 to A18 Part of the existing A47	Reference A17 to A18. From point A17 160 metres east of the Sandy Lane/A47 junction in a south easterly direction to a point A18, a distance of 1063 metres.	References D9 to D10, D11 to D12, D15 to D16, D17 to D18, D19 to D20 and D21 to D22 To be substituted by the following lengths of new highway: — From point D9 173 metres east of the Sandy

			Lane/A47 junction to point D10 on the northern roundabout of Wood Lane junction, a distance of 752 metres — From point D11 282 metres east of the Sandy Lane/A47 junction to point D12 on the southern roundabout of Wood Lane junction, a distance of 644 metres — From point D15 on the northern roundabout of Wood Lane junction in a southerly direction to point D16 on the southern roundabout, a distance of 438 metres — From point D17 on the northern roundabout of Wood Lane junction in an easterly direction to point D18, a distance of 610 metres — From a point D19 on the southern roundabout of Wood Lane junction in an easterly direction to

			point D20, a distance of 669 metres — From a point D21 on the southern roundabout of Wood Lane junction in a south easterly direction to point D22 on Honingham roundabout, a distance of 1663 metres.
Norfolk County Council Honingham Parish East Tuddenham Parish	Reference A19 to A20 See sheet 10	Reference A19 to A20 See sheet 10	Reference D13 to D14 and D14 to D4 See sheet 10
Norfolk County Council Honingham Parish East Tuddenham Parish	Reference A21 to A22 Part of Berrys Lane	Reference A21 to A22 From a point A21 where Berrys Lane joins the existing A47 in a south easterly direction to point A22, a distance of 363 metres.	Reference D21 to D22 and D23 to D24 To be substituted by the following lengths of new highway: — From a point D21 on the southern roundabout of Wood Lane junction in a south easterly direction to point D22 on Honingham roundabout, a distance of 1663 metres — From a point D23 314 metres east of the southern roundabout of Wood Lane junction in a southerly direction to point D24 on Dereham Road, a distance of 241 metres.
Norfolk County	Reference A40 to A41	Reference A40 to A41	To be substituted by a

Council Honingham Parish East Tuddenham Parish	Honingham FP3	From point A40 on Dereham Road in a westerly direction to a point A41, a distance of 300 metres.	new bridleway between point CF25 on Dereham Road 219 metres south of the existing A47 in a westerly direction to point CF26, a distance of 284 metres.
The rights of way and access plans – sheet 10			
Norfolk County Council East Tuddenham Parish	Reference A19 to A20 Part of Wood Lane B1535	Reference A19 to A20 From a point A19 where Wood Lane meets the A47 in a northerly direction to a point A20, a distance of 528 metres.	Reference D13 to D14 and D14 to D4 To be substituted by the following lengths of new highway: — From point D13 534 metres north of the existing A47 in a southerly direction to point D14, a distance of 301 metres — From a point D14 228 metres north of the existing A47 in an easterly direction to a point D4 on the northern roundabout of Wood Lane junction, a distance of 97 metres.
Norfolk County Council East Tuddenham Parish	Reference A21 to A22 See sheet 9		References D21 to D22, D23 to D24 See sheet 9
Norfolk County Council Honingham Parish	Reference A38 to A39 Part of Honingham RB1	Reference A38 to A39 285 metres north east of centrepoint of the northern roundabout of Wood Lane junction, to A39 11m south of the existing A47 a distance of 467 metres.	Reference A38 to CF2a To be substituted by a new restricted byway from point A38 on the existing Honingham RB1 in a westerly direction to point CF2a 117 metres north east of the northern roundabout of Wood Lane junction, a distance of

			242 metres.
The rights of way and access plans – sheet 11			
Norfolk County Council Honingham Parish	-	-	Reference D1 to D2 See sheet 1
The rights of way and access plans – sheet 12			
Norfolk County Council Honingham Parish	-	-	Reference D1 to D2 See sheet 1
The rights of way and access plans – sheet 13			
Norfolk County Council Honingham Parish	-	-	Reference D1 to D2 See sheet 1
Norfolk County Council Honingham Parish	Reference A24 to A25 Part of the existing A47	Reference A24 to A25 From point A24 205m metres west of the existing property St Andrew's Church in an eastern direction of 188m to point A25.	References D25 to D26, D27 to D28, D41 to D42 and D33 to D34 To be substituted by the following lengths of new highway: — From a point D25 on Honingham roundabout in an easterly direction to point D26 on the southern roundabout of Norwich Road junction, a distance of 1030 metres — From a point D27 68 metres west of St Andrew's Church in an easterly direction to a point D28 on Taverham Road, a distance of 460 metres — From a point D41 south of Church House Farm in a south easterly direction to D42 on the

			northern roundabout of Norwich Road junction, a distance of 248 metres — From point D33 on the northern roundabout of Norwich Road junction in a southerly direction to point D34 on the southern roundabout, a distance of 314 metres.
The rights of way and access plans – sheet 14			
Norfolk County Council Honingham Parish	-	-	Reference D1 to D2 See sheet 1
Norfolk County Council Honingham Parish	Reference A27 to A28 Part of Blind Lane	Reference A27 to A28	References D25 to D26, D33 to D34 and D41 to D42 To be substituted by the following lengths of new highway: — From a point D25 on Honingham roundabout in an easterly direction to point D26 on the southern roundabout of Norwich Road junction, a distance of 1030 metres — From point D33 on the northern roundabout of Norwich Road junction in a southerly direction to point D34 on the southern

			roundabout, a distance of 314 metres — From a point D41 south of Church House Farm in a south easterly direction to D42 on the northern roundabout of Norwich Road junction, a distance of 248 metres.
Norfolk County Council Honingham Parish	Reference A26 to A29 Part of the existing A47	Reference A26 to A29. From point A26 104 metres south of the existing property access to Church House Farm in an eastern direction for 702 metres to point A29.	References D29 to D30, D31 to D32, D33 to D34, D35 to D36 and D37 to D38 To be substituted by the following lengths of new highway: — From point D29 on the new mainline dual carriageway 122 metres west of St Andrew's Church in an easterly direction to point D30 on the new northern roundabout of Norwich Road junction, a distance of 707 metres. — From point D31 on the new mainline dual carriageway 143 metres west of St Andrew's Church in an easterly direction to

			point D32 on the new southern roundabout of Norwich Road junction, a distance of 763 metres. — From point D33 on the northern roundabout of Norwich Road junction in a southerly direction to point D34 on the southern roundabout, a distance of 314 metres — From point D35 on the new northern roundabout of Norwich Road junction in an easterly direction to point D36 on the new mainline dual carriageway, a distance of 712 metres — From point D37 on the new southern roundabout of Norwich Road junction in an easterly direction to point D38 on the new mainline dual carriageway, a distance of 619 metres.
The rights of way and access plans – sheet 15			
Norfolk County Council	Reference A26 to A29 See sheet 14		References D29 to D30, D31 to D32,

Easton Parish Honingham Parish			D33 to D34, D35 to D36, D37 to D38 See sheet 14
The rights of way and access plans – sheet 15			
Norfolk County Council Easton Parish Honingham Parish	-	-	Reference D1 to D2 See sheet 1
Norfolk County Council Easton Parish Honingham Parish	Reference A30 to A31 Part of the existing A47	Reference A30 to A31 From point A30 210 metres west of the existing Easton roundabout in an easterly direction to point A31, a distance of 290 metres.	References D2 to D36, D2, D2 to D38 and D39 to D40 To be substituted by the following lengths of new highway: — The new mainline dual carriageway between D36 and D2 (eastbound carriageway) and between D2 and D38 (westbound carriageway), a distance of 1290 metres — From a point D39 on the southern dumbbell roundabout of Norwich Road junction in an easterly direction to a point D40 85 metres south of the Church Lane junction on Dereham Road, a distance of 1265 metres.
The rights of way and access plans – sheet 16			
Norfolk County Council Easton Parish	-	-	Reference D1 to D2 See sheet 1
Norfolk County Council Easton Parish Honingham Parish	Reference A30 to A31 See sheet 15		References D2 to D36, D2, D2 to D38 and D39 to D40 See sheet 15
Norfolk County Council	Reference A32 to A33 Church Lane	Reference A32 to A33 From point A32 at the	Reference CF20 to CF24

Easton Parish Honingham Parish		junction of Church Lane and Ringland Lane in a south westerly direction to point A33 on the Easton roundabout, a distance of 315 metres.	To be substituted by a new cycle track from the new Easton overbridge at point CF24 in a north easterly direction to point CF20 on Ringland Lane, a distance of 332 metres.
Norfolk County Council Easton Parish Honingham Parish	Reference A34 to A35 Part of Dereham Road	Reference A34 to A35 From point A34 on the Easton roundabout in a southerly direction to point A35, a distance of 45 metres.	Reference D39 to D40 From a point D39 on the southern dumbbell roundabout of Norwich Road junction in an easterly direction to a point D40 85 metres south of the Church Lane junction on Dereham Road, a distance of 1265 metres.

PART 3

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>Area</i>	<i>(2)</i> <i>Private means of access to be stopped</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>New private means of access to be substitutes or provided</i>
The rights of way and access plans – sheet 1			
Norfolk County Council North Tuddenham Parish	Reference B1 to B2	Reference B1 to B2 A private access track from length from the existing A47 to a point 313 metres south.	Reference C1 to C2. To be substituted by a new private access road which connects into Fox Lane from a point 498 metres west of the current access.
The rights of way and access plans – sheet 2			
Norfolk County Council North Tuddenham Parish Hockering Parish			Reference C3 to C4. A new private access road to provide access to a drainage basin from Lyng Road between C3 and C4.
The rights of way and access plans – sheet 4			
Norfolk County Council Hockering Parish			Reference C5 to C6 A new private means of access to agricultural land from

			the existing A47 at the junction with Low Road.
Norfolk County Council Hockering Parish			Reference C7 to C8 A new private means of access to drainage basin from the proposed mainline dual carriageway (D1 to D2), 108 metres north west of the Mattishall Lane underpass.
Norfolk County Council Hockering Parish			Reference C9 to C10 A new private means of access to agricultural land from the existing Mattishall Lane, 16 metres north east of point A6.
Norfolk County Council Hockering Parish	Reference B3 to B4 Mill Lane	Reference B3 to B4 A length from a point 73 metres south of the existing A47 southwards to the private timber yard.	Reference C11 to C12 To be substituted by a new private access road from a point C11 430 metres north west of the current access on Mattishall Lane in an easterly direction for a distance of 460 metres to point C12.
The rights of way and access plans – sheet 5			
Norfolk County Council Hockering Parish	Reference B3 to B4 See sheet 4		Reference C11 to C12 See sheet 4
Norfolk County Council Hockering Parish			Reference C13 to C14 A new private means of access to a drainage basin from the new private access track (Reference C11 to C12).
The rights of way and access plans – sheet 6			
Norfolk County Council Hockering Parish			Reference C15 to C16 A new private means of access to a drainage basin from the new mainline dual carriageway (Reference D1 to D2).
The rights of way and access plans – sheet 7			
Norfolk County Council East Tuddenham Parish	Reference B5 to B6 private access road from existing A47	Reference B5 to B6 A point B6 adjacent to the existing A47 just West of the Berrys Lane junction	Reference C17 to C18 To be substituted by a new private means of access being provided from Church Lane

		extending 189 metres west to B5.	644 metres west of the current access point.
Norfolk County Council East Tuddenham Parish			Reference C19 to C20 A new private means of access to a drainage basin from a new private access track (Reference C17 to C18).
The rights of way and access plans – sheet 8			
Norfolk County Council East Tuddenham Parish	Reference B5 to B6 See sheet 7		Reference C17 to C18 See sheet 7
The rights of way and access plans – sheet 9			
Norfolk County Council Hockering Parish			Reference C23 to C24 A new private means of access to a drainage basin from point C23 on the existing A47 352 metres east of the junction of Berrys Lane with existing A47.
The rights of way and access plans – sheet 11			
Norfolk County Council Honingham Parish	Reference B9 to B10 private access road from existing A47 leading to Hall Farm	Reference B9 to B10 extending from the existing A47 for 184 metres north.	Reference C25 to C26 To be substituted by a new private access track being provided from point C25 on the existing (detrunked) A47 348 metres west of the current access in a northerly direction and then in an easterly direction to point C26 for a distance of 530 metres.
Norfolk County Council Honingham Parish			Reference C27 to C28 A new private means of access to a drainage basin from a new private access track from the existing A47 to Hall Farm (C25 to C26).
The rights of way and access plans – sheet 12			
Norfolk County Council Honingham Parish			Reference C29 to C30 A new private means of access to a drainage basin from the new dual carriageway between point C29 211 metres north west

			of the River Tud crossing to point C30 a distance of 17 metres.
Norfolk County Council Honingham Parish			Reference C31 to C32 A new private means of access to a drainage basin from the detrunked A47 between point C31 273 metres north west from the centre of the existing roundabout with Norwich Road and the existing A47 to point C32 a distance of 10 metres.
The rights of way and access plans – sheet 13			
Norfolk County Council Honingham Parish			Reference C33 to C34 A new private means of access to the car park for St Andrew's Church from the detrunked A47 from point C33 60 metres west of the entrance to St Andrew's Church to point C34 a distance of 9 metres.
The rights of way and access plans – sheet 14			
Norfolk County Council Honingham Parish			Reference C35 to C36 A new private means of access to a drainage basin from point C35 on Taverham Road 55 metres south of the access to Church House Farm to point C36 a distance of 8 metres.
Norfolk County Council Honingham Parish			Reference C37 and C38 A new private means of access to agricultural land and construction compounds to the north of the proposed mainline dual carriageway from the realigned Taverham Road from point C37 85 metres east of the junction of Blind Lane with the existing A47 to point C38, a

			distance of 74 metres.
The rights of way and access plans – sheet 16			
Norfolk County Council Easton Parish			Reference C21 to C22 A new private means of access to agricultural land and construction compounds to the north of the proposed mainline dual carriageway from points C21 at the junction of Church Lane and Ringland Lane to point C22, a distance of 89 metres.

PART 4

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>
The rights of way and access plans – sheet 6		
Norfolk County Council Hockering Parish	Reference B11 to B12 Private access road to Newgate House	Reference B11 to B12 A point B11 extending south towards Newgate House to point B12, a distance of 42 metres.
The rights of way and access plans – sheet 9		
Norfolk County Council East Tuddenham Parish	Reference B7 to B8 private access road off existing A47	Reference B7 to B8 A point extending from the existing A47 132 metres south.

SCHEDULE 5

Article 27

LAND IN WHICH ONLY NEW RIGHTS ETC. MAY BE ACQUIRED

<i>(1)</i> <i>Plot reference number shown on land plans</i>	<i>(2)</i> <i>Purpose for which rights and restrictive covenants over land may be acquired</i>	<i>(3)</i> <i>Relevant part of the authorised development</i>
Land Plans – Sheet No. 1		
1/2f	Removal of cables and apparatus for electronic communications and associated infrastructure. Place, divert, alter, remove or maintain apparatus including mains, sewers, drains,	Work No. 1, 2 and 73

	soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers Right to pass and repass with or without plant and vehicles and including access to highways To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult	
Land Plans – Sheet No. 2		
2/4b	Right to pass and repass with or without plant and vehicles and to access land for ecological mitigation commitments	Work No. 56 and ecological mitigation
Land Plans – Sheet No. 3		
3/1a	Right to pass and repass with or without plant and vehicles and to access land for ecological mitigation commitments	Work No. 56 and ecological mitigation
3/2b	Right to pass and repass with or without plant and vehicles and to access land for ecological mitigation commitments	Work No. 56 and ecological mitigation
3/3b	Right to pass and repass with or without plant and vehicles and to access land for ecological mitigation commitments	Work No. 56 and ecological mitigation
3/4a	Right to pass and repass with or without plant and vehicles and to access land for ecological mitigation commitments	Work No. 56 and ecological mitigation
3/5a	Right to pass and repass with or without plant and vehicles and to access land for ecological mitigation commitments	Work No. 56 and ecological mitigation
3/6a	Right to pass and repass with or without plant and vehicles and to access land for ecological mitigation commitments	Work No. 56 and ecological mitigation
Land Plans – Sheet No. 4		

4/1g	Divert, install, underground, alter, retain, use, monitor and maintain and remove water pipelines and associated infrastructure Divert, install, underground, alter, retain, use, monitor and maintain and remove electronic communications apparatus including overhead electronic communications apparatus together with accesses to highways and associated infrastructure including marker posts and inspection chambers Divert, install, underground, alter, retain, use, monitor and maintain and remove electricity cables including overhead electricity cables together with accesses to highways and associated infrastructure including marker posts and inspection chambers Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers Right to pass and repass with or without plant and vehicles and including access to highways To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult	Work No. 74
4/1j	Divert, install, underground, alter, retain, use, monitor and maintain and remove water pipelines and associated infrastructure Divert, install, underground, alter, retain, use, monitor and maintain and remove electronic communications apparatus including overhead electronic communications apparatus together with	Work No. 74

	accesses to highways and associated infrastructure including marker posts and inspection chambers Divert, install, underground, alter, retain, use, monitor and maintain and remove electricity cables including overhead electricity cables together with accesses to highways and associated infrastructure including marker posts and inspection chambers Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers Right to pass and repass with or without plant and vehicles and including access to highways To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult	
Land Plans – Sheet No. 5		
5/4c	Divert, install, underground, alter, retain, use, monitor and maintain and remove electronic communications apparatus including overhead electronic communications apparatus together with accesses to highways and associated infrastructure including marker posts and inspection chambers Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers Right to pass and repass with or without plant and vehicles	Work No. 1 and 75

	and including access to highways To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult	
5/7c	Divert, install, underground, alter, retain, use, monitor and maintain and remove electronic communications apparatus including overhead electronic communications apparatus together with accesses to highways and associated infrastructure including marker posts and inspection chambers Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers Right to pass and repass with or without plant and vehicles and including access to highways To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult	Work No. 1 and 75
5/9c	Divert, install, underground, alter, retain, use, monitor and maintain and remove electricity cables including overhead electricity cables together with accesses to highways and associated infrastructure including marker posts and inspection chambers Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker	Work No. 1 and 76

	posts and inspection chambers Right to pass and repass with or without plant and vehicles and including access to highways To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult	
5/9e	Divert, install, underground, alter, retain, use, monitor and maintain and remove electronic communications apparatus including overhead electronic communications apparatus together with accesses to highways and associated infrastructure including marker posts and inspection chambers Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers Right to pass and repass with or without plant and vehicles and including access to highways To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult	Work No. 1 and 75
Land Plans – Sheet No. 6		
6/4e	Right to pass and repass with or without plant and vehicles and to access adjoining parcels permanently acquired or already owned by the undertaker	Work No. 1, 14 and 61
6/6a	Divert, install, underground, alter, retain, use, monitor and maintain and remove water pipelines and associated infrastructure Place, divert, alter, remove or	Work No. 1 and 77

	maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers Right to pass and repass with or without plant and vehicles and to access adjoining parcels permanently acquired or already owned by the undertaker To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult	
6/10c	Divert, install, underground, alter, retain, use, monitor and maintain and remove electricity cables including overhead electricity cables together with accesses to highways and associated infrastructure including marker posts and inspection chambers Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers Right to pass and repass with or without plant and vehicles and including access to highways To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult	Work No. 1 and 78
Land Plans – Sheet No. 7		
7/1n	Divert, install, underground, alter, retain, use, monitor and maintain and remove electronic communications apparatus including overhead	Work No. 81

	electronic communications apparatus together with accesses to highways and associated infrastructure including marker posts and inspection chambers. Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers. Right to pass and repass with or without plant and vehicles and including access to highways. To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult.	
7/6b	Divert, install, underground, alter, retain, use, monitor and maintain and remove electricity cables including overhead electricity cables together with accesses to highways and associated infrastructure including marker posts and inspection chambers Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers Right to pass and repass with or without plant and vehicles and including access to highways To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult	Work No. 1 and 79
7/6d	Divert, install, underground,	Work No. 1 and 80

	alter, retain, use, monitor and maintain and remove electronic communications apparatus including overhead electronic communications apparatus together with accesses to highways and associated infrastructure including marker posts and inspection chambers Divert, install, underground, alter, retain, use, monitor and maintain and remove water pipeline and associated infrastructure Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers Right to pass and repass with or without plant and vehicles and including access to highways To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult	
7/9a	Divert, install, underground, alter, retain, use, monitor and maintain and remove electronic communications apparatus including overhead electronic communications apparatus together with accesses to highways and associated infrastructure including marker posts and inspection chambers Divert, install, underground, alter, retain, use, monitor and maintain and remove water pipelines and associated infrastructure Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus,	Work No. 15, 16 and 80

	together with associated infrastructure including marker posts and inspection chambers Right to pass and repass with or without plant and vehicles and including access to highways To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult	
7/10a	Divert, install, underground, alter, retain, use, monitor and maintain and remove electronic communications apparatus including overhead electronic communications apparatus together with accesses to highways and associated infrastructure including marker posts and inspection chambers Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers Right to pass and repass with or without plant and vehicles and including access to highways To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult	Work No. 81
Land Plans – Sheet No. 8		
8/1c	Divert, install, underground, alter, retain, use, monitor and maintain and remove electronic communications apparatus including overhead electronic communications apparatus together with accesses to highways and associated infrastructure including marker posts and	Work No. 81

	inspection chambers. Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers Right to pass and repass with or without plant and vehicles and including access to highways To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult	
8/3b	Divert, install, underground, alter, retain, use, monitor and maintain and remove electronic communications apparatus including overhead electronic communications apparatus together with accesses to highways and associated infrastructure including marker posts and inspection chambers. Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers Right to pass and repass with or without plant and vehicles and including access to highways To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult	Work No. 81
8/3f	Divert, install, underground, alter, retain, use, monitor and maintain and remove electronic communications	Work No. 82 and 83

	apparatus including overhead electronic communications apparatus together with accesses to highways and associated infrastructure including marker posts and inspection chambers Install, retain, use, monitor, alter, maintain and remove ducts, cables and apparatus for services and utilities Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers Right to pass and repass with or without plant and vehicles and including access to highways To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult	
8/4c	Divert, install, underground, alter, retain, use, monitor and maintain and remove water pipelines and associated infrastructure Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers Right to pass and repass with or without plant and vehicles and including access to highways To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult	Work No. 15, 16 and 80

8/4d	Divert, install, underground, alter, retain, use, monitor and maintain and remove water pipelines and associated infrastructure Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers Right to pass and repass with or without plant and vehicles and including access to highways To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult	Work No. 15, 16 and 80
Land Plans – Sheet No. 9		
9/1d	Divert, install, underground, alter, retain, use, monitor and maintain and remove a gas main and associated infrastructure Divert, install, underground, alter, retain, use, monitor and maintain and remove water pipelines and associated infrastructure Divert, install, underground, alter, retain, use, monitor and maintain and remove electronic communications apparatus including overhead electronic communications apparatus together with accesses to highways and associated infrastructure including marker posts and inspection chambers Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers	Work No. 84

	Right to pass and repass with or without plant and vehicles and including access to highways To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult	
9/1h	Divert, install, underground, alter, retain, use, monitor and maintain and remove a gas main and associated infrastructure Divert, install, underground, alter, retain, use, monitor and maintain and remove a water pipeline and associated infrastructure Divert, install, underground, alter, retain, use, monitor and maintain and remove electronic communications apparatus including overhead electronic communications apparatus together with accesses to highways and associated infrastructure including marker posts and inspection chambers Divert, install, underground, alter, retain, use, monitor and maintain and remove electricity cables including overhead electricity cables together with accesses to highways and associated infrastructure including marker posts and inspection chambers Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers Right to pass and repass with or without plant and vehicles and including access to highways To include restrictive covenants for protecting the	Work No. 84

	installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult	
9/1j	Divert, install, underground, alter, retain, use, monitor and maintain and remove a gas main and associated infrastructure Divert, install, underground, alter, retain, use, monitor and maintain and remove a water pipeline and associated infrastructure Divert, install, underground, alter, retain, use, monitor and maintain and remove electronic communications apparatus including overhead electronic communications apparatus together with accesses to highways and associated infrastructure including marker posts and inspection chambers Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers Right to pass and repass with or without plant and vehicles and including access to highways To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult	Work No. 84
9/11	Divert, install, underground, alter, retain, use, monitor and maintain and remove a gas main and associated infrastructure Divert, install, underground, alter, retain, use, monitor and maintain and remove water pipelines and associated infrastructure	Work No. 22, 32, 63 and 84

	Divert, install, underground, alter, retain, use, monitor and maintain and remove electronic communications apparatus including overhead electronic communications apparatus together with accesses to highways and associated infrastructure including marker posts and inspection chambers Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers Right to pass and repass with or without plant and vehicles and including access to highways To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult	
9/1m	Divert, install, underground, alter, retain, use, monitor and maintain and remove a gas main and associated infrastructure Divert, install, underground, alter, retain, use, monitor and maintain and remove water pipelines and associated infrastructure Divert, install, underground, alter, retain, use, monitor and maintain and remove electronic communications apparatus including overhead electronic communications apparatus together with accesses to highways and associated infrastructure including marker posts and inspection chambers Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic	Work No. 19, 22, 63 and 84

	communications apparatus, together with associated infrastructure including marker posts and inspection chambers Right to pass and repass with or without plant and vehicles and including access to highways To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult	
9/6b	Divert, install, underground, alter, retain, use, monitor and maintain and remove a gas main and associated infrastructure Divert, install, underground, alter, retain, use, monitor and maintain and remove water pipelines and associated infrastructure Divert, install, underground, alter, retain, use, monitor and maintain and remove electronic communications apparatus including overhead electronic communications apparatus together with accesses to highways and associated infrastructure including marker posts and inspection chambers Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers Right to pass and repass with or without plant and vehicles and including access to highways To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult	Work No. 28 and 84

Land Plans – Sheet No. 10		
10/5b	Divert, install, underground, alter, retain, use, monitor and maintain and remove a gas main and associated infrastructure Divert, install, underground, alter, retain, use, monitor and maintain and remove water pipelines and associated infrastructure Divert, install, underground, alter, retain, use, monitor and maintain and remove electronic communications apparatus including overhead electronic communications apparatus together with accesses to highways and associated infrastructure including marker posts and inspection chambers Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers Right to pass and repass with or without plant and vehicles and including access to highways To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult	Work No. 20, 23, 26, 26a, 84 and 98
Land Plans – Sheet No. 11		
11/1b	Divert, install, underground, alter, retain, use, monitor and maintain and remove electronic communications apparatus including overhead electronic communications apparatus together with accesses to highways and associated infrastructure including marker posts and inspection chambers Place, divert, alter, remove or maintain apparatus including	Work No. 1, 33, 87 and 97

	mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers Right to pass and repass with or without plant and vehicles and including access to highways To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult	
11/1c	Divert, install, underground, alter, retain, use, monitor and maintain and remove electricity cables including overhead electricity cables together with accesses to highways and associated infrastructure including marker posts and inspection chambers Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers Right to pass and repass with or without plant and vehicles and including access to highways To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult	Work No. 1 and 88
11/1g	Right to pass and repass with or without plant and vehicles and to access land for ecological mitigation commitments	Ecological mitigation
Land Plans – Sheet No. 12		
12/4c	Divert, install, underground, alter, retain, use, monitor and maintain and remove water	Work No. 89

	pipelines and associated infrastructure Divert, install, underground, alter, retain, use, monitor and maintain and remove electronic communications apparatus including overhead electronic communications apparatus together with accesses to highways and associated infrastructure including marker posts and inspection chambers Divert, install, underground, alter, retain, use, monitor and maintain and remove electricity cables including overhead electricity cables together with accesses to highways and associated infrastructure including marker posts and inspection chambers Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers. Right to pass and repass with or without plant and vehicles and including access to highways To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult	
Land Plans – Sheet No. 13		
13/1d	Divert, install, underground, alter, retain, use, monitor and maintain and remove water pipelines and associated infrastructure Divert, install, underground, alter, retain, use, monitor and maintain and remove electronic communications apparatus including overhead electronic communications apparatus together with accesses to highways and	Work No. 65, 66 and 89

	associated infrastructure including marker posts and inspection chambers Divert, install, underground, alter, retain, use, monitor and maintain and remove electricity cables including overhead electricity cables together with accesses to highways and associated infrastructure including marker posts and inspection chambers Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers Right to pass and repass with or without plant and vehicles and including access to highways To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult	
13/1e	Divert, install, underground, alter, retain, use, monitor and maintain and remove water pipelines and associated infrastructure Divert, install, underground, alter, retain, use, monitor and maintain and remove electronic communications apparatus including overhead electronic communications apparatus together with accesses to highways and associated infrastructure including marker posts and inspection chambers Divert, install, underground, alter, retain, use, monitor and maintain and remove electricity cables including overhead electricity cables together with accesses to highways and associated infrastructure including marker posts and inspection chambers	Work No. 65, 66 and 89

	Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers Right to pass and repass with or without plant and vehicles and including access to highways To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult	
13/1(i)	Divert, install, underground, alter, retain, use, monitor and maintain and remove water pipelines and associated infrastructure Divert, install, underground, alter, retain, use, monitor and maintain and remove electronic communications apparatus including overhead electronic communications apparatus together with accesses to highways and associated infrastructure including marker posts and inspection chambers Divert, install, underground, alter, retain, use, monitor and maintain and remove electricity cables including overhead electricity cables together with accesses to highways and associated infrastructure including marker posts and inspection chambers Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers Right to pass and repass with or without plant and vehicles and including access to	Work No. 65, 66 and 89

	highways To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult	
Land Plans – Sheet No. 14		
14/4g	Right to lay temporary surfaces and to pass and repass with or without plant, machinery, and vehicles to access adjoining parcels of land, highways and Ørsted's Hornsea Three Offshore Windfarm's onshore export cables Divert, install, underground, alter, retain, use, monitor and maintain and remove water pipelines and associated infrastructure Divert, install, underground, alter, retain, use, monitor and maintain and remove electronic communications apparatus including overhead electronic communications apparatus together with accesses to highways and associated infrastructure including marker posts and inspection chambers Divert, install, underground, alter, retain, use, monitor and maintain and remove electricity cables including overhead electricity cables together with accesses to highways and associated infrastructure including marker posts and inspection chambers Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers To include restrictive covenants for protecting the installed apparatus from excavation and to prevent	Work No. 1, 48, 51, 92, 94, and 99

	access to the installed apparatus being obstructed or made materially more difficult	
Land Plans – Sheet No. 15		
15/1a	Right to lay temporary surfaces and to pass and repass with or without plant, machinery, and vehicles to access adjoining parcels of land, highways and Ørsted's Hornsea Three Offshore Windfarm's onshore export cables Divert, install, underground, alter, retain, use, monitor and maintain and remove water pipelines and associated infrastructure Divert, install, underground, alter, retain, use, monitor and maintain and remove electronic communications apparatus including overhead electronic communications apparatus together with accesses to highways and associated infrastructure including marker posts and inspection chambers Divert, install, underground, alter, retain, use, monitor and maintain and remove electricity cables including overhead electricity cables together with accesses to highways and associated infrastructure including marker posts and inspection chambers Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers Right to pass and repass with or without plant and vehicles and including access to highways To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed	Work No. 1, 48, 51, 92, 94, and 99

	apparatus being obstructed or made materially more difficult	
15/3c	Divert, install, underground, alter, retain, use, monitor and maintain and remove electronic communications apparatus including overhead electronic communications apparatus together with accesses to highways and associated infrastructure including marker posts and inspection chambers Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers Right to pass and repass with or without plant and vehicles and including access to highways To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult	Work No. 91
15/4b	Right to lay temporary surfaces and to pass and repass with or without plant, machinery, and vehicles to access adjoining parcels of land, highways and Ørsted's Hornsea Three Offshore Windfarm's onshore export cables Works in connection with the overhead 132kV electricity line Divert, install, underground, alter, retain, use, monitor and maintain and remove electronic communications apparatus including overhead electronic communications apparatus together with accesses to highways and associated infrastructure including marker posts and inspection chambers	Work No. 1, 48, 51, 69, 70, 92, 93, 94 and 99

	Divert, install, underground, alter, retain, use, monitor and maintain and remove water pipelines and associated infrastructure Divert, install, underground, alter, retain, use, monitor and maintain and remove electricity cables including overhead electricity cables together with accesses to highways and associated infrastructure including marker posts and inspection chambers Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers Right to pass and repass with or without plant and vehicles and including access to highways To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being obstructed or made materially more difficult	
15/4e	Construct, install, retain use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve cabling, ducts, jointing bays, telecommunications and other ancillary apparatus (including but not limited to access chambers, manholes, and marker posts) for Ørsted's Hornsea Three Offshore Windfarm's onshore export cables and any other works as necessary together with the right to fell, trim or lop trees and bushes which may obstruct or interfere with the said cables, telecommunications and other ancillary apparatus Right to continuous vertical and lateral support for Ørsted's Hornsea Three Offshore	Work No. 72, 94 and 99

	Windfarm's onshore export cables Right to install, execute, implement, retain, repair, improve, renew, remove, relocate and plant trees, woodlands, shrubs, hedgerows, seeding and other ecological measures together with the right to maintain, inspect and replant such trees, shrubs and landscaping and the right to pass and repass on foot, with or without vehicles, plant and machinery for all purposes in connection with the implementation and maintenance of landscaping and ecological mitigation or enhancement works in connection with Ørsted's Hornsea Three Offshore Windfarm's onshore export cables Right to lay temporary surfaces and to pass and repass with or without plant, machinery, and vehicles to access adjoining parcels of land, highways and Ørsted's Hornsea Three Offshore Windfarm's onshore export cables Divert, install, underground, alter, retain, use, monitor and maintain and remove electricity cables including overhead electricity cables together with accesses to highways and associated infrastructure including marker posts and inspection chambers Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers Right to pass and repass with or without plant and vehicles and including access to highways To include restrictive	

	covenants for protecting the installed apparatus, landscaping, ecological mitigation or enhancement works from excavation, interference or damage and to prevent access to the installed apparatus, landscaping, ecological mitigation or enhancement works being obstructed or made materially more difficult	
15/5b	Construct, install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve cabling, ducts, jointing bays, telecommunications and other ancillary apparatus (including but not limited to access chambers, manholes and marker posts) for Ørsted's Hornsea Three Offshore Windfarm's onshore export cables and any other works as necessary together with the right to fell, trim or lop trees and bushes which may obstruct or interfere with the said cables, telecommunications and other ancillary apparatus Right to continuous vertical and lateral support for Ørsted's Hornsea Three Offshore Windfarm's onshore export cables Right to install, execute, implement, retain, repair, improve, renew, remove, relocate and plant trees, woodlands, shrubs, hedgerows, seeding and other ecological measures together with the right to maintain, inspect and replant such trees, shrubs and landscaping and the right to pass and repass on foot, with or without vehicles, plant and machinery for all purposes in connection with the implementation and maintenance of landscaping and ecological mitigation or enhancement works in connection with Ørsted's	Work No. 50, 92, 93 and 94

	Hornsea Three Offshore Windfarm's onshore export cables Right to pass and repass with or without plant, machinery, and vehicles to access adjoining parcels of land, highways and Ørsted's Hornsea Three Offshore Windfarm's onshore export cables Works in connection with the overhead 132kV electricity line Divert, install, underground, alter, retain, use, monitor and maintain and remove electronic communications apparatus including overhead electronic communications apparatus together with accesses to highways and associated infrastructure including marker posts and inspection chambers Divert, install, underground, alter, retain, use, monitor and maintain and remove water pipelines and associated infrastructure Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers Right to lay temporary surfaces and to pass and repass with or without plant, machinery and vehicles to access adjoining parcels of land, highways and work area for Ørsted's Hornsea Three Offshore Windfarm's onshore export cables To include restrictive covenants for protecting the installed apparatus, landscaping, ecological mitigation or enhancement works from excavation, interference or damage and to prevent access to the installed apparatus, landscaping,	

	ecological mitigation or enhancement works being obstructed or made materially more difficult	
15/6a	Right to lay temporary surfaces and to pass and repass with or without plant, machinery, and vehicles to access adjoining parcels of land, highways and Ørsted's Hornsea Three Offshore Windfarm's onshore export cables Divert, install, underground, alter, retain, use, monitor and maintain and remove electricity cables including overhead electricity cables together with accesses to highways and associated infrastructure including marker posts and inspection chambers Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers Right to pass and repass with or without plant and vehicles and including access to highways To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being obstructed or made materially more difficult	Work No. 71, 94, and 95
15/7a	Construct, install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve cabling, ducts, jointing bays, telecommunications and other ancillary apparatus (including but not limited to access chambers, manholes and marker posts) for Ørsted's Hornsea Three Offshore Windfarm's onshore export cables and any other works as necessary together with the	Work No. 50, 94 and 95

	right to fell, trim or lop trees and bushes which may obstruct or interfere with the said cables, telecommunications and other ancillary apparatus Right to continuous vertical and lateral support for Ørsted's Hornsea Three Offshore Windfarm's onshore export cables Right to install, execute, implement, retain, repair, improve, renew, remove, relocate and plant trees, woodlands, shrubs, hedgerows, seeding and other ecological measures together with the right to maintain, inspect and replant such trees, shrubs and landscaping and the right to pass and repass on foot, with or without vehicles, plant and machinery for all purposes in connection with the implementation and maintenance of landscaping and ecological mitigation or enhancement works in connection with Ørsted's Hornsea Three Offshore Windfarm's onshore export cables Right to pass and repass with or without plant, machinery, and vehicles to access adjoining parcels of land, highways and Ørsted's Hornsea Three Offshore Windfarm's onshore export cables Divert, install, underground, alter, retain, use, monitor and maintain and remove electricity cables including overhead electricity cables together with accesses to highways and associated infrastructure including marker posts and inspection chambers Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated	

	infrastructure including marker posts and inspection chambers Right to lay temporary surfaces and to pass and repass with or without plant, machinery and vehicles to access adjoining parcels of land, highways and work area for Ørsted's Hornsea Three Offshore Windfarm's onshore export cables To include restrictive covenants for protecting the installed apparatus, landscaping, ecological mitigation or enhancement works from excavation, interference or damage and to prevent access to the installed apparatus, landscaping, ecological mitigation or enhancement works being obstructed or made materially more difficult	
15/8a	Divert, install, underground, alter, retain, use, monitor and maintain and remove electricity cables including overhead electricity cables together with accesses to highways and associated infrastructure including marker posts and inspection chambers. Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers Right to pass and repass with or without plant and vehicles and including access to highways To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult	Work No. 95
15/9a	Divert, install, underground, alter, retain, use, monitor and maintain and remove	Work No. 50 and 95

	electricity cables including overhead electricity cables together with accesses to highways and associated infrastructure including marker posts and inspection chambers. Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers Right to pass and repass with or without plant and vehicles and including access to highways To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult	
15/10a	Divert, install, underground, alter, retain, use, monitor and maintain and remove electronic communications apparatus including overhead electronic communications apparatus together with accesses to highways and associated infrastructure including marker posts and inspection chambers Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers Right to pass and repass with or without plant and vehicles and including access to highways To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult	Work No. 91

15/11a	Works in connection with the overhead 132kV electricity line Divert, install, underground, alter, retain, use, monitor and maintain and remove electronic communications apparatus including overhead electronic communications apparatus together with accesses to highways and associated infrastructure including marker posts and inspection chambers Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers Right to pass and repass with or without plant and vehicles and including access to highways To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult	Work No. 93
Land Plans – Sheet No. 16		
16/1a	Divert, install, underground, alter, retain, use, monitor and maintain and remove electricity cables including overhead electricity cables together with accesses to highways and associated infrastructure including marker posts and inspection chambers Right to lay temporary surfaces and to pass and repass with or without plant, machinery, and vehicles to access adjoining parcels of land, highways and Ørsted's Hornsea Three Offshore Windfarm's onshore export cables Right to pass and repass with or without plant and vehicles and including access to	Work No. 72, 94, and 95

	highways Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being obstructed or made materially more difficult	
16/2a	Divert, install, underground, alter, retain, use, monitor and maintain and remove electricity cables including overhead electricity cables together with accesses to highways and associated infrastructure including marker posts and inspection chambers Right to lay temporary surfaces and to pass and repass with or without plant, machinery, and vehicles to access adjoining parcels of land, highways and Ørsted's Hornsea Three Offshore Windfarm's onshore export cables Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers Right to pass and repass with or without plant and vehicles and including access to highways To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being obstructed or made materially more difficult	Work No. 51, 52, 53, 71, 94, and 95
16/5a	Divert, install, underground,	Work No. 50 and 95

	alter, retain, use, monitor and maintain and remove electricity cables including overhead electricity cables together with accesses to highways and associated infrastructure including marker posts and inspection chambers. Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers Right to pass and repass with or without plant and vehicles and including access to highways To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult	
16/6c	Divert, install, underground, alter, retain, use, monitor and maintain and remove electricity cables including overhead electricity cables together with accesses to highways and associated infrastructure including marker posts and inspection chambers. Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers Right to pass and repass with or without plant and vehicles and including access to highways To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult	Work No. 50 and 95

Land Plans – Sheet No. 18		
18/1b	Divert, install, underground, alter, retain, use, monitor and maintain and remove electronic communications apparatus including overhead electronic communications apparatus electricity cables including overhead electricity cables together with accesses to highways and associated infrastructure including marker posts and inspection chambers Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers Right to pass and repass with or without plant and vehicles and including access to highways To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult	Work No. 91
18/4a	Right to pass and repass with or without plant and vehicles and to access land for ecological mitigation commitments	Ecological mitigation
18/4b	Right to pass and repass with or without plant and vehicles and to access land for ecological mitigation commitments	Ecological mitigation
Land Plans – Sheet No. 19		
19/1a	Works in connection with the overhead 132kV electricity line Divert, install, underground, alter, retain, use, monitor and maintain and remove electronic communications apparatus including overhead electronic communications apparatus together with accesses to highways and associated infrastructure	Work No. 91 and 93

	including marker posts and inspection chambers Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers Right to pass and repass with or without plant and vehicles and including access to highways To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult	
19/2a	Works in connection with the overhead 132kV electricity line Divert, install, underground, alter, retain, use, monitor and maintain and remove electronic communications apparatus including overhead electronic communications apparatus together with accesses to highways and associated infrastructure including marker posts and inspection chambers. Construct, install, retain, use, maintain, inspect, alter, remove, refurbish, reconstruct, replace, protect and improve cabling, ducts, jointing bays, telecommunications and other ancillary apparatus (including but not limited to access chambers, manholes and marker posts) for Ørsted's Hornsea Three Offshore Windfarm's onshore export cables and any other works as necessary together with the right to fell, trim or lop trees and bushes which may obstruct or interfere with the said cables, telecommunications and other ancillary apparatus	Work No. 91, 93 and 94

	Right to continuous vertical and lateral support for Ørsted's Hornsea Three Offshore Windfarm's onshore export cables Right to install, execute, implement, retain, repair, improve, renew, remove, relocate and plant trees, woodlands, shrubs, hedgerows, seeding and other ecological measures together with the right to maintain, inspect and replant such trees, shrubs and landscaping and the right to pass and repass on foot, with or without vehicles, plant and machinery for all purposes in connection with the implementation and maintenance of landscaping and ecological mitigation or enhancement works in connection with Ørsted's Hornsea Three Offshore Windfarm's onshore export cables Divert, install, underground, alter, retain, use, monitor and maintain and remove electronic communications cables, apparatus and associated infrastructure Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers Right to pass and repass with or without plant and vehicles and including access to highways Right to lay temporary surfaces and to pass and repass with or without plant, machinery and vehicles to access Ørsted's Hornsea Three Offshore Windfarm's onshore export cables To include restrictive covenants for protecting the installed apparatus,	

	landscaping, ecological mitigation or enhancement works from excavation, interference or damage and to prevent access to the installed apparatus, landscaping, ecological mitigation or enhancement works being obstructed or made materially more difficult	
19/3a	Works in connection with the overhead 132kV electricity line Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers Right to pass and repass with or without plant and vehicles and including access to highways To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made materially more difficult	Work No. 93
Land Plans – Sheet No. 20		
20/1a	Works in connection with the overhead 132kV electricity line. Place, divert, alter, remove or maintain apparatus including mains, sewers, drains, soakaways, pipes, cables, conduits, lights and electronic communications apparatus, together with associated infrastructure including marker posts and inspection chambers. Right to pass and repass with or without plant and vehicles and including access to highways. To include restrictive covenants for protecting the installed apparatus from excavation and to prevent access to the installed apparatus being made	Work No. 93

	materially more difficult.	

SCHEDULE 6

Article 27

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 in respect of compensation on 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 5(1) (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 A47 North Tuddenham to Easton Development Consent Order [XX] (“the A47 North Tuddenham to Easton 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 4 to the A47 North Tuddenham to Easton 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 78(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”.

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(b) (and modified by article 30 (modification of Part 1 of the 1965 Act)) to the acquisition of land under article 24 (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 27(1) (compulsory acquisition of rights and imposition of restrictive covenants)—

(a) 1973 c. 26.

(b) 2008 c. 29, section 125 as amended by paragraph 17, Schedule 16 of the Housing and Planning Act 2016 (c. 22).

- (a) with the modifications specified in paragraph 78; and
- (b) with such other modifications as may be necessary.

5.—(1) The modifications referred to in paragraph 77(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 restrictive covenant 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 or the imposition of the restrictive covenant but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the Special Act.”

(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(a)(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 restrictive covenant, as well as the notice of entry required by subsection (1) of that section (as it applies to a compulsory acquisition under article 24), 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(b) (powers of entry: further notices of entry), 11B(c) (counter-notice requiring possession to be taken on specified date), 12(d) (unauthorised entry) and 13(e) (refusal to give possession to acquiring authority) of the 1965 Act are modified correspondingly.

(6) Section 20(f)(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

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- (a) 1965 c. 56. Section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 3 of, and part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c. 71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), Section 103 of the Planning and Compulsory Purchase Act 2004 c. 5 and S.I. 2009/1307.
 - (b) 1965 c. 56. Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016 (c. 22).
 - (c) 1965 c. 56. Section 11B was inserted by section 187(3) of the Housing and Planning Act 2016 (c. 22).
 - (d) 1965 c. 56. Section 12 was amended by section 56(2) of, and part of Schedule 9, to the Courts Act 1971 (c. 23) and by section 216(3) and paragraph 4 of Schedule 16 of the Housing and Planning Act 2016 (c. 22).
 - (e) 1965 c. 56. Section 13 was amended by sections 62(3), 139(4) to (9) and 146 of, and paragraphs 27 and 28 of Schedule 13 and part 3 of Schedule 23 to, the Tribunal, Courts and Enforcement Act 2007 (c. 15).
 - (f) 1965 c. 56. Section 20 was amended by paragraph 4 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34) and S.I. 2009/1307.

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 30 is also modified so as to enable the acquiring authority in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

(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 undertaker 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 has not executed a general vesting declaration under section 4 of the 1981 Act as applied by article 31 (application of the 1981 Act) of the A47 North Tuddenham to Easton Development Consent Order [XX] in respect of the land to which the notice to treat relates.

(2) But see article 32(3) (acquisition of subsoil or airspace only) of the A47 North Tuddenham to Easton Development Consent Order [XX] 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 undertaker 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 undertaker 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 undertaker decides to refer the counter-notice to the Upper Tribunal it must do so within the decision period.

8. If the undertaker 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 undertaker 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 are 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 or 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 undertaker 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 undertaker 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 undertaker 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 34

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

<i>(1)</i> <i>Location</i>	<i>(2)</i> <i>Plot Reference</i>	<i>(3)</i> <i>Purpose for which temporary possession may be taken</i>	<i>(4)</i> <i>Relevant part of the authorised development</i>
Norfolk County Council Parish of North Tuddenham	1/2h	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: A47 mainline dual carriageway.	1 and 3

		New private access track.	
Norfolk County Council Parish of North Tuddenham	1/2i	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: New link road between Main Road and the existing A47 west of Hockering.	2 and 73
Norfolk County Council Parish of North Tuddenham	1/3a	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: A47 mainline dual carriageway. New private access track.	1 and 3
Norfolk County Council Parish of North Tuddenham	1/4b	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: A47 mainline dual carriageway.	1 and 3
Norfolk County Council Parish of North Tuddenham	2/2a	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: New link road between Main Road and the existing A47 west of Hockering. Realignment of Lyng Road south-east of Poppy Wood.	2, 4 and 73
Norfolk County Council Parish of North Tuddenham	2/3b	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: A47 mainline dual carriageway.	1 and 73
Norfolk County Council Parish of Hockering	2/4c	Temporary storage, laydown areas, access and working space to support construction of the following in	2 and 56

		adjoining land parcels: New link road between Main Road and the existing A47 west of Hockering.	
Norfolk County Council Parish of Hockering	2/5b	Material storage, management and processing area. Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: A47 mainline dual carriageway. Drainage basin, maintenance track and associated drainage. Stopping up Low Lane due to A47 mainline dual carriageway.	1, 5, 6 and 58
Norfolk County Council Parish of Hockering	2/5c	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: A47 mainline dual carriageway. Stopping up Low Lane due to A47 mainline dual carriageway.	1 and 58
Norfolk County Council Parish of Hockering	2/7a	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: Stopping up Low Lane due to A47 mainline dual carriageway.	1 and 58
Norfolk County Council Parish of Hockering	4/1a	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: A47 mainline dual carriageway. Drainage basin and associated drainage maintenance access	1, 7, 9 and 74

		track.	
Norfolk County Council Parish of Hockering	4/1d	Temporary compound for traffic management. Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: A47 mainline dual carriageway. Mattishall Lane Link Road and underbridge. New road between Main Road and existing A47 west of Hockering, including stopping up Low Lane and altering junction with the existing A47.	1, 2, 7, 9 and 59
Norfolk County Council Parish of Hockering	4/1e	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcel: Mattishall Lane Link Road, connections to existing and realigned Mattishall Lane. Drainage basin plus associated drainage and maintenance access track.	1, 7, 8, 9 and 74
Norfolk County Council Parish of Hockering	4/1f	Material storage, management and processing area. Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcel: A47 mainline dual carriageway. Mattishall Lane Link Road and underbridge. New or upgraded footways on Mattishall Lane and the existing A47. Works to de-trunk the existing A47.	1, 9, 10, 60 and 74

		Stopping up Mattishall Lane due to A47 mainline dual carriageway.	
Norfolk County Council Parish of Hockering	4/4b	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: New link road between Main Road and the existing A47 west of Hockering.	2
Norfolk County Council Parish of Hockering	4/5a	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: New link road between Main Road and the existing A47 west of Hockering.	2
Norfolk County Council Parish of Hockering	4/6a	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: Realignment of Mattishall Lane to connect with the new Mattishall Lane Link Road. Stopping up parts of Mattishall Lane due to the A47 mainline dual carriageway.	1, 8, 9 and 74
Norfolk County Council Parish of Hockering	4/6e	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: A47 mainline dual carriageway. New private access track between Mattishall Lane and Mill Lane.	1 and 11
Norfolk County Council Parish of Hockering	4/9a	Temporary storage, laydown areas, access and working space to support construction of the following in	1

		adjoining land parcels: A47 mainline dual carriageway, plus noise barriers.	
Norfolk County Council Parish of Hockering	5/1a	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: A47 mainline dual carriageway. Drainage basin provision on adjoining land. New private access track between Mattishall Lane and Mill Lane.	1, 11 and 12
Norfolk County Council Parish of Hockering	5/5a	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: A47 mainline dual carriageway, plus noise barriers.	1
Norfolk County Council Parish of Hockering	5/7b	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: A47 mainline dual carriageway.	1
Norfolk County Council Parish of Hockering	5/9b	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcel: A47 mainline dual carriageway.	1, 75 and 76
Norfolk County Council Parish of Hockering	5/9d	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: A47 mainline dual carriageway.	1 and 76
Norfolk County Council Parish of Hockering	6/3b	Temporary storage, laydown areas, access and working space to support construction	1, 13, 77 and 96

		of the following in adjoining land parcels: A47 mainline dual carriageway.	
Norfolk County Council Parish of Hockering	6/10b	Material storage and processing area. Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: A47 mainline dual carriageway. Drainage basin, maintenance track and associated drainage. Newgate House culvert.	1, 14, 61 and 78
Norfolk County Council Parish of East Tuddenham	7/1j	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: Installation of ducts, cables and apparatus for electronic communications operators. New road connecting the existing A47 east of Hockering with the Wood Lane junction northern dumbbell roundabout.	1, 17, 80 and 81
Norfolk County Council Parish of Hockering	7/3a	Material storage, management and processing area. Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: A47 mainline dual carriageway.	1 and 61
Norfolk County Council Parish of East Tuddenham	7/6c	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: A47 mainline dual carriageway.	1, 79 and 80
Norfolk County	7/6e	Temporary storage,	1 and 79

Council Parish of East Tuddenham		laydown areas, access and working space to support construction of the following in adjoining land parcels: A47 mainline dual carriageway.	
Norfolk County Council Parish of East Tuddenham	8/1a	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: Installation of ducts, cables and apparatus for electronic communications operators. New road connecting the existing A47 east of Hockering with A47 Wood Lane junction northern dumbbell roundabout.	17, 80 and 81
Norfolk County Council Parish of East Tuddenham	8/3a	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: Installation of ducts, cables and apparatus for electronic communications operators. New road connecting the existing A47 east of Hockering with the Wood Lane junction northern dumbbell roundabout.	17, 80 and 81
Norfolk County Council Parish of East Tuddenham	8/3d	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: A47 mainline dual carriageway. Wood Lane junction west bound on slip road.	1, 19, 82 and 83
Norfolk County Council Parish of East Tuddenham	8/3h	Temporary storage, laydown areas, access and working space to support construction	1, 19, 80, 82 and 83

		of the following in adjoining land parcel: A47 mainline dual carriageway.	
Norfolk County Council Parish of East Tuddenham	8/4b	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcel: Diversion of surface water drainage.	16, 55 and 80
Norfolk County Council Parish of East Tuddenham	8/5a	Temporary compound, including material storage, management and processing area.	1, 62 and 63
Norfolk County Council Parish of East Tuddenham	8/6b	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: Installation of ducts, cables and apparatus for electronic communications operators. New road connecting the existing A47 east of Hockering with A47 Wood Lane junction northern dumbbell roundabout.	17, 80 and 81
Norfolk County Council Parish of East Tuddenham	9/1a	Temporary compound, including material storage, management and processing area. Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: Wood Lane junction west bound on slip road. Wood Lane junction southern dumbbell roundabout, plus connecting road to existing A47 north of Honingham.	19, 22, 32, 62, 63 and 84
Norfolk County Council	9/1c	Temporary storage, laydown areas, access	22, 32 and 84

Parish of East Tuddenham		and working space to support construction of the following in adjoining land parcels: New River Tud outfall and surface water drainage channel for Wood Lane junction drainage.	
Norfolk County Council Parish of East Tuddenham	9/1n	Temporary storage, laydown areas, access and working space to support construction of Wood Lane junction southern dumbbell roundabout, plus connecting road to existing A47 north of Honingham.	22, 32 and 84
Norfolk County Council Parish of Honingham	9/6c	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: Alteration of the existing A47, north of Honingham, between the new junctions with Dereham Road junction and new Hall Farm access track.	27, 28, 30 and 32
Norfolk County Council Parish of East Tuddenham	10/2b	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: New road between the existing A47 east of Hockering and Wood Lane junction northern dumbbell roundabout. Realigning B1535 Wood Lane to tie into above new road.	17, 25 and 81
Norfolk County Council Parish of East Tuddenham	10/3a	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: Realigned B1535 Wood Lane connection with new	17, 25 and 81

		road between existing A47 east of Hockering and Wood Lane junction northern dumbbell roundabout.	
Norfolk County Council Parish of East Tuddenham Parish of Honingham	10/5c	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: Realigned B1535 Wood Lane connection with new road between existing A47 east of Hockering and Wood Lane junction northern dumbbell roundabout.	25, 26a, 81 and 85
Norfolk County Council Parish of Honingham	10/5e	Material storage, management and processing area. Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: A47 mainline dual carriageway. A47 Wood Lane Junction and side road connections. New footway/cycleway track.	1, 20, 22, 23, 26, 64 and 84
Norfolk County Council Parish of Honingham	10/5f	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: Wood Lane junction northern dumbbell roundabout. New road between existing A47 east of Hockering and Wood Lane junction northern dumbbell roundabout, plus realigned B1535 Wood Lane connection. New cycle track. Optional 50m	17, 18, 20, 25, 26, 26a and 98

		carriageway and associated footways, embankment and approaches for Norwich Western Link.	
Norfolk County Council Parish of Honingham	11/1e	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: A47 mainline dual carriageway. Maintenance access track to drainage basin.	1, 33, 34 and 88
Norfolk County Council Parish of Honingham	11/1f	Material storage, management and processing area. Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: A47 mainline dual carriageway. Hall Farm underpass and access track. New cycle track.	1, 26, 30, 31, 33 and 64
Norfolk County Council Parish of Honingham	11/1h	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcel: A47 mainline dual carriageway. Hall Farm access track.	1, 33, 87 and 88
Norfolk County Council Parish of Honingham	11/3b	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: Altering existing A47 between the Wood Lane junction southern dumbbell roundabout and existing Honingham roundabout. New Hall Farm access track junction with	23, 30, 31, 32 and 86

		existing A47.	
Norfolk County Council Parish of Honingham	12/3b	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: Attenuation pond and associated drainage connections and maintenance access track. A47 mainline dual carriageway.	1 and 34
Norfolk County Council Parish of Honingham	12/4b	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: A47 mainline dual carriageway River Tud crossing	1, 35 and 36
Norfolk County Council Parish of Honingham	13/1a	Temporary compound. Material storage, management and processing area. Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: A47 mainline dual carriageway. Honingham church underpass. Alteration of existing A47 connection to Honingham roundabout. Side road connection between Honingham roundabout and Norwich Road junction southern dumbbell roundabout.	1, 32, 37, 38, 40, 42, 43, 65, 66 and 89
Norfolk County Council Parish of Honingham	13/1h	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: A47 mainline dual carriageway.	1, 37, 38 and 39

		Replacement hardstanding area for the farmer. Honingham church underpass.	
Norfolk County Council Parish of Honingham	14/4b	Temporary compound. Material storage, management and processing area. Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: A47 mainline dual carriageway. Norwich Road junction west bound on slip road. Side road connection between Honingham roundabout and Norwich Road junction southern dumbbell roundabout.	1, 40 and 43
Norfolk County Council Parish of Honingham	14/4e	Material storage, management and processing area. Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: Drainage basin and maintenance access track. Cycle track between Taverham Road and Church Lane, Easton Norwich Road junction northern dumbbell roundabout. Realigned Taverham Road connection to Norwich Road junction northern dumbbell roundabout. Norwich Road junction east bound on slip road.	41, 44, 47, 48, 51, 67 and 92
Norfolk County Council Parish of Honingham	14/4f	Material storage, management and processing area.	49, 50 and 58

		Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: Norwich Road junction west bound off slip road Side road connection between Dereham Road, Easton, and Norwich Road junction southern dumbbell roundabout.	
Norfolk County Council Parish of Honingham	14/5a	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: Side road connection between Honingham roundabout and Norwich Road junction southern dumbbell roundabout. Stopping up Blind Lane due to A1 mainline and Norwich Road junction slip roads and side road.	1, 40, 42 and 43
Norfolk County Council Parish of Honingham	14/6a	Temporary access and working space to support construction of the following in adjoining land parcels: Realignment of Taverham Road to connect with the proposed Norwich Road junction. Reconfiguration of the existing A47 connection to Taverham Road.	39, 47, 90 and 91
Norfolk County Council Parish of Honingham	14/8b	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: Norwich Road junction southern dumbbell roundabout. Side road connection	1, 40, 42, 43, 46, 50 and 91

		between Honingham roundabout and Norwich Road junction southern dumbbell roundabout. Side road connection between Dereham Road, Easton, and Norwich Road junction southern dumbbell roundabout. Stopping up Blind Lane due to A1 mainline and Norwich Road junction slip roads and side road.	
Norfolk County Council Parish of Honingham	15/1e	Material storage, management and processing area. Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: Norwich Road junction west bound off slip road New road between Norwich Road junction southern dumbbell roundabout and Dereham Road, Easton.	49, 50 and 68
Norfolk County Council Parish of Easton	15/4a	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: A47 mainline dual carriageway. Norwich Road junction east bound on slip road. New cycle track linking Taverham Road and Church Lane, Easton.	1, 48, 51, 92 and 93
Norfolk County Council Parish of Easton	15/4d	Material storage, management and processing area. Temporary storage, laydown areas, access and working space to support construction	1, 51, 69, 70, 93 and 94

		of the following in adjoining land parcels: A47 mainline dual carriageway. New cycle track linking Taverham Road and Church Lane, Easton.	
Norfolk County Council Parish of Easton	15/5c	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcel: A47 mainline dual carriageway. Norwich Road junction west bound off slip road. New road linking Dereham Road, Easton, with Norwich Road junction southern dumbbell roundabout.	1, 49, 50 and 92
Norfolk County Council Parish of Easton	16/1c	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: New cycle track between Taverham Road and Church Lane, Easton. Alteration of Church Lane, Easton, north of the A47.	52, 53, 71, 72 and 95
Norfolk County Council Parish of Easton	16/5c	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: Norwich Road junction side road connection to Dereham Road, Easton.	50, 51 and 52
Norfolk County Council Parish of Easton	16/6a	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: Norwich Road	50, 51 and 52

		junction side road connection to Dereham Road, Easton.	
Norfolk County Council Parish of Easton	16/7b	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: Tying A47 mainline dual carriageway into existing A47 dual carriageway.	1
Norfolk County Council Parish of Easton	17/1c	Temporary storage, laydown areas, access and working space to support construction of the following in adjoining land parcels: Altering southern corner of Rotten Row and Church Lane junction with associated drainage alterations	54

SCHEDULE 8 REMOVAL OF HEDGEROWS

Article 40

PART 1 REMOVAL OF HEDGEROWS

<i>(1)</i> <i>Location of hedgerow</i>	<i>(2)</i> <i>Work to be carried out</i>	<i>(3)</i> <i>Relevant part of the authorised development</i>
H49 to H50 shown on sheets 1 and 2 of the Hedgerow Plans	Partial removal	Work Nos. 2, 4 and 73
H51 to H52 shown on sheets 1 and 2 of the Hedgerow Plans	Full removal	Work Nos. 2 and 73
H57 to H57a shown on sheet 2 of the Hedgerow Plans	Full removal	Work Nos. 1 and 5
H61 to H62 shown on sheet 3 of the Hedgerow Plans	Partial removal	Work Nos. 2, 9 and 10
H1 to H2 shown on sheet 5 of the Hedgerow Plans	Partial removal	Work Nos. 1, 75 and 76
H3 to H4 shown on sheets 5 and 6 of the Hedgerow Plans	Partial removal	Work Nos. 1 and 77
H7 to H8 shown on sheet 6 of the Hedgerow Plans	Full removal	Work Nos. 1 and 14
H11 to H12 shown on sheets 6	Partial removal	Work Nos. 1 and 61

and 7 of the Hedgerow Plans		
H17 to H18 shown on sheets 7 and 8 of the Hedgerow Plans	Full removal	Work Nos. 1 and 80
H104 to H105 shown on sheet 8 of the Hedgerow Plans	Partial removal	Work Nos. 1, 17 and 18
H72 to H72a shown on sheet 9 of the Hedgerow Plans	Partial removal	Work Nos. 19, 22, 32 and 84
H82 to H83 shown on sheet 9 of the Hedgerow Plans	Partial removal	Work Nos. 27, 32 and 84
H74a to H75 shown on sheets 9 and 10 of the Hedgerow Plans	Full removal	Work Nos. 1, 21, 22 and 24
H49 to H50 shown on sheet 13 of the Hedgerow Plans	Partial removal	Work Nos. 1, 40 and 89
H37 to H38 shown on sheets 13 and 14 of the Hedgerow Plans	Partial removal	Work Nos. 40, 43 and 91
H90 to H91 shown on sheet 14 of the Hedgerow Plans	Full removal	Work Nos. 39, 41, 47, 90 and 91
H96 to H97 shown on sheet 15 of the Hedgerow Plans	Full removal	Work Nos. 1, 49, 92 and 95

PART 2

REMOVAL OF IMPORTANT HEDGEROWS

<i>(1)</i> <i>Location of hedgerow</i>	<i>(2)</i> <i>Work to be carried out</i>	<i>(3)</i> <i>Relevant part of the authorised development</i>
H53 to H54 shown on sheet 2 of the Hedgerow Plans	Partial removal	Work Nos. 2 and 4
H55 to H56 shown on sheet 2 of the Hedgerow Plans	Partial removal	Work Nos. 2 and 5
H57a to H58 shown on sheet 2 of the Hedgerow Plans	Full removal	Work Nos. 1 and 5
H59 to H60 shown on sheet 2 of the Hedgerow Plans	Full removal	Work No. 1
H63 to H64 shown on sheet 4 of the Hedgerow Plans	Full removal	Work No. 8
H5 to H6 shown on sheet 6 of the Hedgerow Plans	Partial removal	Work Nos. 1 and 13
H9 to H10 shown on sheet 6 of the Hedgerow Plans	Partial removal	Work Nos. 1
H13 to H14 shown on sheet 7 of the Hedgerow Plans	Full removal	Work Nos. 1 and 80
H15 to H16 shown on sheet 7 of the Hedgerow Plans	Full removal	Work Nos. 1, 15, 16 and 80
H65 to H66 shown on sheet 7 of the Hedgerow Plans	Partial removal	Work No. 1
H70 to H71 shown on sheet 9 of the Hedgerow Plans	Partial removal	Work No. 62
H72a to H73 shown on sheet 9 of the Hedgerow Plans	Partial removal	Work Nos. 32 and 84

H76 to H77 shown on sheet 9 of the Hedgerow Plans	Partial removal	Work Nos. 32 and 84
H78 to H79 shown on sheet 9 of the Hedgerow Plans	Partial removal	Work Nos. 28, 32 and 84
H74 to H74a shown on sheet 10 of the Hedgerow Plans	Full removal	Work Nos. 17, 18, 20, 21 25, 26a, 81 and 85
H80 to H81 shown on sheet 10 of the Hedgerow Plans	Partial removal	Work Nos. 26a, 84 and 98
H21 to H22 shown on sheets 9 and 10 of the Hedgerow Plans	Full removal	Work Nos. 1, 17, 20, 21 and 85
H23 to H24 shown on sheets 9 and 10 of the Hedgerow Plans	Partial removal	Work Nos. 1, 23, 26, 64 and 84
H19 to H20 shown on sheet 10 of the Hedgerow Plans	Partial removal	Work Nos. 25, 26a and 85
H25 to H26 shown on sheet 11 of the Hedgerow Plans	Partial removal	Work Nos. 1, 23, 26, 30 and 86
H27 to H28 shown on sheet 11 of the Hedgerow Plans	Partial removal	Work Nos. 1, 33, 64, 87 and 97
H29 to H30 shown on sheet 11 of the Hedgerow Plans	Full removal	Work Nos. 1, 33, 87 and 97
H84 to H85 shown on sheet 11 of the Hedgerow Plans	Full removal	Work Nos. 1, 31 and 33
H86 to H87 shown on sheet 11 of the Hedgerow Plans	Partial removal	Work Nos. 1 and 33
H31 to H32 shown on sheets 11 and 12 of the Hedgerow Plans	Partial removal	Work Nos. 1 and 88
H33 to H34 shown on sheets 11 and 12 of the Hedgerow Plans	Partial removal	Work Nos. 1, 88 and 97
H35 to H36 shown on sheet 13 of the Hedgerow Plans	Partial removal	Work Nos. 1, 40, 42, 43 and 89
H39 to H40 shown on sheet 14 of the Hedgerow Plans	Partial removal	Work Nos. 1, 40, 42 and 43
H91 to H92 shown on sheet 14 of the Hedgerow Plans	Partial removal	Work Nos. 41, 47 and 90
H93 to H94 shown on sheet 14 of the Hedgerow Plans	Full removal	Work Nos. 1, 42 and 91
H41 to H42 shown on sheet 14 of the Hedgerow Plans	Full removal	Work Nos. 1, 40, 42, 43, 90, 91 and 92
H43 to H44 shown on sheets 14 and 15 of the Hedgerow Plans	Partial removal	Work Nos. 40 and 91
H95 to H96 shown on sheets 14 and 15 of the Hedgerow Plans	Full removal	Work Nos. 1, 41, 47, 48, 51, 92 and 99
H102 to H103 shown on sheets 14 and 15 of the Hedgerow Plans	Full removal	Work Nos. 1, 41, 44, 47, 48, 49, 50 and 92
H45 to H46 shown on sheet 15 of the Hedgerow Plans	Partial removal	Work Nos. 49 and 50
H47 to H48 shown on sheet 15 of the Hedgerow Plans	Partial removal	Work Nos. 1, 51 and 95
H98 to H99 shown on sheet 15	Partial Removal	Work Nos. 1, 48, 51, 92 and

of the Hedgerow Plans		99
H100 to H101 shown on sheet 15 of the Hedgerow Plans	Partial removal	Work Nos. 1, 51, 69, 70, 92 and 99

SCHEDULE 9

PROTECTIVE PROVISIONS

Article 36 and 50

PART 1

FOR THE PROTECTION OF ELECTRICITY, GAS, WATER AND SEWAGE 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 alternative apparatus adequate to enable the utility undertaker in question to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means—

- (a) in the case of an electricity undertaker, electric lines or electrical plant (as defined in the Electricity Act 1989(a), belonging to or maintained by that utility undertaker;
- (b) in that 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 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 agreement to adopt made under section 104 (agreement to adopt sewers, drains or sewage disposal works at future date) of that Act(d),

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;

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- (a) 1989 C. 29. The definition of “electrical plant” (in section 64) was amended by paragraphs 24 and 38(1) and (3) of Schedule 6 to the Utilities Act 2000 (c.27).
 - (b) 1986 c. 44. A new section 7 was substituted by section 5 of the Gas Act 1995 (c. 45), and was further amended by sections 3(2) and 76 of, and paragraphs 1 and 4 of Schedule 6, and Schedule 8 to the Utilities Act 2000 (c. 27), sections 149(5) and (5) and 197(9) of, and part 1 of Schedule 23 to, the Energy Act 2004 (c. 20) and S.I. 2011/2704.
 - (c) 1991 c. 56.
 - (d) 1991 c. 56. Section 102(4) was amended by section 96(1)(c) of the Water Act 2003 (c. 37). Section 104 was amended by sections 96(4) and 101(2) of, part 3 of Schedule 9 to, the Water Act 2003 and section 42(3) of the Flood and Water Management Act 2010 (c. 29).

“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” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed; 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 17 (permanent stopping up and restriction of use 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 16 (temporary alteration, diversion 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 22 (protective work to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus.

Acquisition of land

6. Regardless of any provision in this Order or anything shown on the land plans, the 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 (6).

(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 53 (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 53 (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.

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 53 (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 subparagraph (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 (5) 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, or involve embankment works within 10 metres of any electricity apparatus, the plan to be submitted to the utility undertaker under subparagraph (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 , 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 53 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount

which apart from this sub-paragraph would be payable to the 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(2) 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, has the sole conduct of any settlement or compromise of any proceedings necessary to resist the claim or demand.

Cooperation

12.—(1) 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.

(2) 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 laid or erected 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

13. For the protection of any operator, the following provisions have effect, unless otherwise agreed in writing between the undertaker and the operator.

14. In this Part of this Schedule—

“the 2003 Act” means the Communications Act 2003(a);

“electronic communications apparatus” has the same meaning as in the electronic communications code;(b)

“the electronic communications code” has the same meaning as in Chapter 1 (electronic communications, networks and services) of Part 2 of the 2003 Act(c);

“electronic communications code network” means—

(a) so much of an electronic communications network or infrastructure 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 (application of the electronic communications code) 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;

“infrastructure system” has the same meaning as in the electronic communications code and references to providing an infrastructure system are to be construed in accordance with paragraph 7(2) of that code; and

“operator” means the operator of an electronic communications code network.

15. The exercise of the powers conferred by article 36 (statutory undertakers) is subject to Part 10 (undertakers works affecting electronic communications apparatus) the electronic communications code in the 2003 Act.

16.—(1) Subject to sub-paragraphs (2) to (4), if as the result of the authorised development or its construction, or of any subsidence resulting from any of those works—

(a) any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works), or other property of an operator; or

(b) there is any interruption in the supply of the service provided by an operator,

the 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 which, if it withholds such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(a) 2003 (c.21).

(b) See paragraph 5 of Schedule 3A (the electronic communications code) to the Communications Act 2003 (c.21). Schedule 3A was inserted by Schedule 1 to the Digital Economy Act 2017 (c. 30).

(c) See section 106 of the 2003 Act.

(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 53 (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.

(6) 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 laid or erected in land belonging to the undertaker on the date on which this Order is made.

PART 3

FOR THE PROTECTION OF NATIONAL GRID AS GAS UNDERTAKER

Application

17.—(1) For the protection of National Grid as referred to in this Part of this Schedule the following provisions have effect, unless otherwise agreed in writing between the undertaker and National Grid.

(2) Subject to sub-paragraph (3) or to the extent otherwise agreed in writing between the undertaker and National Grid, where the benefit of this Order is transferred or granted to another person under article 10 (consent to transfer benefit of Order)—

- (a) any agreement of the type mentioned in sub-paragraph (1) has effect as if it had been made between National Grid and the transferee or grantee (as the case may be); and
- (b) written notice of the transfer or grant must be given to National Grid on or before the date of that transfer or grant.

(3) Sub-paragraph (2) does not apply where the benefit of the Order is transferred or granted to National Grid (but see paragraph 27(3)(b)).

Interpretation

18. In this Part of this Schedule—

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

“alternative apparatus” means appropriate alternative apparatus to the reasonable satisfaction of National Grid to enable National Grid to fulfil its statutory functions in a manner no less efficient than previously;

“apparatus” means any gas mains, pipes, pressure governors, ventilators, cathodic protections, cables or other apparatus belonging to or maintained by National Grid for the purposes of gas supply together with any replacement apparatus and such other apparatus constructed pursuant to the Order that becomes operational apparatus of National Grid for the purposes of transmission, distribution or supply and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

“authorised works” has the same meaning as is given to the term “authorised development” in article 2(1) of this Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Schedule;

“commence” and “commencement” in paragraph 25 and 27 of this Part of this Schedule includes any below ground surveys, monitoring, ground work operations or the receipt and erection of construction plant and equipment,

“deed of consent” means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

“functions” includes powers and duties;

“ground mitigation scheme” means a scheme approved by National Grid (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

“ground monitoring scheme” means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, requires the undertaker to submit for National Grid’s approval a ground mitigation scheme;

“ground subsidence event” means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

“in” in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

“maintain” and “maintenance” includes the ability and right to do any of the following in relation to any apparatus or alternative apparatus of National Grid including construct, use, repair, alter, inspect, renew or remove the apparatus;

“National Grid” means National Grid Gas Plc or any successor as a gas transporter within the meaning of Part 1 of the Gas Act 1986 as the context requires;

“plan” or “plans” include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

“specified works” means any of the authorised works or activities undertaken in association with the authorised works which:

- (a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under paragraph 23(2) or otherwise; or
- (b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 23(2) or otherwise.

19. Except for paragraphs 20 (apparatus in stopped up streets), 25 (retained apparatus: protection), 26 (expenses) and 27 (indemnity) of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of National Grid, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and National Grid are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus of National Grid in stopped up streets

20.—(1) Where any street is stopped up under article 17 (permanent stopping up and restriction of use of streets and private means of access), if National Grid has any apparatus in the street or accessed via that street National Grid has the same rights in respect of that apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to National Grid, or procure the granting to National Grid of, legal easements reasonably satisfactory to National Grid in respect of such apparatus and access to it prior to the stopping up of any such street but nothing in this paragraph affects any right of the undertaker or National Grid to require the removal of that apparatus under paragraph 23 or the power of the undertaker, subject to compliance with this sub-paragraph, to carry out works under paragraph 25.

(2) Notwithstanding the temporary alteration, diversion or restriction of any highway under the powers of article 16 (temporary alteration, diversion, prohibition and restriction of use of streets), National Grid will be at liberty at all times to take all necessary access across any such street and to execute and do all such works and things in, upon or under any such street as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the alteration, diversion or restriction was in that street.

Protective works to buildings

21. The undertaker must exercise the powers conferred by article 22 (protective work to buildings) so as not to obstruct or render less convenient the access to any apparatus without the written consent of National Grid (such consent not to be unreasonably withheld).

Acquisition of land

22.—(1) Regardless of any provision in this Order or anything shown on the land plans, the undertaker may not acquire any interest in land or apparatus or override any easement or other interest of National Grid otherwise than by agreement.

(2) As a condition of an agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised works (or in such other timeframe as may be agreed between National Grid and the undertaker) that is subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement or other legal or land interest of National Grid or affect the provisions of any enactment or agreement regulating the relations between National Grid and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as National Grid reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between National Grid and the undertaker acting reasonably and which must be no less favourable on the whole to National Grid unless otherwise agreed by National Grid, and it will be the responsibility of the undertaker to procure and secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.

(3) The undertaker and National Grid agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation or removal of apparatus (including but not limited to the payment of costs and expenses relating to such relocation or removal of apparatus) and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by National Grid or other enactments relied upon by National Grid as of right or other use in relation to the apparatus, then the provisions in this Schedule prevail.

(4) Any agreement or consent granted by National Grid under paragraph 25 or any other paragraph of this Part of this Schedule, is not to be taken to constitute agreement under sub-paragraph (1).

Removal of apparatus

23.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in or possesses temporarily any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of National Grid 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 National Grid in accordance with sub-paragraph (2) to (5).

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to National Grid advance 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 National Grid reasonably needs to remove any of its apparatus) the

undertaker must, subject to sub-paragraph (3), afford to National Grid to its reasonable satisfaction (taking into account paragraph 24(1)) the necessary facilities and rights—

- (a) for the construction of alternative apparatus in other land of, or secured by, the undertaker; and
- (b) 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 or land secured by 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, National Grid must, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation does not extend to the requirement for National Grid to use its compulsory purchase powers to this end unless it elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by 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 National Grid and the undertaker.

(5) National Grid must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the grant to National Grid 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.

Facilities and rights for alternative apparatus

24.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for National Grid facilities and rights in land for the construction, use, maintenance and protection of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and National Grid and must be no less favourable on the whole to National Grid than the facilities and rights enjoyed by it in respect of the apparatus to be removed unless otherwise agreed by National Grid.

(2) If the facilities and rights to be afforded by the undertaker under paragraph (1) above in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to National Grid 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 matter may be referred to arbitration in accordance with paragraph 31 (Arbitration) of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to National Grid as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection of gas undertaker

25.—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to National Grid a plan and, if reasonably required by National Grid, a ground monitoring scheme in respect of those works.

(2) The plan to be submitted to National Grid under sub-paragraph (1) must include a method statement and describe—

- (a) the exact position of the works;
- (b) the level at which these are proposed to be constructed or renewed;
- (c) the manner of their construction or renewal including details of excavation, positioning of plant etc;
- (d) the position of all apparatus;

- (e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and
 - (f) any intended maintenance regimes.
- (3) The undertaker must not commence any specified works until National Grid has given written approval of the plan so submitted.
- (4) Any approval of National Grid required under sub-paragraph (3)—
- (a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (5) or (7) ; and,
 - (b) must not be unreasonably withheld or delayed.
- (5) National Grid may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage for the provision of protective works or for the purpose of providing or securing proper and convenient means of access to any apparatus.
- (6) Specified works must only be executed in accordance with—
- (a) the plan, submitted under sub-paragraph (1), as approved or as amended from time to time by agreement between the undertaker and National Grid; and
 - (b) such reasonable requirements as may be made in accordance with sub-paragraphs (5) or (7) by National Grid for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and National Grid will be entitled to watch and inspect the execution of those works.
- (7) Where under sub-paragraph (6) National Grid requires any protective works to be carried out by itself or by the undertaker such protective works (whether of a temporary or permanent nature) must be carried out to National Grid's satisfaction prior to the commencement of any specified works for which protective works are required and National Grid must give notice of its requirement for such works within 42 days of the date of submission of a plan pursuant to this paragraph (except in an emergency).
- (8) If National Grid in accordance with sub-paragraphs (5) or (7) 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 17 to 19 and 22 to 24 apply as if the removal of the apparatus had been required by the undertaker under paragraph 23(2).
- (9) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the specified works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.
- (10) As soon as reasonably practicable after any ground subsidence event attributable to the authorised works—
- (a) the undertaker must implement an appropriate ground mitigation scheme; and
 - (b) National Grid retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 27.
- (11) The undertaker is not be required to comply with sub-paragraph (1) where it needs to carry out emergency works but in that case it must give to National Grid notice as soon as is reasonably practicable and a plan of those works and must comply with sub-paragraphs (5), (6) and (7) insofar as is reasonably practicable in the circumstances.
- (12) In sub-paragraph (11), “emergency works” means works whose execution at the time when they are executed is required in order to put an end to, or to prevent the occurrence of, circumstances then existing or imminent (or which the person responsible for the works believes on reasonable grounds to be existing or imminent) which are likely to cause danger to persons or property.

Expenses

26.—(1) Subject to the following provisions of this paragraph, the undertaker must pay to National Grid within 30 days of receipt of an itemised invoice or claim from National Grid all charges, costs and expenses reasonably anticipated within the following three months or reasonably and properly incurred by National Grid in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works including without limitation—

- (a) any costs reasonably incurred by or compensation properly paid by National Grid in connection with the acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs incurred by National Grid as a consequence of National Grid;
 - (i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 23(3); or
 - (ii) exercising any compulsory purchase powers in the Order transferred to or benefitting National Grid;
- (b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus, where no written diversion agreement is otherwise in place;
- (c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;
- (d) the approval of plans;
- (e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;
- (f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule.

(2) There will be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, 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 paragraph 31 (*arbitration*) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to National Grid by virtue of sub-paragraph (1) will be reduced by the amount of that excess save to the extent that it is not possible in the circumstances to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)—

- (a) an extension of apparatus to a length greater than the length of existing apparatus will 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 will be treated as if it also had been agreed or had been so determined.

(5) Any amount which apart from this sub-paragraph would be payable to National Grid in respect of works by virtue of sub-paragraph (1) will, 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 National Grid 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.

Indemnity

27.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any works authorised by this Part of this Schedule or in consequence of the construction, use, maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by him) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised works) or property of National Grid, or there is any interruption in any service provided, or in the supply of any goods, by National Grid, or National Grid becomes liable to pay any amount to any third party, the undertaker will—

- (a) bear and pay on demand accompanied by an invoice or claim from National Grid the cost reasonably and properly incurred by National Grid in making good such damage or restoring the supply; and
- (b) indemnify National Grid for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from National Grid, by reason or in consequence of any such damage or interruption or National Grid becoming liable to any third party as aforesaid other than arising from any default of National Grid.

(2) The fact that any act or thing may have been done by National Grid on behalf of the undertaker or in accordance with a plan approved by National Grid or in accordance with any requirement of National Grid or under its supervision will not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless National Grid fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

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

- (a) any damage or interruption to the extent that it is attributable to the neglect or default of National Grid, its officers, servants, contractors or agents;
- (b) any part of the authorised works carried out by National Grid in the exercise of any functions conferred by this Order pursuant to a grant or transfer under article 10 (consent to transfer benefit of Order).

(4) National Grid must give the undertaker reasonable notice of any such third party claim or demand and no settlement, admission of liability or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations.

(5) National Grid must, in respect of any matter covered by the indemnity given by the undertaker in this paragraph, at all times act reasonably and in the same manner as it would as if settling third party claims on its own behalf from its own funds.

(6) National Grid must use its reasonable endeavours to mitigate and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies where it is within National Grid's reasonable ability and control to do so and which expressly excludes any obligation to mitigate liability arising from third parties which is outside of National Grid's control and if reasonably requested to do so by the undertaker National Grid must provide an explanation of how the claim has been minimised, where relevant.

Enactments and agreements

28. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and National Grid in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

Co-operation

29.—(1) Where in consequence of the proposed construction of any part of the authorised works, the undertaker or National Grid requires the removal of apparatus under paragraph 23(2) or National Grid makes requirements for the protection or alteration of apparatus under paragraph 25, 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 works and taking into account the need to ensure the safe and efficient operation of National Grid's undertaking and National Grid must use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever the undertaker's or National Grid's consent, agreement or approval is required in relation to plans, documents or other information submitted under this schedule, or agreement is required to be reached between the parties under this schedule, it must not be unreasonably withheld or delayed.

Access

30. If in consequence of the agreement reached in accordance with paragraph 22(1) or the powers granted under this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative means of access to such apparatus as will enable National Grid to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

31. Save for differences or disputes arising under paragraph 23(2), 23(4) and 24(1), any difference or dispute arising between the undertaker and National Grid under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and National Grid, be determined by arbitration in accordance with article 53 (*arbitration*).

Notices

32. Notwithstanding article 52 (service of notices), any plans submitted to National Grid by the undertaker pursuant to paragraph 25 must be sent to <https://lsbud.co.uk/> and National Grid Plant Protection at assetprotection@nationalgrid.com or such other address as National Grid may from time to time appoint instead for that purpose and notify to the undertaker in writing.

PART 4

FOR THE PROTECTION OF ANGLIAN WATER

Application

33. For the protection of Anglian Water, the following provisions have effect, unless otherwise agreed in writing between the undertaker and Anglian Water.

Interpretation

34. In this part of this Schedule –

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

“alternative apparatus” means alternative apparatus adequate to enable Anglian Water to fulfil its statutory functions in a manner no less efficient than previously;

“Anglian Water” means Anglian Water Services Limited;

“apparatus” means—

- (a) works, mains, pipes or other apparatus belonging to or maintained by Anglian Water for the purposes of water supply and sewerage;
- (b) any drain or works vested in Anglian Water under The Water Industry Act 1991,
- (c) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) of that Act or an agreement to adopt made under section 104 of that Act; and
- (d) includes a sludge main, disposal main 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

and for the purpose of this definition, where words are defined by section 219 of the Water Industry Act 1991 they shall be taken to have the same meaning.

“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.

On street apparatus

35. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and Anglian Water are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus in stopped up streets

36.—(1) Where any street is stopped up under article 17 (permanent stopping up and restriction of use of streets and private means of access), where Anglian Water has apparatus in the street or accessed by virtue of that street, it 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 Anglian Water legal easements reasonably satisfactory to Anglian Water in respect of such apparatus and access to it, but nothing in this paragraph affects any right of the undertaker or of Anglian Water to require the removal of that apparatus under paragraph 39 or the power of the undertaker to carry out works under paragraph 41.

(2) Regardless of the temporary stopping up or diversion of any highway under the powers conferred by article 16 (temporary alteration, diversion, prohibition and restriction of the use of streets), Anglian Water 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

37. The undertaker, in the case of the powers conferred by article 22 (protective work to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus.

Acquisition of land

38. 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

39.—(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 Anglian Water's apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of Anglian Water to maintain that apparatus in that land must not (without the prior written consent of Anglian Water) be extinguished, until:

- (a) alternative apparatus has been constructed and is in operation to the reasonable satisfaction of Anglian Water in accordance with sub-paragraphs (2) to (8); and
- (b) facilities and rights have been secured for that alternative apparatus in accordance with paragraph 25.

(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 Anglian Water 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 an undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to Anglian Water 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 Anglian Water 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 Anglian Water and the undertaker or in default of agreement settled by arbitration in accordance with article 53 (arbitration).

(5) Anglian Water must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 53 (arbitration), and after the grant to Anglian Water of any such facilities and rights as are referred to in sub-paragraphs (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 Anglian Water gives notice in writing to the undertaker that it desires the undertaker to execute any work, or part of any work in connection with the construction or removal of apparatus in any land of the undertaker, or to the extent that Anglian Water fails to proceed with that work in accordance with sub-paragraph (5) or the undertaker and Anglian Water otherwise agree, that work, instead of being executed by Anglian Water, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of Anglian Water.

(7) Notice under sub-paragraph (6) that Anglian Water desires the undertaker to execute any work, or part of any work, must be given within 14 days of agreement under sub-paragraph (4) or, in default of agreement, within 14 days of the date of settlement by arbitration under sub-paragraph (4).

(8) If Anglian Water fails either reasonably to approve, or to provide reasons for its failure to approve along with an indication of what would be required to make acceptable, any proposed details relating to required removal works under sub-paragraph (2) within 28 days of receiving a

notice of the required works from the undertaker, then such details are deemed to have been approved. For the avoidance of doubt, any such “deemed consent” does not extend to the actual undertaking of the removal works, which shall remain the sole responsibility of Anglian Water or its contractors.

(9) Whenever alternative apparatus is to be or is being substituted for existing apparatus, the undertaker shall, before taking or requiring any further step in such substitution works, use best endeavours to comply with Anglian Water’s reasonable requests for a reasonable period of time to enable Anglian Water to:

- (a) make network contingency arrangements; or
- (b) bring such matters as it may consider reasonably necessary to the attention of end users of the utility in question.

Facilities and rights for alternative apparatus

40.—(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 Anglian Water or in default of agreement settled by arbitration in accordance with article 53 (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 Anglian Water 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 Anglian Water as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

(3) Such facilities and rights as are set out in this paragraph are deemed to include any statutory permits granted to the undertaker in respect of the apparatus in question, whether under the Environmental Permitting Regulations 2010 or other legislation.

Retained apparatus

41.—(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 (or any means of access to it) the removal of which has not been required by the undertaker under paragraph 39(2), the undertaker must submit to Anglian Water 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 Anglian Water for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and Anglian Water is entitled to watch and inspect the execution of those works.

(3) Any requirements made by Anglian Water under sub-paragraph (2) must 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 Anglian Water 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, sub-paragraphs (1) to (3) and (6) to (8) apply as if the removal of the apparatus had been required by the undertaker under paragraph 39(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 must give to Anglian Water 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 and will keep the impact of those emergency works on Anglian Water's apparatus, on the operation of its water and sewerage network and on end-users of the services Anglian Water provides to a minimum.

(7) For the purposes of sub-paragraph (1), works are deemed to be in land near Anglian Water's apparatus (where it is a pipe) if those works fall within the following distances measured from the medial line of such apparatus:

- (a) 2.25 metres where the diameter of the pipe is less than 150 millimetres;
- (b) 3 metres where the diameter of the pipe is between 150 and 450 millimetres
- (c) 4.5 metres where the diameter of the pipe is between 451 and 750 millimetres; and
- (d) 6 metres where the diameter of the pipe exceeds 750 millimetres.

Expenses and costs

42.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to Anglian Water all expenses reasonably incurred by Anglian Water 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 this Part of the Schedule.

(2) There must be deducted from any sum payable under subparagraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

- (a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or
- (b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated, and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 53 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to Anglian Water 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 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 pipe or 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.

(5) An amount which apart from this sub-paragraph would be payable to Anglian Water 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 Anglian Water 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.

43.—(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 37 or 39(2), or by reason of any subsidence resulting from such development or works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of Anglian Water, or there is any interruption in any service provided, or in the supply of any goods, by Anglian Water, the undertaker must—

- (a) bear and pay the cost reasonably incurred by Anglian Water in making good such damage or restoring the supply; and
- (b) make reasonable compensation to Anglian Water for any other expenses, loss, damages, penalty or costs incurred by the undertaker, by reason or in consequence of any such damage or interruption.

(2) The fact that any act or thing may have been done by Anglian Water on behalf of the undertaker or in accordance with a plan approved by Anglian Water or in accordance with any requirement of Anglian Water or under its supervision does not, subject to sub-paragraph (3), excuse the undertaker from liability under the provisions of sub-paragraph (1) unless Anglian Water fails to carry out and execute the works properly with due care and attention and in a skilful and professional like manner or in a manner that does not accord with the approved plan.

(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 Anglian Water, its officers, servants, contractors or agents.

(4) Anglian Water 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 (such consent not to be unreasonably withheld or delayed) who, if withholding such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

Cooperation

44. Where in consequence of the proposed construction of any of the authorised development, the undertaker or Anglian Water requires the removal of apparatus under paragraph 39(2) or Anglian Water makes requirements for the protection or alteration of apparatus under sub-paragraph (9), the undertaker must use all reasonable 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 Anglian Water's undertaking and Anglian Water must use all reasonable endeavours to co-operate with the undertaker for that purpose.

45. Where the undertaker identifies any apparatus which may belong to or be maintainable by Anglian Water but which does not appear on any statutory map kept for the purpose by Anglian Water, it shall inform Anglian Water of the existence and location of the apparatus as soon as reasonably practicable.

46. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Anglian Water in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

47. Any time period in which an action must be taken in this part of the Schedule may be amended by written agreement between the undertaker and Anglian Water.

SCHEDULE 10

Articles 2 and 51

DOCUMENTS, ETC. TO BE CERTIFIED

(1) <i>Document</i>	(2) <i>Document Reference</i>	(3) <i>Revision</i>

EMP (First Iteration)	TR010038/APP/7.4	Revision 1 [REP7-035]
Environmental statement Chapter 2 Figures 7.1 to 7.5	TR010038/APP/6.1 – 6/3	Revision 0 [APP-040, APP-042 to APP-044, APP-046 to APP-047, APP-049 to APP-052, APP-055 to APP-059, APP-061 to APP-093, APP-095 to APP-133] Revision 1 [AS-005] Revision 1 [REP2-012] Revision 1 [REP3-012] Revision 1 [REP7-006] Revision 1 [REP3-014] Revision 1 [REP6-030] Revision 1 [REP7-008]
Book of Reference	TR010038/APP/4.3	Revision 4 [REP9-013]
Land plans	TR010038/APP/2.3	Revision 2 [REP5-002]
Special category land plans	TR010038/APP/2.10	Revision 0 [APP-013]
Environmental masterplan	TR010038/APP/6.8	Revision 4 [REP8-011]
General arrangement plans	TR010038/APP/2.2	Revision 1 [AS-027]
Works plans	TR010038/APP/2.4	Revision 2 [AS-028]
Rights of way and access plans	TR010038/APP/2.5	Revision 3 [REP8-004]
Traffic regulation plans	TR010038/APP/2.6	Revision 4 [REP9-004]
Engineering drawings and sections	TR010038/APP/2.7	Revision 1 [REP5-003]
Classification of roads plans	TR010038/APP/2.11	Revision 4 [REP9-005]
Hedgerow plans	TR010038/APP/2.12	Revision 4 [REP9-006]
De-trunking plans	TR010038/APP/2.13	Revision 2 [AS-033]
Outline traffic management plan	TR010038/APP/7.5	Revision 0 [APP-144]
Drainage and Surface Water Plans	TR010038/APP/2.8	Revision 2 [AS-031]

EXPLANATORY NOTE

(This note is not part of the Order)

This Order authorises National Highways to improve the A47 between North Tuddenham to Easton in Norfolk and carry out all associated works.

The Order permits National Highways 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, environmental statement and other documents mentioned in this Order and certified in accordance with article 51 (certification of documents, etc.) may be inspected free of charge during working hours at National Highways, Bridge House, 1 Walnut Tree Close, Guildford, Surrey GU1 4LZ.